

MOTION
NO. M-18-196

CITY HALL: May 24, 2018

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

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, 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. ("EAI"), Entergy Louisiana, LLC ("ELL"), Entergy Mississippi, Inc. ("EMI"), and Entergy Texas, Inc. ("ETI"); and

WHEREAS, on June 20, 2016, Entergy New Orleans ("ENO") filed its original application for the construction of the New Orleans Power Station ("NOPS") on the Michoud site in New Orleans, and

WHEREAS, on August 11, 2016, the New Orleans City Council approved resolution R-16-332 and opened Docket Number UD-16-02 for the review of ENO's application, and

WHEREAS, on July 6, 2017, ENO filed the "Supplemental and Amending Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for cost Recovery and Timely Relief", and

WHEREAS, on August 10, 2017, the Council adopted Resolution R-17-426, which established a procedural schedule to examine the application as amended, and

WHEREAS, R-17-426 required ENO to conduct no fewer than five public meetings and required the Council Utilities Regulatory Office ("CURO") to hold a public meeting in Council chambers, and

WHEREAS, on October 16, 2017, CURO held a public meeting in Council chambers where 66 people addressed the body and 96 comment cards were submitted, and

WHEREAS, in addition to public meetings, parties and intervenors to this proceeding were given the opportunity to file written testimony and conduct extensive discovery, and

WHEREAS, in December 2017, a five-day public evidentiary hearing was held before a Hearing Officer to examine ENO's NOPS application; and

WHEREAS, the Hearing Officer certified the Administrative Record to the Council of January 22, 2018, and

WHEREAS, on February 21, 2018, the Utility, Cable, Telecommunications and Technology Committee met and heard public comment on Resolution R-18-65, a resolution to approve ENO's application to construct NOPS and request for cost recovery and timely relief, and

WHEREAS, on March 8, 2018, the City Council met and heard public comment on Resolution R-18-65, a resolution to approve ENO's application to construct NOPS and request for cost recovery and timely relief, and approved said Resolution; and

WHEREAS, on April 19, 2018 a lawsuit was filed in Civil District Court claiming that people were paid to attend the March 8 meeting, and as a result, prevented opponents from entering the meeting room due to the limited capacity of the rooms, and

WHEREAS, on May 4, 2018, The Lens reported that actors were hired to attend and participate in the October and February public meetings as supporters of ENO's application, and

WHEREAS, in a news release dated May 10, 2018, ENO stated that an internal investigation was launched after the lawsuit alleging that people were paid to attend or speak at public meeting was filed, and

WHEREAS, the news release stated that ENO entered into a contract with The Hawthorn Group ("Hawthorn") "to assist with organizing local grassroots support for NOPS at two public meetings relating to NOPS on October 16, 2017, and February 21, 2018," and

WHEREAS, the release further stated that Hawthorn retained Crowds on Demand without ENO's knowledge or consent, and Crowds on Demand paid individuals to appear and/or speak at the two meetings for which Hawthorn was contracted to organize supporters, and

WHEREAS, the release stated the internal investigation included "interviews of numerous employees who were involved in the NOPS proceeding, including those who were involved in retaining Hawthorn, and/or were themselves involved in developing grassroots support for NOPS. Additionally, to the extent necessary to confirm the facts, Entergy spoke with representatives of Hawthorn including its Chairman and CEO and Crowds on Demand including its founder and CEO, to obtain the facts of what occurred from their viewpoint. Hawthorn has also provided a letter outlining its role in the events. In addition, the investigation included the application of

electronic discovery techniques, including the search and review of thousands of pages of contracts, contract change orders, emails, and other relevant documents,” and

WHEREAS, according to ENO, the investigation determined “that no one at Entergy paid anyone to attend or speak at any Council meeting, nor did anyone at Entergy direct or authorize any contractor or subcontractor to pay anyone to attend or speak at the October or February Council meetings or any other meeting related to NOPS,” and

WHEREAS, on May 16, 2018, a letter signed by the seven members of the Council was sent to Entergy New Orleans CEO Charles Rice directing ENO “to maintain and preserve all evidence related to the allegations that ENO, Entergy, or some other entity paid or participated in paying actors to attend and/or speak at one or more public meetings in connection with [ENO] NOPS application,” and

WHEREAS, Section 3-124 of the Home Rule Charter reads as follows:

“(1) The Council shall have the power to conduct investigations of:

- a. The operation of any office, department or board administering the affairs of the City.
- b. Any subject upon which it may legislate.
- c. Any entity which receives funds from the City or which is funded in whole or in part by City taxes, fees, fines, bond proceeds, or other revenue generated by or under the authority of the City. Such investigation shall be limited to the use or expenditure of such funds.
- d. Any entity which was created or exists under the authority of the City.

(2) In conducting investigations, the Council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto,” and

WHEREAS, Section 3-130 (8) of the Home Rule Charter reads as follows:

“(8) The Council shall supervise, regulate, and control any street railroad, electric, gas, heat, power, waterworks, or other public utility, including but not limited to New Orleans Public Service, Inc. and Louisiana Power and Light Company, and their respective successors and assigns. The Council shall have 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 said 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;” **NOW THEREFORE**

BE IT MOVED 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 allegations that ENO, Entergy, or some other entity paid or participated in paying actors to attend and/or speak at one or more public meetings in connection with ENO’s NOPS application.

BE IT FURTHER MOVED 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 all information, papers, books, records, documents, and other materials in its possession related to the allegations that ENO, Entergy, or some other entity paid or participated in paying actors to attend and/or speak at one or more public meetings in connection with ENO’s NOPS application on or before June 8, 2018, 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 Contracts related to the Matter and/or the Investigation.
4. All Communications related to the Matter and/or the Investigation.
5. All Documents related to the Corporate Values and Business Practices.
6. All Documents related to Post –Report Communications.
7. All Documents related to Briefing Materials.
8. A list of all Persons who were interviewed, contacted or questioned in connection with the Investigation with contact information for each and an explanation his/her role in the Matter and/or the Investigation.
9. A list of all Persons paid by Entergy, Contractor and/or Subcontractor in connection with the Matter.
10. A list of all Persons who were involved in or conducted the Investigation.

11. All Documents relating to prior agreements with or among Contractor and/or Sub-Contractor in connection with any proceeding before the New Orleans City Council.
12. All Documents relating to any existing agreements with or among Contractor and/or Subcontractor in connection with any proceeding before the New Orleans City Council.
13. All search terms used by Entergy to produce above documents related to this matter and/or investigation.

BE IT FURTHER MOVED 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 the 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, by, between or among Entergy, Contractor or Sub-Contractor in whatever form they exist or are stored, including but not limited to, all social media platforms.
3. **Contractor and/or Subcontractor** – Any person or entity engaged by Entergy in connection with public relations, community outreach, grassroots organization and all other public support efforts in connection with the NOPS application, including, but not limited to, Hawthorn Group, Crowds on Demand, or any Entergy entity.
4. **Contracts** – Any and all contracts, agreements, assents, acknowledgments, written or verbal, in whatever form they exist or are stored, that in anyway relate to the Matter, including any with the Hawthorn Group, Crowds on Demand and any Entergy entity.
5. **Corporate Values and Business Practices** – Any materials, written or otherwise that represent the corporate values and business practices referred to by Entergy in its statements and press releases after the Report.
6. **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;
7. **Entergy** - Entergy New Orleans and its parent and affiliates, including, but not limited to Entergy Services Company.

8. **Investigation** – The internal investigation performed by Entergy and the resulting report together with all materials, documents, interviews, memoranda, analysis, communications, contracts, witness statements, witness lists, evaluations, drafts, cancelled checks, itemized invoices, video or sound recordings and any other materials, received, reviewed or used in the investigation.
9. **The Matter** - Anything related to or in connection with public relations, community outreach, grassroots organization, and all other public support efforts in connection with the NOPS Application, including, but not limited to, work done by or on behalf of the Hawthorn Group and/or Crowds on Demand or any Entergy entity.
10. **NOPS Application** – The application filed with the New Orleans City Council by ENO requesting approval to build a generation plant at the Michoud site and all related proceedings including materials submitted as part of UD-16-02.
11. **Person** – Any individual or entity.
12. **Post-Report Communications** – All communications in whatever form made to “relevant vendors” communicating Entergy’s policy of not paying individuals to attend and/or speak at any “public meeting or meetings before any governmental, regulatory or other agency or body with oversight over Entergy’s operations,” as reported in statements and press release after the report.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That any and all costs or expenses associated with the Investigation be borne completely and wholly by Entergy and not by the ratepayers in the City of New Orleans.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That certified copies of this Motion shall be forwarded by the Clerk of Council to Mayor LaToya Cantrell; Charles Rice, 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, Moreno, Nguyen, Williams - 7
NAYS: 0
ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

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