

RESOLUTION

NO. R-23-423

CITY HALL: September 7, 2023

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

**RESOLUTION AND ORDER AUTHORIZING APPROVING AN AGREEMENT
IN PRINCIPLE RELATED TO THE 2023 ELECTRIC AND GAS FORMULA RATE
PLAN FILINGS**

DOCKET NO. UD-18-07

WHEREAS, pursuant to 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”), is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, on July 31, 2018, ENO filed its initial *Application of Entergy New Orleans, LLC for a Change in Electric and Rates Pursuant to Council Resolutions R-15-194 and R-17-504 and For Related Relief* (“Initial Rate Filing”); and

WHEREAS, in a letter dated August 15, 2018, Roderick K. West, Entergy Group President of Utility Operations, explained that ENO had decided to withdraw its Initial Rate Filing, explaining that the decision to withdraw the Initial Rate Filing was in “response to the thoughtful

feedback that Entergy New Orleans has received from members of the Council of the City of New Orleans and Council's legal and technical Advisors, particularly with regard to the need to develop a better path toward a single rate structure for all customers of Entergy New Orleans, both those residing on the East Bank of New Orleans and those residing in Algiers" and noted that ENO would refile the rate case in September; and

WHEREAS, on September 21, 2018, ENO refiled its rate case, *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* ("Revised Application"); and

WHEREAS, on October 4, 2018, the Council adopted Resolution R-18-434 establishing a procedural schedule to allow the parties to this proceeding to rigorously investigate the Revised Application, conduct discovery, file testimony, and otherwise establish a record upon which the Council could rely to make a determination as to the proper rates to be charged by ENO; and

WHEREAS, the Council reviewed the Revised Application, the positions of the parties, and the evidence presented in the voluminous record certified in this proceeding; and

WHEREAS, on November 7, 2019, the Council adopted Resolution R-19-457 ("Rate Case Resolution") setting new rates and established Electric and Gas formula rate plans ("FRP") requiring filings in 2020, 2021, and 2022; and

WHEREAS, as a result of the COVID-19 pandemic, the State of Louisiana and the City of New Orleans declared states of emergency in March 2020; and

WHEREAS, ENO prepared its 2020 Electric and Gas FRP Evaluation Reports; however, in light of the COVID-19 pandemic, including the detrimental effects on the economy, the Council adopted Resolution R-20-344 approving an agreement in principle ("AIP") with ENO to forego

the FRP proceedings for 2020, which required Electric and Gas FRP filings in 2021, 2022, and 2023; and

WHEREAS, on April 28, 2023, ENO filed its 2023 Electric and Gas FRP filings, which primarily proposed that electric revenues should increase by \$17.4 million plus \$3.4 million in other recoveries for a total proposed electric revenue increase of \$20.8 million, and gas revenues should increase by \$8.2 million; and

WHEREAS, on July 14, 2023, ENO filed its Correction Report of Entergy New Orleans, LLC Regarding the April 28, 2023 Electric Formula Rate Plan Filing, which revised ENO's Electric FRP filing, reducing ENO's proposed increase in electric revenues by \$0.5 million; and

WHEREAS, on July 14, 2023, the Council's utility advisors ("the Advisors") filed a report recommending adjustments reducing the electric revenue request by \$7.0 million and the gas revenue request by \$1.3 million and recommending utilizing refund and tax credits from federal proceedings for electric rate mitigation; and

WHEREAS, ENO and the Advisors entered into the Review Period as provided in Section II. B. 3 of the Electric and Gas FRP Rider Schedules to resolve disputed issues; and

WHEREAS, at the conclusion of the Review Period, ENO and the Advisors resolved the disputed issues as described in the attached AIP; and

WHEREAS, through reductions to ENO's requested increase in electric revenues and ratepayer bill mitigation, the AIP implements an increase in electric revenues of approximately \$1.65 million of ENO's proposed \$20.8 million revenue increase proposal and \$6.9 million of ENO's proposed \$8.2 million Gas FRP revenue increase proposal; and

WHEREAS, considering all rate effects, the Council's new rates approved in this resolution are expected to result in no increase to typical residential electric bills; and

WHEREAS, as implemented in the AIP, the Council ensures a fair return to ratepayers at ENO's cost of capital on credits earned through the Council's litigation before FERC related to the Grand Gulf Nuclear Station; and

WHEREAS, on August 29, 2023, Council President and Chair of the Utility, Cable, Telecommunications and Technology Committee ("UCTTC"), JP Morrell, sent a letter directing ENO to implement the Advisors' proposed bill mitigation as more specifically described in the letter in order to avoid significant electric rate increases for customers; and

WHEREAS, the Council has reviewed the record related to the 2023 Electric and Gas FRP filings as well as the resulting AIP and finds that it is in the public interest to approve the AIP;

NOW THEREFORE

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the AIP attached to this Resolution as Exhibit A is approved in its entirety.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the directive to implement the proposed bill mitigation as described in the August 29, 2023 letter from the UCTTC Chairman to ENO to avoid significant electric rates increases for customers is hereby approved.

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

YEAS: Giarrusso, Green, Harris, King, Moreno, Morrell - 6

NAYS: 0

ABSENT: Thomas - 1

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lera W. Johnson
CLERK OF COUNCIL

AGREEMENT IN PRINCIPLE
2023 ELECTRIC AND GAS FORMULA RATE PLAN FILINGS

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 the Rate Case Resolution established an Electric Formula Rate Plan (“FRP”) and Gas FRP requiring filings in 2020, 2021, and 2022 based on the Evaluation Periods 2019, 2020, and 2021, respectively;

Recognizing that on April 9, 2020, ENO filed the final versions of Electric Formula Rate Plan Rider Schedule EFRP-5 and Gas Formula Rate Plan Rider Schedule GFRP-5 and provided for the initial Electric and Gas FRP Filings to be made on April 30, 2020;

Recognizing that beginning in March 2020, New Orleans experienced an outbreak of a COVID-19 and that State of Louisiana and City of New Orleans implemented emergency mitigation measures in response to the outbreak, which included social distancing and the closing of non-essential businesses;

Recognizing that the emergency mitigation measures had a detrimental effect on economic activity and employment levels in New Orleans;

Recognizing that, on October 15, 2020, the Council adopted Resolution R-20-344 approving the Agreement in Principle to Delay the Initial Electric and Gas Formula Rate Plan Filings in Light of COVID-19 Economic Effects, Modify the Electric And Gas Formula Rate Plans, And Other Relief, which is referred to hereinafter as the “FRP Delay AIP.” The FRP Delay AIP avoided a rate increase for customers based on the Evaluation Period calendar year 2019 adjusted for known and measurable changes through December 31, 2020;

Recognizing that the FRP Delay AIP modified the filing schedule of FRP evaluation reports by requiring the initial Electric and Gas FRP filings to be filed on June 30, 2021 based on an Evaluation Period calendar year 2020 with any FRP Rate Adjustments being effective the first billing cycle of November 2021;

Recognizing that the FRP Delay AIP further required that the second and third evaluation reports be filed on or before April 30, 2022 and 2023, based on Evaluation Periods calendar years 2021 and 2022, respectively;

Recognizing that ENO filed its Electric and Gas FRP filings on June 30, 2021 and, with the first billing cycle in November 2021, implemented Final Electric and Gas FRP Rate Adjustments;

Recognizing that the Council issued Resolution R-21-400 in October 2021 directing ENO to employ certain refund and tax credit monies toward ratepayer credits through the Purchased Power Cost Recovery (“PPCR”) Rider;

Recognizing that ENO filed its 2022 Electric and Gas FRP filings on April 29, 2022 and, with the first billing cycle in September 2022, implemented Final Electric and Gas FRP Rate Adjustments;

Recognizing that the Council directed ENO to employ certain refund and tax credit monies toward ratepayer credits through the PPCR Rider;

Recognizing that ENO filed its 2023 Electric and Gas FRP filings on April 28, 2023, which proposed that electric revenues should increase \$17.4 million and gas revenues should increase \$8.2 million, in addition to the \$3.4 million in electric revenues and the minor amount of gas revenues previously approved for collection;

Recognizing that discovery on 2022 Electric and Gas FRP filings took place with the Advisors to the Council propounding 69 data requests, with subparts 338, and Air Products and Chemicals, Inc. (“APC”) propounding data requests;

Recognizing that, on July 14, 2023, the Advisors filed a correction report recommending adjustments reducing the electric revenue request by \$7.0 million and reducing the gas revenue request by \$1.3 million and recommending rate mitigation offsetting electric revenue by \$12.1 million;

Recognizing that ENO filed a correction report proposing adjustments decreasing the requested electric revenue by \$0.5 million;

Recognizing that the Advisors and ENO have now reached a resolution of all remaining disputed issues related to the 2023 Electric and Gas FRP Filings;

Recognizing that the 2023 Electric and Gas FRP Filings and the previous FRP filings pursuant to Electric Formula Rate Plan Rider Schedule EFRP-6 and Gas Formula Rate Plan Rider Schedule GFRP-6 have been resolved; and

The signatories to this Agreement in Principle hereby agree to or do not oppose the following provisions, terms, and conditions:

1. ENO and the Council Advisors plan to present and recommend adoption of this Agreement in Principle to the Council. This Agreement in Principle is non-binding and cannot be implemented without the Council adopting a resolution implementing the terms of this Agreement in Principle. This Agreement in Principle resolves all disputed issues related to the 2023 Electric and Gas FRP filings and previous FRP filings pursuant to Electric Formula Rate Plan Rider Schedule EFRP-6 and Gas Formula Rate Plan Rider Schedule GFRP-6.

Electric FRP Filing

2. The Council Advisors, through their corrections report, recommend adjustments that total \$7.0 million. While the Company does not agree with those adjustments, the Company agrees to decrease its proposed Increase in Evaluation EFRP Revenue by \$3.5 million (50% of adjustments) on a non-precedential basis.
3. The Company agrees to implement the Advisors’ proposed Expiring Revenue Requirements bill mitigation by offsetting the outside the bandwidth recoveries in their entirety, which total \$3.4 million, and the Algiers Migration, Union Power Block 1, and

IRIS Solar Facility PPA regulatory assets, which reduces the Increase in Evaluation EFRP Revenue by \$2.9 million.

4. The Company agrees to implement the Advisors' proposed Ratepayer Credits bill mitigation by returning \$32.4 million of the credits associated with FERC Docket No. EL18-152 to customers through the PPCR Rider based on a 120-month schedule with the unamortized balance accruing carrying costs at the Company's weighted average cost of capital as of the first billing cycle of September each year. The amounts returned shall be calculated monthly. This treatment is on an interim basis, and the Council, with ENO's consent, may establish a different treatment in a future rate case proceeding.
5. The Company agrees to use \$2.95 million of the credits associated with FERC Docket No. EL18-152 as credits to customers through the PPCR Rider over 7 months beginning in the first billing cycle in September 2023. The remainder of the Expiring Revenue Requirements recoveries discussed in the first bullet in Paragraph 9 below shall be recovered in 7 equal installments over 7 months beginning in the first billing cycle in September 2023.
6. The Company agrees to use \$1.5 million in ratepayer credits available from FERC Docket ER21-736 (SERI Depreciation Refund) as a credit to customers through the PPCR Rider over 5 months beginning in the first billing cycle in April 2024. In the event that ENO does not receive the SERI Depreciation Refund by April 2024, ENO shall issue the monthly ratepayer credits as described above and recognize a regulatory asset equal to ratepayer credits issued. Subsequently, upon receipt of the SERI Depreciation Refund, ENO will offset the regulatory asset with the SERI Depreciation Refund and fund the remaining ratepayer credits with the SERI Depreciation Refund.
7. Accordingly, ENO will implement an Increase in Rider EFRP revenue of \$10.5 million effective the first billing cycle of September 2023, as shown in the following table in the Final column.

Total EFRP Revenue		
(\$ (1))		
	Corrected (2)	Final
Annualized Evaluation Period EFRP Revenue	87.6	87.6
(Reduction) / Increase in Evaluation EFRP Revenue (3)	16.9	10.5
Other Recoveries	3.4	0.0
Total Evaluation EFRP Revenue	107.9	98.1
Bill Mitigation Through PPCR Rider		
Ratepayer Credits Bill Mitigation	-	(8.85)
Change in Electric Revenue (4)	\$20.3	\$1.65
Notes:		
(1) Amounts may not tie due to rounding.		
(2) See ENO's correction report filed on July 14, 2023.		
(3) The Final Increase in Evaluation EFRP Revenue includes a portion of the Expiring Revenue Requirements bill mitigation. See Paragraph 3 above.		
(4) Sum of the Increase in Evaluation EFRP Revenue, Other Recoveries, and the Ratepayer Credits Bill Mitigation.		

8. The following table shows the Final EFRP Rate Adjustments that are set forth in the Attachment A to Rider Schedule EFRP-6, which will become effective the first billing cycle of September 2023; the Attachment A to Rider Schedule EFRP-6 is attached hereto as Exhibit 1. The Final EFRP Rate Adjustments use the Council Advisors' Cost Allocation/Customer Class Decoupling Adjustments reflected in their Corrections Report, which the Company agrees to use on a non-precedential basis.

Rate Class	Total Electric FRP Rate Adjustments
	Final
Residential	27.1179%
Small Electric	29.1027%
Municipal Buildings	26.1482%
Large Electric	24.0698%
Large Electric High Load Factor	20.6931%
Master Metered Non-Residential	-15.7371%
High Voltage	19.1476%
Large Interruptible	6.0465%
Lighting	12.0230%

9. The Council Advisors and the Company agree to the following accounting and ratemaking treatments effective September 1, 2023:
- To implement the Expiring Revenue Requirements bill mitigation, ENO will use \$7.9 million of regulatory liabilities associated with the EAC Rate Adjustment Deferral and the Partial Settlement of FERC Docket No. EL20-72 to permanently offset the

bulk of the pertinent recoveries on ENO's accounting records. The remaining amount of the recoveries, \$0.7 million, shall be recovered as set forth in Paragraph 5 above.

- ENO will recognize \$0.5 million as an annual minor storm accrual. The cost of this accrual is deemed recovered through the EFRP rates in this agreement. This annual minor storm accrual is includable in ENO's cost of service in future ratemaking proceedings.
 - ENO will recover \$585,551 of minor storm deferred O&M over three years with the unamortized balance included in rate base. The cost related to deferral and amortization are deemed recovered through the EFRP rates in this agreement.
10. The Council Advisors and the Company agree to ENO offsetting the regulatory asset associated with the System Agreement under-collection in FERC Docket No. EL10-65, which as of December 31, 2022 had a balance of \$0.6 million and is accruing interest, with regulatory liabilities. The regulatory asset will be offset utilizing ratepayer credits available from FERC Docket ER21-736 (SERI Depreciation Refund).

Gas FRP Filing

11. The Council Advisors, through their Corrections Report, recommend adjustments that total \$1.3 million. While the Company does not agree with those adjustments, the Company agrees to decrease its proposed Increase in Evaluation GFRP Revenue by \$1.3 million on a non-precedential basis.

Accordingly, ENO will implement an Increase in Rider GFRP Revenue of \$6.9 million effective the first billing cycle of September 2023, as shown in the following table in the Final column.

Total GFRP Revenue		
(\$)(1)		
	As-Filed (2)	Final
Annualized Evaluation Period GFRP Revenue	16.7	16.7
(Reduction) / Increase in Evaluation GFRP Revenue	8.2	6.9
Other Recoveries	0.0	0.0
Total Evaluation GFRP Revenue	25.0	23.6
Notes:		
(1) Amounts may not tie due to rounding.		
(2) This column includes the amounts shown in ENO's Gas FRP Filing on April 28, 2023. ENO did not file a GFRP correction report.		

12. The above Total Rider GFRP Revenue results in a Final Gas FRP Rate Adjustment of 62.4697% for all rate classes except the non-jurisdictional gas customers, which are not subject to the Gas FRP Rate Adjustment. The Final Gas FRP Rate Adjustment of 62.4697% is set forth in the Attachment A to Rider Schedule GFRP-6, which will become effective the first billing cycle of September 2023. The Attachment A to Rider Schedule GFRP-6 is attached hereto as Exhibit 2.

Miscellaneous Provisions

13. 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.
14. 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 ADVISORS TO THE COUNCIL OF THE CITY OF NEW ORLEANS

BY: _____ DATE: _____
Clinton A. Vince
Utility Advisors to the Council of New Orleans

ENTERGY NEW ORLEANS, LLC

BY: _____ DATE: _____
Deanna Rodriguez
President & CEO