

**RESOLUTION**

**NO. R-23-348**

**CITY HALL: August 10, 2023**

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

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

**RESOLUTION AMENDING AND EXTENDING THE 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 be remanded to the Council for further consideration consistent with the Court's ruling; and

**WHEREAS**, in Resolution R-23-150, consistent with the Court's order remanding the matter to the Council for further consideration, the Council established a procedural schedule to allow parties to submit additional evidence regarding the amount of the penalty; and

**WHEREAS**, all parties in Council Docket UD-17-04 remained parties for the purpose of participating in the limited supplemental proceeding, and

**WHEREAS**, any additional interested persons were provided a period to file a petition for intervention to participate in this phase of the docket; and

**WHEREAS**, the Council directed that a supplemental record be developed pursuant to a procedural schedule established therein, subsequently certified by the Hearing Officer, and submitted to the Council for consideration; and

**WHEREAS**, the existing procedural schedule overlaps or conflicts with various deadlines and proceedings in several other dockets all of which require the participation of the Council's utility advisors; and

**WHEREAS**, the Council requires that the limited proceedings on remand be thorough and comprehensive and therefore finds it in the public interest to extend all of the procedural schedule deadlines previously established; **NOW THEREFORE**

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

1. The procedural schedule previously established in Resolution R-23-150 to allow the parties to submit additional evidence regarding the penalty resulting from ENO's imprudence is hereby amended and extended.
2. 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 August 31, 2023, to file a petition for intervention to participate in this phase of the docket.
3. The following deadlines are hereby established:
  - a) On or before January 17, 2024, 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 March 13, 2024, ENO and the Intervenors shall submit their responses to the advisors' January 17, 2024 filing.

- c) On or before April 15, 2024, the advisors shall submit a response to the March 13, 2024, filings by ENO and the Intervenors.
- d) The Hearing Officer shall certify the supplemental record on or before April 30, 2024.

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

**YEAS: Giarrusso, Green, Harris, Moreno, Morrell, Thomas – 6**

**NAYS: 0**

**ABSENT: King - 1**

**AND THE RESOLUTION WAS ADOPTED.**

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

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