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December 30, 2019

Lora W. Johnson, CMC, LMMC
Clerk of Council
Room 1E09, City Hall
1300 Perdido Street
New Orleans, LA 70112

Re: *Revised Application of Entergy New Orleans, LLC for a Change in Electric and Gas Rates Pursuant to Council Resolutions R-15-194 and R-17-504 and for Related Relief*
Council Docket No. UD-18-07

Dear Ms. Johnson:

On behalf of Entergy New Orleans, LLC (“ENO” or the Company), please find enclosed for your further handling an original and three copies of Entergy New Orleans, LLC’s Response to the Alliance for Affordable Energy’s and Sierra Club’s Opposition to the Compliance Filing of Entergy New Orleans, LLC, which I would appreciate your filing into the record of this proceeding. Please file an original and two copies into the record in the above referenced matter, and return a date-stamped copy to our courier.

Should you have any questions regarding the above/attached, please do not hesitate to contact me.

With kindest regards, I am

Sincerely,

Alyssa Maurice-Anderson

AMA/amb
Enclosures
cc: Official Service List via email

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BEFORE THE
COUNCIL OF THE CITY OF NEW ORLEANS

APPLICATION OF)
ENERGY NEW ORLEANS, LLC,)
FOR A CHANGE IN ELECTRIC AND) Docket No. UD-18-07
GAS RATES PURSUANT TO)
COUNCIL RESOLUTIONS R-15-194)
AND R-17-504 AND FOR RELATED)
RELIEF)

**ENERGY NEW ORLEANS, LLC’S RESPONSE TO
THE ALLIANCE FOR AFFORDABLE ENERGY’S AND SIERRA CLUB’S
OPPOSITION TO THE COMPLIANCE FILING OF ENERGY NEW ORLEANS, LLC**

NOW COMES Entergy New Orleans, LLC, (“ENO” or the “Company”) through undersigned counsel, and, out of an abundance of caution, respectfully submits this brief response to the unauthorized opposition of the Alliance for Affordable Energy (“AAE”) and the Sierra Club¹ (collectively referred to as “AAE/Sierra”) to ENO’s December 9, 2019 filing made in compliance with Resolution R-19-457 approved by the Council of the City of New Orleans (“Council”) on November 7, 2019 (“Rate Case Resolution”) for the reasons set forth below.

Although AAE/Sierra submitted an opposition to ENO’s December 9, 2019 Compliance filing in the instant docket, the Rate Case Resolution calls for the Advisors, “at the conclusion of their review of ENO’s compliance filing, to state whether ENO’s compliance filing complies fully with this resolution and is appropriate in all material aspects or to identify any remaining deficiencies.”² The Rate Case Resolution further states that “in the event there are disputes regarding ENO’s compliance filing that cannot be resolved through good faith efforts by ENO and

¹ Alliance for Affordable Energy[’s] and Sierra Club’s Opposition to the Compliance filing of Entergy New Orleans, LLC, Council Docket No. UD-18-07 (December 18, 2019)(“AAE/Sierra Club Opposition”).

² Council Resolution R-19-457 (November 7, 2019), p. 183.

the Advisors, the Advisors should report such issues, along with documentation and the Advisors' recommended correction, to the Council for the Council's evaluation."³ Clearly, the Council's process for determining whether ENO's compliance filing comports with the Rate Case Resolution only provides for the Advisors' review and comment, unless there are unresolved issues between ENO and the Advisors that must be resolved by the Council. AAE/Sierra should have communicated their arguments, which are specious as discussed below, to the Advisors so that the Advisors could evaluate them rather than trying to lengthen the Rate Case Resolution's compliance process.

With respect to the AAE/Sierra Club Opposition, it seeks to re-write the Rate Case Resolution by requesting that all provisions in ENO's Formula Rate Plan for electric operations ("E-FRP") regarding NOPS be removed.⁴ Ordering Paragraph 25 of the Rate Case Resolution expressly approved ENO's proposed E-FRP, which provided for the recovery of the NOPS non-fuel costs the month after it commenced operations,⁵ but modified such recovery to commence after "the construction of NOPS and associated costs have been approved through a final judgment of the Council."⁶ As discussed below, the E-FRP compliance filing provides for such conditional recovery delay consistent with the Rate Case Resolution. In contrast, AAE/Sierra's request to remove all provisions related to NOPS is inconsistent with the Rate Case Resolution and is an effort to re-write the Rate Case Resolution.

³ *Id.* at 184.

⁴ AAE/Sierra Club Opposition at 6.

⁵ Council Resolution R-19-457 (November 7, 2019), p. 187.

⁶ *Id.* The reference to a "final judgment of the Council" likely addresses the conclusion of appeal proceedings regarding Resolution R-18-65, *Alliance for Affordable Energy, et al. v. Council of the City of New Orleans, et al.*, No. 2018-03471 (Div. I-14); *Deep South Center for Environmental Justice, et al v. Council of the City of New Orleans, et al.*, No. 2018-03843 (Div. I-14).

Along those same lines, the AAE/Sierra Club Opposition erroneously claims that ENO “no longer has approval to construct NOPS.”⁷ That is not true. No party enjoined Resolution R-18-65, which approved the construction of NOPS. Although the district court did void Resolution R-18-65, the Council appealed that decision suspensively; thus, the district court’s judgment is without effect pending appeal. Furthermore, Resolution R-19-78 confirmed the approval of the construction of NOPS, and no party appealed Resolution No. R-19-78. Thus, the Council’s approval of NOPS remains effective.

The AAE/Sierra Club Opposition also erroneously claims that “ENO falsely asserts that the resolution permits ENO to recover costs after the gas plant is placed in operation,” and specifically points to ENO’s statement that the Rate Case Resolution authorizes ENO “to *defer* the NOPS non-fuel costs, including the cost of capital, after NOPS enters operation and until ENO commences non-fuel cost recovery from ENO customers.”⁸ Clearly, AAE/Sierra Club is confusing deferral of costs with actual recovery of costs. A deferral preserves a utility’s ability to recover costs incurred in the present for *future* recovery in rates, subject to further regulatory review. It does not authorize immediate recovery of those costs in rates. As such, the deferral language included in ENO’s Compliance filing in Section III.C of Rider E-FRP-5 is consistent with the finding in Resolution R-18-65 that “ENO shall have a full and fair opportunity to recover all prudently incurred costs associated with NOPS” *and* the provisions of the Rate Case Resolution by conditioning/delaying actual recovery of NOPS costs until the appellate proceedings regarding Resolution R-18-65 have been resolved.

⁷ AAE/Sierra Club Opposition at 5.

⁸ AAE/Sierra Club Opposition, at 3.

The AAE/Sierra Club Opposition also claims that the first sentence of Section III.C. of Rider Schedule E-FRP-5 of ENO's Compliance Filing (set forth below) was specifically rejected by the Council and should be removed from Rider E-FRP-5.⁹ However, there is no citation in the AAE/Sierra Club Opposition to the specific language in the Rate Case Resolution that instructs ENO to remove the language. In fact, this position is wholly inconsistent with the Council's recitals set forth at page 112-114 of the Rate Case Resolution, which state as follows:

WHEREAS, AAE and Sierra Club oppose the NOPS adjustment in its entirety, arguing that because a presiding judge in Civil District Court issued a bench ruling voiding Resolution No. R-18-65, the construction of NOPS does not have the approval of the Council. **As AAE and Sierra Club are well aware, the Council appealed this ruling, and thus, that matter is not yet final.**

WHEREAS, after considering all of the arguments and evidence related to this issue, the Council agrees with the Advisors proposal that proforma adjustments should be included in the FRP for the 12-month period subsequent to the FRP evaluation period, which would encompass calendar year 2020 for the first FRP. The Council also finds that if the NOPS updated revenue requirement is included as a prospective proforma adjustment in the bandwidth evaluation of the proposed E-FRP filed in April 2020, the NOPS in-service rate adjustment, **beginning with the month following COD, would be effective until NOPS cost recovery is included in the E-FRP revenue adjustment of the first FRP.** The Council further finds that if the NOPS updated revenue requirement filing is not included as a prospective proforma adjustment in the proposed E-FRP filed in April 2020, the NOPS in-service rate adjustment, beginning with the month following COD, would be effective until NOPS costs are included in the ROE bandwidth evaluation of the following E-FRP; and

WHEREAS, the Council finds that this course of action is consistent with the approach to evaluate the total utility cost of service and avoid single issue ratemaking; and

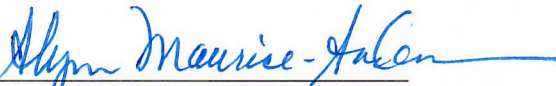
WHEREAS, the Council finds it reasonable to avoid future uncertainty and additional litigation costs by the parties not to defer consideration of the NOPS adjustment until a future date, but rather, as the Advisors suggest, to approve a NOPS adjustment with an instruction to ENO that no actual costs should be flowed through that adjustment to ratepayers until such time as the construction of NOPS and the associated costs have been approved through a final judgment of the Council; and

⁹ *Id.* at 4.

WHEREAS, the Council finds that the interim Rate Adjustment for NOPS non-fuel revenue requirement be included under the proposed E-FRP Attachment C, paragraph 8, or in the following E-FRP within the bandwidth evaluation, depending on the commercial operation date;

Based on these findings by the Council that expressly approve an FRP adjustment for NOPS non-fuel revenue requirement and that condition such adjustment on a final resolution of the Council, it is readily apparent that the language included in Section III.C of Rider E-FRP-5 in ENO's Compliance Filing is consistent with the Rate Case Resolution. For these reasons, ENO's Compliance filing should be approved.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of Dec., 2019, a copy of the foregoing pleading has been served upon all other known parties of this proceeding individually and/or through their attorney of record or other duly designated individual, by: electronic mail, facsimile, hand delivery, and/or by depositing same with overnight mail carrier, or the United States Postal Service, postage prepaid.

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