

December 6, 2024

Via Electronic Mail

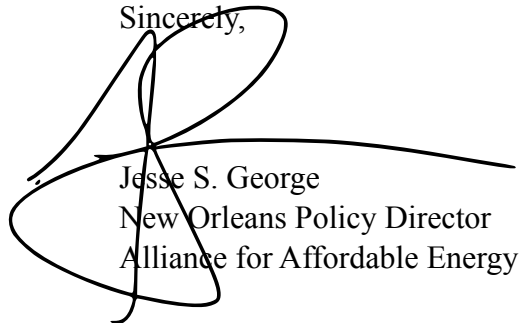
Clerk of Council
Room 1E09, City Hall
1300 Perdido Street
New Orleans, LA 70112

RE: RESOLUTION AND ORDER ESTABLISHING A DOCKET TO ASSESS AND AMEND
SERVICE REGULATIONS AND CODE PROVISIONS RELATED TO CUSTOMER
PROTECTIONS (UD-23-02)

Dear Clerk,

Please find the attached Comments of the Alliance for Affordable Energy on Entergy New Orleans, LLC's Proposed Revisions to Article VIII Customer Protections and Customer Service Regulations for filing under the docket referenced above. We will submit physical copies at your instruction. If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,



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

**Before
The Council of the City of New Orleans**

**In Re: RESOLUTION AND ORDER
ESTABLISHING A DOCKET TO ASSESS
AND AMEND SERVICE REGULATIONS
AND CODE PROVISIONS RELATED TO
CUSTOMER PROTECTIONS**

DOCKET NO. UD-23-02

DECEMBER 6, 2024

**COMMENTS OF THE ALLIANCE FOR AFFORDABLE ENERGY ON ENERGENCY
NEW ORLEANS, LLC'S PROPOSED REVISIONS TO ARTICLE VIII CUSTOMER
PROTECTIONS AND CUSTOMER SERVICE REGULATIONS**

I. INTRODUCTION

On October 10, 2023 the New Orleans City Council (“the Council”) adopted Resolution R-24-574 directing Entergy New Orleans, LLC (“ENO”) to file by November 8, 2024 several amendments to its Service Regulations, as well as revised versions of its bill dispute and damages claims processes. The Alliance for Affordable Energy (“Alliance”) now submits the following comments in response to ENO’s filing:

II. ENO’S PROPOSED DISCONNECTION PROTECTIONS ARE INADEQUATE

ENO proposes minimal revisions to the customer protections and service regulations pertaining to disconnection. It proposes to revise the Article VIII Sec. 158-1045 subparagraph (g) by reducing the heat index threshold for disconnections from 115 degrees Fahrenheit to 105 degrees Fahrenheit and by prohibiting disconnections during declared weather emergencies. Likewise, ENO proposes to revise the Service Regulations by including congruent language.

As the Alliance noted in our initial comments under this docket, past experience has taught us that access to electricity service is a life or death matter for many in our community. The intensity, frequency, and variety of climate disasters we are experiencing – including more

days of extreme heat and cold – are all increasing, and a piecemeal approach to prohibiting residential service disconnections will inevitably allow vulnerable ratepayers to be disconnected in between declared emergencies or states of extreme weather, only to be left without vital services during the next emergency.

Accordingly, the Alliance would propose to amend §158-1045(g) of the Article VIII Customer Protections as follows:

~~The right to not have service disconnected except by request. when: (1) the temperature for the day is forecast to remain at or below 40 degrees Fahrenheit or the night-time temperature is forecast to be 32 degrees Fahrenheit or lower, or (2) if the high temperature for that day is forecast to be 100 degrees F or higher, or (3) if the National Weather Service issues an Excessive heat warning (or such term that reflects a heat index of 115 degrees F or higher) for Orleans Parish for the day. [7] Once the National Weather Service issues an excessive heat warning, the utility is prohibited from reinstating normal disconnect policies for the remainder of the day, regardless of whether the excessive heat warning is subsequently lifted during the day.~~

Alternatively, should the Council deem a total prohibition on residential service disconnections too broad in scope, the Alliance would suggest a **three-year moratorium** on residential service disconnections while Entergy works to increase resilience under docket UD-21-03 and begins to comply with the reliability requirements the Council adopted in 2023 under docket UD-17-04.

Another alternative would be seasonal moratoria for summer and winter, beginning on each respective solstice and ending on the next equinox, as such:

41. Restrictions on Suspension of Residential Service for Non-Payment.

The Company will not suspend residential Service for non-payment under the following conditions: (i) if there is a *bona fide* dispute regarding such deliverability (see Section 51 “Customer Complaints”); (ii) if the low temperature for that day is forecast to remain below 40 degrees F or for the following night is forecast to be 32 degrees F or lower; (iii) if the high temperature for that day is forecast to be 100 degrees F or higher; (iv) if the National Weather Service has an Excessive Heat Warning (or other such term that reflects a Heat Index of 115 degrees F or higher) issued for Orleans Parish, or (v) on a weekend, holiday, or the day before a holiday or Friday after 1:00 PM; **between the Summer Solstice and Autumnal Equinox or between the Winter Solstice and Vernal Equinox.**

Likewise, the Alliance would propose to amend paragraph 41 of the Service Regulations as follows:

41. Restrictions on Suspension of Residential Service for Non-Payment.

The Company will not suspend residential Service for non-payment **for any reason except by request of the Customer.** ~~non-payment under the following conditions: (i) if there is a *bona fide* dispute regarding such deliverability (see Section 51 “Customer Complaints”); (ii) if the low temperature for that day is forecast to remain below 40 degrees F or for the following night is forecast to be 32 degrees F or lower; (iii) if the high temperature for that day is forecast to be 100 degrees F or higher; (iv) if the National Weather Service has an Excessive Heat Warning² (or other such term that reflects a Heat Index of 115 degrees F or higher) issued for Orleans Parish, or (v) on a weekend, holiday, or the day before a holiday or Friday after 1:00 PM.~~

At the very least, the Council should use a wet bulb temperature rather than heat index as the standard for setting a threshold for prohibiting disconnections¹. In any case, ENO should be required to exhaust all options before initiating any allowable residential disconnections.

III. ENO'S PROPOSED REVISIONS TO THE BILL DISPUTE PROCESS ARE INADEQUATE

ENO's proposed revisions to the bill dispute process articulated in Article VIII are similarly inadequate to address consumer frustrations because they still require the customer to await receipt of a letter of disposition of an informal complaint from ENO before the customer can proceed to file a formal complaint with the Council. Customers who are faced with potential late fees and disconnection for failing to pay inflated and disputed bills must be allowed to prosecute their claims urgently. The requirement to await receipt of a letter from ENO – which has no required timeline for sending and which might never arrive – is a major barrier to customers receiving equitable resolution of their claims. Accordingly, the Article VIII process should be amended as follows:

Sec. 158-1048. - Informal complaint filed directly with utility required.

- (1) All complaints must initially be submitted informally for resolution directly to the utility prior to filing a formal complaint by a customer. In the event the matter of the complaint involves the potential disconnection of a customer's service, the customer must file the informal complaint no later than the day prior to the day for which the disconnection of service has been scheduled by the utility as so noticed to customer. When an informal complaint is filed with the utility, the utility is required to use its best efforts to resolve the complaint via its customer issue resolution process as provided for in its then-effective customer service regulations. ~~If the subject of a complaint is the accuracy~~

¹ <https://www.weather.gov/ict/WBGT>

~~of a bill, the utility shall not terminate the service of the customer for nonpayment of the charges that are in dispute so long as during the pendency of the complaint, customer pays the amount currently chargeable for monthly or seasonal period(s) (as appropriate) at issue at customer's level of usage for the corresponding monthly or seasonal period(s) (as appropriate) during the prior year or, in the event such usage information is not available, the average usage for the customer class for the corresponding monthly or seasonal period(s), unless the customer and the utility mutually agree to an alternative payment arrangement. If a satisfactory disposition of the informal complaint has not been reached between the company and the customer within seven business days of the date of receipt of the informal complaint, the customer shall have the right to file a formal complaint through the Council Utilities Regulatory Office.~~

~~(2) If a satisfactory disposition of the informal complaint has not been reached between the company and the customer within ten business days of the date of receipt of the informal complaint, the utility shall notify the customer, in writing by mailing to customer's address via certified mail, return receipt requested, of his or her right to file a formal complaint through the council utilities regulatory office and provide a copy of the council approved customer bill of rights pamphlet.~~

~~(3) The utility's notice shall indicate clearly that the formal complaint must be filed within ten (10) calendar days of the date the customer receives notification of the disposition of the informal complaint. The utility's notice shall include a clear indication and basis for the company's disposition of the informal complaint. The returned receipt of the United States Postal Service shall constitute prima facie evidence of the date notification is received by the customer.~~

Likewise, paragraph 51 of the Service Regulations should be amended to reflect these changes as follows:

51. Customer Complaints. Customer complaints shall be directed to Entergy New Orleans, LLC through its Customer Contact Center at 1-(800) ENTERGY, or in person at its Customer Care Centers, currently located at **3400 Canal Street, New Orleans, LA 70119; and 4021 Behrman Highway, Suite J, New Orleans, LA 70114**, or through the Company's Website: www.entergyneworleans.com. Upon receiving a Customer complaint, the Company's Customer Contact Center or Customer Care Center agent will log the Complaint into the Customer Care System on the Customer's behalf and provide the Customer with a reference number. If the Company's Customer Contact Center or Customer Care Representative is unable to resolve the Customer's issue at the time the Complaint is made, a Company representative will contact the Customer within two (2) business days. If the complaint is not resolved to the satisfaction of the Customer within the Company's Customer Contact Center or the Customer Care Center, the complaint is forwarded to the Company's Customer Service Support Department. The Customer Operations and Support Department will contact the Customer within three (3) business days. If the Customer remains dissatisfied with the Company's response, the Customer's complaint will be forwarded to a Customer Service Specialist for further review.

The Company shall make every reasonable effort to resolve the matter via the Customer Complaint and Dispute Resolution Process within ~~ten (10)~~ **seven (7)** business days of initiating the complaint. However, in the event that the Customer is not satisfied with the Company's resolution of the complaint **within seven (7) business days of initiating the complaint, the Customer shall have the right to file a formal complaint through the**

~~Council Utilities Regulatory Office. the Company shall send Written Communication to the Customer regarding: the disposition of the informal complaint, and reasons therefor; the Customer's right to file a formal Complaint through the Council Utilities Regulatory Office within ten (10) calendar days of receiving notification of the Company's disposition; and a copy of the Customer Complaint and Dispute Resolution Process, pamphlet as provided for in Section 158 of the Code of the City of New Orleans, Article VIII, Divisions 1-4, as amended.~~ Should the Customer initiate the formal complaint process, the Company will provide the Council Utilities Regulatory Office with information regarding the complaint and all actions taken by the Company to resolve the issue. Nothing contained in this Section shall abridge the rights and obligations of the parties under applicable Louisiana law.

IV. THE ALLIANCE SUPPORTS ELIMINATING RECONNECTION FEES FOR CUSTOMERS WITH ADVANCED METERING INFRASTRUCTURE, OPT-IN FOR PAPERLESS BILLING, AND NOTICE REQUIREMENTS FOR PLANNED OUTAGES

The Alliance is supportive of the revisions ENO has proposed pertaining to notice of planned outages, opt-in for paperless billing, and the elimination of reconnection fees for customers with advanced metering infrastructure. The Council should also consider eliminating deposits for residential customers.

V. THE COUNCIL SHOULD CLASSIFY REFRIGERATORS AS MEDICAL EQUIPMENT FOR THE PURPOSES OF MEDICAL NEEDS CERTIFICATION

If the Council continues to allow residential disconnections, it should consider amending the Service Regulations pertaining to medical needs certification to clarify that "Medical Equipment" includes refrigerators. Many ratepayers rely on medications, such as insulin, that

require cold storage. For the purposes of protections around medical needs certification, the Council should amend paragraph 50 of the Service Regulations as follows:

50. Medical Need Certification. Depending upon a Customer’s medical condition, the Customer may be eligible for one of two types of medical designations on their account. The two designations recognized by the Company are Life Support and Medical Equipment. Life Support is any medical treatment system that is life sustaining. Medical Equipment is any medical treatment system that is utilized in the treatment of an illness or medical condition, **including refrigerators used for the storage of medications or other medical necessities.** Customers who are on Life Support or any other life sustaining medical treatment system requiring a continuous supply of gas or electricity, should notify the Company. In order to have such designations placed on the account, a Customer must have a doctor provide a statement of medical condition to the Company. Any Customer requesting designation, as having specific Life Support medical requirements must register as such with the Company.

VI. THE COUNCIL SHOULD ENSURE THAT RATEPAYERS ARE FULLY REPRESENTED IN REGULATORY PROCEEDINGS

In 1978, the United States Congress Passed the Public Utility Regulatory Policies Act (“PURPA”), and included retail regulatory policies for electric utilities for the purpose of achieving 1) conservation of energy supplied by electric utilities; 2) optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers. 16 U.S. Code § 2611.

Section 122 of PURPA provides for individuals or organizations who would not otherwise be adequately represented to receive fair compensation for their useful intervention in a regulatory proceeding. 16 U.S. Code § 2632. Since PURPA’s adoption in 1978, most states

have created either 1) an office of people's counsel, a ratepayer funded advocate, or some other entity to specifically represent the interests of residential customers, or 2) guidelines by which such an intervenor may request remuneration for substantial contribution to the final regulatory decision. The New Orleans City Council has never created a statutorily recognized or funded residential public advocate, the state Attorney General's office has categorically declined to represent utility ratepayers in Louisiana, and there are presently no guidelines for any organization to request and receive reasonable compensation for intervention on behalf of ratepayers. At least thirteen states have approved some kind of intervenor funding mechanism when an alternative means does not exist.²

As a Fortune 500 company, ENO has vast resources with which to advance its shareholders interests, however, this is not true for most residents of New Orleans. The Council has the authority to create a pathway for New Orleans low-income residential customers to be thoroughly represented in ratemaking and other regulatory proceedings, and should add the following as a new enumerated right under Section 158-1045 of the Code:

(q) The right to representation in, or to reasonable compensation for costs and fees associated with intervening in, regulatory proceedings before the New Orleans City Council.

² IDAHO CODE § 61-617A (1992); Idaho Fair Share v. Public Util. Comm'n, 751 P.2d 107 (Idaho 1988); Northern Ind. Pub. Serv. Co. v. Citizens Action Coalition of Ind., Inc., 548 N.E.2d 153 (Ind. 1989); ME. REV. STAT. ANN. § 1310 (1992); MICH. COMP. LAWS §§ 460.6(1), (i) (1990); MINN. STAT. ANN. § 216B.16(10) (West, 1992), § 237.075(10) (1984); N.H. CODE ADMIN. R. PUC 205; Rodriguez, 506 N.Y.S.2d 888; OKLA. STAT. tit. 17, § 34.1 (1981); Public Serv. Co. of Okla., 688 P.2d at 1274; Utah State Coalition of Senior Citizens, 776 P.2d at 632 (in absence of public-utility commission procedures, action for fees must be brought in state court, not before public utility commission, but court found all but one precondition for fees met by intervenors); and Wis. STAT. ANN. § 196.31 (West 1992), Wis. ADMIN. CODE §§ PSC 3.01 *et seq.*

VII. CONCLUSION

The City of New Orleans is experiencing a crisis of utility affordability and access. The Council has the authority to address the problem, but must be willing to scale its actions to the urgency the situation demands. The Alliance urges the Council to establish adequate protections for vulnerable ratepayers.

Submitted respectfully,

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

**Before
The Council of the City of New Orleans**

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DOCKET NO. UD-23-02

DECEMBER 6, 2024

CERTIFICATE OF SERVICE

I do hereby certify that I have, this 6th day of December 2024, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.

Jesse S. George
Alliance for Affordable Energy

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