

1 **AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN**

2 **THE CITY OF NEW ORLEANS**

3 **AND**

4 **SONNENSCHN NATH & ROSENTHAL, LLP**

5 **THIS AGREEMENT** is made and entered into as of the 1st day of January 2010 by and
6 between the City of New Orleans, herein represented by Arnie Fielkow, President of the Council of
7 the City of New Orleans (hereinafter referred to as "City"), and the law firm of Sonnenschein Nath &
8 Rosenthal, LLP (herein after referred to as "Contractor").

9 **WITNESSETH**

10 **WHEREAS**, to address the complex legal and technical issues necessary to properly meet its
11 responsibility, the Council has selected hearing officers and consulting firms as advisors, in
12 accordance with the competitive selection process required by the Home Rule Charter; and

13 **WHEREAS**, pursuant to Rule 45, the City Council adopted Motion M-09-459, directing the
14 Council staff to issue a Request for Qualifications to initiate a competitive selection process to obtain
15 consultants with expertise essential to assisting the Council in effectuating its regulatory authority
16 over electric and gas utilities in New Orleans; and

17 **WHEREAS**, a Request for Qualifications relative to electric and gas regulatory services was
18 issued September 4, 2009 and reissued on October 20, 2009; and

19 **WHEREAS**, responses to the Request for Qualifications were reviewed by the Staff
20 Selection Review Committee on October 20, 2009 and on November 9, 2009, the Council Utility
21 Committee met and recommended that the City Council approved the selection of Sonnenschein
22 Nath & Rosenthal, L.L.P., Wilkerson & Henry, L.L.C., Legend Consulting Group Limited, Bruno
23 and Tervalon, L.L.P., and Paillet, Meunier & LeBlanc, L.L.P. be retained to provide electric and/or

1 natural gas regulatory consulting services to the City Council; and

2 **WHEREAS**, by Motion M-09-645 the City Council approved the recommendation of the
3 Council Utilities Committee that the firm of Sonnenschein Nath & Rosenthal, LLP be retained to
4 provide utility consulting services in the area of the Council's electric and gas regulatory
5 responsibility; and

6 **WHEREAS**, the Council by Motion M-09-672 authorized the President of the Council to
7 sign a professional service contract with the firm of Sonnenschein Nath & Rosenthal, LLP for the
8 contract amount as specified herein; and

9 **WHEREAS**, the firm of Sonnenschein Nath & Rosenthal, LLP is herein represented by
10 Clinton A. Vince, Esq., Shareholder Partner as authorized by letter to enter into agreement on behalf
11 of the firm of Sonnenschein Nath & Rosenthal, LLP.

12 **NOW, THEREFORE**, the City of New Orleans and the firm of Sonnenschein Nath &
13 Rosenthal, LLP for the consideration, and under conditions set forth, do agree as follows:

14 **I. SCOPE OF SERVICES**

15 **A. Contractor Agrees To:**

16 Provide advice, counsel and representation to the City Council as Special Counsel to the
17 Council and provide legal and related consulting services to the Council in all local,
18 state and federal regulatory matters in respect to the electric and natural gas utilities
19 providing services in New Orleans, including but not limited to Entergy, its unregulated
20 subsidiaries and its regulated operating subsidiaries; Entergy Louisiana, Inc; and Entergy
21 New Orleans, Inc.; as may be required from time to time by the City Council, and its
22 staff.

1 **B. The City Agrees To:**

2 1. Provide contract administration through the City Council Utilities Regulatory
3 Office.

4 2. Provide access to records, documents and other information as may be required.
5 Additional support and information may be directed to the Council Utilities
6 Regulatory Office.

7 **II. COMPENSATION**

8 The compensation to be paid for services rendered will be at the hourly billing rate of:

9 Partners and	
10 Senior Managing Directors up to	\$495.00 per hour
11 Counsel and Of Counsel up to	\$450.00 per hour
12 Associates and	
13 Managing Directors up to	\$350.00 per hour
14 Other Professionals up to	\$150.00 per hour

15 The compensation to be paid to the firm of Sonnenschein Nath & Rosenthal, LLP for such
16 services shall not exceed Three Million Dollars (\$3,000,000.00). If there are any necessary
17 and ordinary expenses attached to the work of the firm of Sonnenschein Nath & Rosenthal,
18 LLP these expenses, in addition to the fees outlined above, shall be reimbursable by the City
19 but the total amount of such expenses and fees shall not exceed Three Million Dollars
20 (\$3,000,000.00). The firm of Sonnenschein Nath & Rosenthal, LLP shall submit to the City
21 a detailed monthly invoice for payment of services provided. The firm of Sonnenschein Nath
22 & Rosenthal, LLP work shall be detailed in increments of one-tenth of an hour. This
23 agreement is contingent upon the appropriation and allocation of funds by the City of New
24 Orleans.

1 **III. PAYMENT**

2 Payment under this agreement shall be made pursuant to detailed monthly invoices submitted
3 by the firm, subject to review and approval by the City for payment. Upon authorization
4 through the City Council Utilities Regulatory Office such invoices may be submitted to the
5 Finance Department for payment by the City or, alternatively, when such invoices would be
6 reimbursable by a utility subject to regulation under Section 3-130 of the Home Rule Charter
7 and reimbursable pursuant to Section 3-130 (5) of the Home Rule Charter, the City Council
8 Utilities Regulatory Office may submit such invoices for payment to such regulated utility
9 company. Payments in the name of the firm under this provision shall then be sent to the
10 Council Utilities Regulatory Office which shall immediately forward such authorized
11 payment to the firm. The Council Utilities Regulatory Office shall maintain records of such
12 payments which shall be public records and shall also forward copies of such records as
13 required to the CAO and Department of Finance. Such payments, when made by such utility
14 company through the City Council's Utilities Regulatory Office shall fully discharge the
15 City's obligation for such payment under this contract and be included in and applied to the
16 maximum compensation limits of this contract. Pursuant to Motion M-09-672 such
17 payments shall be recoverable as regulatory expense by such utility in the same manner as
18 reimbursements to the City for such payments pursuant to Section 3-130 (5) of the Home
19 Rule Charter.

20 **IV. EQUAL EMPLOYMENT OPPORTUNITY**

21 In all hiring or employment made possible by or resulting from this Contract, there (1) will
22 not be any discrimination against any employee or applicant for employment because of race,
23 color, religion, gender, age, gender, physical or mental disability, national origin, sexual

1 orientation, creed, culture, or ancestry, and (2) where applicable, affirmative action will be
2 taken to ensure that the Contractor's employees are treated during employment without
3 regard to their race, color, religion, gender, age, physical or mental disability, national
4 origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but
5 not be limited to the following: employment, upgrading, demotion, or transfer; recruitment
6 or recruitment advertising; layoff or termination; rates of pay or other forms of
7 compensation; and selection for training, including apprenticeship. All solicitations or
8 advertisements for employees shall state that all qualified applicants will receive
9 consideration for employment without regard to race, color, religion, gender, age, physical or
10 mental disability, national origin, sexual orientation, creed, culture, or ancestry.

11 **V. ASSIGNABILITY**

12 The Contractor shall not assign any interest in this Contract, and shall not transfer
13 any interest in the same without prior written consent of the City of New Orleans.

14 **VI. CONFLICT OF INTEREST**

15 In the interest of ensuring that efforts of the Contractor do not conflict with the interest of the
16 City, and in recognition of Contractor's professional responsibility to the City, the
17 Contractor agrees to decline any offer of employment if its independent, professional work
18 on behalf of the City is likely to be adversely affected by the acceptance of such employment.

19 The initial determination of such a possibility rests with the Contractor. It is incumbent
20 upon the Contractor to notify the City and provide full disclosure of the possible effects of
21 such employment on the Contractor's independent, professional work in behalf of the City.
22 Final decision on any disputed offers of other employment for the Contractor shall rest with
23 the City.

1 **VII. INDEMNIFICATION**

2 The Contractor shall indemnify and save harmless the City of New Orleans against any and
3 all claims, demands, suits, judgments of sum of money to any party accruing against the City
4 for loss of life or injury or damage to persons or property growing out of, resulting from, or
5 by reason of any act of omission of the operation of the Contractor, his agents, servants or
6 employees while engaged in or about or in connection with the discharge or performance of
7 the services to be done or performed by the Contractor hereunder, and shall also hold the
8 City harmless from any and all claims and/or liens for labor, services, or materials furnished
9 to the Contractor in connection with the performance of its obligation under this Agreement.

10 **VIII. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION**

11 **COVERAGE**

12 The Contractor herein expressly agrees and acknowledges that it is an independent
13 Contractor as defined in R. S. 23:1021 (6) and as such, it is expressly agreed and understood
14 between the parties hereto, in entering into this professional services contract, that the City of
15 New Orleans shall not be liable to the Contractor for any benefits or coverage as provided by
16 the Worker's Compensation Law of the State of Louisiana, and further, under the provisions
17 of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of
18 the City for the purpose of Worker's Compensation Coverage.

1 **IX. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT**

2 **COMPENSATION COVERAGE**

3 The Contractor herein expressly declares and acknowledges that it is an independent
4 contractor and as such is being hired by the City under this contract of hire as noted and
5 defined in R.S. 23:1472 (E); and, therefore, it is expressly declared and understood between
6 the parties hereto, in entering into this professional services contract or contract for hire, and
7 in connection with unemployment compensation in coverage only, that:

8 A. The Contractor has been and will be free from any control or direction by the City,
9 over the performance of the services covered by this contract; and

10 B. Service(s) to be rendered by the Contractor are outside the normal course and scope
11 of the City's usual business; and

12 C. The Contractor has been independently engaged in performing services listed
13 herein prior to the date of this contract .

14 Consequently, neither the Contractor nor anyone employed by the Contractor shall be
15 considered an employee of the City for the purpose of unemployment compensation
16 coverage, the same being hereby expressly waived and excluded by the parties hereto.

17 **X. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS**

18 It is expressly agreed to and understood between the parties entering into this professional
19 services contract that the Contractor, acting as an independent agent, and its agents assigned
20 and employees shall not receive any sick and annual leave benefits from the City of New
21 Orleans.

22 **XI. JURISDICTION**

23 The undersigned Contractor does further hereby consent and yield to the jurisdiction of the

1 State Civil Courts of the Parish of Orleans and does hereby formally waive any pleas of
2 jurisdiction on account of residence elsewhere of the undersigned Contractor.

3 **XII. DURATION OF AGREEMENT**

4 The services to be provided under the terms of this Agreement shall begin on January 2010
5 and shall end no later than December 31, 2010. It is understood and acknowledged by all
6 signators to this Agreement that work described under these terms is to be accomplished
7 during the time period specified herein. The terms, conditions and duration of this contract
8 may be modified by an executed, written amendment to this contract.

9 **XIII. EXTENSION**

10 This agreement may be extended at the option of the City, provided that funds are allocated
11 by the Council of the City of New Orleans and the extensions of the agreement facilitates the
12 continuity of services provided herein. This agreement may be approved for the negotiation
13 of one year contracts renewable on an annual basis for a total period of up to five years.

14 **XIV. CANCELLATION**

15 Either party of this contract may terminate the contract at any time during the term of
16 the contract by giving the other party written notice of said intention to terminate at
17 least thirty (30) days before the date of termination.

18 **XV. SOLICITATION**

19 The Contractor has not employed or retained any company or person, other than a bona fide
20 employee working solely for him, to solicit or secure the subject contract. The Contractor
21 has not paid or agreed to pay any person, other than a bona fide employee working from him,
22 any fee, commission, percentage, gift, or any other or consideration contingent upon or
23 resulting from the subject contract.

1 **XVI. OFFICE OF INSPECTOR GENERAL**

2 The Contractor understands and will abide by all provisions of the Code of the City of New
3 Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888
4 M.C.S., (relative to the operations and authority of the City Inspector General), incorporated
5 herein by reference.

6 **XVII. SUBCONTRACTS**

7 Any and all subcontracts by the Contractor relating to work under this contract shall be
8 approved in advance by motion of the Council. The Council may require information on
9 ownership interests in the subcontractor prior to approval of the subcontractor's retention.
10 Contractor shall incorporate by reference in all subcontracts the provisions of this Article and
11 shall require all subcontractors to comply with such provisions. Contractor's failure to
12 comply with the obligations in this subsection shall constitute a material breach of this
13 Agreement.

14 **XVIII. EXPENSES**

15 Unless otherwise approved by the Contracting Officer of the City Council, reimbursable
16 expenses shall be limited as follows: meals at reasonable and customary costs for the city in
17 which they are consumed absent charges for alcoholic beverages, air transportation limited to
18 lowest available coach fares at the time of booking, lodging expenses in New Orleans not to
19 exceed federal per diem rate for hotels in New Orleans to the extent achievable without an
20 official governmental identification for the personnel; postage, overnight delivery or courier
21 services at contractor's actual cost; facsimile transmissions and long distance telephone
22 charges at contractor's actual cost; copies at \$0.10 per page; computerized research at
23 contractor's actual cost.

1 **XIX. LIMITATIONS**

2 For the attendance at all meetings of the Council, the CUC, briefings of Councilmembers,
3 and representation before any court or regulatory body and during the conduct of regulatory
4 proceedings before the Council and other regulatory bodies, the Council will only provide
5 labor fee reimbursement for one consultant from any applicable firm, unless otherwise
6 specifically approved by the Contracting Officer of the City Council. Contractor further
7 agrees to avoid the unnecessary duplication of personnel and costs in the performance of
8 services under this agreement and accordingly, shall staff all assignments with only qualified
9 and experienced personnel so as to only charge for the minimum number of personnel and
10 incur the least costs reasonably necessary to perform the assignments.

11 **XX. SEVERABILITY**

12 In the event a Court of competent jurisdiction finds any clause or provisions pertaining to the
13 retention of Contractor invalid, unless said Court expressly states otherwise, said findings
14 shall not affect Contractor's right to continue providing utility-related legal services to the
15 City with respect to any clause or provision not found to be invalid.

1 For the consideration and under the conditions set forth above, the Contractor has agreed to perform
2 the specified services for the City of New Orleans.

3 **IN WITNESS WHEREOF:**

4 ATTEST

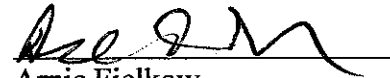
CITY COUNCIL

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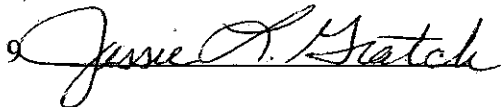
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Arnie Fielkow
City Council President

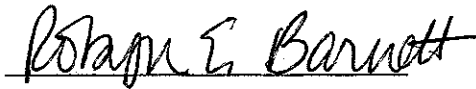


Sonnenschein, Nath & Rosenthal, LLP

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By: Clinton Vince, Esq.
Shareholder, Partner

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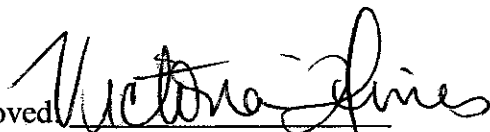
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1301 K. Street, NW
Suite 600, East Tower
Washington, D.C. 20005-3364

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Approved: 
Law Department

36-1796730
Federal ID Number

**MOTION
(AS AMENDED)
NO. M-09-672**

CITY HALL: DECEMBER 7, 2009

BY: COUNCILMEMBERS CARTER, HEDGE-MORRELL AND WILLARD-LEWIS

WHEREAS, pursuant to Section 3-130 of the Home Rule Charter of the City of New Orleans, the New Orleans City Council ("the Council") exercises powers of supervision, regulation, and control over electric and gas utilities providing service in the City; and

WHEREAS, to address the complex legal and technical issues necessary to properly meet its responsibility, the Council has selected consulting firms as advisors, in accordance with the competitive selection process required by the Home Rule Charter and established by Council Rule 45; and

WHEREAS, by Motion M-09-645, after competitive selection, the Council authorized retention of the Law Firm of Sonnenschein Nath & Rosenthal LLP ("Sonnenschein") to continue to act as special counsel to the Council in electric and gas utility regulatory matters; and

WHEREAS, by Motion M-09-645 and the terms of the Request For Qualifications issued on September 4, 2009 and reissued on October 20, 2009, the Council is authorized to enter into a contract with Sonnenschein to act as special counsel to the Council in electric and gas utility regulatory matters renewable on an annual basis for a total period of up to two years; and

WHEREAS, by Motion M-09-645 the Council further authorized negotiation of contracts with a scope of work consistent with the request for qualifications and the Council's electric and gas utility regulatory needs with each of the firms to be retained by the Council; and

WHEREAS, Sonnenschein has continued to provide the Council and New Orleans ratepayers with excellent regulatory advice, legal counsel, and ratepayer protection in matters before the Council, the Federal Energy Regulatory Commission (“FERC”) and local, state and federal courts as evidenced by the many successful and often landmark victories achieved from late 2006 throughout 2009; and

WHEREAS, over the many months ending with December 2009, Sonnenschein has assisted the Council in its extraordinary effort to address the devastation caused by Hurricane Katrina and the levee failures, the worst disaster in U.S. history, and protect New Orleans ratepayers from the potentially unprecedented costs of rebuilding the City’s electricity and gas infrastructure; and

WHEREAS, immediately prior to Hurricane Katrina, Entergy New Orleans (“ENO”) had relatively low utility rates in contrast to the 1980’s and earlier periods when rates in the City were among the highest on the Entergy System; and

WHEREAS, the low rates enjoyed by ENO ratepayers prior to the evacuation of the City were the result of the Council’s June 2003 Global Settlement Agreement which, as of December 2008, has accrued over \$270 million in utility fuel savings for New Orleans ratepayers; and

WHEREAS, despite ENO’s significant rate increase requests in June 2006, the Sonnenschein attorneys formerly at Sullivan & Worcester LLP (“S&W”) carried out the Council’s commitment to New Orleans residents that Entergy would not place the financial burden solely on its ratepayers; and

WHEREAS, in October of 2006 (after intense negotiations led by the Sonnenschein attorneys formerly at S&W) the Council, its Advisors, ENO, the Alliance for Affordable Energy and other parties negotiated a landmark Agreement in Principle that reduced the proposed rate

hikes to a single-digit percentage and avoided potentially catastrophic rate increases. The Agreement in Principle also provided nearly three and one-half years of rate stability and required ENO to provide the City with a low-cost power supply contract specifically designed to reduce its dependence on the high-cost Michoud plant during high-demand summer months; and

WHEREAS, the Sonnenschein attorneys formerly at S&W negotiated a \$75 million reduction of ENO's request to create a \$150 million storm reserve to allow ENO to build a cushion that could be used in the event of another major disaster but still attract investment. By spreading out a smaller \$75 million storm reserve over a ten-year period, the Sonnenschein attorneys formerly at S&W successfully negotiated protection against future catastrophic storm events while easing the financial impact on ratepayers; and

WHEREAS, on October 27, 2006, the Council adopted Resolution R-06-459 approving the Agreement in Principle, which also included two other significant provisions: (1) that ENO would file a plan of reconstruction for its damaged gas system with the Council by July 1, 2007 and (2) that ENO would file a Base Rate case on or before July 31, 2008; and

WHEREAS, the Sonnenschein attorneys formerly at S&W advised the Council to certify ENO's storm costs and the Louisiana Recovery Authority's disbursement of almost \$200 million in CDBG funds thereby ensuring ENO's substantial storm cost recovery without the need to further burden New Orleans ratepayers; and

WHEREAS, due in part to ENO's receipt of CDBG funding, on Tuesday, May 8, 2007, roughly a year and a half after Hurricanes Katrina and Rita ravaged the Gulf Coast and the levees failed, a federal judge's ruling cleared the final hurdle for ENO to emerge from Chapter 11 bankruptcy without imposing virtually unbearable financial burden on New Orleans ratepayers; and

WHEREAS, in 2009, the Sonnenschein attorneys continued to work with the Council and Advisors to ensure that ENO's retail rates are just and reasonable such that ENO recovers a rate sufficient to attract investment without over charging retail customers; and

WHEREAS, after successfully countering an initial attempt by Entergy to undo the System Agreement in a manner that would be harmful to New Orleans ratepayers, Sonnenschein, on behalf of the Council and in conjunction with the other Advisors, is committed to ensure that the Entergy corporate family does not modify or replace the System Agreement to the detriment of ENO and its rate payers regarding cost, access to reliable and reasonably-priced generation, transmission and distribution facilities; and

WHEREAS, Sonnenschein assisted in the Council's late-2008 victory before the D.C. Circuit Court of Appeals which upheld the sales of low-cost power under the ENO Power Purchase Agreements pursuant to the 2003 Global Settlement, which in turn has saved the New Orleans ratepayers hundreds of millions of dollars and will help keep power costs down in the City of New Orleans going forward; and

WHEREAS, on July 31, 2008 ENO filed its first full base rate case since the Hurricane Katrina disaster. Sonnenschein and the Advisors analyzed, litigated, and successfully negotiated a comprehensive Agreement in Principle that was approved by the Council in March 2009 in Resolution R-09-483. The Agreement in Principle reduced electric and gas bills by a combined total of \$30.309 million annually. In addition, the Council's approval of the Agreement in Principle authorized the use of annual Formula Rate Plan ("FRP") process to evaluate ENO's electric and gas earnings over the next three (3) years, unless extended by the Council; and

WHEREAS, with regard to the 2009 rate case settlement, the Council also approved a plan wherein ENO will establish the Energy Smart Program, an energy efficiency program

developed based on the significant input of many community stakeholders. Under the settlement, ENO will apply \$3.1 million of its rates to the Energy Smart Program. This amount is in addition to the \$1.855 million in initial seed money that the Council instructed ENO to put aside for energy efficiency programs in Resolution R-08-601; and

WHEREAS, on September 17, 2009, the Council approved the proposed energy efficiency programs consistent with the terms and conditions of Resolution R-09-483. The goal of the Energy Smart Program will benefit all ratepayers and will reduce customer demand for more electricity so as to delay or reduce the overall need to construct new power plants; and

WHEREAS, on May 31, 2009, Entergy submitted a compliance filing with FERC reflecting the calculation of the "Bandwidth Remedy" payments and receipts required to be made by (and to) the Entergy Operating Companies in 2009 in order to keep their respective costs of making electricity within +/-11% of the System's average cost. Sonnenschein will actively participate in this proceeding on behalf of the Council to defend against proposals by other parties that could produce unjust and unreasonable results for New Orleans rate payers; and

WHEREAS, at FERC, Sonnenschein prevented a reduction of more than \$4 million to ENO's 2008 \$6.5 million Bandwidth Remedy Receipt, which was refunded dollar-for-dollar to ENO's ratepayers; and

WHEREAS, Sonnenschein has assisted the Council in taking a key role in the development of an Entergy Regional State Committee ("ERSC") in order to evaluate the best options for New Orleans ratepayers when the Entergy Independent Coordinator of Transmission ("ICT") expires in 2010; and

WHEREAS, Sonnenschein is also assisting the Council in its participation in the formation of an organization of State utility regulators that will develop policies to guide

transmission investment across approximately 40 states. By taking a key proactive role in this organization of state regulators, the Council will be in a proactive position to address future transmission issues that will invariably have an indirect effect on New Orleans ratepayers; and

WHEREAS, while working diligently to protect ratepayers, Sonnenschein continued to address the many traditional regulatory issues that are necessary to protect ratepayers and to ensure quality utility service at just and reasonable rates. Among the regulatory successes in 2008 and 2009 that Sonnenschein helped deliver on the Council's behalf were:

1. Successfully arguing on behalf of the Council in the Gordon case wherein the Louisiana Supreme Court overruled the Fourth Circuit, and denied plaintiffs' claims saving ratepayers \$34 million plus interest;
2. Taking the lead in coordinating the Council-initiated facilitated collaborative process designed to reach a consensus on a set of energy efficiency initiatives;
3. The investigation, review and analysis of pleadings, documents and other materials which raised serious Council concerns regarding the threat to New Orleans ratepayers due to the Entergy System's apparent plans to develop a successor System Agreement that would fundamentally alter the concept of integrated planning and operation of the Entergy System;
4. The continued consideration of an Incremental Cost Standard designed to ensure the elimination of double recovery of storm costs by ENO;
5. The investigation of the impact of planned procurement and construction of new high-cost Nuclear Generation capacity on the City and its ratepayers;
6. The facilitation of ENO's efforts to sell the excess power that resulted from the evacuation of the City during Hurricane Gustav;

7. The urging of an amendment to the Stafford Act by the Council through meetings with Members of Congress and communications with Congressional offices;
8. The continued encouragement of the Louisiana Congressional delegation to protect LIHEAP funding against proposed reductions;
9. The continued investigation regarding the impact of ENO's long-term and short-term power supply and power planning process on New Orleans ratepayers;
10. The continued defense of the Council's ratemaking authority, which has been challenged in the *Lowenburg* litigation. A decision is anticipated in the near future and will likely trigger appeals to the Court of Appeal for the Fourth Circuit and/or, eventually, to the Louisiana Supreme Court;
11. The review of ENO's proposed Voluntary Green Power Tariff that would allow ratepayers who choose to support renewable energy resources -- such as solar, wind, geothermal, biomass or hydropower -- to purchase certified renewable energy credits associated with such Green Power production. Following a thorough investigation, the Advisors recommended that the Council not move forward with the program as proposed by ENO;
12. Intervention in a proceeding before the Mississippi Public Service Commission ("MPSC") that is considering upgrades to a nuclear generation facility in that state to ensure that the costs are just and reasonable and to protect New Orleans ratepayers if the MPSC makes any cost allocation determinations that likely to be allocated to ENO ratepayers in the future;
13. Per the 1922 Settlement Ordinance, ENO must file a report with the Council within 30 days following each issuance and sale of new bonds, debt securities,

new preferred or preferred securities. The Council evaluates ENO's long term financings to ensure that ENO is in compliance with filing requirements outlined in the 1922 Settlement Ordinance; and

WHEREAS, in addition to the very full set of local issues and matters, Sonnenschein continues to be an active litigant on behalf of the Council in an increasing number of proceedings before the FERC. The proceedings include litigated hearings involving complex issues that potentially have significantly dire impacts on the Council's ability to exercise its Home Rule Charter obligations to ensure just and reasonable rates without encroachment from FERC as well as major cost issues that could increase rates for New Orleans ratepayers; and

WHEREAS, in late 2008 and 2009 SNR's federal trial team participated in the following cases before the FERC, each of which will continue into 2010: (1) 2007 Annual Bandwidth Remedy Proceeding, Docket No. ER07-956-000; (2) Labor Ratios Proceeding, Docket No. ER07-682-000; (3) 2008 Annual Bandwidth Remedy Proceeding, Docket No. ER08-1056-000; (4) LPSC Complaint, Docket No. EL08-51-000; (5) Emergency MSS-4 Waivers, Docket No. ER08-1484; (6) MSS-3 Amendment, Docket No. ER08-774-000; (7) Rough Production Cost Proceeding, EL01-88-000; (8) Interruptible Load Proceeding, Docket No. EL00-66-000; (9) NRG Complaint, Docket No. EL08-7-000; (10) MSS-3 Amendment, Docket No. ER08-927-000; (11) Entergy Operating Companies Triennial Update, Docket Nos. ER91-569-043, ER02-862-011 and ER01-666-011; (12) AECC Complaint, Docket No. EL08-91-000; (13) Arkansas Public Service Commission Complaint Requesting Changes to the System Agreement Docket No. EL09-43-000; (14) Bandwidth Remedy Allocation Case, Docket No, ER09-833-000; (15) Louisiana Public Service Commission Spindle Top Complaint, Docket No. ER09-636-000; (16) Bandwidth Remedy Implementation Filing, Docket No. ER09-1224-000; and

WHEREAS, Sonnenschein successfully represented the Council as an intervener in a major case on appeal before the United States Court of Appeals for the D.C. Circuit (“D.C. Circuit”) in 2008. In the *Rough Production Cost Equalization Case*, Case No. 05-1462, which was an appeal of the FERC orders implementing the “Bandwidth Remedy,” SNR continued to protect New Orleans ratepayers by ensuring no single jurisdiction bore a disproportionate share of Entergy System production costs. To this end, the Council successfully argued that the costs of Entergy Louisiana LLC’s (“ELL”) Vidalia plant should not be allocated to New Orleans ratepayers. This case is presently before the FERC (via Court remand) awaiting a decision as to whether refunds should be granted; and

WHEREAS, Sonnenschein represents the Council as an intervener in another major case on appeal before the D.C. Circuit, which will continue into 2010. This proceeding involves the appeal of FERC orders approved in the Power Purchase Agreements Proceeding in Docket No. ER03-583, *et al.* Sonnenschein is also representing the Council as an intervener in appeals of FERC orders involving the Interruptible Load Proceeding, Case No. 08-1363, and Entergy Services, Inc.’s compliance filing in the Bandwidth Remedy Proceeding, Case No. ER07-1228; and

WHEREAS, as calendar year 2009 ends, the Council is committed to move forward with numerous issues and cases, both local and before FERC, such as:

1. Continue to zealously advocate on behalf of the Council at FERC in response to Entergy’s attempts to modify or replace the Entergy System Agreement in a manner that would be harmful to ENO and its rate payers;
2. Continue to assist in the development of the Entergy Regional State Committee and that Eastern Interconnection Planning Committee to address transmission

issues that may affect New Orleans ratepayers including the cost benefit evaluation of the appropriate replacement of the current Entergy's Independent Coordinator of Transmission experiment;

3. Continue to monitor ENO's implementation of the "Energy Smart New Orleans" energy efficiency programs as approved by the Council to ensure cost-effective and efficient delivery of energy to New Orleans ratepayers;
4. Analyze and take appropriate action with regard to ENO's Formula Rate Plan filing to be made in the Spring of 2010;
5. Continue the Council's Integrated Resource Plan rulemaking and oversee the implementation of an appropriate process to ensure that future new electric generation additions by Entergy include a viable analysis of demand-side and other conservation efforts, such as energy efficiency, so that the total cost of meeting future electric demand is as low as possible;
6. The monitoring of ENO's deployment of Smart Meters in homes of low income ratepayers to provide them with greater control over their electricity use and in turn greater control over their bills related to ENO receipt of a Department of Energy ("DOE") grant in November of 2009 that will reimburse ENO 50% of its costs, up to \$5 million. In addition, Sonnenschein will assist the Council in addressing any tariff rate design changes necessary to enhance the benefits of smart meters;
7. Continue monitoring ENO's implementation of strategies to comply with likely federal climate change laws;
8. Continue monitoring ENO's progress and evaluating ENO's filings to ensure that

- the scope and cost of rebuilding ENO's gas system are reasonable in future years;
- 9 Continue analyzing the 2009 Bandwidth Remedy payments for ENO and ELL -- Algiers customers;
 10. Continue to defend the Council's ratemaking authority, which has been challenged in the *Lowenburg* litigation;
 11. Continue to defend the Council's ratemaking authority, which has been challenged in the *Gordon* Appeal if appealed to the U.S. Supreme Court;
 12. Continue investigating the impact of ELL's and Entergy Gulf States, Inc.'s ("EGSI") potential procurement and construction of new high-cost nuclear generation capacity on the City and its ratepayers;
 13. Ensure that ENO's Annual Natural Gas Hedging Program meets the goal of mitigating natural gas price volatility during the winter months and protects ratepayers interests;
 14. Continue monitoring the implementation of ENO's plans to refurbish its damaged natural gas infrastructure and evaluate the rate impact that rebuilding the natural gas system will have on ratepayers;
 15. Monitor ENO's Quarterly Reports filed on its gas storage program and ensure that ENO's gas storage program inures to the benefit of City ratepayers;
 16. Continue the effort to amend the Stafford Act to provide additional protections to ratepayers when faced with a catastrophic disaster in the future; and

WHEREAS, in approving this contract, the New Orleans City Council is conscious of its responsibility to pursue its regulatory responsibility over gas and electric utilities in a cost-effective manner which nonetheless does not compromise the interests of ratepayers in the high-

stakes proceedings and other matters that the Council must address on behalf of the City and its ratepayers; and

WHEREAS, given the continuing needs of this Council relative to its regulatory responsibility the Council desires to authorize an appropriate contract with the Law Firm of Sonnenschein Nath & Rosenthal LLP to assist in meeting the Council's regulatory responsibility to the City and its ratepayers; now, therefore

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the President of the Council is hereby requested and authorized to sign a new contract with the Law Firm of Sonnenschein Nath & Rosenthal LLP to serve as special counsel to the City Council for a maximum compensation under such contract up to Three Million Dollars (\$3,000,000.00).

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the contract shall add a statement that pursuant to Chapter 2, Article XVIII, of the City Code relative to the office of Inspector General that the contractor understands and will abide by all provisions of that Chapter.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the contract shall reflect revised firm hourly billing rates effective as of 2009, as follows:

Partners and Senior Managing Directors up to	\$495.00 per hour
Counsel and Of Counsel up to	\$450.00 per hour
Associates and Managing Directors up to	\$350.00 per hour
Other Professionals up to	\$150.00 per hour

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW

ORLEANS, that such contract may include provisions allowing the option of direct payment of invoices by utilities regulated by the Council pursuant to Section 3-130 of the Home Rule Charter, provided such payments have been approved by the City, after the City's review and forwarding of such invoices for payment, and further that such invoices, if paid the by the City, would be reimbursable by such utility pursuant to Section 3-130 (5) of the Home Rule Charter. Such payments shall be recoverable as a regulatory expense by such utility in the same manner as reimbursements to the City for such payments.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that the contract shall be circulated in accordance with normal process and the City Council Rules.


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

YEAS: Carter, Clarkson, Fielkow, Head, Hedge-Morrell, Midura, Willard-Lewis - 7

NAYS: 0

ABSENT: 0

AND THE MOTION, AS AMENDED, WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

CLERK OF COUNCIL