

RESOLUTION

NO. R-23-150

CITY HALL: April 20, 2023

**BY: COUNCILMEMBERS MORRELL, MORENO, GIARRUSSO, HARRIS, KING,
GREEN AND THOMAS**

**IN RE: DIRECTING ENTERGY NEW ORLEANS, INC TO INVESTIGATE AND
REMEDiate ELECTRIC SERVICE DISRUPTIONS AND COMPLAINTS AND
TO ESTABLISH MINIMUM ELECTRIC RELIABILITY PERFORMANCE
STANDARDS AND FINANCIAL PENALTY MECHANISMS**

**RESOLUTION ESTABLISHING A PROCEDURAL SCHEDULE TO ALLOW FOR
THE SUBMISSION OF ADDITIONAL EVIDENCE REGARDING THE PENALTY
IMPOSED BY THE COUNCIL IN RESOLUTION R-19-442 PURSUANT TO THE
ORDER ON MOTION FOR REMAND BY CIVIL DISTRICT COURT, PARISH OF
ORLEANS, CASE NO. 2019-12654, DIVISION "B-5"**

DOCKET NO. UD-17-04

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans ("Charter"), the Council of the City of New Orleans ("Council") is the governmental body with the power of supervision, regulation and control over public utilities providing service within the City of New Orleans; and

WHEREAS, pursuant to its powers of supervision, regulation and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities and making all necessary rules and regulations to govern applications for the fixing and changing of rates and charges of public utilities; and

WHEREAS, Entergy New Orleans, LLC ("ENO" or "Company") is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly-owned operating company subsidiary of Entergy Corporation ("Entergy"); and

WHEREAS, in Resolution No. R-17-427 the Council established Docket No. UD-17-04, for the Council's investigation into electric outages, electric reliability issues in Orleans Parish in general, ENO's level of distribution operation and maintenance ("O&M") staffing and scheduling, and to consider the establishment of minimum reliability performance standards for all of the utilities under the Council's jurisdiction, including the establishment of financial penalty mechanisms for failure to meet such minimum reliability performance standards as established by the Council; and

WHEREAS, that investigation disclosed that ENO's system reliability declined significantly between 2013 and 2017 causing an unacceptable increase in outages, including approximately 1,462 such outages during fair weather conditions during the period June 1, 2016 and May 31, 2017; and

WHEREAS, the investigation further disclosed that ENO equipment failures were a major cause of these outages; and

WHEREAS, in Resolution No. R-18-475 the Council expressed its grave concern about ENO's continuing pattern of frequent large-scale outages and customer interruptions, which led the Council to establish a prudence investigation to determine whether ENO's inaction and omissions in mitigating and remediating electric service disruptions and complaints, and addressing the performance of its distribution system, were imprudent, and whether the Council should impose a financial penalty for that conduct; and

WHEREAS, pursuant to that resolution the Council's utility advisors conducted a thorough investigation, developed an extensive record, and provided comments to the Council recommending a finding that ENO had acted imprudently; and

WHEREAS, after receiving the Advisors' report, the Council adopted Resolution No. R-19-442 finding ENO had acted imprudently in the maintenance and repair of its system; and

WHEREAS, the Council found that ENO's imprudent conduct caused ENO customers harm, measured not just by direct economic costs such as business interruptions leading to lost profits, lost wages, and reduced tax revenue, but also by less tangible costs, including the physical discomfort caused by multiple outages and the uncertainty of not knowing when persistent outages would end; and

WHEREAS, based upon the record of the investigation, the Council imposed on ENO a one-time \$1 million penalty for the prior imprudent conduct, which order was appealed by ENO to the Civil District Court, Parish of Orleans where the Court ruled that the matter of the penalty was remanded to the Council for further consideration consistent with the Court's ruling; and

WHEREAS, consistent with the Court's order remanding this matter to the Council for further consideration, the Council hereby establishes a procedural schedule to allow parties to submit additional evidence regarding the amount of the penalty; and

WHEREAS, all existing parties in Council Docket UD-17-04 shall remain parties for the purpose of participating in this limited supplemental proceeding, and any interested persons that are not existing parties to this docket shall have until May 22, 2023 to file a petition for intervention to participate in this phase of the docket; and

WHEREAS, the Council directs that the supplemental record developed by the procedural schedule established herein be certified by the Hearing Officer and submitted to the Council for consideration; and **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That

1. Pursuant to the Court's remand order, the matter is reopened for the limited purposes ordered herein.
2. A procedural schedule is established to allow the parties to submit additional evidence regarding the penalty resulting from ENO's imprudence.
3. Existing parties to Council Docket UD-17-04 are allowed to participate in this supplemental proceeding without filing an additional petition for intervention, and any interested persons that are not existing parties to this docket shall have until May 22, 2023 to file a petition for intervention to participate in this phase of the docket.
4. The following deadlines are hereby established:
 - a) On or before September 14, 2023, the Council's Advisors shall submit any testimony, reports, data, or other evidence regarding the penalty resulting from ENO's imprudence, including the Advisors recommendation.
 - b) On or before November 16, 2023, ENO and the Intervenors shall submit their responses to the Advisors' September 14, 2023 filing.
 - c) On or before December 15, 2023, the Advisors shall submit a response to the November 16, 2023, filings by ENO and the Intervenors.
 - d) The Hearing Officer shall certify the supplemental record on December 7, 2023.

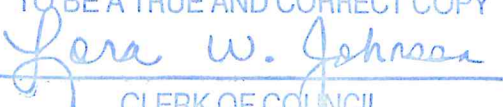
THE FOREGOING WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS: Giarrusso, Harris, Moreno, Morrell, Thomas - 5

NAYS: 0

ABSENT: Green, King - 2

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

CLERK OF COUNCIL