



June 7, 2024

**Via Electronic Mail**

Clerk of Council  
Room 1E09, City Hall  
1300 Perdido Street  
New Orleans, LA 70112

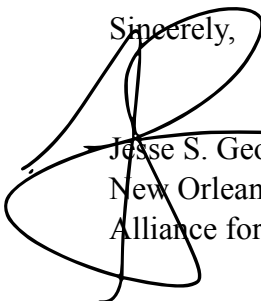
DELTA STATES UTILITIES LA, LLC, AND ENERGENCY LOUISIANA, LLC, EX PARTE  
IN RE: APPLICATION FOR AUTHORITY TO OPERATE AS LOCAL DISTRIBUTION  
COMPANY AND INCUR INDEBTEDNESS AND JOINT APPLICATION FOR APPROVAL  
OF TRANSFER AND ACQUISITION OF LOCAL DISTRIBUTION COMPANY ASSETS  
AND RELATED RELIEF (Docket No. UD-24-01)

Dear Clerk:

Please find enclosed the Alliance for Affordable Energy's Reply to Responses of Entergy New Orleans, LLC and Delta States Utilities, LLC. Please file the attached communication and this letter in the record of the proceeding. We will submit physical copies at your instruction. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention.

Sincerely,



Jesse S. George  
New Orleans Policy Director  
Alliance for Affordable Energy

**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

**DELTA STATES UTILITIES LA, LLCC )  
AND ENTERGY LOUISIANA, LLC, )  
EX PARTE )  
)  
IN RE: APPLICATION FOR )  
AUTHORITY TO OPERATE AS )  
LOCAL DISTRIBUTION COMPANY )  
AND INCUR INDEBTEDNESS AND )  
JOINT APPLICATION FOR )  
APPROVAL OF TRANSFER AND )  
ACQUISITION OF LOCAL )  
DISTRIBUTION COMPANY ASSETS )  
AND RELATED RELIEF )**

**DOCKET NO. UD-24-01**

**ALLIANCE FOR AFFORDABLE ENERGY’S REPLY TO RESPONSES OF ENTERGY  
NEW ORLEANS, LLC AND DELTA STATES UTILITIES NEW ORLEANS, LLC**

On May 31, 2024, the Alliance for Affordable Energy (“the Alliance”) filed a Motion to Compel Production of HSPM-CS Materials and for Leave to File Supplemental Direct Testimony in the above captioned docket. In accordance with the Hearing Officer’s order dated June 3, 2024, the Entergy New Orleans, LLC (“ENO”) and Delta States Utilities New Orleans, LLC (“DSU”) (collectively, “the companies”) each filed responses in opposition to the Alliance’s motion. Pursuant to the Hearing Officer’s order of June 3, 2024, the Alliance now files the following reply to the companies’ responses:

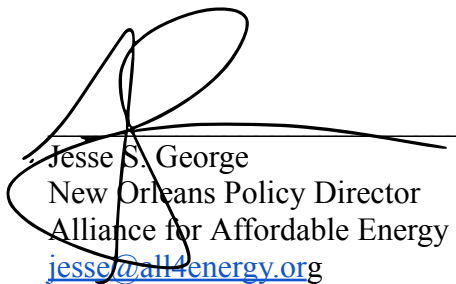
1. The companies argue that the Alliance should have filed its motion sooner, but this demand is arbitrary. DSU, by its own admission, began using the “HSPM-CS” designation only in February 2024 without any basis in the New Orleans City Council’s (“the Council”) Official Protective Order. The Alliance should not be held to a timeline on addressing a classification that was never formally announced into the record as a rule, was not contemplated by the Council’s Official Protective Order, and was not accompanied by any process to request access.
2. The presumption of the Council must be in favor of disclosure, not secrecy. There is no record description of why the particular items designated as “HSPM-CS” were concealed from other parties.
3. There is no articulated standard in the record or in law for designating materials as “HSPM-CS” and no information about how it was applied by the companies.
4. The companies never announced any procedure for reviewing and seeking copies or access to the “HSPM-CS” materials. The Alliance cannot fail to comply with a process that was never proposed, never reviewed by the Council or Hearing Officer, and never announced to any parties.
5. While DSU argues that the “HSPM-CS” materials “do not bear on the substance of AAE’s arguments made in their direct testimony”, an *in camera* review by the Alliance on June 6, 2024 confirmed the relevance and probative value of the materials to the Alliance’s testimony. The Alliance will suffer material harm if full access is denied and additional relief is not granted.
6. The Council’s Resolution R-06-88, attached as AAE Exhibit B, provides the standards by which the Council evaluates the sale or transfer of utility assets, as proposed in this

docket. R-06-88 requires an evaluation of whether the proposed transaction generates net benefits for ratepayers. While the Alliance's direct testimony addressed this issue, it is impossible to know the relevance of materials that the Alliance has not been allowed to review fully.

7. Neither ENO nor DSU provide a satisfactory explanation as to why the extraordinary level of secrecy of "HSPM-CS" designation is necessary.
8. Both ENO and DSU argue that their interests would be prejudiced by a granting of the Alliance's motion because of the effect on the procedural schedule. However, there are no other bidders in this transaction, and the companies are free to propose a modification of the procedural schedule if they feel the need for more time to respond to the Alliance's supplemental direct testimony.
9. The Alliance remains ready and able to receive and appropriately safeguard all the relevant information and data in this proceeding, including that being unreasonably withheld through the unapproved "HSPM-CS" designation.

For the foregoing reasons, the Alliance respectfully requests that its Motion to Compel Production of HSPM-CS Materials and for Leave to File Supplemental Direct Testimony be granted.

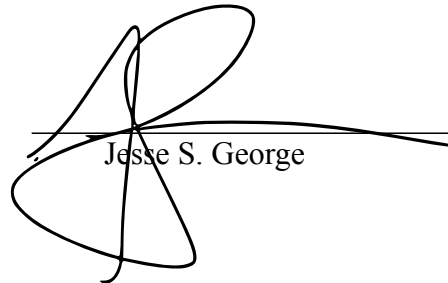
Respectfully submitted,



Jesse S. George  
New Orleans Policy Director  
Alliance for Affordable Energy  
[jesse@all4energy.org](mailto:jesse@all4energy.org)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon "The Official Service List" via electronic mail this 7<sup>th</sup> day of June 2024.



Jesse S. George

## **AAE Exhibit B**

NO. R-06-88

BY: COUNCILMEMBERS SAPIR, BATT, WILLARD-LEWIS AND GILL PRATT

GENERAL ORDER

ON CORPORATE RESTRUCTURING REQUIREMENTS

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, Entergy New Orleans, Inc. ("ENO") provides gas and electric service to all of New Orleans, except the Fifteenth Ward ("Algiers"); and

WHEREAS, Entergy Louisiana, Inc. ("ELI" or "Company") provides electric service to Algiers; and

WHEREAS, in April 1922 the Council granted to ENO's predecessor, New Orleans Public Service, Inc. ("NOPSI") an indeterminate permit to operate gas, electric, and railway systems in New Orleans, under Ordinance Nos. 6822 and 7068; and

WHEREAS, similarly the Council granted ELI's predecessor, Louisiana Power & Light, Company, an indeterminate permit with respect to the provision of electric service in Algiers; and

WHEREAS, other regulatory bodies, including the Louisiana Public Service Commission ("LPSC"), have issued orders of general applicability regarding the process and requirements for seeking approval of corporate restructurings and asset transfers. The LPSC's rules are contained in its March 18, 1994 General Order, In re: Commission Approval Required of Sales, Leases, Mergers, Consolidations, Stock Transfers, and All Other Changes of Ownership or Control of Public Utilities Subject to Commission Jurisdiction ("General Order"). That General Order provides that affirmative Commission action of approval or non-opposition must occur before a regulated utility or common carrier, subject to the Commission's jurisdiction, enters into a contract, a combination of related contracts, or conveys, leases or acquires assets of any kind or incurs any obligation or merges or combines with another utility or common carrier or divides into two or more utilities or common carriers, where the value involved exceeds 1% of the gross assets of such regulated utility or common carrier; and

WHEREAS, ambiguity about the Council's approval process exists because no general order has been issued by the Council concerning the approvals necessary before a corporate reorganization or any other transfer of assets takes place; now therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,  
THAT:

The following general order is adopted by the Council of the City of New Orleans:

1. No utility subject to the jurisdiction of the Council shall sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the whole or any part of its franchise, works, property, or system, nor by any means direct or indirect, merge or consolidate its utility works, operations, systems, franchises, or any part thereof, nor transfer control or ownership of any of the assets, common stock or other

indicia of control of the utility to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated entity or any other entity, where the values involved in such action exceed one percent (1%) of the gross assets of such regulated utility or common carrier, or subsidiary thereof, nor in any way commit itself to take such action or affect any right, interest, asset, obligation, stock ownership, or control, involved in such action without prior full disclosure of the prior intent and plan of such utility or common carrier with regard to such action and without prior official action of approval or official action of non-opposition by the Council. This section is intended to apply to any transfer of ownership and/or control of public utilities and common carriers regardless of the means used to accomplish that transfer.

2. In determining whether to approve any such transfer of ownership or control the Council shall take into account the following factors:

- a. Whether the transfer is in the public interest.
- b. Whether the purchaser is ready, willing and able to continue providing safe, reliable and adequate service to the utility's ratepayers.
- c. Whether the transfer will maintain or improve the financial condition of the resulting public utility or common carrier.
- d. Whether the proposed transfer will maintain or improve the quality of service to public utility or common carrier ratepayers.
- e. Whether the transfer will provide net benefits to ratepayers in both the short term and the long term and provide a ratemaking method that will ensure, to the fullest extent possible, that ratepayers will receive the forecasted short and long term benefit.
- f. Whether the transfer will adversely affect competition.
- g. Whether the transfer will maintain or improve the quality of management of the resulting public utility or common carrier doing business in the City.
- h. Whether the transfer will be fair and reasonable to the affected public utility or common carrier employees.
- i. Whether the transfer would be fair and reasonable to the majority of all affected public utility or common carrier shareholders.
- j. Whether the transfer will be beneficial on an overall basis to City and local economies and to the communities in the area served by the public utility or common carrier.
- k. Whether the transfer will preserve the jurisdiction of the Council and the ability of the Council to effectively regulate and audit the public utility's or common carrier's operations in the City.
- l. Whether conditions are necessary to prevent adverse consequences which may result from the transfer.



- m. The history of compliance or noncompliance that the proposed acquiring entity or principals or affiliates have had with regulatory authorities in this City or other jurisdictions.
- n. Whether the acquiring entity, persons, or corporations have the financial ability to operate the public utility or common carrier system and maintain or upgrade the quality of the physical system.
- o. Whether any repairs and/or improvements are required and the ability of the acquiring entity to make those repairs and/or improvements.
- p. The ability of the acquiring entity to obtain all necessary health, safety and other permits.
- q. The manner of financing the transfer and any impact that may have on encumbering the assets of the entity and the potential impact on rates.
- r. Whether there are any conditions which should be attached to the proposed acquisition.

3. The entity seeking acquisition or control of a public utility or common carrier subject to the Council's jurisdiction, or any other action described herein, shall have the burden of proving that the requirements of this Order have been satisfied.

4. Any transfer accomplished without Council approval is void.

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

YEAS:Clarkson, Gill Pratt, Hedge-Morrell, Sapir, Thomas, Willard-Lewis - 6

NAYS:0

ABSENT:Batt - 1

THE RESOLUTION WAS ADOPTED.