

**RESOLUTION  
R-06-459**

**CITY HALL: OCTOBER 27, 2006**

**BY: COUNCILMEMBERS THOMAS, HEDGE-MORRELL, MIDURA, AND CARTER**

**IN THE MATTER OF APPLICATION OF ENTERGY NEW ORLEANS, INC.  
FOR APPROVAL OF IMPLEMENTATION OF  
POST-KATRINA GAS AND ELECTRIC FORMULA RATE PLANS,  
DOCKET NOS. UD-01-04 AND UD-03-01**

**And**

**IN THE MATTER OF APPLICATION OF ENTERGY NEW ORLEANS, INC.  
FOR AUTHORIZATION TO IMPLEMENT RIDERS TO RECOVER  
COSTS RELATED TO HURRICANES KATRINA AND RITA (DOCKET NO. UD-06-01)  
AND TO ADEQUATELY FUND A STORM RESERVE (DOCKET NO. UD-06-02)**

**RESOLUTION AND ORDER APPROVING AGREEMENT IN PRINCIPLE**

**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 ("ENO" or "Company") is a public utility providing electric service to all of New Orleans, except the Fifteenth Ward ("Algiers"), and gas service to all of New Orleans; and

**WHEREAS**, in Resolution R-03-272, adopted by the Council on May 15, 2003, the Council approved an electric formula rate plan (“EFRP”) and a gas formula rate plan (“GFRP”) (collectively, “FRPs”) for ENO; and

**WHEREAS**, in Resolution R-05-512 (authorized by letter of the Chairman of the Council Utility, Cable and Telecommunications Committee, dated August 31, 2005, and deemed by Resolution R-05-U4 to be effective as of September 1, 2006), the Council extended ENO’s FRPs for the years 2006 and 2007 and approved certain modifications to the FRPs; and

**WHEREAS**, the FRPs are now embodied in ENO’s Electric Formula Rate Plan Rider Schedule (“Rider Schedule EFRP-2”) and Gas Formula Rate Plan Rider Schedule (“Rider Schedule GFRP-2”), respectively, filed with the Council; and

**WHEREAS**, pursuant to Section II.B.1 of Rider Schedules EFRP-2 and GFRP-2, ENO is required to file reports with the Council on or before May 1 of each year containing evaluations of ENO’s earnings for the immediately preceding calendar year for its electric and gas operations, respectively, in accordance with the provisions of Section II.C of such rider schedules; and

**WHEREAS**, such evaluations are to be conducted with respect to a midpoint return on equity (“ROE”) of 10.75%, a targeted equity ratio of 45 percent and a “dead band” range, or “bandwidth,” around such midpoint ROE for each of the EFRP and the GFRP; the ROE bandwidth for the EFRP is +/- 100 basis points from the midpoint ROE and the ROE bandwidth for the GFRP is zero (0) basis points from the midpoint ROE for the 2005 Evaluation Period and +/- 50 basis points for the 2006 Evaluation Period; actual rates of return earned during the Evaluation Period falling within the bandwidth would result in no change to ENO’s base rates;

actual rates of return falling above or below the bandwidth would result in prospective adjustments to ENO's base rates downward or upward, respectively; and

**WHEREAS**, as we noted in Resolution R-03-272, designating a midpoint ROE for ENO's electric and gas FRPs is consistent with the Council's obligation to authorize rates for ENO that are just and reasonable. The United States Supreme Court cases Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) require utility regulators to authorize a rate of return on common equity that will (1) fairly compensate capital invested in the utility; (2) enable the utility to offer a return adequate to attract new capital on reasonable terms; and (3) maintain the utility's financial health; and

**WHEREAS**, on August 29, 2005, Hurricane Katrina struck the City of New Orleans. The hurricane and ensuing multiple levee failures caused widespread flooding throughout the City, endangering the lives and health of thousands of New Orleanians and causing catastrophic damage to homes, businesses and infrastructure. New Orleans was subject to mandatory evacuation, and the flooding and pervasive damage rendered the City uninhabitable and prohibited residents from returning to their homes for months afterwards. The devastation caused by Hurricane Katrina is considered to be the worst natural disaster in U.S. history; and

**WHEREAS**, as a result of Hurricane Katrina and the levee failures, ENO suffered severe damage to its electric and gas utility systems and, with the exodus of residents from the City, experienced dramatic reductions in its customer base and, accordingly, its base rate revenues; and

**WHEREAS**, on September 23, 2005, largely as a result of the extensive damage to its utility infrastructure and loss of customers and revenues, ENO filed a voluntary petition in the

United States Bankruptcy Court for the Eastern District of Louisiana seeking reorganization relief under the provisions of the Chapter 11 of the United States Bankruptcy Code; and

**WHEREAS**, ENO, to this day, operates as a debtor-in-possession subject to the jurisdiction of the Bankruptcy Court; and

**WHEREAS**, on April 20, 2006, the Council in Resolution R-06-167, extended ENO's deadline to file its 2006 FRP reports to July 1, 2006 and similarly extended all related procedural deadlines set forth in Rider Schedules EFRP-2 and GFRP-2 by 61 days; and

**WHEREAS**, on June 30, 2006, ENO filed with the Council its *Application of Entergy New Orleans, Inc. for Approval of Implementation of Post-Katrina Gas and Electric Formula Rate Plans* ("FRP Application") in Docket Nos. UD-01-04 and UD-03-01; and

**WHEREAS**, in its FRP Application, ENO seeks authorization from the Council to increase its electric and gas base rates based upon the Electric and Gas FRPs approved by the Council on September 2, 2005, "as adjusted for the significant loss of ENO's customers following the August 29, 2005 landfall of Hurricane Katrina and recovery of [the costs of ENO's share of the] Grand Gulf [nuclear plant] in ENO's Fuel Adjustment Clause"; and

**WHEREAS**, ENO's Electric FRP filing consists of three Evaluation Reports, each under a separate volume, as follows: 1) a "Business as Usual" report filed under the FRP formula; 2) a report containing a "post-Katrina revenue adjustment for loss of customers" and the removal of the nonfuel costs of Grand Gulf from base rates for recovery in ENO's monthly Fuel Adjustment Clause ("FAC"); and 3) a report containing the post-Katrina revenue adjustment for loss of customers and Grand Gulf non-fuel costs recovered in base rates; and

**WHEREAS**, ENO specifically requests that the Council approve its second Electric Evaluation Report containing the revenue adjustment for loss of customers and removal of Grand

Gulf costs from base rates for recovery in the FAC. The second Evaluation Report results in a base rate revenue increase of \$6.381 million, as well as recovery of Grand Gulf non-fuel costs (approximately \$90.625 million per year) in the FAC. ENO's filing indicates that such a base rate increase resulting from the second Electric Evaluation Report would increase typical summer electric residential bills (1000 kWh), based on the June 2006 FAC, from \$115.18 to \$118.09, a net increase of \$2.91, and provide increases to the other electric customer classes; and

**WHEREAS**, ENO's Gas FRP filing consists of two Evaluation Reports, each under a separate volume, as follows: 1) Business as Usual; and 2) Post-Katrina revenue adjustment for loss of customers; and

**WHEREAS**, ENO similarly requests that the Council approve its second Gas Evaluation Report containing the revenue adjustment for loss of customers. The second Evaluation Report results in a gas base rate revenue increase of \$22.844 million. ENO's filing indicates that such a base rate increase resulting from the second Gas Evaluation Report would increase typical gas residential bills (50 ccf), based on the June 2006 PGA, from \$62.40 to \$89.03, a net increase of \$26.63, and provide increases to the other gas customer classes; and

**WHEREAS**, on June 30, 2006, ENO also filed with the Council its *Application of Entergy New Orleans for Authorization to Implement Riders to Recover Costs Related to Hurricanes Katrina and Rita and to Adequately Fund a Storm Reserve* ("Rider Application"); and

**WHEREAS**, in its Rider Application, ENO requests authorization to implement two riders to electric and gas bills that would become effective on or after the first billing cycle of November 2006. In connection with the first rider, the Storm Cost Recovery Rider, ENO seeks authorization to recover over a ten-year period \$124.829 million of costs of gas and electric

restoration work performed and recorded on the Company's books through March 31, 2006 associated with Hurricane Katrina (and the subsequent Hurricane Rita), as well as the write-off for uncollectible expenses of \$14.627 million, for a total recovery of \$139.456 million. In connection with the second rider, the Storm Reserve Rider, ENO seeks authorization to fund over a ten-year period a pre-tax amount of \$150 million for a dedicated storm reserve that will be available and adequate to pay for resources required for ENO to recover from future storms; and

**WHEREAS**, the Advisors and all Intervenors in Docket UD-01-04 received a copy of each of ENO's FRP Application and Rider Application together with workpapers supporting the data and calculations reflected in these filings; and

**WHEREAS**, on August 3, 2006, the Council adopted Resolution R-06-329 establishing procedures for the consideration of ENO's FRP Application and Rider Application; and

**WHEREAS**, the Council found in Resolution R-06-329 that the ENO's FRP applications are annual filings required of ENO in accordance with settlement agreements arrived at among the Council, ENO and the parties to Dockets UD-01-04 and UD-03-01, and that ENO's rider requests are separate requests for enhanced rates by ENO based on costs and projections that are being presented to the Council for the first time. Accordingly, the Council established separate dockets for its consideration of ENO's FRP Application and rider requests with consideration of the FRP Application to occur in Docket Nos. UD-01-04 and UD-03-01, consideration of the Storm Cost Recovery Riders to occur in Docket No. UD-06-01 and consideration of ENO's Storm Reserve Riders to occur in Docket No. UD-06-02; and

**WHEREAS**, Resolution R-06-329 also (1) addressed the continued designation and appointment of the Honorable Jeffrey Gulin as Hearing Officer; (2) established an intervention period of ten (10) days from the date of the adoption of Resolution R-06-329 for potential

intervenor, noting that the original Intervenor in Docket Nos. UD-01-04 and UD-03-01 were deemed Intervenor and Parties for the purpose of reviewing ENO's FRP Filings; (3) confirmed that the procedural schedule for consideration of the FRP Filings would be consistent with the 61-day extension granted in Resolution R-06-167; (4) established separate procedural schedules for ENO's Storm Cost Recovery Riders and Storm Reserve Riders; and (5) established rules governing the discovery process and the filing of pleadings, testimony, comments and briefs for each of ENO's filings; and

**WHEREAS**, pursuant to Resolution R-06-329 and the FRP Rider Schedules, several of the parties in this proceeding served numerous discovery requests on ENO including the Advisors, which alone, propounded more than 200 discovery requests on the Company; and

**WHEREAS**, on September 21, 2006, as provided for in Rider Schedule EFRP-2 and Rider Schedule GFRP-2 and Resolution R-06-329, the Advisors, the New Orleans Sewerage and Water Board ("S&WB"), the New Orleans Business Energy Council ("NOBEC"), Air Products and Chemicals, Inc. (Air Products") and the Alliance for Affordable Energy ("Alliance") submitted reports, identifying asserted errors in the application of the principles and procedures contained in Rider Schedule EFRP-2 and Rider Schedule GFRP-2 to ENO's FRP Application and proposed regulatory adjustments required to develop just and reasonable rates; and

**WHEREAS**, in March 2006, ENO filed with the Louisiana Recovery Authority ("LRA") a draft application wherein ENO requested from the LRA an allocation of \$718 million to pay for costs ENO incurred in connection with Hurricane Katrina including the costs of repair and replacement of facilities damaged during the storm and certain unrecovered fixed costs and, on September 6, 2006, ENO revised its request to seek an allocation of \$592 million; and

**WHEREAS**, on September 13, 2006, a letter, executed by all seven members of this Council, was sent to the LRA strongly urging the LRA to act favorably on ENO's request for CDBG funds and indicating that the LRA's decision was crucial to the Council's decision on ENO's pending FRP Application; and

**WHEREAS**, in its letter, the Council also specified seven conditions which it indicated should be agreed to by ENO in connection with any CDBG funds ENO may receive, indicating that "[w]ith these conditions in place, the interests of the citizens and ratepayers of New Orleans will be protected and their financial burdens reduced;" and

**WHEREAS**, on October 12, 2006, the LRA adopted a resolution granting to ENO \$200 million of CDBG funds, wherein the LRA expressly adopted six of the Council's conditions and required ENO to comply with them; and

**WHEREAS**, ENO agreed to these conditions during the course of the LRA's proceedings; and

**WHEREAS**, the LRA, in its resolution, also pledged to "work with the Governor, the Louisiana Congressional Delegation, the City of New Orleans, and ENO, to petition the President of the United States and the United States Congress for additional federal funds to cover future gas system repair costs which are largely due to salt water intrusion that resulted from the failure of the federal government's levee system;" and

**WHEREAS**, in the rate proceeding before the Council, ENO, the Advisors and the Intervenors, following submission of the various parties' reports concerning ENO's FRP requests, commenced a series of confidential settlement negotiations intended to resolve discrepancies or disputes arising from ENO's FRP Application, as well as issues related to ENO's Rider Application; and



**WHEREAS**, these negotiations have lead to the development of an Agreement in Principle which is supported or not opposed by ENO, the Council's Advisors, S&WB, NOBEC, Air Products and the Alliance; and

**WHEREAS**, ENO filed the Agreement in Principle with the Council on October 27, 2006; and

**WHEREAS**, a copy of the Agreement in Principle is appended hereto as Attachment A; and

**WHEREAS**, a brief overview of the principal terms and conditions of Agreement in Principle are provided in this paragraph. The Agreement in Principle itself should be consulted for a full and complete understanding of the rights and obligations contained therein.

#### **Electric Rates and Charges**

1. Electric base rates will remain unchanged through December 2007.
2. Electric base rates will be increased by \$3.9 million effective with the first billing cycle of January 2008.
3. Grand Gulf non-fuel costs will be removed from electric base rates and collected in the FAC.
4. Rates for the LIS class will be treated separately as provided in the Agreement in Principle.

#### **Gas Rates and Charges**

5. Gas base rates will be increased by \$4.75 million effective with the first billing cycle of November 2006.
6. Gas base rates will be increased by an additional \$4.75 million effective with the first billing cycle of November 2007.

7. ENO will increase the monthly customer charge for residential gas service from \$6.20 to \$8.00 and increase the customer charge for small general gas service and small municipal gas service from \$4.08 to \$8.00 per month, effective with the first billing cycle of March 2007..

#### **Future Rate Procedures**

8. On or before July 31, 2008, ENO will file a base rate case using the 12 months ended December 2007 as the Period I test year and the 12 months ended December 2008 as the Period II test year.
9. In connection with the ENO base rate case, ENO will conduct studies pertaining to appropriate post-Katrina service levels and costs, cost allocation and rate design, accounting treatments, customer service charges and depreciation.
10. Under very limited circumstances, such as another natural disaster, ENO will have the right to file for emergency rate relief prior to the aforementioned base rate case.
11. ENO may seek Council approval of appropriate electric and gas formula rate plan mechanisms after six months from the effective date of the implementation of the base rates resulting from the base rate case.

#### **Generation Resource**

12. ENO will seek to obtain an energy-only, "load shaped" generation resource of approximately 50 MW for service to ENO consumers.

#### **Storm Cost Recovery Rider**

13. Subject to the results of the audit of ENO's storm costs being conducted by the Council's Advisors and assuming ENO's timely receipt of CDBG funds, ENO will apply the CDBG funds to its uncollectible amounts, deferred O&M amounts and/or capital rate

base items. Any CDBG funds remaining after application of such funds to offset ENO's deferred storm costs incurred through March 31, 2006, shall be applied to offset additional certified costs as audited by the Council's Auditors.

14. Procedures for the accounting for storm costs and addressing storm costs incurred in excess of CDBG funding are established.
15. If by September 1, 2007, CDBG funding has not materialized in an amount that significantly mitigates ENO's storm cost recovery request for costs incurred through March 31, 2006, ENO may file for emergency rate relief.
16. Insurance proceeds received by ENO also shall be used to offset its storm related costs.
17. ENO will file with the Council by July 1, 2007, a plan of reconstruction for its damaged gas system that includes identification of relevant priorities and contingencies.

#### **Storm Reserve Rider**

18. ENO will be permitted to implement a Storm Reserve Rider to fund a storm reserve principal amount of \$75 million over ten years.
19. ENO commits to work jointly with the Council in seeking an exception to the Stafford Act in Congress that will afford ENO Stafford Act protections in the event of another catastrophic event that adversely affects its gas and electric systems during the next ten years. To the extent that the Stafford Act effort is successful, the Storm Reserve Rider may be reduced or eliminated after holding a full and fair hearing.
20. The storm reserve fund is to be accorded "lock box" treatment and will be held in a escrow account as dedicated ratepayer funds and may be used only for restoration of utility service following a storm causing a minimum of \$500,000 damage and may not be used for any other corporate purpose.

21. After five years, the Council may reconsider the level of the storm reserve and adjust the level of future funding prospectively.

#### **Energy Conservation and Energy Efficiency Programs**

22. ENO is committed to working actively with the Council's Advisors, the City Council, and the community to develop effective and appropriate energy conservation and energy efficiency programs in the New Orleans community reflective of the community's post-Katrina needs.
23. To the extent ENO's storm-related uncollectible expenses have been offset as previously authorized by the Council, are deemed eligible for CDBG funds and are certified and reimbursed with CDBG funds, ENO shall make available up to \$6.9 million of such funds for post-Katrina energy conservation and energy efficiency programs in the New Orleans community as authorized by the City Council.

#### **Plan of Reorganization**

24. To the extent that ENO issues notes in connection with affiliate pre-petition obligations, such notes shall not be reflected in ENO's retail rates, as provided for in the Agreement in Principle.

**WHEREAS**, the Agreement in Principle is expressly contingent on, among other things, ENO obtaining approval of its Board of Directors and the Council adopting a resolution approving the Agreement in Principle; and

**WHEREAS**, on October 27, 2006, the Council received from ENO written approval of its Board of Directors of the Agreement in Principle; and

**WHEREAS**, the Council wishes to commend ENO, SW&B, NOBEC, Air Products, the Alliance and the Council's Advisors for their efforts to devise this settlement of these important rate proceedings; and

**WHEREAS**, on the basis of the record before the Council and the support or non-opposition of all the active Intervenors in the FRP process for acceptance of the Agreement In Principle and for the reasons set forth below, the Council wishes to approve this Agreement in Principle; now, therefore:

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

**THAT:**

The Agreement In Principle submitted by ENO on October 27, 2006 in Docket Nos. UD-01-04, UD-03-01, UD-06-01 and UD-06-02 and supported or not opposed by the Council's Advisors, NOBEC, S&WB, Air Products and the Alliance, is determined on the basis of the record before us to be just, reasonable, and in the public interest. Accordingly, the Agreement In Principle is approved without modification. The Agreement In Principle is determined to be reasonable and in the public interest for the following reasons.

**Rate Benefits**

The Agreement in Principle will provide significant rate benefits to New Orleans ratepayers. These benefits will take several forms.

First, electric and gas base rates will not be increased as much as sought by the Company in its FRP Application. In its application, ENO proposed to recover Grand Gulf non-fuel costs in the FAC and to increase electric base rates by an amount equal to \$6.8 million, or 4.4% (when adjusted to apply over the rate effective period of November 2006 to October 2007). The Agreement in Principle, while allowing ENO to collect Grand Gulf non-fuel costs in the FAC,

eliminates any base rate increase for over one year and provides for a base rate increase of only \$3.9 million, or 2.5%, beginning with the first billing cycle in January 2008. Similarly, with respect to gas base rates, ENO's request, when applied over the same period, would have resulted in an increase in gas base rates of \$29.1 million, or 160.9%. The Agreement in Principle reduces this increase significantly to \$4.75 million, or 26.3%, beginning in November 2006, followed by an increase in ENO's customer charges in March 2007 that is equivalent to \$1.5 million, or 8.3%, and a second base rate increase beginning in November 2007 of \$4.75 million, or 26.3%. These reductions in the requested base rate increases represent substantial savings to New Orleans ratepayers.

Second, the Agreement in Principle eliminates ENO's proposed Storm Cost Recovery Rider. In its Rider Application, ENO proposed to add to ratepayers bills a rider to collect the costs it incurred as a result of Hurricanes Katrina and Rita. Those costs amounted to \$139.5 million as of March 31, 2006. ENO proposed to amortize these costs over ten years. Such amortization would produce a revenue requirement of \$14.7 million per year for electric operations and \$3.7 million for gas operations, for a total of \$18.4 million. In response to the grant of CDBG funds to ENO by the Louisiana Recovery Authority on October 12, 2006, the Agreement in Principle directs that such CDBG funds will be used to offset ENO's storm costs on a dollar-for-dollar basis. This offset enables ENO to recover its storm costs without imposing the Storm Cost Recovery Rider. The elimination of this rider inures directly to the benefit of ratepayers.

Third, the Agreement in Principle greatly reduces the Storm Reserve Rider charges ENO sought in its Rider Application. ENO had proposed ratepayer funding of a reserve of \$150 million over ten years, which would have resulted in charges of \$11.3 million per year to electric

customers and \$1.7 million per year to gas customers, for a total of \$13.0 million per year. The Agreement in Principle reduces the reserve to \$75 million and, thus, reduces the rider charges to \$5.8 million per year for electric customers and \$650 thousand per year for gas customers.

Fourth, as a result of these reductions, ratepayers will avoid a significant portion of the increases in their total bills that would have resulted from the Company's original requests. In its filings, ENO proposed FRP and rider increases which together would increase typical residential electric bills by \$11.90, or 9.6 %, and typical residential gas bills by \$32.96, or 57.0%. In contrast, the Agreement in Principle results in initial increases to typical residential electric bills of \$0.00, or 0.0%, and typical residential gas bills of \$4.35, or 7.5%. When all the stepped increases in the Agreement in Principle are implemented (January 2008 for electric operations and November 2007 for gas operations), typical residential electric bills will be increased by \$3.36, or 2.7% , and typical residential gas bills will be increased by \$9.79, or 16.9%.

These bill increases are far below those that were forecast in the media to occur following Katrina. Projections of ratepayers seeing increases in their utility bills of 100% or more were made. In fact, there will be rate stability and no catastrophic increases in bills, in part, because ENO did not seek base rate and rider increases that would have resulted in such high bills and, in part, because the Agreement in Principle further reduces the impacts on customer bills.

Fifth, bills for electric service in New Orleans, while somewhat higher than average bills in the South, remain below those of several major southeastern cities. According to the Jacksonville Electric Survey of typical 1000 kWh bills in July 2006, the typical residential bill in New Orleans during that month was \$117.92. Adding the change in bills brought about by ENO's Storm Reserve Rider (\$2.04), and factoring out changes in the FAC that may have

occurred between July and November, would produce a typical residential bill in New Orleans of \$119.96. This compares favorably to bills in several other regional metropolitan areas, including Houston (\$163.20), Dallas (\$153.73) and Tallahassee (\$134.00).

### **ENO Financial Condition**

A fundamental premise of our analysis is that the New Orleans community needs a financially sound utility, one that is capable of providing reliable electric and gas service at reasonable prices to New Orleans ratepayers over the long term. New Orleans does not have that today. Rather, ENO has been since September 2005, and continues to be, in bankruptcy as a debtor-in-possession subject to the jurisdiction of the United States Bankruptcy Court.

As a result of ENO's bankruptcy, ENO, for instance, is unable to access the capital markets at reasonable rates to obtain needed financing for its restoration efforts and ongoing capital programs. Similarly, ENO's access to the competitive wholesale power markets has been severely curtailed. ENO has represented that a significant number of power suppliers have refused to deal with ENO, and ENO has been limited in its participation in the Entergy System's joint account purchases. These handicaps can serve to increase ENO's costs of providing service and hinder its efforts to restore its damaged utility systems to their former levels of service and reliability.

The Council believes that the Agreement in Principle represents a critical step toward returning ENO to financial health and permitting it to emerge from bankruptcy. The Agreement in Principle will provide ENO with rate relief for both its electric and gas operations. That relief will be known and fixed from November 2006 through the first quarter of 2009 and, thus, will provide ENO, its creditors and the Bankruptcy Court with a high degree of certainty as to the level of revenues ENO can be expected to receive over this roughly two and one-half year



period. Moreover, the Agreement in Principle sets forth a rational method and known time frame for setting ENO's rates after that three year period on the basis of sound regulatory principles.

The Agreement in Principle also provides ENO with a Storm Reserve. Although the Storm Reserve is not as large as ENO originally sought (\$150 million), it is nevertheless very substantial (\$75 million). The Council believes that, in time, as the Storm Reserve balance accumulates, it will provide assurance to ENO, its creditors and the community that ENO will be better able to survive natural disasters of the kind brought about by Hurricane Katrina, should such disasters occur in the future.

The Agreement in Principle is but one step in the path toward returning ENO to financial health. A major step was taken earlier this month with the award to ENO by the LRA of \$200 million of CDBG funds. Now that the LRA award has been made, all parties must work hard to ensure that those funds are actually paid to ENO in a timely manner.

Another major step in this path to ENO's financial health is the approval of a Plan of Reorganization for ENO by the Bankruptcy Court. Earlier this week, ENO filed such a plan with the court. As the plan is only recently filed, it is premature for the Council to comment on it here. Nevertheless, the Council believes that with the rate relief that will be made available to ENO by virtue of the Agreement in Principle, and the resulting rate and revenue certainty ENO will be afforded for the next three years, ENO's emergence from bankruptcy will be facilitated as this critical element of ENO's financial picture will be known.

### **Generation Resource**

As indicated, the Agreement in Principle provides that ENO shall seek to obtain an incremental generation resource for service to its consumers for the summer of 2007 and

continuing for at least three annual periods. The resource is to be with a low heat rate and be structured to follow ENO's load shape. We believe this resource will provide further benefits to New Orleans ratepayers in that it will provide energy cost savings and serve to stabilize ENO's highly volatile fuel adjustment clause during the summer months. In the landmark 2003 settlement with ENO, ENO provided the City several alternative power supply resources that, through June 2006, produced savings to ratepayers of \$175 million. Although this resource is smaller than the combined resources provided in 2003, the Council expects it to provide significant energy cost savings.

#### **Energy Conservation and Energy Efficiency**

An important policy objective of this Council is to dramatically improve energy conservation and energy efficiency in our City. The Agreement in Principle helps further that objective. In it, ENO commits to working actively with the Council, its Advisors and the community to develop effective and appropriate energy conservation and energy efficiency programs. In addition, ENO will make available up to \$6.9 million of funds for such programs, subject to certain conditions.

#### **Avoidance of Litigation**

The Agreement in Principle is a negotiated resolution of three major proceedings before the Council, each involving large sums of money and important policy issues. Those proceedings presented the very real prospect of extensive litigation before the Council which likely would have been expensive and time-consuming. The Agreement in Principle avoids such litigation and permits the Council, its Advisors and the parties to focus their efforts on other pressing matters concerning the provision of reliable and affordable utility service in New Orleans.

## **Unanimous Agreement**

The Agreement in Principle is supported or not opposed by all the active parties to these proceedings. It reflects the parties' combined wisdom and sense of compromise. The Council wishes to acknowledge and express its gratitude to ENO, SW&B, NOBEC, Air Products, the Alliance and our Advisors for their hard work and good faith efforts which will facilitate long-term reliable electric and gas service at affordable rates for the people of New Orleans.

**BE IT FURTHER RESOLVED** that Docket Nos. UD-01-04 and UD-03-01 are hereby terminated.

**BE IT FURTHER RESOLVED** that Docket No. UD-06-02 is hereby terminated.

**BE IT FURTHER RESOLVED** that ENO is directed to make compliance filings as specified in the Agreement in Principle, and to work with the Council's Advisors to further refine the FAC rate schedule consistent with the objectives of this Agreement in Principle and sound regulatory principles.

**BE IT FURTHER RESOLVED** that ENO and the Council's Advisors are directed to work together to review the FAC and recommend appropriate changes thereto.

**BE IT FURTHER RESOLVED** that the Council has exclusive regulatory jurisdiction and authority over ENO, which is a regulated public utility. The Council reserves all of its regulatory authority associated with the full array of its police and regulatory powers provided by federal, state and local law. The regulatory powers include, but are not limited to, setting rates, adjusting rates, authorizing and directing the reimbursement of monies to ratepayers, directing the terms of disposition of assets and the allocation of proceeds, enforcing the rights and interests of the City Council, the City of New Orleans and its citizens, whether for events, occurrences or matters of any type or nature, occurring prior or subsequent to the Chapter 11 filing ENO.

Nothing in this Resolution shall limit in any respect the Council's authority with regard to or participation in ENO's Chapter 11 proceeding.

**BE IT FURTHER RESOLVED** that the Council directs its bankruptcy counsel to continue to participate actively in ENO's bankruptcy proceeding to protect the rights and interests of the City Council, the City of New Orleans and its citizens.

For the foregoing reasons, the Agreement in Principle is **APPROVED**.

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

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

**NAYS:** 0

**ABSENT:** 0

**AND THE RESOLUTION WAS ADOPTED..**

THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY

*[Signature]*  
CLERK OF COUNCIL

## AGREEMENT IN PRINCIPLE

ENO plans to present and recommend the adoption of this Agreement in Principle to its Board of Directors. The Council's Advisors plan to present and recommend adoption of this Agreement in Principle to the Council of the City of New Orleans ("Council"). This Agreement in Principle is non-binding, and cannot be implemented without (1) ENO obtaining approval of its Board of Directors and (2) the Council adopting a Resolution approving this Agreement in Principle. The intervening parties that have filed written comments in this docket support or do not oppose this Agreement in Principle. Intervenors Sewerage & Water Board of New Orleans, New Orleans Business Energy Council, Air Products and the Alliance for Affordable Energy have worked diligently and cooperatively to develop this Agreement in Principle and to ensure that it is in the public interest.

### *FRP Base Rates Docket UD-01-04*

1. (a) Effective with the first billing cycle of November 2006 and in accordance with Paragraph 4(a) hereinbelow, an electric base rate adjustment of 0% will be implemented.  
  
(b) Effective with the first billing cycle of January 2008 and in accordance with Paragraph 4(b) below, an increase in electric base rates of \$3.9 million based on the current estimated revenue for the twelve months ending October 2007 of \$154.7 million will be implemented.
2. (a) Effective with the first billing cycle of November 2006 and in accordance with Paragraph 4(c) below, gas base rates will be increased by \$4.75 million as calculated based on the current estimated revenue for the twelve months ending October 2007 of \$18.1 million.  
  
(b) Effective with the first billing cycle of November 2007 and in accordance with Paragraph 4(d) below, gas base rates will be increased by \$4.75 million as calculated based on the current estimated commodity-related revenue for the twelve months ending October 2007 of \$13.1 million.
3. Effective with the first billing cycle of March 2007 and in accordance with Paragraph 4(d) below, ENO shall effectuate through an appropriate rate schedule the continuation of the gas base rate increase provided for in Paragraph 2(a) above on a commodity revenue basis and adjust the rate for residential gas service by adjusting the monthly customer charge from \$6.20 to \$8.00 per month and shall adjust the rate for small general gas service and small municipal gas service by adjusting the monthly customer charge from \$4.08 to \$8.00 per month.
4. Rider Schedules EFRP-2 and GFRP-2 will terminate upon the date which this Agreement in Principle is made effective, except as follows:
  - (a) Attachment A to Rider Schedule EFRP-2 filed contemporaneously herewith shall remain in effect through the last billing cycle of December 2007.

(b) Within 10 days of Council action approving this Agreement in Principle, ENO shall file proposed rate schedules to effectuate the changes in electric base rates specified in numbered Paragraph 1(b) above, which proposed rate schedules shall be implemented (i) following Council review for the sole purpose of compliance with this Agreement in Principle and Council approval thereof, which review and approval shall occur prior to the expiration of Attachment A to Rider Schedule EFRP-2 and (ii) upon the expiration of Attachment A to Rider Schedule EFRP-2.

(c) Attachment A to Rider Schedule GFRP-2 filed contemporaneously herewith shall remain in effect through the last billing cycle of February 2007.

(d) Within 10 days of Council action approving this Agreement in Principle, ENO shall file proposed schedules to effectuate the changes in gas base rates specified in Paragraph 2(b) and 3 above, which proposed rate schedules shall be implemented (i) following Council review for the sole purpose of compliance with this Agreement in Principle and Council approval thereof, which review and approval shall occur prior to the expiration of Attachment A to Rider Schedule GFRP-2 and (ii) upon the expiration of Attachment A to Rider Schedule GFRP-2.

5. Except as provided in Paragraph 6 below, all Grand Gulf capacity costs, including that amount stated in Schedule A, shall be removed from ENO's electric base rates and shall be recovered through the fuel adjustment clause (FAC) beginning with the operations month of November 2006 and continuing through the date of implementation of new base rates set pursuant to the filing of the Base Rate Case described in Paragraph 8 hereof, unless the Council determines that full recovery of Grand Gulf capacity costs should continue through ENO's FAC following implementation of base rates resulting from the Base Rate Case described in Paragraph 8 hereof. ENO shall file contemporaneously herewith a revised Schedule FAC to reflect such modification in accordance with applicable requirements.

6. Notwithstanding the provisions of Paragraph 1(a) hereinabove, effective with the first billing cycle of November 2006 and in accordance with Paragraph 4(a) hereinabove, an electric base rate increase of 25 percent will be implemented for the LIS rate class, and thereafter, effective with the first billing cycle of January 2008, a 2.5% electric base rate increase will be implemented for the LIS rate class in accordance with Paragraph 1(b) above. This rate adjustment reflects the inclusion in the LIS rate class base rates of one-half of the Schedule A capacity costs for Grand Gulf allocable to the LIS rate class on a base rate cost responsibility basis. In addition, ENO will develop a revised FAC for the LIS rate class for the specific purpose of removing one half of ENO's Schedule A capacity costs for Grand Gulf in calculating the LIS rate class FAC costs, which shall be filed contemporaneously herewith. Thus, the LIS rate class shall pay its 100% allocable share of Grand Gulf capacity costs calculated 50% on a base rate cost responsibility basis and 50% on an energy cost responsibility basis. ENO further agrees that all incremental revenues attributed to the 25 percent base rate increase to the LIS class will be credited to ENO's monthly calculation of its fuel adjustment clause Schedule FAC-2 (as revised pursuant to paragraph 5 above), current Attachment A Page 4 of 5 Line 9 (with the line title changed to reflect the credit for the incremental revenues from the change to Rate Schedule LIS). Such credit shall be exclusive of the LIS class.

7. Except as provided for in Paragraphs 1 through 6 and 12 hereof, ENO's electric and gas base rates shall remain unchanged until implementation of electric and gas base rates resulting from the filing of a Base Rate Case as provided for in Paragraph 8 hereof.

8. On or before July 31, 2008, ENO shall file a Period I and Period II Base Rate Case using the 12 months ended December 2007 as the Period I test year and the 12 months ended December 2008 as the Period II test year. The Council's Advisors shall recommend a procedural schedule that will permit a decision by the Council on the merits of ENO's said Base Rate Case within eight months of the date of the Base Rate Case filing. In support of such action by the Council's Advisors, ENO pledges to work in a good faith manner with the Council's Advisors and any intervenors during the discovery process so as to facilitate the exchange of discovery in a timely fashion. Nothing herein shall preclude ENO from seeking approval from the Council by the filing of an application to institute appropriate Gas and Electric Formula Rate Plan mechanisms no sooner than six months following the effective date of the implementation of the base rates resulting from the said Base Rate Case.

9. ENO's Base Rate Case filing shall be based upon sound regulatory principles embodied in the conduct of a cost of service study and include, among other things:

- a. consideration of ENO's costs, service levels, and reliability pre- and post-Katrina, and the extent to which ENO's expenses reasonably can be reduced consistent with a changed customer base to achieve a balancing of ratepayer and Company interests, and consistent with sound utility practices;
- b. a class cost allocation and rate design study (to reflect post-Katrina characteristics of its customer class make-up, consumption patterns, including interruptibility of load, and cost causation) with the aim of reflecting post-Katrina conditions on the ENO system using both a Period I and Period II format; and
- c. the specific accounting treatment utilized in its Period I and Period II filings with respect to the receipt of insurance proceeds, deferred taxes, Community Development Block Grants (CDBG) and tax loss carry forwards; and,
- d. the development of appropriate customer service charges based upon accepted cost-of-service regulatory principles.

10. ENO shall submit a new depreciation study to the Council for use in its consideration and evaluation of ENO's Base Rate Case filing by May 1, 2008.

11. Commencing for the summer 2007 load period, and continuing for at least three annual periods, ENO shall seek to acquire on favorable terms and conditions and in a manner consistent with the Entergy System's standard resource planning principles and objectives adopted by the System's Operating Committee, the System Agreement, and the

current market for wholesale power, an incremental resource having the shaping characteristics described below:

Approximately 50 MW of an energy-only product at market-based heat rates or an approximate equivalent product with a lower heat rate but one that includes a capacity or reservation charge. Such product would generally be consistent with ENO's load following requirements and would include reduced or no-take provision for hourly off-peak periods.

The obligation to take output of such a product may be "shaped," such that during seasonal shoulder peaking periods, the total amount of output procured might be less than 50 MW and during the summer peaking period, the total amount procured may be more than 50 MW. ENO will pursue such a product, including longer-term products that might become available, through the Entergy System's Fall 2006 Limited Term Request for Proposals (RFP). Currently, proposals in response to that RFP are due November 16, 2006, with award notification on February 2, 2007. Thirty days following the award notification with respect to the incremental resource described herein or the decision not to accept any bids for the incremental resource described herein, the Council's Advisors shall be granted access in accordance with the applicable Confidentiality Agreement and/or Protective Order to documentation concerning the bid process and such other pertinent material as may reasonably be necessary to verify that ENO exercised prudent utility practice in the satisfaction of its obligations under this Paragraph 11.

All energy, variable O&M and fuel costs of this resource shall be recovered through the FAC, and ENO shall adhere to the provisions of Paragraph 13 below with respect to any fixed/capacity costs for which it elects to seek recovery in the FAC.

12. In addition to any rights of ENO under this Agreement in Principle or as provided by law, if an event, including, but not limited to Acts of God (*e.g.*, weather/weather-related events, earthquake, etc.), fire, war, riots, civil unrest, public enemies (terrorist attacks), unforeseeable loss of generating capacity, changes in regulation ordered by a regulatory body, or other entity with appropriate jurisdiction, and orders or acts of civil or military authority, which event is beyond the reasonable control of the Company and is not the result of the fault or negligence or failure of due diligence by the Company, causes increased costs to ENO or results in a deficiency in revenues to ENO which is not readily capable of being addressed in a timely manner through the implementation of the base rates resulting from the Base Rate Case described in Paragraph 8 hereof, or through withdrawal of Storm Reserve funds from the Storm Reserve Fund Escrow Account pursuant to Paragraph 18 hereof, ENO may apply for expedited or emergency rate or other relief as the facts and circumstances may warrant, prior to, or during the pendency of, the said Base Rate Case. The Council shall adopt a procedural schedule for such emergency application that will permit a decision by the Council on the merits of such application within an appropriate time period taking into consideration the nature of the relief requested, ENO's financial condition and other relevant circumstances. In the event that the Council's



consideration of the merits of such application exceeds 60 days, upon an expedited hearing before the Council and a showing of good cause by ENO, the change in rates as set forth in the application shall be implemented subject to refund and become effective with the first billing cycle following expiration of the 60-day period for Council decision. In support of such expedited action by the Council, ENO pledges to work in a good faith manner with the Council's Advisors and any intervenors during the discovery process so as to facilitate the exchange of discovery in a timely fashion.

13. If ENO incurs electric capacity costs that are not currently recovered in its FAC or its electric base rates, it shall be permitted to flow these costs through the FAC, provided however, such costs:

a. are deemed to remain subject to a review under the prudent utility practice standard, including, as applicable, a demonstration that the action taken was reasonable under the then-existing circumstances (e.g., that such action would lower ENO's production costs when measured against its then-existing supply portfolio and other available market resources; or, as applicable, that such action was necessary to maintain reliability); and

b. remain in the FAC until subsequent review for a determination of appropriate prospective rate treatment by the Council.

In the FAC filing immediately following the inclusion in the FAC of capacity costs in accordance with this Paragraph, to the extent same constitutes public information, the Company will include a notice thereof describing the transaction, its costs and the reasons therefor. Contemporaneously therewith, the Company will provide any non-public information with respect to the description of the transaction, its costs and the reasons therefor to the Council's Advisors in accordance with the Protective Order applicable to Docket UD-01-4.

#### ***Storm Reserve Rider Docket UD-06-02***

14. ENO commits to work jointly with the Council in seeking an exception to the Stafford Act in Congress that will afford ENO Stafford Act protections in the event of another catastrophic event that can adversely affect its gas and/or electric systems for the ensuing ten (10) years. Such actions shall commence as soon as reasonably practical. To the extent that the Stafford Act is successfully amended to include such protections, the Storm Reserve Rider may be adjusted or eliminated to take into account such amendments, after notice and a full and fair hearing on this issue.

15. ENO shall be authorized to implement a Storm Reserve Rider, effective with the first billing cycle of March 2007, designed to accumulate a Storm Reserve principal amount of \$75 million (including accumulated interest). The Storm Reserve principal amount shall be accumulated by the collection over a ten (10) year period of a levelized amount (including a three tenths of one percent (.3%) gross-up for bad debts) allocated to ENO's gas and electric retail jurisdictions.

Within 10 days of Council action approving this Agreement in Principle, ENO shall file the Storm Reserve Rider schedule(s) consistent with the applicable terms set forth in this Agreement in Principle, which proposed rider schedule(s) shall be reviewed by the Council for the sole purpose of compliance with this Agreement in Principle; said Council review and approval shall occur prior to the last billing cycle of February 2007.

16. ENO's Storm Reserve Fund Escrow Account shall be afforded "lock box" treatment (in accordance with Paragraphs 18 and 19 below) as dedicated ratepayer funds and is to be established in a separate dedicated account to earn compound interest at market rates commensurate with the magnitude of the amount invested, which interest shall accumulate in the account and serve to reduce the principal amount required in the calculation of the annual levelized revenue requirement from ratepayers to fund the account.

17. ENO will seek to structure the Storm Reserve Fund Escrow Account in such a manner that amounts collected from ratepayers and deposited in the Storm Reserve Fund Escrow Account are not currently taxable to ENO. The monthly amount deposited in the Storm Reserve Fund Escrow Account will be the amount collected from customers via the Storm Reserve rider less all applicable taxes and account service and administration fees. Any tax treatments associated with the Storm Reserve Fund Escrow Account shall be consistent with ENO's regulatory accounting so as to not disadvantage ratepayers.

18. ENO shall ensure that ENO's Storm Reserve Fund Escrow Account shall not be used for any corporate purpose by ENO or Entergy Corporation or used as an asset of either company in a manner that is inconsistent with the use described in this Agreement in Principle. ENO shall use the Storm Reserve Fund Escrow Account only for the purpose of restoration of service in ENO's service territory attributable to a Triggering Weather Event or a series of Triggering Weather Events that occurs with respect to the ENO utility system, which Triggering Weather Event(s) shall consist of:

- a) A storm or weather event the occurrence or prospective occurrence of which prompted the issuance by the National Weather Service (or successor agency) of a "watch," "warning," or "advisory" covering at least a portion of ENO's service territory; or
- b) A "named" hurricane or tropical storm named by the National Weather Service (or successor agency); or
- c) A storm or weather event in any portion of ENO's service territory for which either 1) the President declares a "Federal Disaster Area" or makes a similar declaration and/or 2) the Governor of Louisiana declares a "State of Emergency" or makes a similar declaration; and
- d) A storm or weather/weather-related event, or a series of such events, the occurrence of which causes ENO to incur at least \$500,000 of costs in aggregate (such costs as would be accounted for as deferred O&M in Account 228 or as capital expenditures in Accounts 107 or 108 consistent with the Company's Storm Damage policy) to repair damage caused by that event and/or otherwise to restore electric and/or gas service and/or replace

or remove tangible assets in ENO's service territory in the aftermath of such an event(s); or

e) other triggering events as may be defined in the Escrow Agreement.

19. Collections from the Storm Reserve Rider shall be deposited into a restricted Escrow Account with a reputable, well-capitalized financial institution having an investment-grade credit rating of not less than "A" by Standard and Poor's or Moody's and at least \$10 billion in assets. The Escrow Agreement and any other necessary documents shall reflect the intent of this Agreement in Principle that the dedicated Storm Reserve Fund Escrow Account shall not be included in the estate of ENO for bankruptcy purposes or to satisfy creditors of ENO. The Storm Reserve Fund Escrow Account shall be considered customer-funded assets dedicated to the use described in this Agreement in Principle for all purposes including any merger of ENO, sale of ENO or surrender of ENO's franchise. The earnings (interest) on the Storm Reserve Fund Escrow Account shall be deposited into such account to be available to reimburse future storm damage costs, in accordance with Paragraphs 16 through 18 above. The actual investment returns that will be realized on the funds in the Storm Reserve Fund Escrow Account will depend, among other things, on market conditions at the time the funds are invested.

20. ENO shall make annual filings with the Council commencing on March 1, 2008 regarding the balance in the Storm Reserve Fund Escrow Account, which annual filings will report:

(a) collections, principal and interest and disbursements made in accordance with Paragraph 18 above; and

(b) the aggregate amount of costs that have been incurred by the Company for restoration of service in ENO's service territory as a result of Triggering Weather Event(s) and deferred in accordance with Paragraph 18(d) above. To the extent that the aggregate amount of costs (including amounts deferred in accordance with Paragraph 18(d)) equals or exceeds \$500,000, the Company is permitted to withdraw Storm Reserve funds from the Storm Reserve Fund Escrow Account to apply to the appropriate regulatory accounts to offset these costs in accordance with sound regulatory principles. The Company shall provide timely written notice of such withdrawal to the Council. The Council may from time to time review the disbursements from the Storm Reserve Fund Escrow Account.

Within 90 days of the fifth annual filing (March 1, 2012), ENO shall submit to the Council a report recommending the appropriate future level of funding of the Storm Reserve Fund Escrow Account. Upon considering ENO's filing, the Council may adjust prospectively the level of future funding upon notice and a full and fair hearing with respect to this issue.

### ***Energy Conservation and Energy Efficiency Programs***

21. ENO is committed to working actively with the Council's Advisors, the City Council, and the community to develop effective and appropriate energy efficiency and conservation programs in the New Orleans' community reflective of the community's post-Katrina needs. In furtherance of this commitment, to the extent ENO's storm-related electric uncollectible expenses have been offset as previously authorized by the Council, are deemed eligible for CDBG funds and are certified and reimbursed with CDBG funds, ENO shall make available up to \$6.9 million of such funds for energy conservation and energy efficiency post-Katrina programs in the New Orleans community as authorized by the City Council.

### ***Storm Cost Recovery Rider Relief Docket UD-06-01***

22. (a) Subject to the results of the present audit being conducted by Bruno & Tervalon, Certified Public Accountants and Paillet, Meunier and LeBlanc LLP ("Advising Auditors") in accordance with Resolution R-06-329 and assuming ENO's storm-related costs incurred through March 31, 2006 have been certified through an independent process approved by the Louisiana Recovery Authority ("LRA") for CDBG reimbursement, and CDBG funds have been received by ENO on or before March 1, 2007, ENO shall apply such CDBG funds in accordance with those amounts certified from ENO's March 31, 2006 accounting for the following items: uncollectible amounts (uncollectibles attributable to the Katrina event and on the books at the time of the event with a reversal of those already funded by prior Council actions), deferred O&M amounts, and/or capital rate base items. The procedures and deadlines for reviewing ENO's storm costs incurred through March 31, 2006 and for resolving any dispute of the findings of the Council's Advising Auditors shall be as set forth in Council Resolution R-06-329 regarding Docket UD-06-01. To the extent that it is determined that any costs included in the Company's Storm Cost Recovery Rider filing should not be characterized as storm costs, but as costs of normal on-going operations, ENO shall establish a regulatory asset to be amortized over a period of five years for inclusion and recovery of all such costs in ENO's base rates.

(b) Any CDBG funds remaining after the application of such funds to offset deferred storm costs incurred through March 31, 2006, shall be applied to offset additional certified costs as audited by the Advising Auditors. The process for reviewing ENO's storm costs incurred after March 31, 2006 and for resolving disputes regarding same shall be as set forth in the provisions of Council Resolution R-06-329 regarding Docket UD-06-01. Such process shall remain in place until such time that all costs that may be offset by the CDBG funds made available from the LRA's October 12, 2006 decision are certified.

23. In the treatment of CDBG funds used to fund capital items, for ratemaking purposes, those capital items shall be reduced by the value of the CDBG funds applied (e.g., treated for ratemaking purposes as contributions in aid of construction). The valuation of ENO's assets in Section 1 of the Settlement Ordinance of 1922 as amended

does not include any amounts funded with CDBG dollars for purposes of the City's perpetual option to purchase set forth in Section 7 of the said Settlement Ordinance.

24. As for the tax effects of the CDBG funding, ENO should apply the CDBG funds dollar for dollar against the storm costs and, to the extent the money is taxable, ENO shall create an Accumulated Deferred Income Tax account (Account 190) which will be dealt with in the subsequent Base Rate Case filing provided for in Paragraph 8 hereof (inclusive of such matters as the effect of deferred taxes and net operating loss carry forwards).

25. Until such CDBG funding is received by ENO, ENO shall account for deferred O&M accounted for in Account 228 and accumulated capital costs (Accounts 107 and 108) related to Hurricanes Katrina and Rita in accordance with the requirements stated herein. At such time CDBG funds are received, they shall offset the amounts recorded pursuant to this Paragraph. To the extent ENO incurs storm costs in excess of the CDBG funding actually received, ENO shall establish a Deferred Regulatory O&M Cost (Account 182) for any deferred O&M expenses and Account 186 for capital items.

26. Any Deferred O&M costs accounted for in Paragraph 25 in excess of CDBG funding actually received and actually incurred from 3/31/06 through 12/31/07 should be accrued and booked to the Deferred Regulatory O&M Cost Account (Account 182) and allowed to earn Louisiana's then-current legal rate of interest on the account balance, less any applicable deferred taxes. Such treatment will be recognized by the Council as a request for inclusion (under the prudence and used and useful standards as audited by the Council's Advisors) in the Deferred Regulatory O&M Account in the Base Rate Case as provided for in Paragraph 8 herein. In the event that CDBG funding is delayed beyond March 31, 2007, all dollars, without regard to the date incurred, shall accrue interest as stated in this Paragraph commencing on April 1, 2007.

27. The capital items referred to in Paragraph 25 above and recorded in ENO's Miscellaneous Deferred Debit Account in excess of CDBG funding actually received will be allowed to accumulate a carrying charge at the AFUDC rate until inclusion in the Base Rate Case filing provided for in Paragraph 8 hereof. Deferred taxes applicable to any asset in the Miscellaneous Deferred Debit Account, should be deducted prior to the calculation of the applicable AFUDC rate. In the event that the receipts of substantially all \$200 million of CDBG funding is delayed beyond March 31, 2007, all dollars, without regard to the date incurred, shall accrue the applicable AFUDC rate as stated in this Paragraph commencing on April 1, 2007.

28. If by September 1, 2007, CDBG funding of ENO's storm restoration costs has not materialized in an amount that significantly mitigates ENO's storm cost recovery request for costs incurred through March 31, 2006, ENO may file for emergency rate relief in accordance with the procedures set forth in Paragraph 12 above.

29. ENO shall cease booking any amount related to deferred O&M and capital replacements and repairs related to Hurricane Katrina and Rita beginning January 1, 2008, unless ENO discovers damages that have not been identified as of that date. In such a case,

ENO must meet the burden of proving that expenses booked after January 1, 2008 as deferred O&M expense are in fact related to Hurricane Katrina or Rita.

30. Any insurance proceeds received during the period shall be accounted for on the books of the Company so as to offset the costs of the items associated with insurance receipts (*i.e.*, items for which the insurance receipts actually reimburse the Company). To the extent such insurance proceeds are applicable to plant in service, the insurance proceeds are to be applied to the applicable depreciation reserve.

To the extent such insurance proceeds are applicable to rebuilding the natural gas plant in service, the insurance proceeds are to be accounted for in FERC Account 253 – Other Deferred Credits in accordance with the paragraph below.

Insurance proceeds shall be credited to a designated sub-account of Other Deferred Credits (Account 253) upon receipt and deposited into an interest bearing account. Interest earned on unexpended funds shall be credited to this designated sub-account of Other Deferred Credits to offset future construction expenditures. As construction costs are incurred, a concurrent entry will be made transferring an offsetting amount from the Other Deferred Credits account to CWIP as a contribution in aid of construction resulting in a permanent reduction of future depreciable plant in service. The credit balance in the Other Deferred Credits, as well as related construction expenditures remaining in the related CWIP, shall not be considered a component of rate base. AFUDC shall only be accrued in accordance with the Uniform System of Accounts Electric Plant Instruction 3(17).

31. ENO shall file with the Council by July 1, 2007 a plan of reconstruction for its damaged gas system that includes identification of relevant priorities and contingencies. Such plan should take into account among other pertinent factors, the costs and benefits of alternatives (including estimated rate impacts), sources of funding for the gas system reconstruction, and applicable repopulation and zoning plans as adopted by the appropriate governmental authority.

32. This Agreement in Principle requires that all CDBG funds received be utilized to mitigate the impact on rates on a dollar for dollar basis of ENO's eligible costs of restoration, reconstruction and rebuilding of its damaged electric and gas utility systems, and to offset such other unrecovered fixed costs as may be the responsibility of ratepayers.

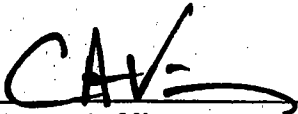
***Miscellaneous Provisions***

33. To the extent that ENO issues notes in connection with affiliated pre-petition obligations, and such obligations are not capitalized and includable in ENO's rate base such notes (including the interest costs thereof) shall not be reflected in any manner in the calculation of ENO's retail rates, including but not limited to its capital structure, cash working capital, rate base or otherwise.

34. This Agreement in Principle reflects a compromise, settlement and accommodation among the signatories and the terms and conditions herein are interdependent. 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.

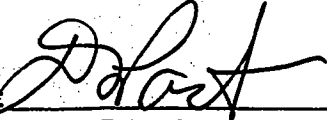
**AGREED TO BY THE FOLLOWING SIGNATORIES:**

**ADVISORS TO THE COUNCIL OF THE CITY OF NEW ORLEANS**

BY:   
Clinton A. Vince

DATE: 10/26/06

**ENTERGY NEW ORLEANS, INC.**

BY:   
Daniel F. Packer  
President & CEO

DATE: 10/26/06



SUPPORT ~~A~~

SEWERAGE & WATER BOARD OF NEW ORLEANS

BY: John H. Chauhan

DATE: 10/26/2006

SUPPORT

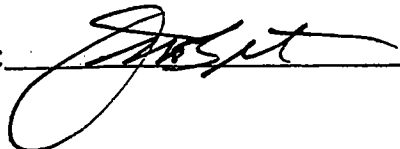
ALLIANCE FOR AFFORDABLE ENERGY

BY: Karen F. Winzelberg

DATE: 10/26/06

SUPPORT

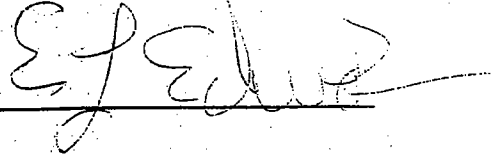
NEW ORLEANS BUSINESS ENERGY COUNCIL

BY: 

DATE: 10/26/2006

NON OPPOSITION

AIR PRODUCTS AND CHEMICALS, INC.

BY: 

DATE: 10/21/08

## ATTACHMENT A

**ENTERGY NEW ORLEANS, INC.  
ELECTRIC FORMULA RATE PLAN RIDER SCHEDULE EFRP-2  
RATE ADJUSTMENTS**

The following Rate Adjustments will be added to the rates set out in the monthly bills of Entergy New Orleans, Inc.'s ("ENO") Rate Schedules identified below, or such additional rate schedules of ENO subject to the Electric Formula Rate Plan Rider Schedule EFRP-2 that may become effective, but not including special contracts that do not specifically provide for the application of the Rider EFRP-2. The Rate Adjustments shall be effective for bills rendered on and after the first billing cycle of November 2006.

<b>Rate Schedules</b>		<b>Rate Adjustments</b>
Residential Electric Service	RES-21	0.0000%
Master Metered Residential Apartment Service	MMRA-1	0.0000%
Small Electric Service	SE-21	0.0000%
Unmetered Service Rider	UMS	0.0000%
Master Metered Nonresidential Service	MMNR-17	0.0000%
Large Electric Service	LE-21	0.0000%
Large Electric High Load Factor Service	LE-HLF-5	0.0000%
Off Peak Service Rider 2	Off-Peak Rider 2	0.0000%
Additional Facilities Charges	AFC	0.0000%
High Voltage Service	HV-21	0.0000%
Large Interruptible Service (Firm Portion only)	LIS-9	25.0000%
Experimental Interruptible Service (Firm Portion only)	EIS-14	0.0000%
Outdoor Directional Security Lighting Service	ODSL-11	0.0000%
Outdoor Night Watchman Service	ONW-1	0.0000%
Premium Lighting Service	PLS	0.0000%
Street Lighting Service	SL-1	0.0000%
Municipal Building Lighting & Power Service	MB-1	0.0000%
Traffic Signal Service	TS-1	0.0000%
Stand-By Maintenance	SMS-1	0.0000%

## ATTACHMENT A

**ENTERGY NEW ORLEANS, INC.  
GAS FORMULA RATE PLAN RIDER SCHEDULE GFRP-2  
RATE ADJUSTMENTS**

The following Rate Adjustments will be added to the rates set out in the Net Monthly Bill section of Entergy New Orleans, Inc.'s ("ENO") Rate Schedules identified below, or such additional rate schedules of ENO subject to the Gas Formula Rate Plan Rider Schedule GFRP-2 that may become effective, but not including special contracts that do not specifically provide for the application of the Rider GFRP-2. The Rate Adjustments shall be effective for bills rendered on and after the first billing cycle of November 2006.

<b>Rate Schedules</b>		<b>Rate Adjustments</b>
Residential Gas Service	RGS-9	26.2755%
Small General Gas Service	SG-8	26.2755%
Large General Gas Service	LG-8	26.2755%
Small Municipal Gas Service	SM-1	26.2755%
Large Municipal Gas Service	LM-9	26.2755%

**ENTERGY NEW ORLEANS, INC.**  
ELECTRIC SERVICE

RIDER SCHEDULE FAC-3

Effective: October 27, 2006  
Filed: October 27, 2006  
Supersedes: FAC-2 filed 8/25/05  
Schedule Consists of: One Sheet Plus  
Attachment A

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**FUEL ADJUSTMENT CLAUSE**

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**I. GENERAL****A. PURPOSE**

This Fuel Adjustment Clause ("Rider FAC") defines the procedure by which Entergy New Orleans, Inc. ("ENO" or "Company") shall recover its net fuel, purchased energy and capacity costs in accordance with the provisions of Section III of this Rider FAC. Rider FAC shall apply in accordance with the provisions of Section I.B below to electric service billed under certain rate schedules and/or rider schedules, whether metered or unmetered, subject to the jurisdiction of the Council of the City of New Orleans ("Council").

**B. FUEL ADJUSTMENT CLAUSE RATES**

The monthly rates associated with the Fuel Adjustment Clause ("Fuel Adjustment Clause Rates") shall be set forth in Attachment A, Section 4, Page 1 of 6, to this Rider FAC. The Fuel Adjustment Clause Rates shall be determined in accordance with the provisions of Sections II and III of this Rider FAC. The Fuel Adjustment Clause Rates shall be applied in accordance with the provisions set out in Attachment A to this Rider FAC. This shall constitute the maximum allowable rates. However, the Company has the obligation to minimize over-recoveries and is allowed to charge lower rates to minimize such over recoveries. To the extent that the over-recovered balance exceeds \$3 million, the Company is required to refund, in the next Rider FAC calculation, by use of a credit in the Rider FAC calculation, all of the over collection.

**II. MONTHLY FUEL ADJUSTMENT CLAUSE FILING**

On or before the first billing cycle of each month beginning in November 2006, the Company shall file a monthly Fuel Adjustment Clause Filing with the Council. The monthly Fuel Adjustment Clause Filing shall include the monthly Fuel Adjustment Clause Rates as determined by application of the formula set out in Attachment A to this Rider FAC. Each Fuel Adjustment Clause Filing shall be filed with the Council and shall be accompanied by a set of workpapers sufficient to document fully the calculations of the redetermined Fuel Adjustment Clause Rates.

**III. METHODOLOGIES****A. FUEL RATES**

The fuel rates shall be determined by using the Henry Hub Strip price for the billing month plus \$0.10/mmBtu for transportation charges and any applicable Louisiana taxes, adjusted for a 7500 Btu/kWh heat rate and converted to \$/kWh.

## **B. CAPACITY RATES**

The capacity rates shall be determined as set forth in Attachment A, Section 1, Page 4 of 6, to this Rider FAC.

## **C. OVER / UNDER RECOVERY**

The Fuel Adjustment Clause Filing should include an over / under recovery computation to provide a true-up of Fuel Costs to actual Rider FAC revenues. This computation should be made in accordance with Attachment A, Page 2 of 6 to this Rider FAC and should include a credit for incremental revenues from any base rate increase to Rate Schedule LIS in accordance with Attachment A, Page 4 of 6 to this rider FAC.

## **D. CARRYING CHARGES ON OVER / UNDER RECOVERY**

The over / under recovery computation should include interest on the average of the balances existing at the beginning and end of the current operating month. The interest rate to be utilized is the prime bank lending rate as published in the Wall Street Journal on the last business day of each month.

## **E. CALCULATION FOR RATE SCHEDULE LIS**

The monthly FAC rate for customers taking service under Rate Schedule LIS will be calculated using actual costs for the second prior month preceding the billing month. The actual capacity costs shall be adjusted to remove 1/2 of the Schedule A Grand Gulf capacity costs included in base rates in Docket No. UD-01-04.

## **IV. CORRECTION OF ERRORS IN PRIOR PERIODS**

ENO is obligated to correct filing errors in prior period Fuel Adjustment Clause Filings. Filing errors are differentiated from vendor invoice errors or changes that occur on a continuing basis that are simply corrected in the then-current operating month's fuel costs. Filing errors in prior period filings must be described and quantified in a supplemental report in the current operating month filing. Correction of the errors will be through an addition or subtraction to the cumulative over / under recovery balance absent other direction from the Council. The correction of the error should include interest from the effective date of the error through the effective date of the correction pursuant to Section III B above.

## **V. TERM**

This Rider FAC shall remain in effect until modified or terminated in accordance with the provisions of this Rider FAC or applicable regulations or laws. Nothing herein shall prevent the Council or the Company from proposing elimination of this Rider FAC at any time in the manner provided by law.

Nothing contained in this Rider FAC shall limit the right of any party to file an appeal as provided by law.



**ENTERGY NEW ORLEANS, INC.**  
**CAPACITY COST**

Data Based on Operations Month of \_\_\_\_\_  
Applied to Bill in the Month of \_\_\_\_\_

LINE NO	DESCRIPTION	REFERENCE	
<b>SECTION 1</b>			
<b>CAPACITY COST</b>			
1	Actual Capacity Cost of New Resource Plan		\$ _____
2	Less Capacity Cost Incurred in Year 2001 / 12		\$ _____
3	Less Reserve Equalization Incurred in Year 2001 / 12		\$ _____
4	Plus Reserve Equalization in Account 555		\$ _____
5	Less Reserve Equalization in Account 447		\$ _____
6	Plus Non-Energy Costs in FERC Accounts 501 and 547 costs (SFI Period Costs on SFI Invoice)		\$ _____
7	Plus Call Options Premium in Account 555		\$ _____
8	Plus Actual Grand Gulf Non-Fuel Costs for Operations Month		\$ _____
9	Less Incremental Revenues from Base Rate Increase to Rate Schedule LIS		\$ _____
10	Capacity Cost for Operations Month	L1 - L2 - L3 + L4 - L5 + L6 + L7 + L8 - L9	\$ _____
11	kWh Sales for Operations Month		_____ kWh
12	Capacity Rate for All kWh Sales in Billing Month Excluding Rate Schedule EIS Available and Off-Peak kWh Sales	L10 / L11	_____ \$/kWh
13	Capacity Rate for Rate Schedule EIS Available and Off-Peak kWh Sales in Billing Month	L12 * 1.3	_____ \$/kWh

**ENERGY NEW ORLEANS, INC.**  
**LOSS FACTORS**

Data Based on Operations Month of \_\_\_\_\_  
Applied to Bill in the Month of \_\_\_\_\_

LINE NO	DESCRIPTION	REFERENCE	
<b>SECTION 1</b>			
<b>SALES AND INPUT</b>			
1	Non-Transmission Service Voltage Level Sales for 12 Months Ending with Operations Month		_____ kWh
2	Net Area Input for 12 Months Ending with Operations Month		_____ kWh
3	Months Ending with Operations Month Adjusted to Input Level		_____ kWh
4	Net Area Input for Non-Transmission Service Voltage Level for 12 Months Ending with Operations Month	L2 - L3	_____ kWh
<b>SECTION 2</b>			
<b>LOSS FACTORS</b>			
5	Non-Transmission Service Level Voltage Loss Factor	L4 / L1	
6	Transmission Service Level Voltage Loss Factor		_____ 1.005262

**ENTERGY NEW ORLEANS, INC.**  
**CALCULATION OF RATE FOR CUSTOMERS ON RATE SCHEDULE LIS**

Data Based on Operations Month of \_\_\_\_\_  
Applied to Bill in the Month of \_\_\_\_\_

LINE NO	DESCRIPTION	REFERENCE	
<b>SECTION 1</b>			
<b>COSTS FOR RATE SCHEDULE LIS</b>			
1	Fuel and Purchased Power Costs	Attachment A: P2 L9	\$ _____
2	Capacity Costs	Attachment A: P2 L10	\$ _____
3	1/2 of Monthly Schedule A Grand Gulf Capacity	WP8	\$ _____
4	Incremental Revenues from Base Rate Increase to Rate Schedule LIS Credited to Other Customers	Attachment A: P4 L9	\$ _____
5	Total Cost for Rate Schedule LIS	L1 + L2 - L3 + L4	\$ _____
<b>SECTION 2</b>			
<b>FUEL ADJUSTMENT CLAUSE FOR RATE SCHEDULE LIS</b>			
6	kWh Sales for Operations Month	Attachment A: P1 L1b	_____ kWh
7	Cost/kWh of Sales for the Operations Month	L5 / L6	\$ _____
8	Transmission Service Level Voltage Loss Factor	Attachment A: P5 L6	1.005262
9	Rate Schedule LIS FAC Rate	L7 * L8	\$ _____

