

RESOLUTION

NO. R-20-146

CITY HALL: June 4, 2020

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

RESOLUTION AND ORDER ESTABLISHING THE CITY COUNCIL CARES ELECTRIC AND GAS UTILITY BILL ASSISTANCE PROGRAM

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, LLC (“ENO”) is a public utility providing electric and natural gas service to all of New Orleans; and

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

WHEREAS, COVID-19 spread throughout the world, which led the World Health Organization (“WHO”) to declare the spread of COVID-19 to be a pandemic; and

WHEREAS, the WHO declaration resulted in declarations of health emergencies on the national level by President Donald Trump and on the state level by Louisiana Governor John Bel Edwards; and

WHEREAS, between March 16, 2020 and May 16, 2020, the City of New Orleans was under a Stay-At-Home Order pursuant to the Mayoral Proclamation to Promulgate Emergency Orders During the State of Emergency due to COVID-19 (“Mayor’s Order”), requiring among other things that residents stay at home except when engaged in essential activities; and

WHEREAS, the Mayor’s Order also required that all businesses/entities not exempted as essential cease activities until further notice; and

WHEREAS, complying with the Mayor’s Order necessarily resulted in a massive and unprecedented disruption of economic activity in the city including unprecedented unemployment especially in the critical hospitality industry; and

WHEREAS, since the onset of the COVID-19 pandemic, over 400,000 people have filed for unemployment benefits in Louisiana and some estimates show the unemployment rate in New Orleans to be as high as 25%; and

WHEREAS, in response to the extraordinary economic stress created by the COVID-19 pandemic and the resulting Mayor’s Order, the Council, as the utility regulator of ENO, took various emergency steps to create “breathing room” for all ENO customers affected by the crisis; and

WHEREAS, recognizing that unprecedented numbers of ENO customers would not be able to pay their bills and faced loss of electric and gas service, the Council directed ENO to suspended service disconnects for non-payment until July 1, 2020 subject to further extension by the Council; and

WHEREAS, the Council directed the Council Utility Regulatory Office (“CURO”) and its utility Advisors to determine what other existing programs were available to assist customers and to seek additional alternatives for Council consideration; and

WHEREAS, the Council was instrumental in obtaining additional federal funding for the existing Louisiana Low-Income Home Energy Assistance Program (“LIHEAP”); and

WHEREAS, the extension of the Mayor’s Order in response to the disproportionate number of COVID-19 cases and deaths the city was experiencing created extraordinary stress on the fundamental economic viability of the city; and

WHEREAS, on May 11, 2020, Governor Edwards announced his plan to reopen the state in a phased, measured manner, which could be modified to be more restrictive by local governments facing more critical risks; and

WHEREAS, on May 12, 2020, Mayor Cantrell announced her plan for the city to enter into Phase I of reopening in a more restrictive fashion to reflect the more critical circumstances that had and still were affecting the city; and

WHEREAS, the Council is aware that the city is facing an unprecedented challenge to safely reopen and restore the economy of the city, which will depend largely on assisting citizens, especially those who have lost jobs and income, to provide the required workforce and consumer base to power the recovery; and

WHEREAS, tens of thousands of residents have fallen behind in paying bills, including utility bills, including ENO electric/gas bills; and

WHEREAS, the Council recognizes that it is in the public interest to provide any appropriate assistance to mitigate both the immediate and future financial impacts that COVID-

19 will have on the economy of the city as a result of the financial stress on individuals and the businesses they would otherwise support; and

WHEREAS, ENO in particular, as a regulated utility, is legally entitled the opportunity to recover through electric/gas rates the amount of any uncollectible customer accounts, which means that higher uncollectible accounts can increase future rates for all customers of ENO; and

WHEREAS, ENO is experiencing an extraordinarily high amount of uncollectible accounts as a direct result of the economic dislocations caused by COVID-19 and the resulting shut down orders; and

WHEREAS, the Council finds that it is in the public interest to find ways to assist the tens of thousands of ENO residential customers who are experiencing difficulty in paying their electric/gas bills due to COVID-19 dislocations in order to return them to reliable paying customers in the future, while mitigating any rate impacts on all customers; and

WHEREAS, the Council has identified two sources of funds for ratepayer assistance: the 2018 Off-System Sales Refund and the Original Storm Reserve Fund, which can be utilized to achieve these goals without sacrificing the safety and security of the system; and

WHEREAS, pursuant to its regulatory authority under Chapter 3-130 of the Home Rule Charter, the Council has “the power to allocate any funds, awards, recovery or any other benefit obtained by any public utility;” and

Storm Reserve Funds (“SRF”)

WHEREAS, the Original SRF was established by Resolution R-06-459 in the wake of Hurricane Katrina and funded through a rider on ratepayer bills; and

WHEREAS, on May15, 2015, the Council adopted Resolution R-15-195 directing ENO to establish an electric-only long-term storm reserve fund (“Securitized SRF”) in response to ENO’s Securitization Application (Docket UD-14-01); and

WHEREAS, pursuant to Resolution R-15-195, the Securitized SRF was funded through the issuance of storm recovery bonds and has a current balance of approximately \$67 million; and

WHEREAS, as part of the creation of the Securitized SRF, the riders that funded the Original SRF are no longer active, but the fund had a balance of \$15.5 million as of December 31, 2019; and

WHEREAS, the Council has always responded to storm damage responsibly to provide sufficient resources for the recovery of prudently incurred electric and gas system restoration costs in the manner most protective of all ratepayers; and

2018 Off-System Sales Refund

WHEREAS, the Council has also identified a 2018 FERC Off-System Sales Refund made pursuant to the former system agreement and those funds have not been committed by the Council yet; however, there are numerous Charter and Code provisions that provide for the Council’s authority and discretion in the use of such refunds; and

WHEREAS, on May 16, 2013 the Council adopted Resolution R-13-162 generally directing ENO with respect to refunds “to retain said funds in an interest-bearing account until receipt of further orders of the Council with respect to the appropriate treatment or distribution of said funds;” and

WHEREAS, in 2018, FERC Opinion No. 565 ordered a refund of approximately \$7 million to New Orleans ratepayers (“2018 Off-System Sales Refund”); and

WHEREAS, on January 24, 2019, at the Council’s direction, the Advisors directed ENO “to hold the refund until further direction is provided from the Council;” and

City Council Cares Program

WHEREAS, a declared pandemic health emergency has existed on a national, state, and local level at least since March 16, 2020; and

WHEREAS, the economic consequences to ratepayers, especially those who have been unemployed, have been catastrophic and have not abated; and

WHEREAS, an unprecedented number of potentially uncollectible accounts have accumulated at ENO and may persist indefinitely; and

WHEREAS, the Council expects that dramatic economic impacts related to COVID-19 will, without Council action, tend to increase ENO’s uncollectible account rate; and

WHEREAS, the Council expects that customer relief in the form of bill credits will serve to reduce ENO’s otherwise uncollectible account; and

WHEREAS, the Council finds that such ratepayer relief will serve to reduce the otherwise harmful effects on ENO’s future cost of service to all ratepayers by reducing its otherwise uncollectible account; and

WHEREAS, the Council finds that even though the City and the State are beginning to slowly reopen, more time is needed to recover from the devastating economic toll of the COVID-19 pandemic; and

WHEREAS, as New Orleans enters summer during which average temperatures approach 90 degrees Fahrenheit and average monthly electric utility bills often exceed \$100, residents will need to continue to stay at home in order to stop the spread of COVID-19; and

WHEREAS, the city is presently in Phase I of reopening and all estimates are that full reopening is many months off, the Council understands how difficult it is for ratepayers who have been unemployed to get back on their feet financially, especially when facing debts incurred during the pandemic health emergency, and

WHEREAS, the Council also understands the financial strain that ENO could face after a prolonged period of uncollected bill payments, which could affect many aspects of operations impacting customers; and

WHEREAS, it is the Council's desire to utilize the estimated \$22 million available in the Original SRF and the 2018 Off-System Sales Refund to create the City Council Cares Program ("Program") to reasonably assist as many unemployed residential customers as the funds allow, and to reduce uncollected amounts to mitigate, to the extent practicable, future rate increases for all customers; and

WHEREAS, in order to qualify for assistance, ENO residential customers will need to have an active Entergy New Orleans electric or electric and gas combination account and supply a letter from the Louisiana Workforce Commission approving a claim for unemployment benefits dated March 16, 2020 or later with a residential address matching the ENO account service address; and

WHEREAS, customers who qualify to receive credits under the Program will be provided credits up to \$100 per month for four months; and

WHEREAS, qualified customers who also have an arrears balance will be encouraged to enter into a deferred payment arrangement with ENO that will allow the customers to pay the balance due over time; and

WHEREAS, given the finite amount of funding available, customers should apply to receive credits under the program as soon as possible after the program is launched and able to accept applications as qualifying will be on a first come, first served basis; **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO is directed to establish the City Council Cares Program as described in Exhibit A, which is incorporated in, made a part of, and approved as part of this resolution.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO is directed to do the following:

A. Submit reports to the Council as follows:

1. No later than July 1, 2020, ENO shall submit a report to the Council detailing the budgeted total amount of the administrative costs associated with the Program.
2. Within fourteen (14) days of the Program's launch, ENO shall submit a report detailing the total number of applicants, the number of ratepayers receiving assistance, the total amount of funds expended, and the number of accounts enrolled in a payment arrangement as part of the Program ("the Initial Report").
3. After submission of the Initial Report, ENO shall submit brief reports to CURO and the Advisors which detail the total number of applicants, the number of ratepayers receiving assistance, the total amount of funds expended by cost category, and the current balance of both the 2018 Off-System Sales Refund fund and Original Storm Reserve Fund by the following dates:
 - a. July 31, 2020;
 - b. August 14, 2020;

- c. September 11, 2020;
- d. October 9, 2020; and
- e. November 13, 2020

- 4. Within thirty (30) days after the last ratepayer credit resulting from the Program, ENO shall submit a Final Report to the Council detailing the results of the Program and a full accounting of how the funds were utilized, transferred, and accounted.
- B. Immediately take the necessary steps to amend and/or modify all relevant Original SRF related documents to conform them to this Resolution and to provide for the use of funds in accordance with the Program. All such amendments and/or modifications shall be submitted to CURO and the Advisors for approval prior to execution.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That after submission of any of the aforementioned reports, the Council may reevaluate the terms of the program as needed to achieve the stated goals of mitigating the negative financial impacts associated with the COVID-19 pandemic.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO is directed to work with the Council as represented by the CURO and the Advisors to establish an appropriate regulatory framework to provide for the recovery of costs incurred to repair damage caused by a storm or weather related event and/or otherwise to restore gas service in the aftermath of such an event.

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

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.

EXHIBIT A

City Council Cares Program

I. Program Description

A. Who is eligible?

ENO residential customers with an active Entergy New Orleans electric or electric and gas combination account that provide a letter from the Louisiana Workforce Commission approving a claim for unemployment benefits dated March 16, 2020 or later with an address matching the ENO account service address.

B. What are the benefits?

Eligible customers may receive bill credits not to exceed \$100 per month for four months. If the eligible customer has an account balance in arrears, the credit will be applied directly to the arrears balance first unless the ratepayer opts to enter into a payment arrangement with ENO. If the ratepayer enters into a payment arrangement, the credit will be applied monthly as described and the arrears balance carried forward shall not include any accumulated late fees, interest, or penalties. Said late fees, interest, and penalties shall be waived by the Company. If the ratepayer does not enter into a payment arrangement, the credit will be applied exclusively to the arrears balance less accumulated late fees, which shall be waived by ENO. In no event shall the total credits applied to any account exceed \$400.

C. How ratepayers access the program

Customers shall be able to access the program through four interfaces: (1) text message; (2) automated phone service; (3) website; and (4) Customer Care Centers. Through each interface customers would be given additional information and instructions for how to qualify for the credits.

D. Timeline for Implementation

The Program shall be implemented and available to accept customer applications no later than July 1, 2020. The Program will continue to accept applications until the earlier of (1) October 31, 2020 to allow for assistance on September electric and gas utility bills, or (2) until the funds as described below are fully allocated. An eligible customer who is approved for participation in the program after July 2020, may continue to have credits

applied to their account after the program application period has terminated, subject to the monthly and total individual customer credits identified herein and the availability of funds.

E. Administrative Costs

ENO estimates that the costs to engage a contractor to establish the website, text message, and phone call customer interfaces range from \$500,000 to \$800,000. Additionally, ENO estimates that the internal costs to establish the protocols necessary to implement the interface at the customer care centers including hiring a Program Administrator and staff augmentation will not exceed \$300,000. ENO will include an estimate of the total contract and internal costs in its Initial Report submitted to the Council along with a detailed description of the contracted services provided as well as the internal costs including but not limited to bill inserts, staff augmentation, and promotion.

II. Program Funding

A. 2018 Off-System Sales Refund

As of April 2020, the balance of the 2018 Off-System Sales Refund is approximately \$7.7 million. ENO shall use monies from this fund for both Administrative Costs and for benefits provided to customers as part of the Program. This fund shall be depleted prior to obtaining any funds from the Original Storm Reserve Fund.

B. Original Storm Reserve Fund

As of April 2020, the balance of the Original Storm Reserve Fund is approximately \$15.6 million. ENO shall use monies from this fund to reimburse the Company for both Administrative Costs and for credits provided to customers as part of the Program. In order to ensure that this fund is not unnecessarily depleted, this fund will not be utilized until such time as funds available from the 2018 Off-System Sales Refund fund are totally depleted. ENO shall make reasonable efforts to only withdraw funds from the Original Storm Reserve Fund that have been disbursed as part of the Program or committed for disbursement as part of the Program. If there are funds in ENO's possession at the conclusion of the Program, any such funds shall be properly identified and segregated by ENO to prevent their unauthorized use and reported to the Council for further Council consideration.