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Alyssa Maurice-Anderson
Assistant General Counsel
Legal Department -- Regulatory

February 17, 2020

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:

Entergy New Orleans, LLC ("ENO") and the Council's Utility Advisors hereby submit for your further handling and filing an original and three copies of the Agreement in Principle ("AIP") in the captioned matter to be considered by the Council. The agreement provides for resolution of certain matters pending before the Civil District Court for the Parish of Orleans as a result of the Verified Petition for Appeal and Judicial Review of, and for Stay of or Injunctive Relief from Resolution R-19-457 ("Judicial Review Petition"), CDC No. 2019-12656. Specifically, ENO sought to enjoin certain rulings contained in Ordering Paragraphs 5 and 7 of Resolution R-19-457. Approval of the resolution would allow for the implementation of rates in accordance with Resolution R-19-457 as modified in accordance with the terms of the Agreement in Principle as soon as practicable, *i.e.*, April 2020.

Should you have any questions, please do not hesitate to contact the undersigned. Thanking you for your usual courtesies and attention to this matter, I am

With kindest regards, I am

Sincerely,



Alyssa Maurice-Anderson

AMA/amb
Enclosures
cc: Enclosed Service List (*via email only*)

RECEIVED
FEB 17 2020
BY: RA

**AGREEMENT IN PRINCIPLE
TO RESOLVE ENTERGY NEW ORLEANS, LLC'S REQUEST FOR
PRELIMINARY INJUNCTION ENJOINING COUNCIL RESOLUTION R-19-457
AND FACILITATE THE IMPLEMENTATION OF BASE RATES**

Recognizing that the Council for the City of New Orleans ("Council") issued Council Resolution R-19-457 ("Rate Case Resolution"), dated November 7, 2019, as its final order in Council Docket No. UD-18-07, referred to herein as the 2018 Rate Case;

Recognizing that on December 6, 2019, Entergy New Orleans, LLC ("ENO" or the "Company") filed in the Civil District Court of the Parish of Orleans ("CDC") ENO's Verified Petition for Appeal and Judicial Review of, and for Stay of or Injunctive Relief from Resolution R-19-457 ("Judicial Review Petition") of the Council of the City of New Orleans, CDC No. 2019-12656;

Recognizing that the Judicial Review Petition sought to enjoin the Rate Case Resolution in its entirety so that the existing base rates and rate structure in place as of the date of the Rate Case Resolution remained in place subject to refund and requested that the district court set aside, reverse, and vacate the Rate Case Resolution;

Recognizing that on December 9, 2019, ENO filed in the Council its Compliance Filing Subject to Injunctive Relief and Pending Judicial Review of Resolution R-19-457 ("Compliance Filing");

Recognizing that on January 3, 2020, pursuant to the Rate Case Resolution, the Council Advisors reported to the Council that ENO's Compliance Filing reasonably complied with the Rate Case Resolution except with respect to the rate for the Energy Efficiency Cost Recovery ("EECR") Rider, which would recover the remaining costs of Program Year 9 (i.e., through December 31, 2019);

Recognizing that the Council Advisors contended that the EECR Rider rate should be reduced so as to reflect a credit for the ongoing collection of Lost Contribution to Fixed Costs ("LCFC"), which the Council Advisors argue that the Council prohibited in Resolution R-17-176 for Program Years 7, 8, and 9;

Recognizing that ENO disputed the Council Advisors' interpretation of Resolution R-17-176 and credit calculations and argued that any Council action to refund amounts collected pursuant to authorize rates constituted prohibited retroactive ratemaking and prohibited single-issue ratemaking;

Recognizing that the Advisors and ENO were in ongoing discussions regarding the details of the implementation of the electric and gas Interim Rate Adjustment Riders ("IRARs") required by the Rate Case Resolution;

Recognizing that, based on the confirmation that ENO's Compliance Filing comports with the provisions of the Rate Case Resolution, on February 5, 2020, ENO filed its Notice of Intention to Narrow Scope of Application for Preliminary Injunction leaving only ENO's request to enjoin the Rate Case Resolution's rulings excluding from gas rate base net operating loss ("NOL") accumulated deferred income taxes ("ADIT") (Ordering Paragraph 5) and including in electric

and gas rate base regulatory liabilities equivalent to ADIT associated with accelerated tax depreciation deductions related to electric and gas meter investment to be retired as a result of ENO's Advanced Metering Infrastructure ("AMI") Project ("Stranded Meter ADIT") (Ordering Paragraph 7), the implementation of which rulings ENO believes would violate the Internal Revenue Service ("IRS") normalization rules;

Recognizing that, in order for ENO to implement the base rates authorized by the Rate Case Resolution by the first billing cycle of April 2020, ENO requires certainty as to the authorized base rates, including the Energy Efficiency Cost Recovery Rider by February 24, 2020;

Recognizing that February 12, 2020 was the date of the hearing on ENO's requested preliminary injunction and that there was no guarantee that the district court would rule on ENO's request and all appeals would be completed by February 24, 2020;

Recognizing that the Council and ENO wish to resolve their disputes related to the NOL ADIT and Stranded Meter ADIT through this Agreement in Principle so that the new base rates and rate structures may be implemented by the first billing cycle of April 2020;

Recognizing that the Council Advisor attorneys and the Council Utilities Regulatory Office Counsel ("CURO") represent the Council in the judicial review of the Rate Case Resolution, CDC No. 2019-12656;

Recognizing that the Council will take the necessary action to consider this Agreement in Principle as soon as practicable;

The signatories to this Agreement in Principle hereby agree to the following provisions, terms, and conditions:

1. ENO agrees to withdraw its request for preliminary injunction regarding the implementation of rate reductions associated with NOL ADIT and Stranded Meter ADIT, while maintaining the remainder of the relief requested in its Judicial Review Petition.
2. The Council agrees that the Rate Case Resolution Ordering Paragraph 7 shall be modified with respect to Stranded Meter ADIT. The Council agrees that Stranded Meter ADIT shall be excluded from electric and gas rate base. Instead, ENO will adjust its electric and revenue requirements to include a return on the Stranded Meter ADIT using the return implicit in the AMI Agreement in Principle's recovery of the stranded meter investment. This provides for consistent treatment of the Stranded Meter ADIT and stranded meter investment in rates, which ratemaking treatment ENO asserts complies with the IRS normalization rules. This modification increases the electric revenue requirement by \$0.24 million and increases the gas revenue requirement by \$0.01 million. This ratemaking treatment is precedential only with respect to the AMI Stranded Meter ADIT issue and shall apply until the recovery of ENO's stranded meter investment concludes under the terms of the AMI Agreement in Principle.
3. The Council agrees to modify its ruling with respect to NOL ADIT in Ordering Paragraph 5 of the Rate Case Resolution. The Council agrees that, for purposes of setting gas base rates effective the first billing cycle of April 2020, NOL ADIT shall be included

in gas rate base. This modification increases the gas revenue requirement by \$0.84 million. The Council, its Advisors, and ENO agree that nothing in this paragraph should be considered precedent for ratemaking, legal, or policy purposes and reserve their respective rights to take any position with respect to the ratemaking treatment of NOL ADIT in future proceedings, including formula rate plan evaluations.

4. ENO will calculate the Electric IRAR rates to return \$15.9 million to electric customers over the months of April 2020 through June 2020, as shown in Exhibit 1. This amount is based on an overall electric revenue decrease of \$41.8 million and an electric base revenue requirement of \$418.2 million. In the calculation of the Electric IRAR rates, the Company shall not use the reallocation discussed in Paragraph XIV of the summary pleading accompanying the Compliance Filing. Instead, the Company shall reallocate the annual electric revenue increment for the Small Electric rate class shown below to all other rate classes excluding the Algiers portion of the Residential rate class based on kilowatt-hours. The credit for the LIS rate class will be returned in three equal parts over the months of April 2020 through June 2020.

The Council and the Advisors recognize that the Electric IRAR rates include annual estimated savings that customers were expected to receive through the Purchased Power and Capacity Acquisition Cost Recovery Rider, which is to be replaced with Purchased Power Cost Recovery (“PPCR”) Rider and the MISO Cost Recovery Rider in 2019. In lieu of adjustments to the true-ups of the PPCR and MISO Rider to true-up 2019 expenses, ENO shall be allowed in the Electric Formula Rate Plan to collect, outside of the bandwidth formula, \$4.0 million for Evaluation Period calendar year for 2019 and \$2.2 million for Evaluation Period calendar year 2020 so that such savings are not returned to electric customers twice, once through the Electric IRAR and a second time through the PPCR and the MISO Riders. No other true-up adjustments shall be permitted related to the Electric IRAR.

5. ENO will calculate the Gas IRAR rates to return \$2.5 million to gas customers over the months of April 2020 through June 2020, as shown in Exhibit 2. This amount is based on an overall gas revenue decrease of \$2.5 million and a gas revenue requirement of \$39.8 million. No other true-up adjustments shall be permitted related to the Gas IRAR.
6. ENO shall credit (*i.e.*, reduce) the amount owed by customers for Energy Smart Program Year 9 Energy Smart expense by \$2.2 million. Such credit shall fully resolve all issues related to prior LCFC collections and all issues, known or unknown, as to amounts to be recovered by ENO from customers or amounts to be refunded to customers by ENO related to Energy Smart Program Year 9 and Program Years before Program Year 9.
7. This Agreement in Principle reflects a compromise, settlement and accommodation among the signatories and the terms and conditions herein are interdependent. All actions by the signatories contemplated or required by this Agreement in Principle are conditioned upon the Council expressing its authorization of and consent to all of the terms of this Agreement in Principle.

8. Except as otherwise expressly provided for herein, no party shall be deemed to have approved, accepted, agreed to, or consented to any ratemaking or other legal principle or policy, and nothing in this Agreement in Principle should be considered precedent for ratemaking, legal or policy purposes.

AGREED TO BY THE FOLLOWING SIGNATORIES:

THE COUNCIL OF THE CITY OF NEW ORLEANS

BY: 
Erin M. Spears,
Counsel for Council Utility Regulatory Office

DATE: 2/17/2020

BY: 
Basile Uddo, on behalf of the
Utility Advisors to the Council of New Orleans

DATE: 2/17/2020

ENERGY NEW ORLEANS, INC.

BY: _____
David Ellis
President & CEO

DATE: _____

8. Except as otherwise expressly provided for herein, no party shall be deemed to have approved, accepted, agreed to, or consented to any ratemaking or other legal principle or policy, and nothing in this Agreement in Principle should be considered precedent for ratemaking, legal or policy purposes.

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Utility Advisors to the Council of New Orleans

DATE: _____

ENTERGY NEW ORLEANS, INC.

BY: 
David Ellis
President & CEO

DATE: 2/17/2020

**Electric Interim Rate Adjustment Rider Summary
April - June 2020 Implementation**

Hybrid Rate Class	Total to be Collected/ (Refunded)	kWh April- June 2020	IRAR RATE \$/kWh April- June 2020
01Residential - Legacy	(1,788,615)	417,554,374	(\$0.00428)
01Residential - Algiers	(36,112)	58,267,906	(\$0.00062)
02Small Electric	-	205,595,924	\$0.00000
03Municipal Buildings	(172,615)	7,568,674	(\$0.02281)
04Large Electric	(1,485,318)	118,946,782	(\$0.01249)
05Large Electric High Load Factor	(6,953,720)	460,519,246	(\$0.01510)
06Master Metered Non Residential	(8,375)	181,033	(\$0.04626)
07High Voltage	(2,232,802)	38,128,355	(\$0.05856)
08Large Interruptible Service	(1,768,860)	44,221,811	(\$0.04000)
09Lighting	(1,462,508)	13,996,870	(\$0.10449)
Grand Total	(15,908,925)	1,364,980,975	

**Gas Interim Rate Adjustment Rider Summary
April - June 2020 Implementation**

Revenue	Total to be Collected/ (Refunded)	ccf April - June 2020	IRAR RATE \$/ccf April - June 2020
Rate Class			
1Residential	(1,107,564)	5,579,937	(\$0.1985)
2Small General	(728,068)	3,091,514	(\$0.2355)
3Large General	(576,530)	5,229,827	(\$0.1102)
4Small Municipal	(1,201)	9,908	(\$0.1213)
5Large Municipal	(62,507)	5,143,985	(\$0.0122)
Grand Total	(2,475,870)	19,055,171	