

RESOLUTION

NO. R-21-87

CITY HALL: February 25, 2021

**BY: COUNCILMEMBERS MORENO, GLAPION, GIARRUSSO, BANKS, GISLESON
PALMER, BROSSETT AND NGUYEN**

**RESOLUTION AND ORDER INITIATING A FORENSIC INVESTIGATION INTO ENTERGY
NEW ORLEANS, LLC LOAD SHED PROTOCOLS AND ALL EVENTS AND DECISIONS
RELATED TO THE FEBRUARY 2021 WINTER STORM URI EVENT**

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans ("Charter"), the Council of the City of New Orleans ("Council") is the governmental body with the power of supervision, regulation, and control over public utilities providing service within the City of New Orleans; and

WHEREAS, Entergy New Orleans, LLC ("ENO" or "the Company"), effective September 1, 2015, is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly owned subsidiary of Entergy Utility Holding Company, LLC. The other four operating companies are Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., and Entergy Texas, Inc.; and

WHEREAS, from February 13-17, 2021, Winter Storm Uri swept across North America resulting in over 170 million Americans being placed under various winter weather alerts across the country and caused blackouts for over 9.7 million people in the U.S. and Mexico, including in New Orleans; and

WHEREAS, on Friday, February 12, the Midcontinent Independent System Operator ("MISO") called for Conservative Operations "due to extremely cold temperatures and generator fuel supply risks;" and

WHEREAS, MISO escalated the declaration to a Maximum Generation Emergency Alert for the South Region beginning Monday, February 15 at 8:00 a.m. Central Standard Time; and

WHEREAS, on Monday, February 15 at 3:00 p.m., MISO declared a Maximum Generation Emergency Event effective from 5:00 p.m. until 9:00 p.m. and directed utilities to implore customers to conserve energy to prepare to shed load; and

WHEREAS, again on Tuesday, February 16, at 5:37 p.m., MISO declared a Maximum Generation Emergency Event effective from 5:35 p.m. to 1:00 a.m., Wednesday, February 17, and directed utilities to implore customers to conserve energy to prepare to shed load; and

WHEREAS, at 6:53 p.m. on Tuesday, February 16, MISO directed a “pro rata Load Shed,” and in an email sent to Councilmembers at 7:35 p.m., ENO advised that it was responsible for shedding 26MW of load; and

WHEREAS, ENO did not issue information about the outages to the public until 8:54 p.m. At 9:39 p.m. on Tuesday, February 16, MISO advised that the Maximum Generation Event had ended, and at 10:11 p.m., ENO informed the Council that 17,600 customers had lost power as a result of the event; and

WHEREAS, during and immediately after the outages, customers began to question how areas were selected for outage and why they were neither forewarned of the outages nor informed how long the outages were expected to last; and

WHEREAS, on Wednesday, February 17, Councilmembers Moreno and Giarrusso announced a joint meeting of the Utility, Cable, Telecommunications and Technology Committee and the Public Works, Sanitation and Environment Committee on Tuesday, February 23 to “discuss how certain areas were selected for outages and reports that power was cut to Sewerage and Water Board drinking water intake pumps;” and

WHEREAS, on Friday, February 19, Councilmember Moreno sent a letter to David Ellis, President and CEO of ENO, directing the Company to provide the Council’s Utility Advisors (“the Advisors”) with its load shed protocols, “including how ENO service areas are selected for outages, safeguards in place to ensure that critical infrastructure like police and fire stations, hospitals and [Sewerage and Water Board of New Orleans] facilities retain power and the communications strategies to notify residents of both the potential for blackouts and when their power will be out;” and

WHEREAS, on February 23, during the joint committee meeting, ENO described its annual system to review its Load Shed Plan including the designation of feeders to specific categories to identify those feeders which would produce “the least amount of risk to public safety and health if it is included in the shedding event,” and admitted that a Sewerage and Water Board of New Orleans (“SWBNO”) feeder had been miscategorized leading to ENO power being cut to drinking water intake and chemical injection pumps; and

WHEREAS, also during its presentation, ENO provided a timeline of its actions during the load shed event as follows:

7:15 p.m. - the first ENO breaker in the load shedding event was opened,

7:16 p.m. - the SWBNO Southport Breaker was opened, curtailing the electrical supply to critical SWBNO facilities. The total duration of the outage for the SWBNO Southport Breaker was 1 hour and 16 minutes.

8:55 p.m. - ENO closed the last breaker, ending the outage for all customers, with a total outage duration for all customers of 1 hour 40 minutes; and

WHEREAS, further, ENO reported that 25,707 customers were impacted during the event rather than 17,600 as had been reported by ENO to the Council on Tuesday, February 16; and

WHEREAS, in response to the questions “[does] 26000 customers equals 26MW?” and “How much was actually shed?” ENO explained that while 26 MW load shed was assigned to New Orleans, ENO stated that it actually shed approximately 81 MW, more than three times the amount required, and after being asked by Councilmembers multiple times, the Company could not explain why so much more load was shed than had been required; and

WHEREAS, as a result of the revelation that ENO had shed 55 MW more than had been required, Chair Moreno directed the Council’s Utility Advisors to begin a forensic investigation into ENO and its response to the load shed event (“Investigation”); and

WHEREAS, pursuant to Sections 3-124 and 3-130 (8) of the Home Rule Charter the Council has the power to conduct investigations of the utilities under its supervision, regulation, and control, including the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto. Section 3-130(8) specifically grants to the Council “the right and authority to obtain from the street railroad, electric, gas, heat, power, waterworks, or other public utility, supervised, regulated and controlled by it all information, papers, books, records, documents, and such other materials as shall be necessary and proper for the exercise of [the Council’s] powers, regulatory or otherwise and all costs, fees, and expenses in connection therewith shall be borne by the public utility required to furnish or produce same;” and

WHEREAS, the scope of this investigation shall include, but shall not be limited to:

- (1) the detailed chain of events from MISO’s instruction to Load Balancing Authorities to shed load through the load shed to the full restoration of service to New Orleans customers, including maps reflecting where and when outages in Orleans Parish occurred;

- (2) information regarding the operational status of Entergy generation units during Winter Storm Uri and weatherization of generating units serving ENO load and their ability to operate in extreme weather conditions;
- (3) any protocols for load shedding and curtailment of load utilized during or applicable to the Winter Storm Uri load shedding event, including critical customer lists and all information about how those customers were prioritized; and
- (4) ENO's communications to customers, the Council, and stakeholders in any and all forms regarding the winter storm event generally and specifically related to the load shedding event as well as any protocols or policies governing such communications; **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the Council, pursuant to Section 3-124 of the Home Rule Charter, does hereby immediately initiate an Investigation of Entergy New Orleans relative to its response to the Winter Storm Uri weather event and the MISO declared Maximum Generation Emergencies Friday, February 12 through Saturday, February 20, including the load shed event of February 16, 2021.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That pursuant to the Council's authority under Section 3-130 of the Home Rule Charter, Entergy New Orleans is directed to provide to the Advisors all information, papers, books, records, documents, and other materials in its possession related to how ENO sheds load during generation events, including operating protocols and policies of any other Entergy Corporation affiliate or subsidiary that impact or determine instructions given to ENO or decisions made about ENO load shedding, within 48 hours of a request for materials being made. In the event that ENO

cannot provide the material within 48 hours, ENO shall notify the Advisors within 24 hours and the Advisors shall determine if the delay in production is justified. Such materials shall include but not be limited to:

1. All Documents that relate in any way to the Matter and/or the Investigation.
2. A list of all Persons who participated in the Matter and/or the Investigation with a detailed explanation of each Person's role.
3. All Communications related to the Matter and/or the Investigation.
4. All Documents related to the Corporate Values and Business Practices.
5. All Documents related to Briefing Materials.
6. A list of all Persons who were involved in or conducted the Investigation.
7. All search terms used by Entergy to produce above documents related to this matter and/or Investigation.
8. Any other materials deemed necessary for and relevant to the investigation by the Advisors.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the following definitions shall be applied to the requested materials:

1. **Briefing Materials** – Any and all documents, materials, written and/or recorded, in whatever medium, created, drafted, written, structured, prepared or produced, whether or not they were used, that contained information of whatever kind that included directions, training, information, education, scripts, speeches, statements, exhortations, data, statistics, arguments, answers or other information that were intended to be used, were used or could have been used in connection with this matter whether prepared by Entergy, Contractor or Subcontractor.

2. **Communications** – Any and all correspondence, communications, documents, emails, texts, electronic postings, recordings, letters, memoranda, and/or other written or recorded exchanges, or attachments thereto, in whatever form they exist or are stored, including but not limited to, all social media platforms.
3. **Corporate Values and Business Practices** – Any materials, written or otherwise that represent the corporate values and business practices referred to by Entergy in its February 23 presentation during the joint committee meeting.
4. **Documents** – Any and all documents and materials in whatever form they exist or are stored, including all manner of electronic storage, and including audio, visual and digital recordings.
5. **Entergy** - Entergy New Orleans and its parent and affiliates, including, but not limited to Entergy Services Company and any contractors or subcontractors who performed services related to this Investigation.
6. **Person** – Any individual or entity.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, It is anticipated that during discovery, the parties may be required to produce documents or information that are deemed confidential and/or highly sensitive and, accordingly, the Council adopts for use in this docket its official Protective Order adopted by Resolution R-07-432.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That in the event the Council finds that ENO acted imprudently or violated any applicable statute, law, rule, or regulation, any and all costs or expenses associated with this

Investigation shall be borne completely and wholly by ENO and not by the ratepayers in the City of New Orleans.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the Advisors are directed to develop a public report on their findings as a result of this Investigation including a recommendation to the Council as to whether or not more actions are needed.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That certified copies of this Resolution shall be forwarded by the Clerk of Council to Mayor LaToya Cantrell; David Ellis, President and CEO of Entergy New Orleans, LLC; Rod West, Group President, Utility Operations for Entergy Corporation; and Leo Denault, Chairman and CEO of Entergy Corporation.

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

YEAS: Banks, Brossett, Giarrusso, Gisleson Palmer, Glapion, Moreno, Nguyen -7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

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