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The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judges of Civil District Court en banc is authorized for use by the Clerk of Court for the purpose of initiating the civil docket sheet. The plaintiff filing the suit must fill out this form.

PLAINTIFFS (Name of first plaintiff listed)  
Deep South Center for Environmental Justice

DEFENDANTS (Name of first defendant listed)  
The Council of the City of New Orleans

PARISH OF RESIDENCE OF FIRST LISTED PLAINTIFF  
Orleans

PARISH OF RESIDENCE OF FIRST LISTED DEFENDANT  
Orleans

ATTORNEYS (Firm Name, Address, & Telephone No.)  
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TO BE FILLED IN BY CLERK'S OFFICE

CASE NO. \_\_\_\_\_

DIVISION \_\_\_\_\_

JURY DEMAND \_\_\_\_\_ (yes or no)

PROBATE	CONTRACT	SPECIAL PROCEEDING	TORTS- PERSONAL INJURY	STATUS & DOMESTIC				
<div>____ 110 Simple Possession (No will)</div> <div>____ 115 Petition to Probate Will (with admin- istration)</div> <div>____ 120 Petition to Probate Will (without ad- ministration)</div> <div>____ 125 Petition to Search for Will</div> <div>____ 130 Other</div>	<div>____ 210 Open Account</div> <div>____ 215 Breach of Contract</div> <div>____ 220 Suit on Note</div> <div>____ 225 Suit on Note with Fore- closure of Chattel Mortgage</div> <div>____ 230 Suit for Earned Wages</div> <div>____ 235 Suit for Accounting</div> <div>____ 240 Other</div> <div>____ 245 Hurricane Litigation</div>	<div><input checked="" type="checkbox"/> ____ 310 Injunction</div> <div><input checked="" type="checkbox"/> ____ 315 Declaratory Judgment</div> <div>____ 320 Judicial Review Zoning</div> <div>____ 325 Mandamus (non-real estate)</div> <div>____ 330 Election Suit</div> <div>____ 335 Minor's Settlement</div> <div>____ 340 Concursus</div> <div>____ 345 Petition for Discovery</div> <div>____ 350 Petition for Writ for Sequestration</div> <div>____ 355 Petition to Make Judgment Executory</div> <div>____ 360 Tax Suit</div> <div>____ 365 Petition to Become Notary</div> <div>____ 370 Other</div>	<div>____ 410 Motor Vehicle</div> <div>____ 415 Motor Vehicle- Product Liability</div> <div>____ 420 Product Liability- Other</div> <div>____ 425 Medical Malpractice</div> <div>____ 430 Premises (liability for condition)</div> <div>____ 435 Marine</div> <div>____ 440 Intentional Tort</div> <div>____ 445 Defamation</div> <div>____ 450 Other</div> <div>____ 455 Asbestos</div> <div>____ 460 Class Action</div>	<div>____ 510 Separation</div> <div>____ 515 Divorce</div> <div>____ 520 Annulment</div> <div>____ 525 Custody (not filed with separation or divorce)</div> <div>____ 530 Disavowment of Paternity</div> <div>____ 535 Suit to Establish Paternity</div> <div>____ 536 Child Support</div> <div>____ 540 Name Change</div> <div>____ 545 Emancipation</div> <div>____ 550 Interdiction</div> <div>____ 555 Commitment</div> <div>____ 560 Petition to Appoint Curator</div> <div>____ 565 Partition of Community (separate action)</div> <div>____ 570 Marital Agreement</div> <div>____ 575 Pet. to make Judgment Executory (Domestic)</div> <div>____ 580 Other</div>				
<div>____ 610 Joint Petition for Workmen's Compensation</div> <div>____ 615 Judicial Review</div> <div>____ 620 Workmen's Compensation</div> <div>____ 625 Other</div>	<div>____ 710 Suit on Note with Fore- closure of Mortgage</div> <div>____ 720 Suit to Rescind Sale or for Refund of Purchase Price</div> <div>____ 725 Suit for Specific Performance</div> <div>____ 730 Declaratory Judgment</div> <div>____ 735 Rent and/or Eviction</div> <div>____ 740 Expropriation</div> <div>____ 745 Mandamus to Cancel Mortgage</div> <div>____ 750 Other</div>	<div>Check/Fill in if demanded in complaint:</div> <table><tr><td>Check if this is a CLASS ACTION under _____</td><td>Demand \$ _____</td></tr><tr><td>RELATED CASE(S) IF ANY _____</td><td>Other _____</td></tr></table> <div>JUDGE _____</div> <div>CASE NO. _____</div> <div>CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVES:</div> <div>1. Property included in an earlier numbered pending suit</div> <div>2. Same issue of fact or grows out of the same transaction</div>			Check if this is a CLASS ACTION under _____	Demand \$ _____	RELATED CASE(S) IF ANY _____	Other _____
Check if this is a CLASS ACTION under _____	Demand \$ _____							
RELATED CASE(S) IF ANY _____	Other _____							

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
STATE OF LOUISIANA

CASE NO. \_\_\_\_\_

DIVISION \_\_\_\_\_

DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE, VAYLA NEW ORLEANS,  
JUSTICE AND BEYOND, 350 NEW ORLEANS, SIERRA CLUB,  
MR. THEODORE QUANT, AND MS. RENATE HEURICH

VERSUS

THE COUNCIL OF THE CITY OF NEW ORLEANS, THE UTILITY, CABLE,  
TELECOMMUNICATIONS AND TECHNOLOGY COMMITTEE OF THE NEW ORLEANS  
CITY COUNCIL, JASON R. WILLIAMS, STACY HEAD, SUSAN G. GUIDRY, LATOYA  
CANTRELL, NADINE M. RAMSEY, JARED C. BROSSETT, AND JAMES A. GRAY II

FILED: \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

**PETITION TO ENFORCE THE LOUISIANA OPEN MEETINGS LAW, FOR  
DECLARATORY JUDGMENT, INJUNCTION, ATTORNEYS' FEES AND COSTS,  
AND MEMORANDUM IN SUPPORT**

NOW INTO COURT, through undersigned counsel, comes Deep South Center for Environmental Justice, VAYLA New Orleans, Justice and Beyond, 350 New Orleans, Sierra Club, Mr. Theodore Quant, and Ms. Renate Heurich (“Petitioners”). Petitioners bring this enforcement action of the Open Meetings Law pursuant to La. R.S. 42:25(C). Specifically, Petitioners request that this Honorable Court issue a declaratory judgment and injunction against the New Orleans City Council (“City Council”) and its members, and the Utility, Cable, Telecommunications and Technology (“UCTT”) Committee of the New Orleans City Council and its members (collectively, “Defendants”), for violations of the Louisiana Constitution, Article XII, Section 3 and the Open Meetings Law,<sup>1</sup> La. R.S 42:12 *et seq.*; and void the Defendants’ actions taken at two public meetings. The Defendants convened, participated, and took actions in two public meetings that violated the Open Meetings Law, resulting in irreparable injury to the Petitioners as well as other citizens who attended or attempted to attend the meeting, by excluding them from participation in the meetings and denying them the right to offer

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<sup>1</sup> Section 3-108 of the Home Rule Charter of the City of New Orleans (“City Charter Section 3-108”) provides that “meetings of the Council and its committees shall be open to the public in accordance with applicable state and municipal law.” Thus, the Open Meetings Law provides the applicable rules regarding when a meeting of the City Council and its committees occurs.

comments on a matter of interest to the public. The actions taken at these unlawful meetings should be voided,<sup>2</sup> and Defendants should be directed to fully comply with the Open Meetings Law in the future. In support of this petition, Petitioners respectfully state:

#### **OPEN MEETINGS LAW**

1. The Open Meetings Law was enacted to ensure the rights of citizens to observe and participate in the deliberations of public bodies. Louisiana Constitution, Article XII, Section 3 states: “No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.”<sup>3</sup>
2. The Open Meetings Law, La. R.S. 42:14(A), provides that “[e]very meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:16, 17 or 18.” Moreover, all public bodies are required to allow public comment prior to taking action on an agenda item on which a vote is to be taken.<sup>4</sup>
3. The Open Meetings Law further provides that all public bodies “shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, before the meeting” and that “[t]he agenda shall not be changed less than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, prior to the scheduled time of the meeting.”<sup>5</sup>
4. Pursuant to La. R.S. 42:24, actions taken in violation of the Open Meetings Law are void if a suit to void these actions is filed within 60 days of the violation’s occurrence.
5. On February 21, 2018, the UCTT Committee of the New Orleans City Council held a public meeting to consider a Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief (“ENO’s Application”), Docket No. UD-16-02.

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<sup>2</sup> See La. R.S. 42:24.

<sup>3</sup> *Wagner v. Beauregard Par. Police Jury*, 525 So. 2d 166, 168 (La. Ct. App. 1988).

<sup>4</sup> La. R.S. 42:14(D).

<sup>5</sup> La. R.S. 42:19(A)(1)(b)(i), (ii)(aa).

6. At some time prior to 9:15 am, the doors to the meeting room were opened.

However, by 9:15 am, the doors were closed and locked, and no other members of the public were permitted to enter. Over 50 to 60 community members who arrived at 9:30 am to attend the meeting were prevented from entering the auditorium by security.

7. As explained below and in the accompanying memorandum, Petitioners' and other New Orleans citizens' right to observe the UCTT Committee meeting and comment during that meeting were violated.

8. Specifically, the following actions of the UCTT Committee constitute a violation of the Open Meetings Law: (a) many members of the public, including individuals who were parties to the underlying City Council proceeding concerning ENO's Application as well as members of community organizations with deep stakes in the outcome of the proceeding, were not allowed into the meeting for hours, even when seats were available, in violation of La. R.S. 42:14(A); (b) many members of the public who waited outside the meeting room for hours with no expectation of being admitted to the meeting ultimately left, effectively depriving them of their right to observe and comment, in violation of La. R.S. 42:14(D); and (c) the meeting was conducted in a manner that was contrary to the agenda notice of the meeting, a violation of La. R.S. 42:19(A)(1)(b)(ii)(aa).

9. On March 8, 2018, the full New Orleans City Council held a public meeting to consider the UCTT Committee's approval of ENO's Application. Once again, members of the public were prevented from attending the meeting. As but one example, members of the public were told to stand in line outside the City Council chambers but before the public was let in, special arrangements were made to allow more than a dozen Entergy employees and supporters into the meeting through a private, back entrance to occupy seats. As a result, approximately 20 to 30 individuals were forced to stand outside the meeting room for hours, waiting for someone to leave the meeting so they could enter. Thus, the City Council once again violated La. R.S. 42:14(A).



## **PARTIES**

### **Petitioners**

10. Deep South Center for Environmental Justice is a non-profit organization incorporated in the State of Louisiana with a main office located in New Orleans East. Deep South Center for Environmental Justice is dedicated to improving the lives of children and families harmed by pollution and vulnerable to climate change in the Gulf Coast Region by providing research, education, and advocacy for policy change as well as health and safety training for environmental careers. Deep South Center for Environmental Justice works locally, regionally, and globally as a resource for communities, scientific researchers, and policymakers on issues involving environmental justice. Deep South Center for Environmental Justice serves civic organizations and faith-based groups in New Orleans East by finding solutions to environmental issues that adversely affect the health and quality of life of residents.
11. VAYLA New Orleans (“VAYLA”) is a progressive, multi-racial, community-based non-profit organization in New Orleans that empowers youth and families through supportive services for cultural enrichment and positive change. Founded in 2006 by young community leaders, VAYLA New Orleans is committed to youth development, community empowerment, higher education, and cultural awareness. VAYLA New Orleans exists to reinforce and uphold integrity, empowerment, inclusion, tradition, leadership, and critical consciousness in a passionate and youth-centered way.
12. Justice and Beyond is a community-based organization in New Orleans that was created to fight for justice in the Greater New Orleans area. Justice and Beyond convenes a weekly dialogue with the City of New Orleans and helps build community coalitions within New Orleans.
13. 350 New Orleans is a non-profit, volunteer-led local organization whose purpose is to connect the Louisiana region to the international climate change movement led by 350.org. 350 New Orleans’ mission is to lend support to initiatives in New Orleans to raise consciousness and promote sound policy around climate change, which poses

unprecedented threats to our lives. 350 New Orleans prioritizes locally-grown initiatives and collaboration with existing New Orleans-based groups working for climate justice.

14. The Sierra Club is a non-profit corporation with more than 822,000 members nationwide, including more than 3,300 members residing in Louisiana, dedicated to the protection of public health and the environment. One of the Sierra Club's priority national conservation campaigns involves promoting cost-effective clean energy alternatives and energy efficiency measures. The Sierra Club's goal is for a just transition to a renewable energy future for Louisiana.
15. Mr. Theodore Quant, a person of the age of majority domiciled in Orleans Parish, is the retired Director of the Twomey Center for Peace Through Justice at Loyola University New Orleans and a member of Justice and Beyond. Mr. Quant attended both the UCTT Committee meeting on February 21, 2018, and the City Council meeting on March 8, 2018. He was thus directly affected by the UCTT Committee's and the City Council's actions when conducting those meetings.
16. Ms. Renate Heurich, a person of the age of majority domiciled in Orleans Parish, is the Vice President of 350 New Orleans. Ms. Heurich attended both the UCTT Committee meeting on February 21, 2018, and the City Council meeting on March 8, 2018. She was thus directly affected by the UCTT Committee's and the City Council's actions when conducting those meetings.

#### **Defendants**

17. Councilmember-at-Large Jason R. Williams, a person of the age of majority, in his individual and official capacities, who, at all times pertinent hereto, is the Chair of the UCTT Committee and the President of the New Orleans City Council.
18. Councilmember-at-Large Stacy Head, a person of the age of majority, in her individual and official capacities, who, at all times pertinent hereto, is a member of the UCTT Committee and the Vice-President of the New Orleans City Council.

19. District “A” Councilmember Susan G. Guidry, a person of the age of majority, in her individual and official capacities, who, at all times pertinent hereto, is a member of the UCTT Committee and the New Orleans City Council.
20. District “B” Councilmember and Mayor-elect LaToya Cantrell, a person of the age of majority, in her individual and official capacities, who, at all times pertinent hereto, is a member of the New Orleans City Council.
21. District “C” Councilmember Nadine M. Ramsey, a person of the age of majority, in her individual and official capacities, who, at all times pertinent hereto, is a member of the New Orleans City Council.
22. District “D” Councilmember Jared C. Brossett, a person of the age of majority, in his individual and official capacities, who, at all times pertinent hereto, is a member of the UCTT Committee and the New Orleans City Council.
23. District “E” Councilmember James A. Gray II, a person of the age of majority, in his individual and official capacities, who, at all times pertinent hereto, is a member of the UCTT Committee and the New Orleans City Council.
24. The New Orleans City Council’s Utility, Cable, Telecommunications and Technology Committee is a standing committee of the New Orleans City Council and a public body subject to the Open Meetings Law.
25. The New Orleans City Council is a public body subject to the Open Meetings Law.
26. Defendants Councilmembers Williams, Head, Guidry, Brossett, and Gray, collectively and individually, participated in a public meeting of the UCTT Committee that violated the Louisiana Constitution, Article XII, Section 3; the Louisiana Open Meetings Law, La. R.S. 42:14(A), (D); and La. R.S. 42:19 (A)(1)(b)(i), (ii)(aa). Thus, all actions taken at that meeting are void.
27. All Defendants, collectively and individually, participated in a public meeting of the City Council that violated the Louisiana Constitution, Article XII, Section 3 and the Louisiana Open Meetings Law, La. R.S. 42:14(A), (D). Thus, all actions taken at that meeting are void.

## **JURISDICTION AND VENUE**

28. This Court has jurisdiction over the subject matter of this action pursuant to Louisiana Constitution, Article V, Section 16.
29. The venue is proper under La. R.S. 42:27, which requires that this action be brought in the district court for the parish in which the meeting took place. Both the UCTT Committee meeting and the City Council meeting took place in the Parish of Orleans.

## **STATEMENT OF FACTS**

### **Background**

30. The two meetings at issue in this enforcement action stem from a request by Entergy New Orleans (“ENO” or “Entergy”) for authorization to build a gas fired generation station in New Orleans East. In its initial application, ENO proposed to construct a 226 MW gas plant.
31. On November 3, 2016, the City Council issued Resolution No. R-16-506, which set the procedural schedule for ENO’s Application. In Resolution No. R-16-506, the City Council asserted its intention to assure public involvement in the decision process, stating:
- [T]he Council intends to provide the residents of the City of New Orleans with an open and transparent process that will allow for multiple opportunities for the public to communicate its views to ENO and the Council . . . .<sup>6</sup>
32. ENO later amended its Application, seeking approval to construct either a 226 MW gas plant or several smaller units totaling 128 MW.
33. On August 10, 2017, the City Council issued Resolution No. R-17-426, which, among other things, directed the Council Utilities Regulatory Office (“CURO”) to conduct one public meeting on ENO’s Application in the City Council Chambers. This meeting was scheduled for October 16, 2017. In an email dated October 13, 2017, Mr. Tom Stratton, Director of CURO, informed the parties to ENO’s

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<sup>6</sup> City Council New Orleans, Resolution No. R-16-506 at 8 (Nov. 3, 2016).

Application proceeding that only one intervenor representative would be permitted to speak and only after all non-intervenor members of the public had spoken.<sup>7</sup>

#### **October 16, 2017 Evening Public Hearing**

34. As noted above, the City Council directed CURO to hold a public meeting in the City Council Chambers. While this meeting is not a subject of Petitioners' enforcement action, it is important to understand what occurred at this meeting because the events that transpired illustrate that the City Council was made aware of the large numbers of citizens who wished to speak on the issue of ENO's Application well before the February 21 and March 8 meetings.
35. On October 16, 2017, members of the public, most of whom opposed ENO's Application arrived well before the announced start time of 5:30 pm for the public hearing. Those individuals who arrived early were informed that the meeting room doors would be unlocked around 5:00 pm, 30 minutes before the scheduled start time for the meeting.<sup>8</sup> However, when two buses of ENO supporters arrived at 4:00 pm, these individuals were immediately permitted to enter the Council Chambers.<sup>9</sup>
36. Significant numbers of people who expected to comment were effectively shut out of obtaining seats in the meeting room. Not only did ENO's supporters, who were easily identifiable by their orange t-shirts, occupy a significant number of seats, but some supporters placed their signs in other seats, thus further preventing the participation of affected New Orleans citizens in the meeting.<sup>10</sup> Moreover, evidence suggests that actors testified at the meeting in favor of the proposal.<sup>11</sup>

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<sup>7</sup> Email from Tom Stratton, Director, Council Utilities Regulatory Office, to Docket No. UD-16-02 Service List (Oct. 13, 2017, 3:52:46 CST). Attached as Exhibit 1.

<sup>8</sup> Affidavit of Renate Heurich, ¶ 26 ("Heurich Affidavit"). Attached as Exhibit 2.

<sup>9</sup> *Id.* ¶ 27.

<sup>10</sup> See Michael Isaac Stein, *Pumping problems, hurricane scares play into debate over new Entergy power plant*, The Lens (Oct. 20, 2017), <https://thelensnola.org/2017/10/20/pumping-problems-hurricane-scares-play-into-debate-over-new-entergy-power-plant/>. Attached as Exhibit 3.

<sup>11</sup> See Kristin Pierce, *City Council could face lawsuit following public hearing on Entergy plant*, WWL (Mar. 7, 2018), <http://www.wwltv.com/article/news/local/city-council-could-face-lawsuit-following-public-hearing-on-entergy-plant/526747370>; see also Affidavit of Michael L. Brown Affidavit, ¶¶ 13, 16 (and accompanying pictures) ("Brown Affidavit"). Attached as Exhibit 4. Subsequent to this meeting, on March 1, 2018, a man later identified as Mr. Andrew Wiseman attended a church meeting and informed the other attendees that he and others had been paid

37. Many people wanted to speak at the October 16, 2017 public hearing but were not allowed in the room or left when it became clear that they would not be able to comment.<sup>12</sup> Moreover, approximately one hour into the meeting, it was announced that there would not be enough time for everyone to give comments so people should stop filling out comment cards.<sup>13</sup> At one point, Councilmember Susan Guidry asked people to leave the room when they were done speaking so that others who were outside could come in and provide comment. However, few, if any, of the Entergy supporters in the orange t-shirts left.<sup>14</sup>

38. Parties and intervenors filed written testimony, and in December of 2016, an evidentiary hearing was held before a Hearing Examiner. The Hearing Examiner certified the Administrative Record to the City Council on January 22, 2018. The UCTT Committee subsequently scheduled consideration of ENO's Application for February 21, 2018.

**February 21, 2018 UCTT Committee Public Meeting**

39. On February 16, 2018, the UCTT Committee issued the agenda for the UCTT Committee's February 21, 2018 meeting.

40. This agenda only included one item, the Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief, Docket No. UD-16-02. The agenda notice specifically stated that each party to the proceeding would be allowed 15 minutes for closing argument. The agenda notice further stated that "[e]ach public speaker, *not a party*, will be allowed 2 minutes."<sup>15</sup>

41. The purpose of the UCTT Committee meeting was to consider a resolution approving ENO's Application to construct a gas generating station on the Michoud site in New

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\$125 to wear shirts supporting Entergy, attend the meeting, and fill up the room. Affidavit of Ted Quant, ¶ 14 ("Quant Affidavit"). Attached as Exhibit 5.

<sup>12</sup> Brown Affidavit, ¶ 10 (Exh. 4).

<sup>13</sup> Affidavit of Grace Morris, ¶ 18 ("Morris Affidavit"). Attached as Exhibit 6.

<sup>14</sup> Brown Affidavit, ¶ 11 (Exh. 4); Heurich Affidavit, ¶ 29 (Exh. 2).

<sup>15</sup> UCTT Committee Agenda Notice (Feb. 16, 2018) (emphasis added). Attached as Exhibit 7.



Orleans East. If approved, ENO's Application would then be considered by the full City Council.

42. Many members of the public and Petitioners arrived at the designated meeting site at approximately 9:30 am; however, the door to the meeting room was locked, and no more people were being allowed to enter.<sup>16</sup> Mr. Pat Bryant of Justice and Beyond approached security several times and requested to be let into the meeting room, but security refused to let him enter the room.<sup>17</sup> Mr. Bryant also noticed that approximately ten Entergy employees were permitted to enter the meeting room without being searched or screened and despite security's claim that the room was full.<sup>18</sup> Approximately 50 to 60 people were denied entry to the meeting, allegedly because there was no more space in the meeting room.<sup>19</sup> At approximately 10:00 am, Mr. Bryant and others again requested that they be allowed to enter the meeting room. Security refused to allow them to enter and threatened to arrest some of the people who were waiting to get in.<sup>20</sup> The majority of these individuals were residents of New Orleans East and the Lower Ninth Ward.<sup>21</sup>

43. VAYLA, a multi-racial, community-based organization in New Orleans East, organized two buses to transport 67 community members from New Orleans East to the meeting. Approximately 15 others joined the group at the meeting site.<sup>22</sup> These individuals arrived at the auditorium at approximately 9:20 am, well before the previously announced 10:00 am start time for the meeting. However, VAYLA representatives were informed that the room was at capacity and none of their

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<sup>16</sup> Affidavit of Margaret "Meg" Logue Affidavit, ¶ 5 ("Logue Affidavit"). Attached as Exhibit 8; Affidavit of Dr. Beverly L. Wright, ¶¶ 13, 15 ("Wright Affidavit"). Attached as Exhibit 9; Affidavit of Dynisha Dianne Hogle, ¶ 9 ("Hogle Affidavit"). Attached as Exhibit 10.

<sup>17</sup> Affidavit of Patrick Henry Bryant, ¶ 9 ("Bryant Affidavit"). Attached as Exhibit 11.

<sup>18</sup> *Id.* ¶ 8.

<sup>19</sup> Heurich Affidavit, ¶ 8 (Exh. 2); Bryant Affidavit, ¶ 9 (Exh. 11).

<sup>20</sup> Bryant Affidavit, ¶ 10 (Exh. 11).

<sup>21</sup> Logue Affidavit, ¶ 5 (Exh. 8); Bryant Affidavit, ¶ 9 (Exh. 11)

<sup>22</sup> Affidavit of Minh Thanh Nguyen, ¶ 6 ("Nguyen Affidavit"). Attached as Exhibit 12.

members would be admitted.<sup>23</sup> According to Ms. Dynisha Hugle, security refused to allow anyone wearing a “No Gas Plant” t-shirt to enter the meeting room.<sup>24</sup>

44. These individuals and others were not admitted even though there were empty seats in the meeting room.<sup>25</sup> For example, Mr. Theodore Quant stayed for several hours, but was never allowed to enter the meeting room.<sup>26</sup> When several Councilmembers passed through the crowd, people explained the situation, told the Councilmembers they wanted to observe and comment, and asked for help. However, the Councilmembers did not address their concerns.<sup>27</sup> The chanting of the locked out individuals could be heard inside the meeting room.<sup>28</sup> At approximately 12:00 pm, security started letting some people in but offered no explanation regarding how they were determining if and when to admit more people. Many members of the public waited outside of the meeting room for three hours or more without being admitted to the meeting.<sup>29</sup> Many others became discouraged and left because they had no expectation of being permitted to enter the meeting room or provide their comments to the UCTT Committee.<sup>30</sup> In fact, despite waiting approximately four to five hours, only three individuals from VAYLA were permitted to comment, and very few other members of VAYLA were allowed to enter the room.<sup>31</sup>

45. Ms. Renate Heurich, Vice President of 350 New Orleans, a party to the underlying proceeding concerning ENO’s Application, arrived at the meeting room at 10:00 am only to be told that she could not enter because the room was at capacity.<sup>32</sup> At 12:30

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<sup>23</sup> Nguyen Affidavit, ¶¶ 6, 8 (Exh. 12); Hugle Affidavit, ¶ 9 (Exh. 10).

<sup>24</sup> Hugle Affidavit, ¶ 9 (Exh. 10). Mr. Happy Johnson also felt that whether an individual was allowed to enter the meeting room depended upon what they were wearing. Affidavit of Happy Johnson, ¶ 8 (“Johnson Affidavit”). Attached as Exhibit 13.

<sup>25</sup> Brown Affidavit, ¶ 12 (Exh. 4); Logue Affidavit, ¶ 7 (Exh. 8); Nguyen Affidavit, ¶¶ 9, 10 (Exh. 12); Wright Affidavit, ¶ 18 (Exh. 9); Bryant Affidavit, ¶ 11 (Exh. 11); Affidavit of Robert Desmarais Sullivan, ¶ 12. Attached as Exhibit 14.

<sup>26</sup> Quant Affidavit, ¶ 12 (Exh. 5).

<sup>27</sup> Affidavit of Jacob Horwitz, ¶ 13 (“Horwitz Affidavit”). Attached as Exhibit 15; Affidavit of Andrew Wells, ¶ 10. Attached as Exhibit 16.

<sup>28</sup> Nguyen Affidavit, ¶ 11 (Exh. 12); Morris Affidavit, ¶ 10 (Exh. 6); Wright Affidavit, ¶ 19 (Exh. 9).

<sup>29</sup> Logue Affidavit, ¶¶ 9, 10 (Exh. 8); Quant Affidavit, ¶ 12 (Exh. 5).

<sup>30</sup> Logue Affidavit, ¶ 6 (Exh. 8).

<sup>31</sup> Nguyen Affidavit, ¶¶ 13-15 (Exh. 12).

<sup>32</sup> Heurich Affidavit, ¶ 7 (Exh. 2).

- pm, she entered the room as someone was leaving. She observed approximately 30 empty seats. The security officer ordered her to leave despite the empty seats. Ms. Heurich left the room.<sup>33</sup> After a few minutes, one of the City Council's Advisors informed the security guard that Ms. Heurich was an intervenor and should be let into the meeting room. The security guard still refused to let Ms. Heurich into the room.<sup>34</sup> Several minutes later, the security guard told Ms. Heurich she could enter the room.<sup>35</sup>
46. The UCTT Committee, like the City Council, uses a comment card process whereby an individual fills out a card and gives that card to a designated City Council employee. During the public comment period, the Chair of the UCTT Committee uses these cards to call individuals up to speak. An individual who fails to fill out a comment card is not permitted to speak during the public comment period.
47. Many of the individuals who were locked out of the meeting filled out comment cards. Ms. Grace Morris of the Sierra Club attempted to give these comment cards to Mr. Keith Lampkin, Chief of Staff to UCTT Committee Chair and Councilmember Jason R. Williams, so that those who were locked out of the meeting could get in the queue to speak. Mr. Lampkin told Ms. Morris that he could only accept comment cards from people inside the room and that "there would be no way to facilitate everyone speaking [that day]."<sup>36</sup> Mr. Lampkin also refused to ask people to leave after they made public comments so that others could come inside the meeting room and comment.<sup>37</sup>
48. There was no speaker system outside of the meeting room. Individuals could not hear what was occurring in the meeting room.<sup>38</sup> Thus, individuals locked out of the meeting room could not hear their names called through the door to provide comment.<sup>39</sup> Nor, obviously, could they observe the meeting. Moreover, at no time

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<sup>33</sup> *Id.* ¶ 14.

<sup>34</sup> *Id.* ¶ 15.

<sup>35</sup> *Id.* ¶ 16.

<sup>36</sup> Morris Affidavit, ¶ 12 (Exh. 6).

<sup>37</sup> *Id.* ¶ 12.

<sup>38</sup> Heurich Affidavit, ¶ 12 (Exh. 2).

<sup>39</sup> Hogle Affidavit, ¶ 11 (Exh. 10).

during the meeting were those citizens who were locked out of the meeting room informed regarding whether they would ever be permitted into the room or whether they would be permitted to speak.

49. During the public comment period, the Chair failed to follow the instructions provided in the official agenda notice.<sup>40</sup> The agenda notice expressly stated that parties would not be allowed to speak during the public comment period.<sup>41</sup> While the Chair did not enforce this rule, or even inquire if the speaker was a party, he never announced that the provision of the agenda notice limiting who could speak was being abandoned. Thus, Dr. Beverly Wright from the Deep South Center for Environmental Justice, a party to the underlying ENO gas plant proceeding, never filled out a comment card and never spoke during the public comment period because the written directive in the agenda notice expressly stated that parties would be prevented from speaking.<sup>42</sup> Similarly, Ms. Grace Morris of the Sierra Club did not fill out a comment card because her understanding was that intervenors were only allowed to have one person comment.<sup>43</sup> Ms. Renate Heurich of 350 New Orleans initially did not fill out a comment card because it was also her understanding that as an intervenor she could not comment. However, one of the City Council's Advisors informed Ms. Heurich that she could comment so she filled out a comment card and ultimately was allowed to speak.<sup>44</sup> Moreover, it is impossible to know how many members of the Deep South Center for Environmental Justice, the Sierra Club, 350 New Orleans, and the Alliance for Affordable Energy did not attend the meeting because they believed, based on the meeting agenda, that they would not be permitted to speak.

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<sup>40</sup> See UCTT Committee Agenda Notice (Exh. 7).

<sup>41</sup> The Agenda Notice provided that “[e]ach public speaker, *not a party*, will be allowed 2 minutes.” *Id.* (emphasis added).

<sup>42</sup> Wright Affidavit, ¶ 23 (Exh. 9).

<sup>43</sup> Morris Affidavit, ¶ 14 (Exh. 6).

<sup>44</sup> Heurich Affidavit, ¶ 19 (Exh. 2).

50. After asking the City Council's Advisors several questions, each of the Councilmembers spoke and then they voted on ENO's Application. The final vote was 4 to 1 to approve the Application. The meeting ended at approximately 6:00 pm.
51. The failure to admit individuals to the February 21, 2018 public meeting violated the Louisiana Constitution, Article XII, Section 3 and the Louisiana Open Meetings Law, La. R.S. 42:14(A) and (D). The failure of the City Council to follow the UCTT Committee agenda notice violated La. R.S. 42:19(A)(1)(b)(i) and (ii)(aa).
52. Directly after this meeting, Ms. Renate Heurich sent an email to the City Council regarding the manner in which the UCTT Committee meeting was conducted.
- Specifically, Ms. Heurich stated:
- I understand that approximately 50-60 community members who arrived at 9:30 this morning were not able to go inside the auditorium due to limited space inside. However, when we kept receiving text messages with pictures of empty seats we became upset and started shouting to be let in. After waiting for about 90 minutes, a limited number of people were allowed access. But even as more and more people left the building, nobody else was allowed to enter, except for another small group a good while later.
- Around 12:30, 2 1/2 hours into the meeting, about 20 people were still waiting outside, some of them sitting on the floor. Many others had given up and left. When someone else exited, I entered the room and saw at least 20/30 empty seats right where I was. Security told me I was not allowed in, but I proceeded down the steps, pointing to the many empty seats. Consequently, security motioned a second security guard to escort me out. I told him that I wanted to sit in one of the numerous empty seats, but he insisted that I leave the room. I complied because I didn't want to get arrested even though I just wanted to participate in a public meeting.
- Ms. Heurich received no response to her email.<sup>45</sup>
53. Similarly, after the February 21 meeting, Justice and Beyond filed a letter with the City Council asking that the March 8 meeting venue hold at least 500 people.<sup>46</sup>
54. On March 6, 2018, attorneys representing 350 New Orleans sent a letter to the City Council informing the Councilmembers that the manner in which the UCTT Committee conducted the February 21 meeting constituted a significant violation of the Open Meetings Law as well as requesting that the City Council require the UCTT

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<sup>45</sup> *Id.* ¶ 21.

<sup>46</sup> Bryant Affidavit, ¶ 13 (Exh. 11).

Committee to conduct a second meeting which complies with the requirements of the law.<sup>47</sup> The City Council never responded to this letter.

### **March 8, 2018 City Council Public Meeting**

55. The full City Council considered the UCTT Committee's approval of ENO's Application at its March 8, 2018 meeting. In contrast to the UCTT Committee agenda, the City Council agenda contained a significant number of items.
56. Long lines formed prior to 9:00 am to get into the 10:00 am meeting.<sup>48</sup> For example, three VAYLA provided buses transported over 100 residents of the New Orleans East community to the meeting. At least two of the buses arrived by 8:30 am.<sup>49</sup> However, Entergy employees were escorted to a separate entrance and were seated in the meeting room prior to the general public.<sup>50</sup> Mr. Pat Bryant observed the Entergy employees being led inside the meeting room through a back door.<sup>51</sup> Mr. Bryant and others attempted to enter the room through this same door.<sup>52</sup> An Entergy employee attempted to physically block Mr. Bryant, but he was able to enter through the back door with others from Justice and Beyond.<sup>53</sup>
57. Like the February 21, 2018 meeting, members of the public were prevented from attending the meeting.<sup>54</sup> Approximately 20 to 30 individuals were forced to stand outside the meeting room for hours, waiting for someone to leave the meeting so they could enter.<sup>55</sup> Once again, the chanting of the locked out individuals could be heard from inside the meeting room.<sup>56</sup>

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<sup>47</sup> See Letter from William P. Quigley, Susan Stevens Miller, and Jill Tauber to the New Orleans City Council (Mar. 6, 2018). Attached as Exhibit 17.

<sup>48</sup> Morris Affidavit, ¶ 14 (Exh. 6).

<sup>49</sup> Hogle Affidavit, ¶¶ 14, 15 (Exh. 10).

<sup>50</sup> Johnson Affidavit, ¶ 11 (Exh. 13).

<sup>51</sup> Bryant Affidavit, ¶ 14 (Exh. 11).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Quant Affidavit, ¶ 16 (Exh. 5); Nguyen Affidavit, ¶¶ 16-17 (Exh. 12)

<sup>55</sup> Logue Affidavit, ¶¶ 11-12 (Exh. 8); Heurich Affidavit, ¶ 24 (Exh. 2).

<sup>56</sup> Nguyen Affidavit, ¶ 17 (Exh. 12).



58. The failure to admit individuals to the March 8, 2018 public meeting violated the Louisiana Constitution, Article XII, Section 3 and the Louisiana Open Meetings Law, La. R.S. 42:14(A) and (D).

**VIOLATIONS OF THE LOUISIANA CONSTITUTION  
AND THE OPEN MEETINGS LAW**

59. Louisiana has guaranteed its citizens the right to observe the deliberations of public bodies. Louisiana Constitution, Article XII, Section 3 provides: “No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.”

60. Building upon this Constitutional foundation, the Louisiana State Legislature enacted the Open Meetings Law to ensure “that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.”<sup>57</sup> Thus, the Louisiana Constitution and the Open Meetings Law guarantee a citizen’s right to both observe the meetings of a public body and comment on items under consideration by that public body.

61. In order to effectuate a citizen’s right to observe and comment, the Open Meetings Law also provides that “[a]ll public bodies, except the legislature and its committees and subcommittees, shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours . . . before the meeting.”<sup>58</sup>

Advanced notice of agenda items ensures that if a member of the public wants to be heard on a matter or observe a public body’s deliberations on an issue, he or she can check the agenda posted twenty-four hours in advance to see if the matter is scheduled for consideration.<sup>59</sup>

62. With regard to public comment, La. R.S. 42:14(D) states “each public body conducting a meeting which is subject to the notice requirements of R.S. 42:19(A)

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<sup>57</sup> La. R.S. 42:12.

<sup>58</sup> La. R.S. 42:19(A)(1)(b)(i).

<sup>59</sup> La. Atty. Gen. Op. No. 15-0122 at 7 (La. A.G. Jan. 8, 2016).

shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken.”

63. La. R.S. 42:24 provides that any action taken in violation of the Open Meetings Law shall be voidable and a suit to void any action must be filed within 60 days of the violation’s occurrence. Thus, actions taken in violation of the Open Meetings Law are void so long as the complaint challenging these actions is filed within 60 days of the violation’s occurrence.

64. On February 21, 2018, when the UCTT Committee meeting convened, the meeting room doors were locked prior to the meeting’s start time, leaving 50 to 60 individuals who clearly intended to attend the meeting outside with no way to observe the conduct of the meeting. This lockout occurred for hours, even though at some point there were empty seats in the meeting room.

65. It is clear that the UCTT Committee knew that members of the public were being denied their right to attend the meeting and provide comments. First, Mr. Keith Lampkin, Chief of Staff to UCTT Committee Chair and Councilmember Jason R. Williams, initially tried to reject comments cards from those individuals trapped outside the meeting room, stating he could “only accept comment cards from people who were inside the room.”<sup>60</sup> Second, each time the meeting door opened, the outside crowd’s chant of “Let us in” could be heard throughout the meeting room.<sup>61</sup> Finally, at one point, Councilmember Susan Guidry expressly asked that people in the meeting room give up their seat so that individuals “waiting” outside could come in to comment.<sup>62</sup> These actions by the UCTT Committee violated the public’s right to observe the UCTT Committee meeting and constitute the first violation of the Open Meetings Law.<sup>63</sup>

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<sup>60</sup> Morris Affidavit, ¶ 12 (Exh. 6).

<sup>61</sup> Nguyen Affidavit, ¶ 11 (Exh. 12); Morris Affidavit, ¶ 10 (Exh. 6); Horwitz Affidavit, ¶ 11 (Exh. 15).

<sup>62</sup> Morris Affidavit, ¶ 13 (Exh. 6).

<sup>63</sup> See La. R.S. 42:14(A).

66. Conducting the meeting in the manner set forth above rendered the public's right to comment illusory. First, after finally being persuaded to accept the comment cards of the individuals who were locked out of the meeting, Mr. Keith Lampkin stated "there would be no way to facilitate everyone speaking today."<sup>64</sup> Thus, the UCTT Committee appeared to not even understand that it had a legal obligation to permit every individual to speak and apparently had no intention of ensuring that everyone got the chance to speak. Second, members of the public who waited outside the meeting room for hours and received no information from the City Council or City Council employees regarding whether they would ever be admitted or permitted to speak ultimately left the meeting. Third, since there was no speaker system outside of the meeting room, those locked out of the meeting had no way of knowing that their name had been called, thus missing their opportunity to speak, assuming that opportunity had even been offered. This constitutes the second violation of the Open Meetings Law.<sup>65</sup>

67. During the public comment period, the UCTT Committee Chair failed to follow the instructions provided in the official agenda notice. The agenda notice expressly stated that parties would not be allowed to speak during the public comment period.<sup>66</sup> While the Chair did not enforce this rule, or even inquire if the speaker was a party, he never announced that the provision of the agenda notice limiting who could speak was being abandoned. Thus, individuals who were members of party organizations did not fill out comment cards and never spoke during the public comment period.<sup>67</sup> Moreover, it is impossible to know how many members of the Deep South Center for Environmental Justice, the Sierra Club, 350 New Orleans, and the Alliance for Affordable Energy, or other intervenors did not attend the meeting under the mistaken

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<sup>64</sup> Morris Affidavit, ¶ 12 (Exh. 6).

<sup>65</sup> See La. R.S. 42:14(D).

<sup>66</sup> See UCTT Committee Agenda Notice (Exh. 7).

<sup>67</sup> Wright Affidavit, ¶ 23 (Exh. 9); Heurich Affidavit, ¶ 19 (Exh. 2); Morris Affidavit, ¶ 14 (Exh. 6).

belief that they would not be permitted to speak. This constitutes the third violation of the Open Meetings Law.<sup>68</sup>

68. On March 8, 2018, the full City Council considered the UCTT Committee's approval of ENO's Application. In contrast to the UCTT Committee agenda, the City Council agenda contained a significant number of items. Thus, the City Council should have anticipated that a significant number of citizens would intend to attend the meeting. Long lines formed prior to 9:00 am to get into the 10:00 am meeting. Once again, members of the public were prevented from attending the meeting and could not observe the public process. Approximately 20 to 30 individuals were forced to stand outside the meeting room for hours, waiting for someone to leave the meeting so they could enter. This constitutes the fourth violation of the Open Meetings Law.<sup>69</sup>
69. The conduct of both the February 21, 2018 UCTT Committee meeting and the March 8, 2018 City Council meeting violated both the letter and the spirit of the Louisiana Constitution and the Open Meetings Law; and resulted in the suppression of the citizens' right to participate in the public's business.

#### **PRAYER FOR RELIEF**

70. In light of the foregoing, the Court should issue a declaratory judgment finding that the Defendants convened, participated, and took actions in meetings that violated the Louisiana Constitution and the Open Meetings Law as to (i) allowing the public to observe both meetings; (ii) allowing public comment; (iii) and following the February 21, 2018 agenda notice.
71. The exclusion of the public from both the February 21, 2018 UCTT Committee meeting and the March 8, 2018 City Council meeting demonstrates a fundamental lack of understanding of the Open Meetings Law by the Defendants, which causes irreparable harm to citizens interested in participating in meetings of the City Council and its committees. Accordingly, the Court should issue an injunction directing the Defendants to strictly adhere to the Open Meetings Law.

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<sup>68</sup> See La. R.S. 42:19(A)(1)(b)(ii)(aa).

<sup>69</sup> See La. R.S. 42:14(A).

72. Because the UCTT Committee and its members clearly violated the Louisiana Constitution and the Open Meetings Law at the February 21, 2018 meeting, the Court should declare the UCTT Committee's action approving ENO's Application void and without legal effect.
73. Similarly, because the City Council and its members clearly violated the Louisiana Constitution and the Open Meetings Law at the March 8, 2018 City Council meeting, the Court should declare the City Council's action approving ENO's Application void and without legal effect.
74. Finally, the costs of this proceeding and reasonable attorneys' fees should be awarded against the Defendants and in favor of the Petitioners.

WHEREFORE, Petitioners respectfully pray that Defendants the City Council of New Orleans, the UCTT Committee, and Councilmembers Williams, Head, Guidry, Cantrell, Ramsey, Brossett, and Gray (jointly and independently) appear and show cause on a day and time convenient to the Court, as to why this Court should not render judgment in favor of the Petitioners as prayed for and why this Court should not:

1. Issue a declaratory judgment finding that the UCTT Committee and its members convened, participated, and took actions in a meeting at which the Louisiana Constitution and the Louisiana Open Meetings Law were violated;
2. Issue a declaratory judgment finding that the City Council and its members participated in a meeting at which the Louisiana Constitution and the Louisiana Open Meetings Law were violated;
3. Issue an injunction directing the Defendants to strictly adhere to the Louisiana Constitution and the Open Meetings Law;
4. Issue a declaratory judgment finding that the UCTT Committee's action on February 21, 2018 approving ENO's Application to construct a 128 MW gas plant is void and without legal effect;

5. Issue a declaratory judgment finding that the City Council's action on March 8, 2018 approving ENO's Application to construct a 128 MW gas plant is void and without legal effect;
6. Award costs of these proceedings and reasonable attorneys' fees in favor of the Petitioners.



**MEMORANDUM IN SUPPORT OF PETITION TO ENFORCE THE LOUISIANA  
OPEN MEETINGS LAW, FOR DECLARATORY JUDGMENT, AND INJUNCTION**

Deep South Center for Environmental Justice, VAYLA New Orleans, Justice and Beyond, 350 New Orleans, and Sierra Club (“Petitioners”) file the accompanying Petition to enforce the Open Meetings Law pursuant to La. R.S. 42:25(C).<sup>70</sup> As discussed below, the Defendants<sup>71</sup> convened, participated, and took actions in two public meetings that violated the Louisiana Constitution and the Open Meetings Law, resulting in irreparable injury to the citizens who attended or attempted to attend the meetings by excluding them from participation in the meetings and denying them the right to offer comments on a matter of interest to the public. The facts show that Entergy New Orleans (“ENO” or “Entergy”), through special treatment provided to its employees and supporters, was given clear and illegal preferential access to the meetings, which were supposed to be open to all members of the general public. The actions taken at these unlawful meetings should be voided.<sup>72</sup>

Furthermore, the Court should find that the exclusion of the public from both the February 21, 2018 UCTT Committee meeting and the March 8, 2018 City Council meeting caused irreparable harm to citizens’ constitutionally and legally protected interest in participating in meetings of the City Council and its committees. Accordingly, the Court should issue an injunction directing the Defendants to strictly adhere to the Open Meetings Law.

**STATEMENT OF FACTS**

The two meetings at issue in this enforcement action stem from a request by Entergy for authorization to build a gas-fired generation station in New Orleans East. On June 20, 2016, Entergy filed its initial application, requesting approval to construct a 226 MW unit. On November 3, 2016, the City Council issued Resolution No. R-16-506, which set the procedural

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<sup>70</sup> La. R.S. 42:25(C) provides: “Any person who has been denied any right conferred by the provisions of this Chapter or who has reason to believe that the provisions of this Chapter have been violated may institute enforcement proceedings.”

<sup>71</sup> The Defendants include the New Orleans City Council (“City Council”); the Utility, Cable, Telecommunications and Technology (“UCTT”) Committee of the City Council; and Councilmembers Williams, Head, Guidry, Cantrell, Ramsey, Brossett, and Gray.

<sup>72</sup> See La. R.S. 42:24.

schedule for Entergy's application. In Resolution No. R-16-506, the City Council asserted its intention to assure public involvement in the decision process, stating:

[T]he Council intends to provide the residents of the City of New Orleans with an open and transparent process that will allow for multiple opportunities for the public to communicate its views to ENO and the Council . . . .<sup>73</sup>

On July 6, 2017, Entergy later amended its application ("ENO's Application") to request approval for either the 226 MW gas plant or several smaller units totaling 128 MW.

On August 10, 2017, the City Council issued Resolution No. R-17-426, which, among other things, directed the Council Utilities Regulatory Office to conduct one public hearing on ENO's Application in the Council Chambers. This meeting was scheduled for October 16, 2017.

#### **A. October 16, 2017 Evening Public Hearing<sup>74</sup>**

On October 16, 2017, members of the public, many of whom opposed ENO's Application, arrived well before the announced start time of 5:30 pm for the public hearing. They were informed that the meeting room doors would be unlocked at 5:00 pm, 30 minutes before the scheduled start time for the meeting.<sup>75</sup> Two buses of Entergy supporters arrived around 4:00 pm. The individuals on these buses were immediately permitted to enter the Council Chambers.<sup>76</sup>

Many people wanted to speak at the October 16, 2017 public hearing but were not allowed in the room or left when it became clear that, as a result of the large crowd which had been admitted early and remained in their seats throughout the meeting, they would not be able to comment.<sup>77</sup>

Evidence also suggests that actors attended the meeting and testified in favor of the proposal, which may have exacerbated this situation.<sup>78</sup> Not only did Entergy supporters, who

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<sup>73</sup> Resolution No. R-16-506 at 8 (Nov. 3, 2016).

<sup>74</sup> While Petitioners are not bringing this enforcement action based on the October 16, 2017 public hearing, this meeting provides relevant background.

<sup>75</sup> Affidavit of Renate Heurich, ¶ 26 ("Heurich Affidavit"). Attached as Exhibit 2.

<sup>76</sup> *Id.* ¶ 27.

<sup>77</sup> Affidavit of Michael L. Brown, ¶ 10 ("Brown Affidavit"). Attached as Exhibit 4.

<sup>78</sup> See Kristin Pierce, *City Council could face lawsuit following public hearing on Entergy plant*, WWL (Mar. 7, 2018), <http://www.wwltv.com/article/news/local/city-council-could-face-lawsuit-following-public-hearing-on-entergy-plant/526747370>; see also Brown Affidavit, ¶¶ 13, 16 (and accompanying pictures) (Exh. 4). Subsequent to the October 16 meeting, on March 1, 2018, Mr. Andrew Wiseman attended a church meeting and informed the other attendees that he and others

were easily identifiable by their orange t-shirts, occupy a significant number of seats, but some supporters placed their signs in other seats, thus further preventing the participation of the public—most of whom were opposed to the proposed gas plant—in the meeting.<sup>79</sup>

Moreover, an hour into the meeting, City Council staff announced that there would not be time for everyone to comment so people should stop filling out comment cards.<sup>80</sup> At one point, Councilmember Susan Guidry asked people to leave the room when they were done speaking so that others who were outside could come in and provide comment. However, few, if any, of the Entergy supporters in the orange t-shirts left.<sup>81</sup>

*B. February 21, 2018 UCTT Committee Public Meeting*

On February 16, 2018, the UCTT Committee issued the agenda for its February 21, 2018 meeting. This agenda only included one item, the Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief, Docket No. UD-16-02. The purpose of the meeting was to decide whether to approve ENO's Application. If approved, ENO's Application would then be considered by the full City Council. The agenda notice specifically stated that each party to the proceeding would be allowed 15 minutes for closing argument.<sup>82</sup> The agenda notice further stated that "[e]ach public speaker, *not a party*, will be allowed 2 minutes."<sup>83</sup>

Many members of the public and Petitioners arrived at the designated meeting site at approximately 9:30 am, 30 minutes before the meeting was scheduled to begin. At that time, the doors to the meeting room were locked and no one was allowed to enter.<sup>84</sup> Approximately 50 to 60 people were denied entry to the meeting by security, allegedly because there was no more

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had been paid \$125 to wear shirts supporting Entergy, attend the meeting, and fill up the room. Affidavit of Ted Quant, ¶ 14 ("Quant Affidavit"). Attached as Exhibit 5.

<sup>79</sup> See Michael Isaac Stein, *Pumping problems, hurricane scares play into debate over new Entergy power plant*, The Lens (Oct. 20, 2017), <https://thelensnola.org/2017/10/20/pumping-problems-hurricane-scares-play-into-debate-over-new-entergy-power-plant/>. Attached as Exhibit 3.

<sup>80</sup> Affidavit of Grace Morris, ¶ 18 ("Morris Affidavit"). Attached as Exhibit 6.

<sup>81</sup> Brown Affidavit, ¶ 11 (Exh. 4); Heurich Affidavit, ¶ 29 (Exh. 2).

<sup>82</sup> See UCTT Committee Agenda Notice (Feb. 16, 2017). Attached as Exhibit 7.

<sup>83</sup> *Id.* (emphasis added).

<sup>84</sup> Affidavit of Margaret "Meg" Logue, ¶ 5 ("Logue Affidavit"). Attached as Exhibit 8; Affidavit of Dr. Beverly L. Wright, ¶¶ 13, 15 ("Wright Affidavit"). Attached as Exhibit 9. Affidavit of Dynisha Dianne Hugle, ¶ 9 ("Hugle Affidavit"). Attached as Exhibit 10.

space in the meeting room.<sup>85</sup> The majority of these individuals were residents of New Orleans East and the Lower Ninth Ward.<sup>86</sup>

For example, VAYLA New Orleans, a multi-racial, community-based organization in New Orleans East, organized two buses to transport 67 community members from New Orleans East to the meeting. These individuals arrived at the auditorium at approximately 9:20 am.<sup>87</sup> However, VAYLA New Orleans representatives were informed that the room was at capacity and that none of their members would be admitted.<sup>88</sup> According to Ms. Dynisha Hugle, security refused to allow anyone wearing a “No Gas Plant” t-shirt to enter the meeting room.<sup>89</sup> These members of the New Orleans East community were not allowed in the meeting even though there were empty seats in the room.<sup>90</sup>

There are other examples of community members and even parties to the case being locked out. Mr. Pat Bryant of Justice and Beyond arrived at approximately 9:30 am. He approached security several times and requested to be let into the meeting room, but security refused to let him enter the room.<sup>91</sup>

Ms. Renate Heurich, Vice President of 350 New Orleans, a party to the underlying proceeding concerning ENO’s Application, arrived at the meeting room at 10:00 am only to be told that she could not enter because the room was at capacity.<sup>92</sup> At 12:30 pm, she entered the room as someone was leaving. She observed approximately 30 empty seats. The security officer ordered her to leave despite the empty seats. Ms. Heurich left the room.<sup>93</sup> Several minutes later,

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<sup>85</sup> Quant Affidavit, ¶¶ 8, 10 (Exh. 5); Logue Affidavit, ¶ 5 (Exh. 8); Heurich Affidavit, ¶ 8 (Exh. 2); Morris Affidavit, ¶ 9 (Exh. 6); Affidavit of Patrick Henry Bryant, ¶ 9 (“Bryant Affidavit”). Attached as Exhibit 11; Affidavit of Robert Desmarais Sullivan, ¶ 17 (“Sullivan Affidavit”). Attached as Exhibit 14; Affidavit of Jacob Horwitz, ¶ 7. Attached as Exhibit 15; Affidavit of Andrew Wells, ¶ 8. Attached as Exhibit 16.

<sup>86</sup> Logue Affidavit, ¶ 5 (Exh. 8).

<sup>87</sup> Affidavit of Minh Thanh Nguyen, ¶ 16 (“Nguyen Affidavit”). Attached as Exhibit 12; Hugle Affidavit, ¶ 7 (Exh. 10).

<sup>88</sup> Nguyen Affidavit, ¶¶ 6, 8 (Exh. 12). Hugle Affidavit, ¶ 9 (Exh. 10).

<sup>89</sup> Hugle Affidavit, ¶ 9 (Exh. 10). Mr. Happy Johnson also felt that whether an individual was allowed to enter the meeting room depended upon what they were wearing. Affidavit of Happy Johnson, ¶ 8 (“Johnson Affidavit”). Attached as Exhibit 13.

<sup>90</sup> Brown Affidavit, ¶ 12 (Exh. 4); Logue Affidavit, ¶ 7 (Exh. 8); Nguyen Affidavit, ¶¶ 9, 10 (Exh. 12); Wright Affidavit, ¶ 18 (Exh. 9); Bryant Affidavit, ¶ 11 (Exh. 11); Sullivan Affidavit, ¶ 12 (Exh. 14).

<sup>91</sup> Bryant Affidavit, ¶ 9 (Exh. 11).

<sup>92</sup> Heurich Affidavit, ¶ 7 (Exh. 2).

<sup>93</sup> *Id.* ¶ 14.

one of the City Council’s Advisors informed the security guard that Ms. Heurich was an intervenor and should be let into the meeting room. The security guard still refused to let Ms. Heurich into the room.<sup>94</sup> Several minutes later, the security guard told Ms. Heurich she could enter the room.<sup>95</sup>

Chants could be heard from outside the auditorium after security barred citizens from entering the meeting.<sup>96</sup> The security guards created an atmosphere of intimidation, threatening the members of the public who were locked out of the meeting with arrest.<sup>97</sup>

During the meeting, Councilmembers acknowledged that citizens had been shut out of the proceeding. Councilmember Susan Guidry observed that Entergy “bused in a lot of people early and so it filled up the room so people couldn’t get in. I’m just saying, hey, it’s a strategy.”<sup>98</sup>

At approximately 12:00 pm, security started letting into the meeting room some people who were previously locked out of the meeting, but offered no explanation regarding how the security guards were determining if and when to admit more people. Many members of the public waited outside of the meeting room for three hours or more without being admitted to the meeting.<sup>99</sup> In fact, despite VAYLA members waiting approximately four to five hours, only three individuals from VAYLA were permitted to comment and very few other members of VAYLA were allowed to enter the room.<sup>100</sup>

The UCTT Committee uses a comment card process whereby an individual fills out a card to get in line to provide comment and gives that card to a designated City Council employee. During the public comment period, the Chair of the UCTT Committee uses these

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<sup>94</sup> *Id.* ¶ 15.

<sup>95</sup> *Id.* ¶ 16.

<sup>96</sup> Wright Affidavit, ¶ 19 (Exh. 9); Nguyen Affidavit, ¶ 11 (Exh. 12); Morris Affidavit, ¶ 10 (Exh. 6). The February 21 meeting constituted the *third* time that Councilmembers shut the public out of a proceeding. Not only were citizens shut out of the October 16 meeting, but in January, while the City Council considered a resolution promoted as part of the movement known as Boycott, Divest and Sanction, citizens were kept outside the meeting room. *See* Kevin Litten, *Chamber renovation creates headaches for N.O. City Council*, The Times-Picayune (Mar. 7, 2018), [http://www.nola.com/politics/index.ssf/2018/03/city\\_hall\\_renovation\\_council.html](http://www.nola.com/politics/index.ssf/2018/03/city_hall_renovation_council.html).

<sup>97</sup> Bryant Affidavit, ¶ 10 (Exh. 11).

<sup>98</sup> *See* Litten, *supra* note 96.

<sup>99</sup> Logue Affidavit, ¶¶ 9, 10 (Exh. 8); Quant Affidavit, ¶ 12 (Exh. 5).

<sup>100</sup> Nguyen Affidavit, ¶¶ 13-15 (Exh. 12).

cards to call individuals up to speak. An individual who fails to fill out a comment card is not permitted to speak during the public comment period.

Many of the individuals who were locked out of the meeting filled out comment cards. Ms. Grace Morris of the Sierra Club attempted to give these comment cards to Mr. Keith Lampkin, Chief of Staff to UCTT Committee Chair and Councilmember Jason R. Williams, so that those who were locked out of the meeting could get in the queue to speak. Mr. Lampkin told Ms. Morris that he could only accept comment cards from people inside the room and that “there would be no way to facilitate everyone speaking [that day].”<sup>101</sup> Mr. Lampkin also refused to ask people to leave after they made public comments so that others could come inside the meeting room and comment.<sup>102</sup>

There was no speaker system outside of the meeting room. Individuals could not hear what was occurring in the meeting room.<sup>103</sup> Thus, individuals locked out of the room could not hear the names being called to provide comment and the UCTT Committee provided no method designed to inform those locked out that their name had been called. Moreover, at no time during the meeting were those citizens who were locked out of the meeting room informed regarding whether they would ever be permitted into the room or whether they would be permitted to speak.

Additionally, during the public comment period, the Chair failed to follow the instructions provided in the official agenda notice.<sup>104</sup> The agenda notice expressly stated that parties would not be allowed to speak during the public comment period. The Chair did not enforce this rule, or even inquire if the speaker was a party. However, he never announced that the provision of the agenda notice limiting who could speak was being abandoned. Thus, Dr. Beverly Wright from the Deep South Center for Environmental Justice, a party to the underlying ENO gas plant proceeding, never filled out a comment card and never spoke during the public comment period because the written directive in the agenda notice expressly stated that parties

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<sup>101</sup> Morris Affidavit, ¶ 12 (Exh. 6).

<sup>102</sup> *Id.*

<sup>103</sup> Heurich Affidavit, ¶ 12 (Exh. 2); Hogle Affidavit, ¶ 11 (Exh. 10).

<sup>104</sup> *See* UCTT Committee Agenda Notice (Exh. 7).



would be prevented from speaking.<sup>105</sup> Similarly, Ms. Grace Morris of the Sierra Club did not fill out a comment card because her understanding was that intervenors were only allowed to have one person comment.<sup>106</sup> Ms. Renate Heurich initially did not fill out a comment card because it was also her understanding that as an intervenor she could not comment. However, one of the City Council Advisors informed Ms. Heurich that she could comment, so she filled out a comment card and ultimately was allowed to speak.<sup>107</sup> It is impossible to know how many members of the Deep South Center for Environmental Justice, the Sierra Club, 350 New Orleans, and the Alliance for Affordable Energy did not attend the meeting because they believed, based on the meeting agenda, that they would not be permitted to speak.

After asking the City Council Advisors several questions, each of the Councilmembers spoke, and then voted on ENO's Application. The final vote was 4 to 1 to approve ENO's Application. The meeting ended at approximately 6:00 pm.

Directly after this meeting, Ms. Renate Heurich, Vice President of 350 New Orleans, sent an email to the City Council regarding the manner in which the UCTT Committee meeting was conducted. Specifically, Ms. Heurich stated:

I understand that approximately 50-60 community members who arrived at 9:30 this morning were not able to go inside the auditorium due to limited space inside. However, when we kept receiving text messages with pictures of empty seats we became upset and started shouting to be let in. After waiting for about 90 minutes, a limited number of people were allowed access. But even as more and more people left the building, nobody else was allowed to enter, except for another small group a good while later.

Around 12:30, 2 1/2 hours into the meeting, about 20 people were still waiting outside, some of them sitting on the floor. Many others had given up and left. When someone else exited, I entered the room and saw at least 20/30 empty seats right where I was. Security told me I was not allowed in, but I proceeded down the steps, pointing to the many empty seats. Consequently, security motioned a second security guard to escort me out. I told him that I wanted to sit in one of the numerous empty seats, but he insisted that I leave the room. I complied because I didn't want to get arrested even though I just wanted to participate in a public meeting.

Ms. Heurich received no response to her email.<sup>108</sup>

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<sup>105</sup> Wright Affidavit, ¶ 23 (Exh. 9).

<sup>106</sup> Morris Affidavit, ¶ 14 (Exh. 6).

<sup>107</sup> Heurich Affidavit, ¶ 19 (Exh. 2).

<sup>108</sup> *Id.* ¶ 21.

Similarly, Justice and Beyond sent a letter to the City Council after the meeting asking that the March 8 meeting venue hold at least 500 people.<sup>109</sup>

On March 6, 2018, attorneys representing 350 New Orleans sent a letter to the City Council stating that the manner in which the UCTT Committee conducted the February 21 meeting constituted a significant violation of the Open Meetings Law as well as requesting that the City Council require the UCTT Committee to conduct a second meeting that complies with the requirements of the law.<sup>110</sup> The Council never responded to this letter.

### **C. March 8, 2018 City Council Public Meeting**

The full City Council considered the UCTT Committee's approval of ENO's Application at its March 8, 2018 meeting. In contrast to the UCTT Committee agenda, the City Council agenda contained a significant number of items.

The general public started standing in line prior to 9:00 am for the 10:00 am meeting. While the general public was standing in line in the hallway to get into the meeting, Entergy employees and supporters were escorted to a separate entrance (with no lines) and were seated in the meeting room prior to the general public.<sup>111</sup> Mr. Pat Bryant observed the Entergy employees being led into the meeting room through this separate entrance, a back door to Council Chambers.<sup>112</sup> Mr. Bryant and others attempted to enter the room through this same door.<sup>113</sup> An Entergy employee attempted to block Mr. Bryant physically, but he was able to enter through the back door with others from Justice and Beyond.<sup>114</sup>

Like the February 21, 2018 meeting, many members of the public were prevented from attending the meeting.<sup>115</sup> Approximately 20 to 30 individuals were forced to stand outside the meeting room for hours, waiting for someone to leave the meeting so they could enter.<sup>116</sup>

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<sup>109</sup> Bryant Affidavit, ¶ 13 (Exh. 11).

<sup>110</sup> See Letter from William P. Quigley, Susan Stevens Miller, and Jill Tauber to the New Orleans City Council (Mar. 6, 2018). Attached as Exhibit 17.

<sup>111</sup> Johnson Affidavit, ¶ 11 (Exh. 13).

<sup>112</sup> Bryant Affidavit, ¶ 14 (Exh. 11).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Quant Affidavit, ¶ 16 (Exh. 5); Nguyen Affidavit, ¶¶ 16-17 (Exh. 12).

<sup>116</sup> Logue Affidavit, ¶¶ 11-12 (Exh. 8); Heurich Affidavit, ¶ 24 (Exh. 2).

## **SUMMARY OF VIOLATIONS OF THE OPEN MEETINGS LAW**

1. The first violation occurred at the very start of the February 21, 2018, public meeting of the UCTT Committee and continued throughout the meeting. By 9:30 am the doors to the meeting room were locked, and the members of the public who arrived to attend that meeting were barred from entering by security.
2. The second violation stems from the first violation. The members of the public who were barred from entering the meeting room were denied their right to comment on the agenda item under consideration by the UCTT Committee.
3. The third violation occurred when the UCTT Committee altered the terms of the February 21, 2018 agenda notice without giving at least twenty-four hours notice to the public that the agenda would not be followed during the hearing.
4. The fourth violation occurred during the March 8, 2018 City Council meeting where once again members of the public were denied access to the meeting and forced to wait outside the meeting room while supporters and employees of Entergy were given special access not available to the general public.

## **ARGUMENT**

### *A. Louisiana Law Guarantees Citizens the Right to Observe Deliberations of Public Bodies and the Right to Comment on Issues Before the Public Body Performs Its Official Duties*

Louisiana has guaranteed its citizens the right to observe the deliberations of public bodies. The Louisiana Constitution, Article XII, Section 3 expressly provides that “[n]o person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.” Building upon this Constitutional foundation, the Louisiana State Legislature enacted the Open Meetings Law to ensure “that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.”<sup>117</sup> The purpose of that law is set forth in La. R.S. 42:12(A):

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<sup>117</sup> La. R.S. 42:12(A). *See also Wagner v. Beauregard Par. Police Jury*, 525 So. 2d 166, 169 (La. Ct. App. 1988) (The Open Meetings Law was enacted to ensure the rights of citizens to observe and participate in the deliberations of public bodies).

It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of [La. R.S. 42:4.1 through La. R.S. 42:10] shall be construed liberally.

The Open Meetings Law requires that “[e]very meeting of any public body shall be open to the public,” with limited exceptions.<sup>118</sup> Public bodies have been defined to include the board of any political subdivision, and *any committee or subcommittee* thereof.<sup>119</sup> The Louisiana Attorney General has determined that the City Council, as well as any committee or subcommittee of the City Council, is a “public body” for purposes of the Open Meetings Law.<sup>120</sup>

A meeting of a public body occurs when a quorum, or a simple majority of the total membership of the public body, convenes to deliberate or act on any matter over which the public body has supervision, control, jurisdiction, or advisory power.<sup>121</sup> Considered together, these provisions guarantee the public the right to observe the meetings of any public body whenever that public body meets to perform its official duties.

Louisiana law further requires that each public body accept public comment from citizens. Thus, all public bodies are required to allow public comment prior to taking action on an agenda item on which a vote is to be taken.<sup>122</sup> The importance of this comment period is highlighted by the Louisiana Appeals Court’s finding that:

In determining the reasonableness of the Commission's decision, we must review the opinions and concerns raised at the public hearing, as well as the testimony presented at trial. Expressions of opinion made by citizens to a legislative body serve as a manner by which the legislative body learns the will of the people and determines what may benefit the public good.<sup>123</sup>

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<sup>118</sup> La. R.S. 42:14(A).

<sup>119</sup> La. R.S. 42:13(A)(2), (A)(3) (emphasis added).

<sup>120</sup> La. Atty. Gen. Op. No. 10-0121 (La. A.G. June 7, 2010).

<sup>121</sup> La. R.S. 42:13(A)(2), (A)(4). Thus, even when a committee serves only an advisory function, that committee is a public body, and the convening of a quorum of the committee for the purpose of serving any official function, including advisory matters, constitutes a meeting as defined in La. R.S. 42:13. *See* La. Atty. Gen. Op. No. 16-0170 (La. A.G. Dec. 5, 2016). *See also Tectrans, Inc. v. New Orleans Aviation Bd.*, 695 F. Supp. 2d 313 (E.D. La. 2010), *aff’d*, 464 Fed. Appx. 199 (5th Cir. 2010).

<sup>122</sup> La. R.S. 42:14(D).

<sup>123</sup> *Prest v. Par. of Caddo*, 930 So. 2d 1207, 1211 (La. App. 2 Cir. 6/2/06, 5).

In order to effectuate the right to observe and comment described above, the Louisiana State Legislature adopted a notice provision. Thus, the Open Meetings Law provides that “all public bodies . . . shall give written public notice of any meeting no later than twenty-four hours . . . before the meeting” and that “[t]he agenda shall not be changed less than twenty-four, exclusive of Saturdays, Sundays, and legal holidays, prior to the scheduled time of the meeting.”<sup>124</sup>

*B. The Defendants Violated the Open Meetings Law When They Locked People Out of Public Meetings and Denied People Their Right to Comment*

Under the Open Meetings Law,<sup>125</sup> the public has a right to observe public meetings and is entitled to direct participation in deliberations.<sup>126</sup> The Open Meetings Law makes the rules clear beyond question: the public **must** be given the opportunity to comment before an agenda item is taken up by the UCTT Committee or the full City Council; **all** members of the public who wish to address the UCTT Committee or City Council must be given the opportunity to speak; and **all** members of the public have an absolute right to observe the meeting.

The Defendants violated the Open Meetings Law when they excluded members of the public from the meetings at issue. Locking members of the public out of a public meeting and denying them opportunity to comment is a clear and egregious violation of fundamental rights guaranteed to Louisiana citizens—rights that are “essential to the maintenance of a democratic society.”<sup>127</sup>

In these instances, the public’s right to observe and comment was egregiously violated by both the UCTT Committee and the full City Council. This UCTT Committee and the City Council’s failure in their responsibility to protect the rights of New Orleans citizens is illustrated by, among other things: (1) Councilmembers being aware during the UCTT Committee meeting that citizens had been shut out of the proceeding and took no steps to remedy the situation; (2) informing citizens locked out of the UCTT Committee meeting that comment cards would only

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<sup>124</sup> La. R.S. 42:19(A)(1)(b)(i), (ii)(aa).

<sup>125</sup> Section 3-108 of the Home Rule Charter of the City of New Orleans provides that “meetings of the Council and its committees shall be open to the public in accordance with applicable state and municipal law.” Thus, the Open Meetings Law provides the applicable rules regarding when a meeting of the Council and its committees occurs.

<sup>126</sup> See, e.g., *Wagner v. Beauregard Par. Police Jury*, 525 So. 2d 166, 169 (La. Ct. App. 1988).

<sup>127</sup> La. R.S. 42:12(A).

be accepted from people inside the room and that there was no way to facilitate everyone speaking that day; (3) the City Council's failure to resolve the issue of citizens being locked out of meetings despite the repeated occurrence of this violation; (4) the City Council receiving at least three communications after the February 21, 2018 meeting and before the March 8, 2018 meeting but failing to take any steps to ensure that the same violations would not occur in future meetings; and (5) providing favorable treatment to Entergy employees by permitting them to enter the room and obtain seats prior to the citizens who had gathered to speak on the issue.

While Entergy may not have any obligation with regard to the public's right to observe and comment at public meetings, the UCTT Committee and the City Council certainly are under a legal obligation to protect those rights. The Court should note that the Open Meetings Law violations that occurred at the February 21, 2018 UCTT Committee meeting was the third known instance in just a four-month period in which citizens were denied access to a City Council public meeting.<sup>128</sup> Rather than take steps to resolve these violations of the law despite requests to do so,<sup>129</sup> less than a month later, at the March 8, 2018 City Council meeting, the City Council simply allowed citizens to be once again denied access to a public meeting.

The protections afforded by the Open Meetings Law, the right of citizens to observe and comment at public meetings, were eviscerated by the actions of the UCTT Committee and the City Council. Every New Orleans resident has a stake in the performance of and governance by its City Council, and the citizens' views must be taken into account before any action or discussion of an agenda item occurs. The UCTT Committee and the City Council has rendered public participation in the February 21 and March 8 public meetings a sham, thereby depriving citizens of their constitutionally and legally protected rights.

*C. The UCTT Committee's Alteration of the Agenda Notice Violated the Open Meetings Law*

As noted above, on February 16, 2018, the UCTT Committee issued the agenda notice for the UCTT Committee's February 21, 2018 meeting. This agenda notice specifically stated that each party to the proceeding would be allowed 15 minutes for closing argument. The

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<sup>128</sup> See Litten, *supra* note 96.

<sup>129</sup> Heurich Affidavit, ¶ 21 (Exh. 2); Bryant Affidavit, ¶ 13 (Exh. 11).

agenda notice further stated that “[e]ach public speaker, *not a party*, will be allowed 2 minutes.”<sup>130</sup> As a result of this explicit instruction, at least three members of intervenors’ organizations did not fill out comment cards because pursuant to the agenda instructions they would not be permitted to speak.<sup>131</sup>

During the public comment period, the UCTT Committee Chair failed to follow the instructions provided in the official agenda notice. The Chair did not enforce the rule that parties would not be allowed to speak during the public comment period, or even inquire if the speaker was a party. However, he never announced that the provision of the agenda notice limiting who could speak was being abandoned.

This change in the agenda violates Open Meetings Law, which provides that “[t]he agenda shall not be changed less than twenty-four, exclusive of Saturdays, Sundays, and legal holidays, prior to the scheduled time of the meeting.”<sup>132</sup> Moreover, altering the instructions set forth in an agenda notice defeats the purpose of prior notification. Advanced notice of agenda items ensures that if a member of the public wants to be heard on a matter, he or she can check the agenda posted twenty-four hours in advance to see if the matter is scheduled for consideration.<sup>133</sup> In this instance, members of the Deep South Center for Environmental Justice, the Sierra Club, 350 New Orleans, and the Alliance for Affordable Energy checked the agenda notice in advance of the February 21, 2018 meeting and were misinformed that they would not be permitted to speak. It is impossible to know how many members of these organizations did not attend the meeting because they believed, based on the meeting agenda, that they would not be permitted to speak.

## CONCLUSION

In light of the foregoing, the Court should issue a declaratory judgment finding that the full City Council and its members, the UCTT Committee and its members participated in meetings that violated the Louisiana Constitution and the Open Meetings Law with regard to (i)

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<sup>130</sup> See UCTT Committee Agenda Notice (Exh. 7) (emphasis added).

<sup>131</sup> Heurich Affidavit, ¶ 19 (Exh. 2); Morris Affidavit, ¶ 14 (Exh. 6); Wright Affidavit, ¶ 23 (Exh. 9).

<sup>132</sup> La. R.S. 42:19(A)(1)(b)(i), (ii)(aa).

<sup>133</sup> La. Atty. Gen. Op. No. 15-0122 (La. A.G. Jan. 8, 2016).

allowing the public to observe both meetings; (ii) allowing public comment; and (iii) following the February 21, 2018 agenda notice.

Because the UCTT Committee and its members clearly violated the Louisiana Constitution and the Open Meetings Law at the February 21, 2018 meeting, the Court should declare the UCTT Committee's action approving ENO's Application void and without legal effect. Similarly, because the City Council and its members clearly violated the Louisiana Constitution and the Open Meetings Law at the March 8, 2018 meeting, the Court should declare the City Council's action approving ENO's Application void and without legal effect.

The Court should further find that the exclusion of the public from both the February 21, 2018 UCTT Committee meeting and the March 8, 2018 City Council meeting, caused irreparable harm to citizens' constitutionally and legally protected interest in participating in meetings of the City Council and its committees. Accordingly, the Court should issue an injunction directing the Defendants to strictly adhere to the Open Meetings Law.

Finally, the costs of this proceeding and reasonable attorneys' fees should be awarded against the Defendants and in favor of the Petitioners.

Respectfully submitted,

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District “B” Councilmember  
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District “E” Councilmember  
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1300 Perdido Street  
New Orleans, LA 70112

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
STATE OF LOUISIANA

CASE NO. \_\_\_\_\_

DIVISION \_\_\_\_\_

DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE, VAYLA NEW ORLEANS,  
JUSTICE AND BEYOND, 350 NEW ORLEANS, SIERRA CLUB,  
MR. THEODORE QUANT, AND MS. RENATE HEURICH

VERSUS

THE COUNCIL OF THE CITY OF NEW ORLEANS, THE UTILITY, CABLE,  
TELECOMMUNICATIONS AND TECHNOLOGY COMMITTEE OF THE NEW ORLEANS  
CITY COUNCIL, JASON R. WILLIAMS, STACY HEAD, SUSAN G. GUIDRY, LATOYA  
CANTRELL, NADINE M. RAMSEY, JARED C. BROSSETT, AND JAMES A. GRAY II

FILED: \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

**RULE TO SHOW CAUSE**

Considering the allegations of the foregoing Petition to Enforce the Louisiana Open Meetings Law, for Declaratory Judgment, Injunction, Attorneys' Fees and Costs, and Memorandum in Support.

IT IS HEREBY ORDERED that Defendants, the Council of the City of New Orleans, the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council, Jason R. Williams, Stacy Head, Susan G. Guidry, LaToya Cantrell, Nadine M. Ramsey, Jared C. Brossett, and James A. Gray II (hereinafter "Defendants") appear and show cause on the \_\_\_\_ day of \_\_\_\_\_, 2018 at \_\_\_\_\_am/pm, as to why this Court should not render judgment in favor of Petitioners, Deep South Center for Environmental Justice, VAYLA New Orleans, Justice and Beyond, 350 New Orleans, Sierra Club, Mr. Theodore Quant, and Ms. Renate Heurich (hereinafter "Petitioners"), as prayed for and why this Court should not:

1. Issue a declaratory judgment finding that the UCTT Committee and its members convened, participated, and took actions in a meeting at which the Louisiana Constitution and the Louisiana Open Meetings Law were violated;
2. Issue a declaratory judgment finding that the City Council and its members participated in a meeting at which the Louisiana Constitution and the Louisiana Open Meetings Law were violated;

- 3. Issue an injunction directing the Defendants to strictly adhere to the Louisiana Constitution and the Open Meetings Law;
- 4. Issue a declaratory judgment finding that the UCTT Committee’s action at the February 21, 2018 meeting, approving a Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief, is void and without legal effect;
- 5. Issue a declaratory judgment finding that the City Council’s action at the March 8, 2018 meeting, approving a Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief, is void and without legal effect;
- 6. Award costs of these proceedings and reasonable attorneys’ fees in favor of the Petitioners.

New Orleans, Louisiana this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Judge  
\_\_\_\_\_ Judicial District Court

## **Exhibit 1**

**Email from Tom Stratton to Docket No. UD-16-02 Service  
List (Oct. 13, 2017)**

**From:** [Tom Stratton](#)  
**To:** [Al Luna](#); [Alyssa Maurice-Anderson \(amauric@entergy.com\)](#); [Beatmann, Jay \(jay.beatmann@dentons.com\)](#); [Beth Galante \(bgalante@posigen.com\)](#); [Beverly B. Gariepy; bnorwood@posigen.com](#); [Bobbie F. Mason](#); [Brian I. Guillot \(bguill1@entergy.com\)](#); ["buddo@earthlink.net"](#); [Byron S. Watson \(bwatson@ergconsulting.com\)](#); [Chinyere Osuala; clinton.vince@dentons.com](#); [Connolly A. Reed](#); [Danielle Burleigh \(dburlei@entergy.com\)](#); [David S. Gavlinski](#); [Emma F. Hand \(emma.hand@dentons.com\)](#); [Ernest L. Edwards Jr. \(ledwards0526@gmail.com\)](#); [Errol Smith](#); [Forest Wright \(forest@all4energy.org\)](#); [Gary E. Huntley \(ghuntle@entergy.com\)](#); [Harry Barton \(hbarton@entergy.com\)](#); [James R. Dauphinais \(jdauphinais@consultbai.com\)](#); [Jeff Cantin \(jcantin@gsreia.org\)](#); [Jeff Wilkerson \(wwwilkerson@wilkersonplc.com\)](#); [Jeffrey S Gulin \(jgulin@verizon.net\)](#); [Joe Romano III \(jroman1@entergy.com\)](#); [Joseph Vumbaco \(jvumbaco@ergconsulting.com\)](#); [Joseph W. Rogers \(jrogers@ergconsulting.com\)](#); [Joshua Smith \(joshua.smith@sierraclub.org\)](#); [Judith Sulzer \(jsulzer@roedelparsons.com\)](#); [Karen Freese \(kfreese@entergy.com\)](#); [Kelley R. Bazile \(kbazile@wilkersonplc.com\)](#); [Logan Atkinson Burke \(logan@all4energy.org\)](#); [Lora W. Johnson](#); [Luke F. Piontek \(lpiontek@roedelparsons.com\)](#); [Mark Zimmerman \(zimmermr@airproducts.com\)](#); [Maurice Brubaker \(mbrubaker@consultbai.com\)](#); [Michael Brown](#); [Monique Harden](#); [Presley R. Reed - Dentons \(presley.reedjr@dentons.com\)](#); [Pearlina Thomas](#); [Rebecca H. Dietz](#); [Robert Wiygul](#); [Seth Cureington \(scurein@entergy.com\)](#); [Susan Stevens Miller](#); [Suzanne Fontan \(sfontan@entergy.com\)](#); [Therese Perrault \(tperrau@entergy.com\)](#); [Tim Cragin \(tcragin@entergy.com\)](#); [Tom Stratton](#); [Victor M. Prep \(vprep@ergconsulting.com\)](#); [Will Feldman \(wfeldman@gsreia.org\)](#)  
**Subject:** Monday, October 16, 2017 5:30 - 7:30 PM Public Hearing  
**Date:** Friday, October 13, 2017 4:52:46 PM

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Dear Parties to UD-16-02,

As you are no doubt aware, CURO is conducting the public hearing required by Ordering Paragraph 13 of Resolution R-17-426 on Monday evening, October 16, 2017 from 5:30-7:30 pm in the Council Chamber. We understand that many of you likely have an interest in attending this hearing, and you are welcome to do so, but we wanted to make you aware of a couple of things about how the meeting is going to be run. First, the purpose of the hearing is for the Council to hear additional public comment about the NOPS proposal. As you know, as intervenors you already have multiple opportunities to make your views known to the Council, including the opportunity to file testimony, to make an oral argument during the hearing, and to file a post-hearing brief. We would like to provide as much opportunity as possible at this hearing for the members of the public who do not have these other opportunities to make their views known to the Council. To that end we are going to hold any comments from Intervenors until the end of the hearing, after all non-Intervenor members of the public have had an opportunity to speak. Additionally, we would ask that if we have a large turnout, and it appears we are in danger of running out of time, if/when we get to the Intervenors, please only send one member of your organization up to speak. If we have time to take everyone within the two-hour time frame, we certainly will, but given the numerous other opportunities for Intervenors to put their thoughts into the record before the Council, we are going to prioritize comments from the non-Intervenor public. Thanks in advance for your cooperation. This will help assure that the Council has the benefit of the point of view of as many different citizens on the record as possible when it is making its decision.

Regards,  
Tom Stratton

## **Exhibit 2**

### **Affidavit of Renate Heurich**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF RENATE HEURICH**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Renate Heurich, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over 28 years.
2. I am currently domiciled at 1407 Napoleon Avenue, Apartment C, New Orleans, Louisiana 70115.
3. I am currently the Vice President of 350 New Orleans, a non-profit, volunteer climate advocacy group, which I have been a member of since September of 2013.
4. I joined 350 New Orleans because of my longstanding concern about climate change. I have a deep interest in combating the dangers and threats that local communities face due to climate change.
5. In my role with 350 New Orleans, I focus primarily on issues relating to Entergy New Orleans ("ENO"), including its proposal to construct a gas plant in New Orleans East. In terms of the gas plant proposal, I am concerned about the health and economic impacts on New Orleans residents, particularly low-income and minority residents, as well as flooding risks and the danger of locking in more fossil fuel dependence instead of investing in clean energy alternatives.
6. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant. I arrived at the meeting site at approximately 8:30 am. I arrived early to set up a table with Grace Morris from Sierra Club and Sophie Zaken from the Alliance for Affordable Energy outside the building to provide information, along with t-shirts, to members of the public concerning the Committee meeting and the gas plant proposal under consideration.



7. At around 9:30 am, two school buses with residents from New Orleans East arrived. We held a brief press conference with those residents, and at around 9:45 am, the residents started to head inside the building to attend the meeting. After packing up the table, I entered the building and arrived on the floor of the meeting room at around 10:00 am.
8. Upon arriving at the floor of the meeting room, I observed approximately 50 to 60 people in the hallway who had not been able to enter the meeting room because they were told that the room was filled to capacity and no one else would be allowed inside.
9. Although many community members directly affected by the proposed gas plant were not allowed inside, a woman stationed at the meeting door, who I presume was a City Council staff member, asked if there were any intervenors to the ENO gas plant case pending at the City Council present because intervenors were allowed inside. I later learned that a row of seats was reserved for intervenors inside the meeting room.
10. In the hallway, several people were speaking up about the proposed gas plant and about being locked out of the Committee meeting. Many people spoke to security at the door about not being allowed inside the meeting.
11. When the meeting room doors opened, we started chanting to make sure that the people inside the meeting, including the City Council members, were aware that there was a large group of people outside that were not being allowed into the meeting.
12. From the hallway, we could not hear what was going on inside the meeting room. I received pictures via text message from people inside the meeting room showing rows of empty seats. Despite the empty seats, the City Council security insisted that we were not allowed inside.
13. On two separate occasions, security did allow some of the people in the hallway to enter the meeting room. The first was a very small group of around five to ten between 11:00 am and 11:30 am, and the second was a group of about 20 people at around 12:00 pm.
14. Around 12:30 pm, someone exited the meeting room and I managed to sneak past security and get inside the room. The security officer told me I had to leave. He followed me inside the room. While inside, I observed at least 30 empty seats. I pointed out these empty seats to the security officer and asked why we were not allowed to sit



down here. The security officer motioned to another security officer inside the room. That second security officer approached me and told me that I needed to leave. I again pointed to the numerous empty seats and told him that I wanted to be a part of this meeting and asked him why we were not being allowed to sit here. He insisted that I needed to leave. I complied out of fear of being arrested.

15. A few minutes after I returned to the hallway, I saw one of the City Council Advisors, Emma Hand, and I explained to her that security had kicked me out of the room. She told me that was not right and that I should have access to the meeting. After knocking on the door for several minutes to be let back in, Ms. Hand told the security guard that I was an intervenor and needed to be let inside. The security officer looked at me and stated that they could not be sure that I was actually an intervenor and refused to let me inside. The security officer let Emma Hand inside but not me.
16. Several minutes later, the security officer opened the door and said I could come in. I stated that everyone waiting outside should be granted access to the room, that these are the residents affected by the proposed gas plant, and that I am not going inside unless they can go in as well.
17. At around 12:45 pm, security finally allowed everyone inside.
18. Many of the people that had been waiting outside the meeting room for hours were elderly and there were not many places for them to sit down in the hallway.
19. Once inside, Ms. Hand asked me to come with her to the front of the meeting room where there were several rows of empty seats available for intervenors. Based on the meeting's agenda notice and discussions with other intervenor groups, it was my understanding that I was not allowed to provide public comment because 350 New Orleans is an intervenor in the case. Ms. Hand later informed me that I could comment. I then filled out a comment card and was later called on to comment.
20. While I and others were in the hallway, comment cards were provided to and collected from us. However, it was our understanding that we would not be let into the meeting even if our name was called from the comment card, and we could not hear the names

being called in the meeting room from outside. This discouraged a lot of people from filling out comment cards.

21. After the Committee meeting, on February 22, 2018 at 12:03 am, I sent an e-mail to the City Council members stating my experience and concerns with the February 21 meeting. The email I sent is attached to this affidavit.
22. I also attended the March 8, 2018, City Council meeting in which the City Council voted to approve the gas plant proposal. The meeting was initially scheduled to take place at a venue on General Degaulle Drive but two days before the meeting, I learned from Pat Bryant, a community leader from Justice and Beyond, that the meeting would take place at the Council Chambers.
23. I arrived at the Council Chambers roughly 1.5 hours early for the 10:00 am meeting to ensure that I would be able to attend the meeting, especially because we suspected the room would overflow again. Approximately five buses transporting New Orleans East community members arrived early as well.
24. Once again, many community members were locked out of the meeting. I could hear them chanting in the hallway. When I went to the restroom at around 10:30 am, I observed many people waiting outside of the meeting room. In fact, when I attempted to re-enter the room, a security guard was not convinced that I had a seat in the room, so he followed me to my seat.
25. In addition to the two Council meetings where the ENO gas plant proposal was voted on, I also attended the October 16, 2017, public meeting held in the evening that was organized and conducted by the Council Utilities Regulatory Office and Tom Stratton, the Director of the Office, about the gas plant proposal. The goal of the meeting was for the public to provide the City Council with comments on the proposal. The meeting lasted two hours.
26. I arrived a few hours early to this meeting, at around 2:00 pm or 2:15 pm for a 2:30 pm press conference we held. While waiting outside, a City Hall staff member stated that the doors to the meeting room would not open until shortly before the start of the 5:30 pm meeting, around 5 pm.




27. At around 4:00 pm, I checked if the room was open on my way from the bathroom. The doors were unlocked. Around the same time, buses arrived at City Hall carrying hundreds of people wearing orange t-shirts and holding signs that appeared to be professionally printed, both of which indicated their support for ENO's proposed gas plant. These people were let into the meeting room when they arrived.
28. The meeting lasted two hours, even though there were stacks of public comment cards that were not read when the meeting ended. Many members of the public were not allowed in the room because the room was full.
29. Councilmember Susan Guidry requested that those who had already spoken to leave and make room for the others who were waiting outside and were unable to enter the meeting room. Only about ten people left the room, allowing for just a few people waiting outside to be let in. I noticed that the group of individuals in orange t-shirts did not leave.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 12<sup>th</sup> day of April, 2018.

  
RENATE HEURICH

On this 12<sup>th</sup> day of April, 2018, before me personally appeared RENATE HEURICH, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## Inbox x

Feb 21

Sincerely,  
Renate Heurich  
350 New Orleans

### **Exhibit 3**

**Michael Isaac Stein Article (Oct. 20, 2017)**



# Pumping problems, hurricane scares play into debate over new Entergy power plant

By Michael Isaac Stein, Contributing writer    October 20, 2017 12:30pm



Michael Stein / The Lens

It was easy to tell who supported Entergy’s proposed power plant at a public hearing earlier this week — they were the ones wearing fluorescent orange shirts that read “Clean Energy. Good Jobs. Reliable Power.”

Frustration over flooding from thunderstorms and anxiety from hurricane warnings are playing a major role in the debate over building a new power plant in eastern New Orleans.

This trepidation has spurred many to come out in support of Entergy New Orleans’ proposed plant, saying it will strengthen the city’s power supply after a natural disaster. Others support it because they believe it will cut down on the city’s frequent power outages — a key reason cited by the company to build the plant.

“We’ve had way too much flooding from electrical power not being able to convert for the pumps,” said Benjamin Wood at a public hearing this week. He was referring to the Sewerage and Water Board’s problems powering enough pumps to properly drain the city during severe thunderstorms this summer.

“I’m tired of feeling like I’m living in a Third World country,” he said. “This is the United States of America.”

**“If there’s another emergency and this power plant isn’t built, there’s a good chance we won’t survive it.”  
—Gary, power plant supporter**

The problem with Entergy’s proposal, according to opponents, is that the new plant won’t help the city rebound after a disaster or reduce frequent power outages. They say the city needs to shore up its electricity transmission and distribution system rather than increase supply.

And although power shortages contributed to the pumping problems, most of the Sewerage and Water Board’s pumps are not powered by Entergy.

## ENTERGY’S PROPOSAL

Entergy New Orleans has asked the city council, which regulates the power company, for permission to build a new natural gas power plant at its Michoud site in eastern New Orleans. Two power plants were decommissioned there in June 2016.

Entergy first applied for a new plant that June, but withdrew the application. This summer it submitted a second application with two big changes.

It offers two choices for the plant: the 226 megawatt, \$232 million plant originally proposed and a smaller, 128 megawatt, \$210 million facility. Entergy favors the larger one. ([http://www.nola.com/politics/index.ssf/2017/07/entergy\\_power\\_plant\\_hearing.html](http://www.nola.com/politics/index.ssf/2017/07/entergy_power_plant_hearing.html))

And in the new application Entergy emphasizes a different rationale for the new plant.

It originally claimed it needs the plant to meet future electricity demand. But last summer, the company released lower estimates for how much New Orleans’ energy needs will grow ([http://www.nola.com/business/index.ssf/2017/07/entergy\\_gives\\_city\\_council\\_2\\_o.html](http://www.nola.com/business/index.ssf/2017/07/entergy_gives_city_council_2_o.html)) in the coming years.

Now the company says the plant will “provide grid stability.”

Without it, the company says ([http://www.entergy-neworleans.com/powertogrow/power\\_station/Power\\_Station.pdf](http://www.entergy-neworleans.com/powertogrow/power_station/Power_Station.pdf)) , “New Orleans is at risk of cascading electrical outages or blackouts throughout the city.”

Entergy’s customers in New Orleans would foot the bill to build, operate and maintain the new plant.

The company also can collect an 11 percent return on equity ([http://www.all4energy.org/uploads/1/0/5/6/105637723/2016\\_06\\_27\\_ud-16-02\\_aae\\_reply\\_motion\\_to\\_eno\\_motion\\_for\\_ct.pdf#page=4](http://www.all4energy.org/uploads/1/0/5/6/105637723/2016_06_27_ud-16-02_aae_reply_motion_to_eno_motion_for_ct.pdf#page=4)) , which means customers would pay another \$25 million if the company built the larger plant.

Either plant would be a “peaking” facility, meaning it would be used on rare occasions when electricity demand is extremely high, normally during the hottest days of summer.

SUPPORT FUELED BY ANXIETY

People crowded into the city council chambers Monday night for the only scheduled public hearing on Entergy’s application. The room quickly reached capacity. Twice during the next two hours, the moderator asked some people to leave so those waiting outside could participate.

“I think we’ve got them outnumbered,” chuckled Charles Rice Jr., president and CEO of Entergy New Orleans, before the hearing started.

The audience was a sea of fluorescent orange shirts. They read “Clean Energy. Good Jobs. Reliable Power” on the front and “Support New Orleans Power Station” on the back.

Two men named Gary and Daniel (they wouldn’t provide their last names) passed out the shirts, which they said they had ordered online.

They said they were part of a group called “Council for Responsible Governance,” which they formed less than a month ago. Daniel said they used “secret Facebook groups” to encourage people to come and show their support for the plant.

**“We’ve had way too much flooding from electrical power not being able to convert for the pumps.”  
—Benjamin Wood**

The two spoke in dire terms. “If there’s another emergency and this power plant isn’t built, there’s a good chance we won’t survive it,” Gary said.

They may have been the biggest doomsdayers in City Hall that evening, but others shared their anxiety.

Several of the power plant’s supporters said they were spurred to attend the hearing by mismanagement at Sewage and Water Board this summer and the revelation that there are major holes in the city’s drainage system.

“I’m no expert, but what I do know is that this summer has not been fun,” said Christopher McKay in his orange shirt. “The anxiety is real.”

But the power plant’s critics said those who want the city’s drainage pumps to be fixed are spending their political energy on the wrong issue. Entergy cannot provide power to the majority of the city’s pumps because they use an antiquated form of electricity.

POWER OUTAGES AND HURRICANE RECOVERY CITED AS REASONS FOR NEW PLANT

The power plant’s supporters and detractors did agree on one thing: New Orleans needs a more reliable, resilient power system. Where they disagreed is whether the plant will achieve that.

In an energy system, reliability refers to day-to-day dependability. Resilience refers to its ability to return to normal after a major disruption like a hurricane.



Michael Stein / The Lens  
Alicia Cooke speaks against the power plant at Monday's public hearing.

Supporters of the power plant said Monday night it would help both, reducing the number of everyday blackouts and securing the city’s power in case a disaster cut New Orleans off from its power plants beyond the city limits.

The plant “will provide a reliable local source of power generation in Orleans Parish to help stabilize the grid and keep the lights on,” Rice wrote in a column ([http://www.nola.com/opinions/index.ssf/2017/10/entergy\\_power\\_plant\\_1.html](http://www.nola.com/opinions/index.ssf/2017/10/entergy_power_plant_1.html)) published on NOLA.com/The Times-Picayune on Sunday.

But according to a written statement (<https://www.documentcloud.org/documents/4113622-2017-10-16-PI-Intervenors-CL-FINAL-to-FILE2.html>) from the Alliance for Affordable Energy, the Deep South Center for Environmental Justice, 350 Louisiana and the Sierra Club, Rice’s assertion is misguided.

Using data provided by Entergy, the group found that about 98 percent of outages between 2011 and 2016 were due to failures in the distribution system. The other 2 percent were caused by transmission issues.

None of the outages was related to energy generation.

There were about 2,600 power outages in New Orleans in 2016, according to the Alliance for Affordable Energy, which it says is high for a city of this size.

**Without the plant, “New Orleans is at risk of cascading electrical outages or blackouts throughout the city.”  
—Entergy New Orleans**

“A new power plant would do nothing to stop the power outages that have been happening and the major repairs to their neglected distribution grid would still be needed,” the group wrote in a recent report. (<http://www.all4energy.org/blog/dont-be-left-in-the-dark>)

Opponents want Entergy to spend \$57.3 million on transmission upgrades that would “mitigate all reliability-based system constraints over the next ten years” at a fraction of the cost of a new plant.

The power plant’s supporters also argued that a new plant within the city limits would help New Orleans withstand hurricanes and floods. They fear a bad storm could “island” the city by taking out the transmission lines that bring most of the its power from outside plants.

But according to Forest Bradley-Wright, senior policy director for the Alliance for Affordable Energy, the new plant would be of little help in the vast majority of disasters.

Although supporters say the plant could act as a backup if all transmission lines leading into the city were blown down, Bradley-Wright said that’s never happened before.

Even if it did, he said, the larger plant preferred by Entergy would most likely be of no use because it wouldn’t be able to start independently from the power grid.

**“A new power plant would do nothing to stop the power outages that have been happening and the major repairs to their neglected distribution grid would still be needed.”**

But neither would the smaller plant be of much help, he said, because a storm strong enough to take down major transmission lines most certainly would wreak havoc on the power lines carrying electricity throughout the city, which he said are more vulnerable than the transmission lines.

The report from the Alliance for Affordable Energy says the proposed site of the new power plant is in a low-lying area vulnerable to flooding. During Hurricane Katrina, water rose six feet at the old Michoud facility ([http://www-temp.energys.com/News\\_Room/newsrelease.aspx?NR\\_ID=824](http://www-temp.energys.com/News_Room/newsrelease.aspx?NR_ID=824)) , causing more than \$17 million in damages. It was offline for six months.

If a hurricane caused widespread flooding, Bradley-Wright said, the new plant probably would be forced to go offline.

JOBS, ENVIRONMENT AND TRUST

Jobs were the next biggest talking point. Many residents of eastern New Orleans said their neighborhood needs an economic boost.

Opponents were quick to point out that the plant would result in only 12 permanent jobs. Representatives from the solar energy industry showed up to argue more jobs would be created by investing in renewable energy than building a natural gas plant.

Speakers also brought up a slew of environmental concerns. Some pointed to a study that suggests (<https://www.nasa.gov/feature/jpl/new-study-maps-rate-of-new-orleans-sinking>) groundwater pumping from the old Michoud plants accelerated subsidence in the area.

Proponents of the new plant shrugged off that criticism, saying the new power plant would use less groundwater than the old one and pointing to the conflicting findings in a study published by Entergy ([http://www.energys-neworleans.com/powerogrow/power\\_station/JEL6CKTechnicalReport.pdf](http://www.energys-neworleans.com/powerogrow/power_station/JEL6CKTechnicalReport.pdf)) .

Broader environmental concerns were raised as well, with some speakers warning that continued burning of carbon fuels will contribute to sea level rise that endangers New Orleans. Others said the plant would cause pollution in a part of the city mostly occupied by African-Americans and Vietnamese.

Most of the speakers, however, spoke in favor of the plant. And some of their reasons had nothing to do with jobs, power reliability or environmental concerns. They said Entergy was a good corporate citizen.

Representatives from at least 12 organizations that receive funding from Entergy went to the microphone to talk about the company’s trustworthiness and community connections.

The public comment period for the application will last through January. The earliest the city council would consider the application is February, after the current round of elections but before new officeholders are sworn in.

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Michael Stein / The Lens  
The city council chambers was packed for the public hearing, but the dais was not. Only one councilmember, Susan Guidry, was present for the entire hearing. LaToya Cantrell and Jason Williams left early.



**Exhibit 4**

**Affidavit of Michael L. Brown**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT  
AFFIDAVIT OF MICHAEL L. BROWN**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Michael L. Brown, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over five years.
2. I am currently domiciled at 1434 North Roman Street, New Orleans, LA 70116.
3. I am an attorney with the law firm Waltzer Wiygul & Garside, LLC. My office is located at 1000 Behrman Highway in Gretna, Louisiana.
4. My practice is predominantly environmental cases and I have been to a number of public hearings and meetings concerning permitting and approval of projects in Louisiana.
5. I am an attorney of record representing Sierra Club in Docket No. UD-16-02 at the City Council of New Orleans concerning Entergy New Orleans' ("ENO") proposal to construct a new gas plant in New Orleans East and secure cost recovery for the project.
6. I attended the two official public hearings and a number of the City Council meetings regarding ENO's proposal, including the City Council meetings that occurred on February 21, 2018 and March 8, 2018, and the public hearing that occurred on October 16, 2017.
7. In several ways, the October 16, 2017 public hearing was different than other, similar meetings I have attended in the past.
8. I arrived at the October public hearing before the start time, 5:30 pm. When I arrived, the room was almost full, which in my experience does not typically occur for early evening, weeknight public hearings like this. Typically, participants arrive at different times, as they complete work or family obligations.
9. I observed several people wearing orange t-shirts and holding signs that indicated their support of ENO's proposal. I had seen smaller numbers of people wearing these orange t-shirts at an earlier Council meeting in this case and recognized some of the people

wearing them. However, I recall that there were substantially more people wearing orange t-shirts at the October hearing than at the prior meeting.

10. I am aware that many people wanted to speak at or attend the October public hearing but were not allowed in the room or left when it was clear that they would not be able to comment during the two hours allocated for the meeting, as a result of the large crowd that had arrived early and remained in their seats throughout.
11. At one point, Councilmember Guidry asked people to leave the room when they were done speaking so that others who were outside could come inside and provide comment. I noticed that although most of the people who provided comment up to that point were the ENO supporters, few if any of these ENO supporters left.
12. I observed similar problems at the subsequent February 21, 2018 and March 8, 2018, City Council meetings. Specifically, many people were locked out of the meeting room, even though they arrived on time or close to the designated start time. In the February meeting, I observed several open seats near where I was sitting, in a section reserved for parties in the case. Some of the seats in this section were empty, even as people were waiting outside to get in.
13. On the night before the March 8, 2018 meeting, I saw a WWL TV news report about an actor who said he was paid \$120 to attend the February 21, 2018 City Council committee meeting.<sup>1</sup>
14. Based on this report and my impression that some of the comments given by ENO supporters at the October 17, 2017 public hearing appeared scripted, I decided to review the video recording of the October public hearing to determine if any of the commenters speaking in favor of ENO's gas plant were actors. This video is available on the Council website, at [http://cityofno.granicus.com/MediaPlayer.php?view\\_id=7&clip\\_id=2789](http://cityofno.granicus.com/MediaPlayer.php?view_id=7&clip_id=2789) [last visited Apr. 12, 2018].

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<sup>1</sup> Kristin Pierce, *City Council could face lawsuit following public hearing on Entergy plant*, WWL (Mar. 7, 2018), <http://www.wvltv.com/article/news/local/city-council-could-face-lawsuit-following-public-hearing-on-entergy-plant/526747370>.


15. Before each speaker provided his or her spoken comments, Tom Stratton, the CURO director, read the person's name from the comment card. Most commenters would also say their name, and some would say where they are from, before providing their comments.

16. I conducted a basic internet search of ten of the commenters, using their names and "acting" or "actor" as initial search terms. Of the ten searches I ran, the results indicated that at least three of the commenters were professional actors, and that one of these three actors does not live in New Orleans. *See Exhibit A.* Another person, not among the three apparent actors, appears to be an Entergy employee. The rest of the six searches either provided no information or information that did not appear to me to be conclusive as to the person's occupation.

17. The results of my basic internet search, combined with my observations at the October meeting and the WWL TV report, raise strong questions in my mind as to whether ENO or ENO supporters paid actors to attend and provide comments at the October public hearing or to sit in the audience, with the practical effect, whether intended or not, of preventing other persons from entering the room and commenting.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 13<sup>th</sup> day of April, 2018.

  
MICHAEL L. BROWN

On this 13<sup>th</sup> day of April, 2018, before me personally appeared MICHAEL L. BROWN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
Notary Public

State of Louisiana, Parish of Jefferson  
My Commission Expires at Death



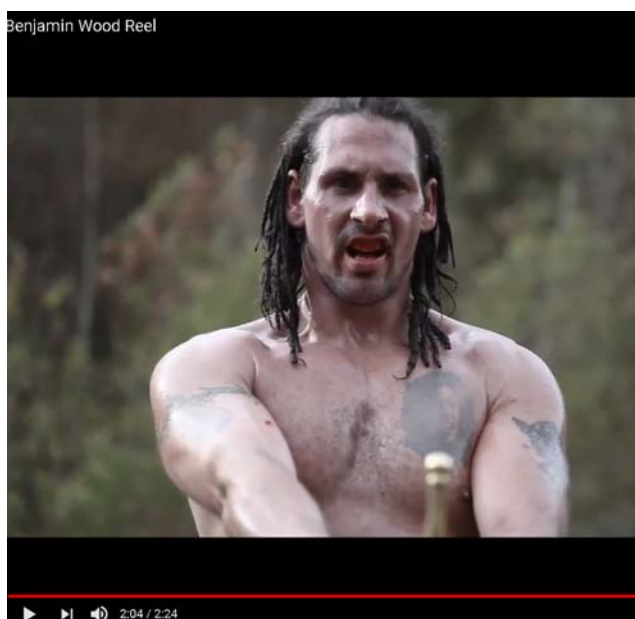
**EXHIBIT A**  
**October 16, 2017, UD-16-02, Public Hearing Commenters**  
**with Public Profiles Indicating they are Professional Actors**

1.) Benjamin Wood:

- Screenshot from video of Public Hearing:



- Screenshot, Benjamin Wood, Demo Reel, YouTube.com:  
<https://www.youtube.com/watch?v=vNWmnc8nmf4> [last visited April 13, 2018]

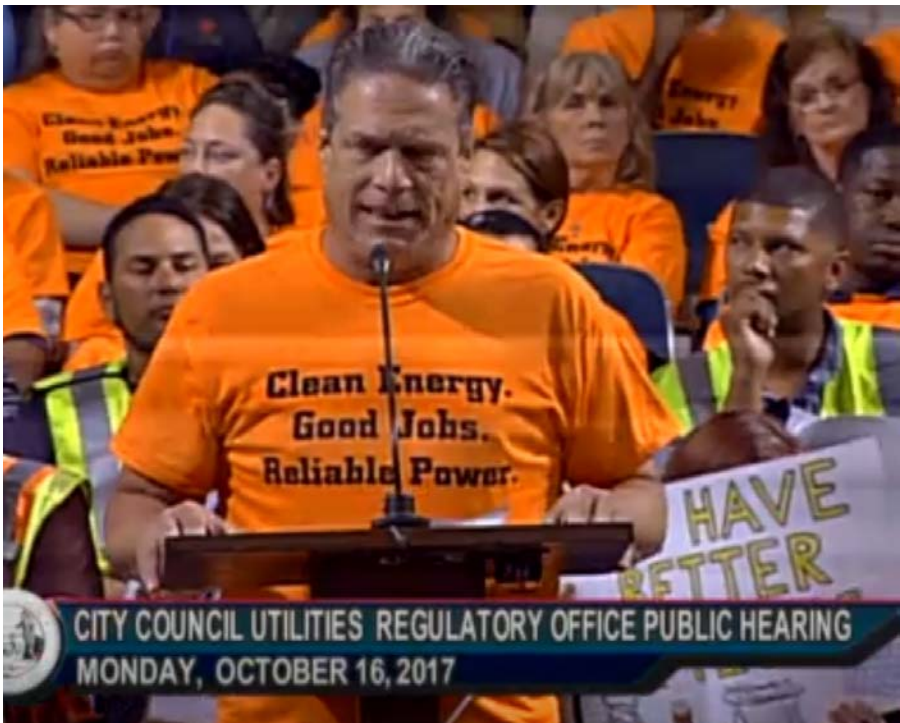


- Benjamin Wood, ActorsAccess.com Profile Page:  
<http://resumes.actorsaccess.com/benjaminwood> [last visited April 13, 2018]
- Benjamin Wood, IMDb.com Profile Page:  
[http://www.imdb.com/name/nm3785597/?ref\\_=nmbio\\_bio\\_nm](http://www.imdb.com/name/nm3785597/?ref_=nmbio_bio_nm) [last visited April 13, 2018]
- Benjamin Wood, Personal Acting Profile Webpage:  
<https://benjaminwood.weebly.com/acting.html> [last visited April 13, 2018]

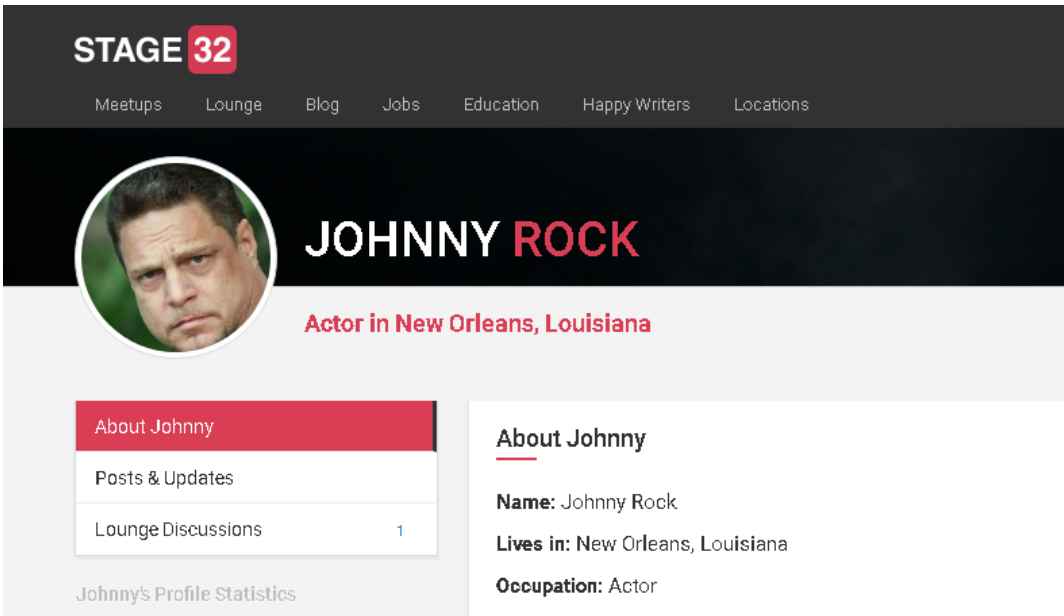


2.) Johnny Rock:

- Screenshot from video of Public Hearing (Hr’g Video at 20:24/ 2:02:45)



- Screenshot, Johnny Rock, Stage32.com Profile  
<https://www.stage32.com/profile/46520> [last visited April 13, 2018]



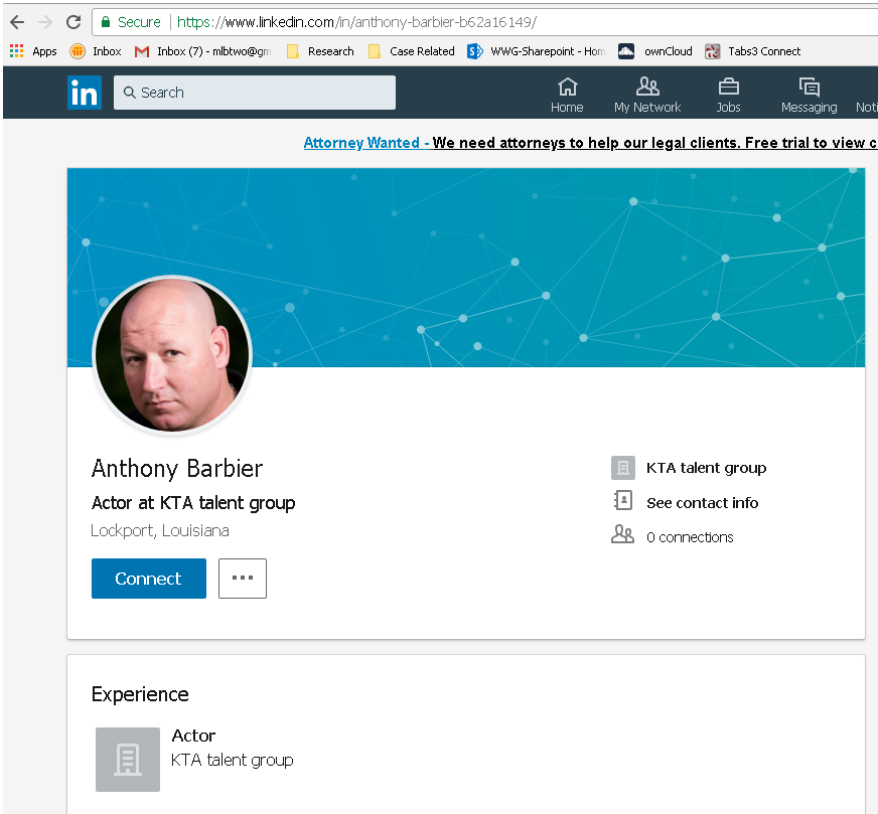
- Johnny Rock, LinkedIn.com profile (showing that he is a professional actor):  
<https://www.linkedin.com/in/johnny-rock-1917aa5/> [last visited April 13, 2018]
- Johnny Rock, IMDb.com Profile:  
[http://www.imdb.com/name/nm1930990/bio?ref=nm\\_ov\\_bio\\_sm](http://www.imdb.com/name/nm1930990/bio?ref=nm_ov_bio_sm) [last visited April 13, 2018]
  - Johnny Rock Acting Reel, posted on IMDb.com  
[http://www.imdb.com/videoplayer/vi930457369?ref=nm\\_rvd\\_vi\\_1](http://www.imdb.com/videoplayer/vi930457369?ref=nm_rvd_vi_1) [last visited April 13, 2018]

3.) Anthony Barbier

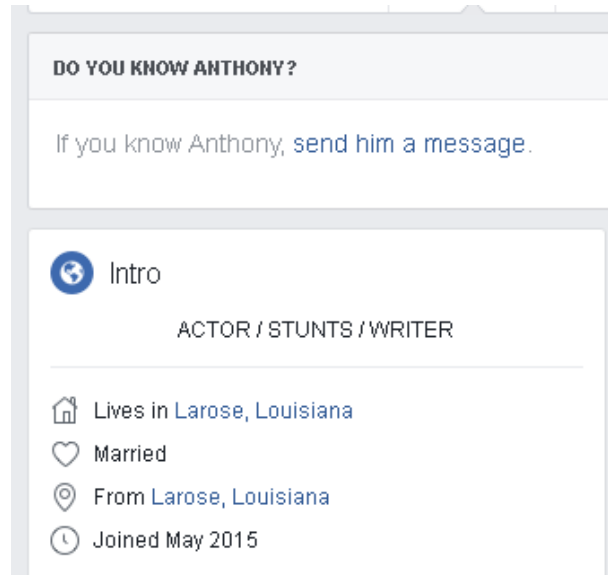
- Mr. Barbier stated, before speaking, that he “represent[s] New Orleans and the Ninth Ward,” Hr’g Video at 53:55, but, according to his public social media profiles below, Mr. Barbier appears actually to live in Larose or Lockport, Louisiana.
- Screenshot from video of Public Hearing:



- Screenshot from Anthony Barbier LinkedIn.com Profile (“Lockport, Louisiana”): <https://www.linkedin.com/in/anthony-barbier-b62a16149/> [last visited April 13, 2018]



- Screenshot from Anthony Barbier’s Facebook profile (“Larose, Louisiana”) <https://www.facebook.com/profile.php?id=100009389360276> [last visited April 13, 2018]





**Exhibit 5**

**Affidavit of Ted Quant**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF TED QUANT**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Ted Quant, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over 45 years.
2. I am currently domiciled at 5527 Eads St, New Orleans, Louisiana 70122. I live approximately 10 miles from the site of the proposed Entergy New Orleans gas plant.
3. I retired in 2015 as the Director of the Twomey Center for Peace through Justice at Loyola University New Orleans, where I worked for thirty years.
4. I have been an activist for and worked on issues of racial, economic, and environmental justice in New Orleans and beyond for all of my life, and I am 72 years old.
5. For the last approximately five years, I have been a member of the Justice and Beyond Coalition, a group that I joined soon after its formation. Justice and Beyond is a broad-based community coalition that works on a range of issues, from immigrants' rights to incarceration issues to environmental justice concerns. It holds weekly meetings, where each week a different group talks about the issues that they are working on currently.
6. It was at one of these meetings that I first learned about the proposed Entergy New Orleans plant from Monique Harden, who came to the meeting to talk about the plant and the concerns that community members and groups have around it. I was especially concerned that this multi-million dollar plant, which the community would be forced to pay for and that would cause pollution, seemed to be pushed without considering the many alternatives that would meet the city's energy needs, as well as the fact that the decision makers appeared to be only listening to information from the industry side of the debate.
7. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning Entergy New

Orleans' proposed gas plant. I arrived roughly 20 minutes prior to the scheduled meeting start time of 10 am.


8. When I arrived at the floor where the meeting room was, I saw that the hall was full of people, and people were lined up trying to get into the meeting room. The doors to the meeting room were closed and officials were saying that there was not any more space in the meeting room. However, certain people were being let in, including people in suits who I believe were with Entergy.
9. Monique Harden was in the hall, as were other people who I know, including Josh Fox and Pat Bryant. We had an impromptu civil rights rally in the hall, with people singing and chanting, and then testifying to what they would have said had they been allowed to address the meeting. When the doors opened people would chant, "suits come out, people go in."
10. At the high point, there were around 100 people in the hall. The entire hallway was full of people who wanted to attend the meeting and comment, on both sides of the hall and in all directions, stretching all the way to the elevators.
11. I was never able to see inside the meeting room, as the doors were closed and guarded. I am not sure whether it was police or private security guarding the doors. People entered and exited the room, but there was tight control of the doors, and it appeared they were also being guarded on the inside.
12. I stayed at the meeting for several hours but was never able to enter the meeting room. I intended to observe the meeting and give public comments. Had I been allowed to comment, I would have urged the committee to carefully consider which information they would trust, the of the industry and company pushing the plant, or that of the community that would be affected. I would have urged them to carefully consider the conflicts of interest.
13. When I left around 3 pm because I had personal matters to attend to, some people were being let in, but only one or two at a time, and there were many people still waiting to get in and entry was being tightly regulated.



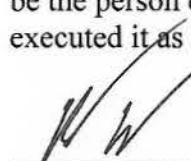
14. Following the February 21 meeting, on March 1<sup>st</sup>, there was a meeting at a church on Dwyer Blvd in New Orleans East called by Justice and Beyond to discuss this matter. At that meeting, a man who I know as a local musician spoke to the group and told us that he and others had been paid \$125 to wear shirts supporting Entergy and show up and fill the room. He apologized to us for doing so, saying he did not understand the full situation at the time.
15. I also attended the March 8, 2018 meeting of the full City Council where they considered the recommendation of the Committee. I arrived approximately 15-20 minutes early and signed a comment card. There were many people there holding signs saying "NO GAS PLANT."
16. While I was able to enter the meeting this time and give comments, again many people were unable to do so. There was again a large crowd outside, chanting to get in. After people gave testimony, they asked them to leave to make space for other people, so after I gave my comments I exited the room.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16 day of April, 2018.

  
TED QUANT

On this 16<sup>th</sup> day of April, 2018, before me personally appeared TED QUANT, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## **Exhibit 6**

### **Affidavit of Grace Morris**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF GRACE MORRIS**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Grace Morris, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for the past four and half years.
2. I am currently domiciled at 4422 Bienville Street, New Orleans, Louisiana 70119.
3. I am currently employed as an Organizing Representative for the Sierra Club, an environmental organization. I have been employed at the Sierra Club since July of 2015. My work is exclusively focused on Louisiana environmental campaigns. I organize around issues of environmental justice, climate justice, and pollution in Louisiana with a focus on coastal issues and proposed projects that would harm Louisiana's coastal communities and coastal restoration efforts. Our goal is for a just transition to a renewable energy future for Louisiana.
4. I have been working on environmental campaigns for about ten years. Before joining the Sierra Club, I was working for the Gulf Restoration Network, a locally-based environmental non-profit organization.
5. I first learned about Entergy New Orleans's ("ENO") proposed gas plant through the Alliance for Affordable Energy and the Deep South Center for Environmental Justice in the summer of 2016.
6. I am concerned that the proposed gas plant is a waste of ratepayers' dollars and not needed. There is no reason to place heavy polluting industries in New Orleans neighborhoods that only serve to continue the legacy of environmental racism in Louisiana. We need real solutions for a more affordable, modern, renewable, and sustainable energy model for the city of New Orleans, and this gas plant represents a step in the wrong direction.



7. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant. I arrived at the meeting site around 8:30 am and held a press event before the meeting began with local leaders to raise awareness of the proposed gas plant and to raise the profile of the Committee meeting and vote on that day. From 8:30 am to about 9:30 am, as people began to arrive early for the meeting, I was also outside directing people where to go for the meeting. There was a small group of Entergy supporters with signs outside the building early that morning. They headed inside to attend the meeting sometime during our press event, around 9:30 am.
8. I arrived on the floor of the meeting room at around 10:00 am to 10:15 am. I saw dozens of people still outside of the meeting room and was very surprised. I was responsible for keeping track of what was going on inside the meeting for Sierra Club and needed to get in. Renate Heurich of 350 New Orleans recognized me and found someone to get me inside by informing that person that I was an intervenor and needed to attend the meeting. We moved through the crowd to get to the door, and I remember walking past Sylvia Scineaux-Richard, President of the East New Orleans Neighborhood Advisory Commission, and thinking "Oh no, Ms. Sylvia is outside, that's not good."
9. There were dozens of elders from the Vietnamese community in New Orleans East who were with us early that morning as a part of our press conference and who were locked out. All the people I saw earlier that morning who had arrived on time for the meeting were locked outside, and this was a huge shock for me. The security guards were telling all of them they were not allowed inside.
10. Once I was inside the meeting room, at about 10:30 am, I began texting the people I have been working with to find out what was going on outside and to try and find a way to get more people allowed inside. A few minutes after entering the meeting room I recognized some people from 350 New Orleans inside the room and asked one of the leaders what we could do to get more people inside the room. I told them that Ms. Sylvia had been locked out along with other prominent community leaders that needed to be present at this meeting. We talked about having some of us swap places with the elders from the

Vietnamese community so that they could come inside and sit down. So a few of us went up to talk to the security officer about swapping people and about some of the empty seats that were available inside the meeting room. We had to convince the security guard to swap for three people, and Ms. Sylvia along with two other people were finally allowed inside. I remember seeing a very charged scene through the doors as people were trying to get in, but security would not let them. While inside, I could also hear chanting and banging on the doors. All of the presentations at the beginning of the meeting were arguments being made for and against the proposed gas plant and were very informative. It was a shame that the public did not have a chance to listen and learn.

11. The second time I interacted with security was around 10:45 am when I tried to negotiate with the security officer to open the door again so that I could collect the comment cards from Erica Buher from VAYLA, who was outside coordinating the collection of comment cards from the people who were locked out. The security officer opened the door, and Erica handed me the stack of comment cards.
12. I then asked a security guard where the time-stamp machine was and where to hand the cards in, and was directed down the stairs to the opposite side of the room near where the Council was sitting. I made my way through a row of people in the back, walked down to the front of the meeting room and asked who I presume were Council staffers where the timestamp machine was so that I could stamp each comment card, but I learned that there was no timestamp available. Keith Lampkin, Chief of Staff to Councilmember Jason Rogers Williams, then came over to take the comment cards from me and asked me if the people who made these comments were currently in the room. I told him that some of these people are in the room and some are not but would still like to speak about this issue. Keith told me that he could only accept comment cards from people who were inside the room, and that there would be no way to facilitate everyone speaking today. I suggested to him that they ask people to leave once they had made public comments to allow people locked outside to come in and give their public comments. Keith said they would not be able to do this but I told him to take all the comment cards because they needed to be a part of the record. I also pointed out Ms. Sylvia's comment card who was



inside the meeting room to make sure she was called on. Keith said that he had noticed Ms. Sylvia was in the room, and took the full stack of cards from me.

13. Several hours into the meeting, Councilmember Susan Guidry did tell security to let more people in, and I did notice a few more people make it inside.
14. During the meeting, my focus was on documenting and tweeting out the content of the meeting on behalf of Energy Future New Orleans, a coalition of which the Sierra Club is a member. I did not fill out a comment card and did not provide public comments at this meeting. Michael Brown was presenting closing arguments on behalf of the Sierra Club, and it was my understanding that I could not submit public comments because intervenors were only allowed comments from one person.
15. I attended the March 8, 2018, City Council meeting at the City Council Chambers in which the City Council voted to approve the gas plant proposal. Because of what happened at the February 21 meeting we planned to arrive early. I arrived at approximately 7:00 am. At around 7:30 am I set up a table outside with signs. At about 8:00 am other people, such as Renate Heurich, started to show up. I again stayed outside and directed people where to go for the meeting. A lot of people began arriving at around 8:15 am, and by 8:30 am to 8:45 am, there was a long line of people inside, about 200 people, lined up in the hallway to the City Council Chambers doors.
16. I entered the meeting after 12:00 pm, a few hours after it had started, but I know from text messages from people inside the meeting that not everyone was allowed in at the beginning of the meeting. Similar to the February 21 meeting, during this meeting my focus was on documenting and tweeting out the content of the meeting on behalf of the Sierra Club. However, I did fill out a comment card and provided public comments.
17. In addition to the two Council meetings where the ENO gas plant proposal was voted on, I also attended the October 16, 2017, public meeting held in the evening that was organized and conducted by the Council Utilities Regulatory Office and Tom Stratton, the Director of the Office, about the gas plant proposal. The hearing started at 5:00 pm and I planned to go in a little before then. At around 4:00 pm to 4:15 pm one of the staff members at the Alliance for Affordable Energy texted me to find out if I could come over

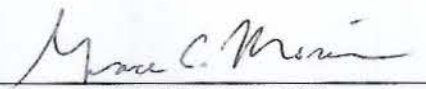
to City Hall and go to the meeting at that time because Entergy was already starting to fill up the room, which surprised me.

18. An hour into the meeting it was announced that there would not be enough time for everyone to give comments and that people should stop filling out comment cards. I had never seen anything like this before because, in theory, even if a meeting ended and not everyone had a chance to provide public comments, comment cards would still be admitted as a part of the record. I expected the meeting would last many hours given the sea of people in orange t-shirts who were in attendance because the general practice is to not end a public meeting until after everyone has spoken, but that did not happen this time. The meeting arbitrarily ended after two hours, and this was really surprising. There were still about 30 to 40 comment cards left, not to mention the people who had been discouraged from continuing to fill out comment cards. They even turned the lights off on us soon after.

19. I would also like to note that the two-hour October 16 meeting was the only Council-sanctioned public meeting on Entergy's new amended application for the construction of a gas plant which they filed in July of 2017, and which was voted on in the February 21, 2018 Committee meeting.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16 day of April, 2018.

  
GRACE MORRIS

On this 16<sup>th</sup> day of April, 2018, before me personally appeared GRACE MORRIS, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## **Exhibit 7**

**UCTT Committee Agenda Notice (Feb. 16, 2018)**





**UTILITY, CABLE, TELECOMMUNICATIONS AND  
TECHNOLOGY COMMITTEE MEETING**

**AGENDA**

**Wednesday, February 21, 2018 at 10 A.M.  
Pan American Conference Center Auditorium  
601 Poydras Street, 11<sup>th</sup> Floor, New Orleans, Louisiana**

1. Resolution and Order Regarding the Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief, Docket UD-16-02
  - Each party to the proceeding, which includes ENO, each intervenor and our Advisors, will be allowed 15 minutes to make their closing arguments. Parties will not be able to cede time to other parties. Each public speaker, not a party, will be allowed 2 minutes. Speakers will not be allowed to cede time to other speakers.

**CITY COUNCIL UTILITY, CABLE, TELECOMMUNICATIONS AND TECHNOLOGY COMMITTEE:**  
**JASON ROGERS WILLIAMS, COMM. CHAIRPERSON, COUNCILMEMBER-AT-LARGE**  
**STACY HEAD, COUNCILMEMBER-AT-LARGE**  
**SUSAN G. GUIDRY, COUNCILMEMBER, DISTRICT "A"**  
**JARED C. BROSSETT, COUNCILMEMBER, DISTRICT "D"**  
**JAMES A. GRAY, II, COUNCILMEMBER, DISTRICT "E"**

**FOR MORE INFORMATION PLEASE CONTACT:**  
**COUNCIL UTILITY REGULATORY OFFICE, 658-1110**

This meeting is accessible to people with disabilities. Should you require any accommodation to participate fully, please contact Tom Stratton or Connolly Reed at 504 658-1110 (Voice); TTY: 711, LA Relay Service or by email to [wtstrattonjr@nola.gov](mailto:wtstrattonjr@nola.gov) and [careed@nola.gov](mailto:careed@nola.gov) at least 18 hours prior to this event. This communiqué is available in alternative formats upon request.

Posted 2.16.18 at 12 pm

## **Exhibit 8**

### **Affidavit of Margaret “Meg” Logue**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF MARGARET “MEG” LOGUE**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Margaret “Meg” Logue, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana since November of 2016.
2. I currently reside at 2309 Saint Thomas Street, New Orleans, Louisiana 70130.
3. I am currently a freelance graphic designer and filmmaker, and I volunteer for and serve as Secretary on the Board of 350 New Orleans, a non-profit, volunteer-led climate advocacy group. I have been an active member since December of 2016.
4. I first learned about Entergy New Orleans’s (“ENO”) proposal to construct a gas plant in New Orleans East from Renate Heurich, the Vice President of 350 New Orleans. As a resident of New Orleans and someone concerned about the environmental, social, and economic impacts of the plant, I have attempted to attend as many public meetings concerning the proposed gas plant as possible.
5. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee for the New Orleans City Council. I arrived at approximately 9:15 am, 45 minutes before the meeting was scheduled to start. When I arrived at the floor of the meeting room, I noticed around 40 to 50 people standing and waiting outside of the meeting room—all of whom could not enter the meeting. The majority of the people waiting outside the meeting room were residents of New Orleans East and the Lower Ninth Ward.
6. Once it became clear that we would not be let into the public meeting, Pat Bryant of Justice and Beyond decided that we should host our own public meeting in the hallway. Around eight to ten people from the group waiting outside shared comments opposing the proposed gas plant. We also began to sing and chant to let the individuals inside the meeting know that we were waiting outside and had been locked out. Our “public



meeting” outside of the actual public meeting lasted around one to 1.5 hours. The doors would occasionally open when people would leave to use the restroom or go to ENO’s reserved meeting room, but the security guards would not allow anyone outside to enter the meeting and replace those who had left. During that period of time, some individuals who were waiting outside decided to leave because they did not expect to be allowed into the meeting.

7. Our partners who were inside the meeting began sending us pictures via text message of empty seats in the meeting room, which made us frustrated, upset, and angry. There were at least 20 open seats all clustered together as well as numerous open seats scattered around the room.
8. While we were locked out of the meeting, a number of people waiting outside called City Council offices to inform the staff of the situation we were in—we were locked out of a public meeting where there were seats available. I did not make a call because I was documenting, via pictures and videos, what we were enduring outside of the meeting.
9. After around 1.5 hours, the security officers started letting some people in. At this point, the intervenors had concluded their statements, and public comments had already begun. The doors to the meeting room remained locked, and the security officers did not provide any explanation of how they were determining if and when to allow more people into the meeting.
10. I waited outside of the meeting room for roughly three hours, without being let in. I left at around 12:30 pm because I had to go to work. When I left, there were still at least 15 people who were locked out of the meeting room.
11. I also attended the March 8, 2018 meeting of the New Orleans City Council. I arrived at 9:00 am, approximately 30 minutes before we were told the doors would open to the meeting. At that point, there were a number of individuals lined up outside of the meeting room entrance. By the time I made it to the front of the line, I was told the Council Chambers was filled to capacity. I waited outside with roughly 40 people.
12. After a few minutes, I was able to go inside along with roughly 10 others and grab a seat. Once inside, I filled out a comment card. Soon after, I learned that a group of students

from an elementary school in New Orleans East was waiting outside and needed to make public comments because they had taken time off of school to attend. I gave up my seat for one of the students waiting outside, and proceeded to wait outside of the Council Chambers for 40 minutes before there was a seat available for me. I waited outside along with a group of roughly 30 people, though the numbers fluctuated due to security's "one-in, one-out" policy of only letting someone inside the meeting if someone had left. While waiting outside, we sang and chanted to keep our spirits up.

13. A little before 1:00 pm, I was called upon to provide my public comment.<sup>1</sup> I left the meeting once I had provided my comment because I had to go to work.

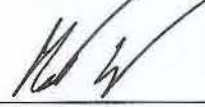
14. I also attended the October 16, 2017 meeting that attempted to solicit public opinion of the proposed gas plant. I arrived 45 minutes after the meeting had started, at around 6:15 pm. By the time I had arrived, security was conducting its "one-in, one-out" policy, and I waited for about 30 minutes outside of the Council Chambers. There were about 10 to 15 people who were also waiting outside of the meeting room. I eventually made it inside of the Council Chambers, though I had to leave the meeting early, so I did not fill out a card to provide public comment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 13 day of April, 2018.

  
MARGARET "MEG" LOGUE

On this 13<sup>th</sup> day of April, 2018, before me personally appeared MARGARET "MEG" LOGUE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

<sup>1</sup> Meg Logue's Comments at the March 8, 2018 Meeting,  
<https://www.facebook.com/389462407756241/videos/1632999413402528/UzpfSTE0ODkzMTYyNjl6MTAyMTYzMjk0MjkyNTY4OTU/>.



**Exhibit 9**

**Affidavit of Dr. Beverly L. Wright**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF BEVERLY L. WRIGHT**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Beverly L. Wright, being duly sworn, depose and state as follows:

1. I am over 18 years of age and am a resident of New Orleans, Louisiana.
2. I have lived most of my life in a section of the city known as New Orleans East.  
I am domiciled at 6841 Lake Willow Drive.
3. I am the executive director of the Deep South Center for Environmental Justice ("DSCEJ"), a nonprofit organization located in New Orleans East.
4. Under my direction, DSCEJ intervened in the City Council's proceeding on the application by Entergy New Orleans, Inc. for approval to build a gas plant in New Orleans East. The purpose of DSCEJ's intervention was to raise awareness of the negative health and environmental impacts that Entergy's proposed gas plant would have on predominantly African American and Vietnamese American residents, advocate for safer and healthier alternatives, and promote an effective and meaningful process for residents to have input in the Council's decision.
5. In this proceeding, I submitted written direct testimony and supplemental direct testimony as an expert witness on behalf of DSCEJ, Alliance for Affordable Energy, 350 New Orleans, and the Sierra Club.

6. On February 20, 2018, I read the City Council's agenda for the February 21, 2018 meeting of the Utility, Cable, Telecommunications and Technology Committee ("UCTT"). This agenda states that the parties to the proceeding, which include the intervenors, would be allowed 15 minutes to make a closing argument. This agenda also states that each "public speaker, not a party, will be allowed 2 minutes."
7. To comply with these restrictions, I assigned DSCEJ's staff attorney, Monique Harden, to prepare and present the closing argument. Although I would have liked the opportunity to make a comment on behalf of DSCEJ to the UCTT Committee, I did not believe that I would be allowed to do so based on the meeting rules in the agenda.
8. I attended the UCTT Committee meeting on February 21, 2018.
9. I remember arriving at the Pan American office building on Poydras Street just before 9:30 am. The UCTT meeting was to take place at 10:00 am on the 11<sup>th</sup> floor auditorium.
10. In front of the building, I noticed a large group of people gathered on the sidewalk. Many of them were wearing "Say No to the Gas Plant" t-shirts and holding a press conference to voice their opposition to the Entergy proposed gas plant.
11. I entered the building and rode the elevator to the floor where the UCTT meeting was to take place. I took a wrong turn and noticed that Entergy had set up a space on the same floor of the UCTT meeting to provide refreshments for people in support of the proposed gas plant.

12. I turned back and found my way to the auditorium. I opened the door and took a seat.
13. About 15 minutes later, I needed to go to the restroom, but was concerned that I would not be able to re-enter the auditorium. By this time, there were security guards and police at both doors. They were blocking the entrance of people who were outside in the hall.
14. I asked one of the police officers if I would be allowed back in the auditorium. He said that I would be allowed in because he would remember my face.
15. However, when I returned I was denied re-entry by a security guard. There were a lot of people lined up and demanding to enter the auditorium.
16. Someone told me to go to the other door and see if a police officer or guard would let me in there. I did this. There was just as many, if not more, people at this door. I saw the police officer who remembered me and he let me in the auditorium.
17. I was able to help one other person, Sylvia Scineaux-Richard, President of the East New Orleans Neighborhood Association Commission, enter the auditorium.
18. Just before 10:00 am, I took my seat. I noticed that there were rows of seats in the front of the auditorium that were empty. I and others told the police and security guards that there are plenty of seats available for the people waiting outside, but they would not allow the people to enter.
19. When the meeting started I heard people outside demanding that they be let in the auditorium.

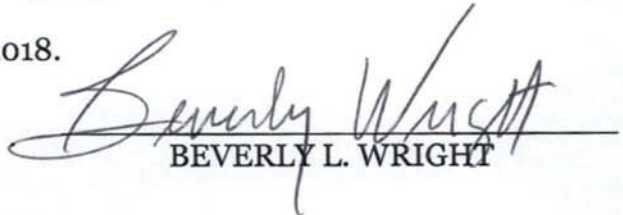


20. I remember the attorneys representing the intervenor organizations ask Councilmembers to let people in as there were still vacant seats on the front rows.
21. I saw a few people come in toward the middle of the session on closing arguments, but there were still more people outside and vacant seats inside.
22. After the closing arguments were over, the Council allowed public comments.
23. I did not submit a comment card because the agenda indicated that this would be disallowed for parties, including intervenors, to the proceeding.
24. Additionally, the Council's restriction appeared to me as a continuation of the restriction that the Council Utility Regulatory Office imposed on the October 16, 2017 public hearing on Entergy's second gas plant application.
25. In advance of the October public hearing, Tom Stratton, CURO Executive Director, sent an email to all of the parties to the proceeding, which indicated that only one representative of each intervenor group would be allowed to make a comment at the end of the hearing after all non-intervenor members of the public have spoken and if there was time remaining. I thought this was unfair and seemed biased in favor of Entergy.
26. Unlike the intervenor organizations and companies, Entergy had no restriction on representatives speaking at the October public hearing.
27. I remember seeing Entergy employees, who are known to CURO and the Council, being called to speak by Mr. Stratton before members of the public who were waiting to be called.
28. At the February 21, 2018 UCTT meeting, I listened to about seven people, who did not represent any party, speak in the public comment session.

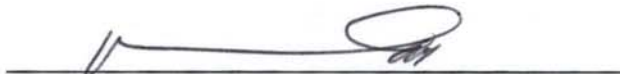
29. I then left the UCTT meeting with Mary Williams and Monique Harden.
30. As we exited, we met Sylvia Scineaux-Richard who complained about being in pain from standing too long in the hall as she waited to be allowed to enter the auditorium. We discussed how poorly the meeting was handled with no accommodation for the elderly, people with disabilities, and people who may not be able to stand for a long period of time.
31. Later, I was told by people who remained at the UCTT meeting that representatives of Entergy, a party to the proceeding, gave public comments. I felt that this was unfair to DSCEJ and all of the other intervenor organizations and companies, who followed the rules and were effectively silenced for the second time at Council meetings on the proposed gas plant.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 10 day of April, 2018.

  
BEVERLY L. WRIGHT

On this 10<sup>th</sup> day of April, 2018, before me personally appeared BEVERLY WRIGHT, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans

My Commission Expires \_\_\_\_\_

PAULA VINCENT JOHNSON  
NOTARY PUBLIC, #50040  
Orleans Parish, Louisiana  
My Commission Is For Life



**Exhibit 10**

**Affidavit of Dynisha Dianne Hogle**



**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF DYNISHA DIANNE HUGLE**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Dynisha Dianne Hugle, being duly sworn, depose and state as follows:

1. I am over 18 years of age and was born and raised in the Lower Ninth Ward in New Orleans, Louisiana.
2. I currently live at 3204 Angelique Drive, Violet, Louisiana 70092.
3. I am the Civic Engagement Coordinator at Vietnamese-American Young Leaders' Association of New Orleans ("VAYLA"), a progressive, multi-racial, community-based organization in New Orleans that empowers youth and families through supportive services for cultural enrichment and positive change.
4. I became involved with VAYLA roughly three years ago due to my interest in elections and civic engagement work. I joined the staff of VAYLA in 2016.
5. I first learned about Entergy New Orleans's ("ENO") proposal to construct a gas plant in New Orleans about a year to a year and a half ago. I am concerned about the plant because it is toxic for the community, is opposed by the community, and is not necessary. The community should not have to pay for it.
6. On February 21, 2018, I tried to attend the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant. I waited outside of the meeting with many members of the New Orleans East community for roughly three or four hours, but we were never allowed in.
7. I arrived at the meeting site at approximately 9:00 am., along with two or three buses carrying community members from New Orleans East. I had helped to arrange the buses to transport community members to the meeting. There were approximately 60 individuals on the buses.



8. When we arrived, a press conference was being held outside the meeting building.

VAYLA's Executive Director, Minh Nguyen, spoke at the press conference. After the press conference, I went inside the building and upstairs to where the meeting was being held. I arrived outside of the meeting room between 9:30 and 10:00 am.

9. I tried to enter the meeting room, along with New Orleans East community members, but security would not let us in. Security would not let anyone who was wearing our "No Gas Plant" t-shirts go through the door to enter the room. However, I did see that several people wearing suits were allowed in.

10. When we were not allowed in, people began chanting and singing in the hallways. Every time the door would open, people would chant "Suits out, let the community in."

11. Erica Buher of VAYLA passed around comment cards that were given to someone inside the meeting room. But people outside of the meeting room were not able to provide comments. They could not hear if their names were called through the door to provide comment.

12. At some point, I believe around 11:30 am, security started allowing some people in, as others left. Very few community members from New Orleans East were able to get in the meeting and provide public comment. I would have provided public comment if given the opportunity to do so.

13. I left the meeting site when the buses arrived to transport community members back to New Orleans East, at around 2:00 pm. At that time, everyone from VAYLA except Minh Nguyen and Mark Nguyen and maybe a few others left on the buses.

14. I also attended the March 8, 2018 meeting in which the entire New Orleans City Council voted on the proposed gas plant. I arrived early, at around 8:30 am. I came on a bus with members of the New Orleans East community. There were approximately three buses carrying roughly 100 people.

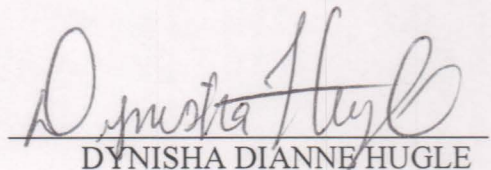
15. The bus I was on was not the first to arrive. When I arrived, there was a long line of community members waiting for the Council Chambers to open. I started to hand food and drinks out to the community members and then went inside City Hall at around 9:00 am.



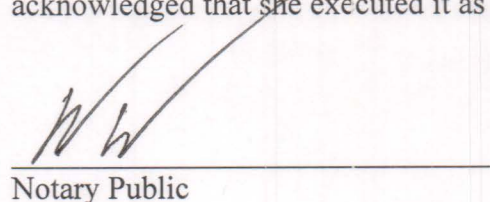
16. Outside of the meeting room, there were long lines, and some people were chanting in Vietnamese. When the meeting room doors opened, security began to count people as they entered. While I was outside of the meeting room, I saw that there was a back door where I believe individuals supportive of the proposed gas plant or Entergy employees were able to enter.
17. The Council Chambers was pretty much filled by the time I got inside. When I entered the meeting room, I started to hand out interpretation headphones to the New Orleans East community members with Mark Nguyen. Not all of the community members were able to get in right away. Once inside, I could hear people chanting while they were waiting to get inside.
18. As a staff member for VAYLA, I observed the meeting and helped people get into the meeting. I did not fill out a comment card.
19. I left the meeting at about 3:00 pm because I needed to return to VAYLA's offices for a youth program. Because the meeting was going so long, my colleague and I pushed back the time for the buses to pick people up from the meeting to around 5:00 pm. I did not notice anyone waiting outside of the Council Chambers by the time that I left at 3:00 pm.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 18 day of April, 2018.

  
DYNISHA DIANNE HUGLE

On this 18<sup>th</sup> day of April, 2018, before me personally appeared DYNISHA DIANNE HUGLE, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed it as her free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## **Exhibit 11**

### **Affidavit of Patrick Henry Bryant**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF PATRICK HENRY BRYANT**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Patrick Henry Bryant, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over 35 years.
2. I am currently domiciled at 2832 Serantine Street, New Orleans, Louisiana 70119.
3. I am currently a Co-Moderator at Justice and Beyond, a community organization in New Orleans, which I have been a member of for the past five years.
4. I joined Justice and Beyond because of my interest in social and economic justice issues. At Justice and Beyond, we operate a weekly dialogue with the City of New Orleans and help build community coalitions within the City.
5. I first learned about Entergy New Orleans's ("ENO") proposed gas plant sometime in 2017. I am concerned that the proposed gas plant will ruin the environment and the health of the people in New Orleans, and will destroy our wetland environment that provides us protections from storms and flooding. I am also concerned that this proposed gas plant is not needed and will attract more polluting resources to the area.
6. On February 21, 2018, I attempted to attend the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant.
7. I arrived at the meeting site at approximately 9:00 am. I took part in a press conference and interview outside the building before heading inside to attend the meeting.
8. Upon arriving on the floor of the meeting room, I observed people standing in queues, while others were being screened by security with metal detectors and allowed to enter the meeting room. After observing about seven or eight people being screened by security and allowed entry, I saw about ten Entergy employees being allowed entry to the meeting without being searched or screened. I recognized these people as Entergy employees from previous meetings.



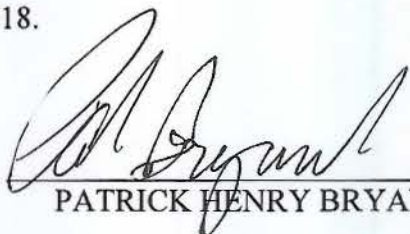
9. While waiting outside of the meeting room, I saw many Vietnamese and Black community members from New Orleans East being told by security that they were not allowed inside. I approached the security guards at both doors several times in an attempt to get others and myself inside, but they refused to let us go in. There were around 50 to 70 people who were standing outside of the room, locked out of the meeting.
10. At approximately 10:00 am, we started protesting, chanting, and singing about being locked out of the meeting. We confronted security about being denied entrance, and they threatened to arrest some of us. However, we kept protesting outside of the room in an attempt to let everyone inside know that people were wrongly denied entrance to the public meeting.
11. At one point—when security stepped away from the door—I opened the door, looked inside, and saw at least 12 to 15 vacant seats inside the meeting room.
12. I continued to protest until approximately 11:15 am or 11:30 am when I left discouraged that nothing was going to happen. I was never allowed inside the meeting room and was never given a chance to provide comments.
13. After the February 21, 2018, public meeting some of us corresponded with City Council asking them to make sure that the venue for the March 8 meeting could hold at least 500 people. We also asked the City Council to provide overflow rooms with live video and audio feed of the meeting. The City Council did not provide either.
14. I attended the March 8, 2018 City Council meeting. I arrived at approximately 10:00 am. I observed that the front doors were locked but that Entergy officials were being let inside the Council Chambers through the back door. A few members from Justice and Beyond and I attempted to enter the Council Chambers through that back door as well, but one of the Entergy employees tried to physically block my entrance by pushing me. I managed to push him aside and entered through the door followed by the other members from Justice and Beyond. At this point, security saw that we had gained access to the Council Chambers through the back door. They then opened the front doors and started letting people inside.

15. Once inside the Council Chambers, I took a seat and saw that the people who were waiting at the front doors were making their way inside the Council Chambers. Around 30 minutes after I took my seat, the room was almost full and security started denying entrance to people who were still outside the meeting room. I went up to security several times and pointed out available empty seats to them, at which point they allowed a few people inside to fill up those empty seats. But there were still many people who could not make it inside the meeting.

16. I was able to provide public comments, but I saw that many of the people outside never made it inside and never had the chance to provide comments.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16 day of April, 2018.

  
PATRICK HENRY BRYANT

On this 16<sup>th</sup> day of April, 2018, before me personally appeared PATRICK HENRY BRYANT, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

**Exhibit 12**

**Affidavit of Minh Thanh Nguyen**



**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF MINH THANH NGUYEN**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Minh Thanh Nguyen, being duly sworn, depose and state as follows:

1. I am over 18 years of age and was born and raised in the community of New Orleans East in New Orleans, Louisiana.
2. I currently live at 2013 South Chippewa Street, New Orleans, Louisiana 70130.
3. I am the Founder and Executive Director of Vietnamese American Young Leaders' Association of New Orleans ("VAYLA"), a progressive, multi-racial, community-based organization in New Orleans that empowers youth and families through supportive services for cultural enrichment and positive change.
4. I founded the organization in 2006 to address the needs of the Vietnamese American and African American communities of New Orleans East, when the City of New Orleans established a landfill in our community after Hurricane Katrina.
5. I learned about Entergy New Orleans's ("ENO") proposal to construct a gas plant in New Orleans from a friend in May of 2016. In my role at VAYLA, I have focused on engaging the community in New Orleans East about the proposed gas plant, which would be located in the low-income, minority community. This plant would have direct implications on the community's health, land, and environment, and the community would begin to deteriorate as a result of the plant.
6. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant. I arrived at the meeting site at approximately 9:00 am., along with two buses full of community members from New Orleans East. My staff at VAYLA and I had arranged the buses to transport community members—many of whom are elderly—so they could attend the public meeting. There were 67 individuals who filled the two buses, and roughly 15 people joined us at the meeting site.



7. Upon getting off the bus, I was immediately approached by the press to be interviewed about why VAYLA and I were present at the meeting. I spoke to the press for about 5 minutes.
8. After being interviewed, I traveled with our group of community members up the elevators to the floor where the meeting took place. At 9:20 am, I was told by security guards that the meeting was at capacity and that we would not be allowed to enter the room. We were confused, especially because individuals dressed in suits were still permitted to enter the meeting, yet members of the New Orleans East community and others were not. None of our community members—who were wearing shirts stating “No Gas Plant”—were allowed to enter the meeting.
9. At this point, I connected with partners of mine from the Alliance for Affordable Energy and other friends who were in the meeting room, and they explained to me that there were empty seats inside. After waiting for about 15 minutes outside of the meeting room, at around 9:30 am, I entered the meeting only after a partner of mine from the Alliance for Affordable Energy gave up her seat for me. I was the only person from VAYLA who was able to enter the meeting at this point.
10. When I entered the meeting room, I noticed dozens of empty seats—most of which were at the front of the room. I sat in either the fourth or fifth row. I continued to be confused about why the community members outside who I had brought to the meeting were not allowed entrance, because it was clear that the room was not at capacity. I decided to investigate, and I approached the security guards. They provided the same reason as before: the individuals outside could not enter because the room was “at capacity.” Security told me to go back to my seat and explained to me that I either had to stay in the meeting or leave; there was no alternative.
11. During this time, I could hear chanting from outside of the meeting room, and I was frustrated by the fact that VAYLA had brought dozens of community members to a meeting they could not attend.
12. Once I returned to my seat, I found two people to give up their seats to allow individuals affiliated with VAYLA to enter the meeting and hopefully provide comments. I

continued to receive text messages from individuals outside, explaining that they were locked out and were not able to enter.

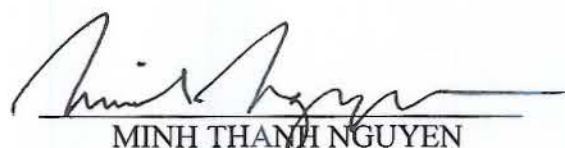
13. Around 1:30 pm, I stepped outside to go to the restroom and to direct my staff to order lunch for the community members waiting outside. Many of the people we had brought to the meeting continued to wait outside. Some were standing, but many were sitting on the floor. Many of them expressed to me that they were concerned, upset, and desperate to provide public comment and observe the meeting. I felt especially bad for the elderly individuals, who should not have to endure this situation. While I was outside of the meeting room, I learned via text message that my name was called to provide public comment, so I stepped back inside the meeting room to give my comment.
14. At around 2:30 pm, the buses arrived to transport the community members back to New Orleans East. I left the meeting room to help escort individuals to the buses. We did not expect the meeting to last as long as it did, which is why my staff and I coordinated for the buses to come at this time. A few of us from VAYLA remained for the rest of the meeting, which lasted until around 6:00 pm, if I recall correctly, and we arranged our own transport home. Only three individuals from VAYLA—Mark Nguyen, Tuyet Tran, and myself—provided public comments.
15. A vast majority of the community members from New Orleans East were not able to observe the meeting nor provide public comment. I apologized to them multiple times and felt frustrated because of the situation they were in.
16. I also attended the March 8, 2018 meeting in which the entire New Orleans City Council voted on the proposed gas plant. Based on my disappointing and frustrating experience on February 21, I decided to arrive at City Hall extremely early—between 7:30 am and 8:00 am. I was outside of City Hall and waited for three or four buses carrying roughly 150 community members from New Orleans East that would be arriving, with other community members meeting us there too. The buses arrived at staggered times, starting at around 9 am, and since this was a different venue than the February 21 meeting, I wanted to ensure that everyone could enter City Hall and find the Council Chambers before the doors opened.



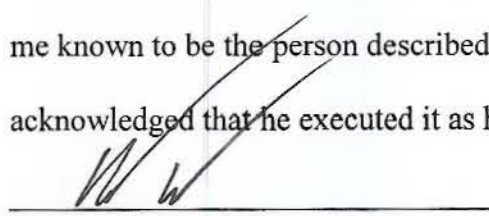
17. By the time I got to the Council Chambers, the meeting had already started. Along with my colleague Mark Nguyen, I walked into the Council Chambers to attempt to find a seat. Because there were no seats available, a security guard started to escort me out of the room. As the security guard escorted me out, one of the New Orleans East community members of VAYLA offered their seat to me. This person had to leave the meeting so that I could stay. Similar to the February 21 meeting, there were people locked out of the meeting room, and I could hear them chanting as the meeting occurred.
18. At one point, I was told via text message by someone waiting outside that that there were about four elementary school students who had taken time off from school to attend this meeting and provide comment. I got up from my seat to find a few volunteers to give up their seats for the students so they could come in. As I coordinated this effort, I noticed that my own seat had been taken by a supporter of the Entergy proposal. I recognized him from a previous meeting when he spoke in support of ENO. Security attempted to escort me out since I did not have a seat, though I found this unfair and unjust as my seat had been taken. The Entergy supporter did not get up, and after I made a commotion and a fuss about my seat being taken, security eventually allowed me to stay in the meeting, even though I did not have a seat. I stood for the majority of the meeting, until I found a seat that had opened up once people who had already commented left the meeting.
19. I provided public comment toward the end of the meeting, though I do not recall at what time approximately. I stayed at the meeting until its conclusion, at around 5:30 pm.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16 day of April, 2018.

  
MINH THANH NGUYEN

On this 16<sup>th</sup> day of April, 2018, before me personally appeared MINH THANH NGUYEN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC

Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

**Exhibit 13**

**Affidavit of Happy Johnson**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF HAPPY JOHNSON**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Happy Johnson, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana since 2011.
2. I am currently domiciled at 505 Andry Street, Apartment B, New Orleans, Louisiana 70117.
3. I have worked as an environmental and sustainability disaster resilience consultant for about 7 years. I advise organizations on the best ways to engage the people of New Orleans around those issues.
4. I have been working to rebuild New Orleans after Hurricane Katrina for almost 13 years. It was important to the residents I was helping to rebuild in a smart and sustainable way to protect their assets in the event of a future storm.
5. I first learned about Entergy New Orleans's ("ENO") proposed gas plant toward the end of 2016, but it was only last year that I clearly understood the proposal and became involved with it.
6. I am concerned that the proposed gas plant will be situated in a floodplain on a lot that has experienced subsidence. I am concerned that the pollution the proposed gas plant will emit will only add to respiratory concerns for residents and will be harmful to wetlands and the natural environment. This proposed gas plant is an antithesis to the sustainability work we have been engaged in since Hurricane Katrina and to the goals of the city's Climate Action Plan.
7. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning ENO's proposed gas plant. I arrived at the meeting a little after it started, and by the time I arrived on the building floor of the meeting room, there were scores of people outside in



the hallways demanding to get in, somewhere between 40 to 60 people. People were saying that security was not allowing anyone into the meeting and that there were a lot of empty seats inside.


8. There are two doors to the meeting room, and most people were primarily lined up behind only one of these doors. It appeared to me that security may have been trying reserve the other door for Entergy's use because it was primarily being used by them and their supporters wearing t-shirts and carrying signs to go in and out of the room. I felt that the actions of security at the meeting suggested that whether you were going to be let into meeting or not depended on what you were wearing. I also noticed that Entergy had a designated rest area on the floor for their employees and supporters. It was intimidating to see the influence that Entergy displayed.
9. Security did not let anyone enter, even as people left the meeting room. They gave no reason. I tried to enter through both doors but security would not budge. It was only after a lot of complaining and a lot of banging on the doors that they began to let people in. I managed to get into the meeting but there were still people left outside waiting to get in. Some of these people ultimately left and never made it inside.
10. By the time I got inside the room the media and photographers had already left. I was able to provide public comments but there was no formal system of keeping track of people's time to talk. It was all done arbitrarily and some people were allowed to speak longer than others.
11. I also attended the March 8, 2018, City Council meeting at the City Council Chambers in which the City Council voted to approve the gas plant proposal. I planned to arrive early because of concerns that Entergy was planning to bus people in. I saw that Entergy had done this at an October 16, 2017 public meeting and was concerned it would happen again. We brought a lot of people from the community to that meeting early, but we noticed that before the public was allowed to enter the City Council Chambers, someone allowed Entergy to enter the Chambers through a backdoor. About 15 to 20 minutes after Entergy was allowed inside, security opened the front doors and we walked inside the meeting room where we saw Entergy already seated down in their section.



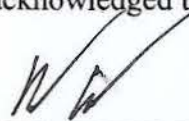
12. There was a point during the meeting where it became difficult to gain access to the meeting because the room started to get full. I did see people trying to get in but they were being denied, even though there were open seats available inside the room.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 13 day of April, 2018.

  
HAPPY JOHNSON

On this 13<sup>th</sup> day of April, 2018, before me personally appeared HAPPY JOHNSON, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## **Exhibit 14**

### **Affidavit of Robert Desmarais Sullivan**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**  
**AFFIDAVIT OF ROBERT DESMARAIS SULLIVAN**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Robert Desmarais Sullivan, being duly sworn, depose and state as follows:

1. I am 75 years old and have been a resident of New Orleans, Louisiana for 55 years.
2. I am currently domiciled at 7826 S. Claiborne Ave., New Orleans, Louisiana 70125.
3. I taught high school French, German, Latin and English for 40 years, write poems and essays, and am currently a tour guide for Le Monde Créole.
4. I have been a long-time activist in New Orleans on social justice issues, and in 2016 I joined 350 Louisiana because of my concerns about climate change and the threats it poses to people and the environment.
5. I first learned about the proposed Entergy New Orleans natural gas plant through 350 New Orleans, about one year ago. I have a number of concerns with the proposed plant, my chief one being that I believe we simply do not need this plant, and that the money spent on it would be better spent elsewhere, such as for alternative energy and improving distribution lines. I am also concerned about pollution that would be caused by the plant, and also that would result from the process of obtaining the natural gas, through “fracking,” that would power the plant.
6. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning Entergy New Orleans’ proposed gas plant. I arrived approximately 20 minutes ahead of the scheduled meeting start time of 10 am.
7. I went straight to the meeting room and saw a large crowd in the hallway outside the meeting room, perhaps around 50 people. People were saying that the doors were locked and the meeting room was full. I attempted to enter the meeting room, but the door was being guarded by a woman in a brown uniform, who I saw lock the door.




8. I went back into the hallway, where the crowd decided to hold their own hearing, giving the testimony that they would have given to the Committee had they been allowed inside. I was planning to give comments at the meeting, explaining my concerns with this plant and why I was opposed to it, which I did in the hallway, as I was not allowed inside.
9. There were many members of the Vietnamese community there, including some people I know, holding signs. After people had spoken, the crowd sang and chanted.
10. I later approached the other door to the meeting room, which was being guarded by a male security official in a brown outfit. I told this official that I felt it was wrong that we were being kept out, that we had a right to go inside and observe the public meeting and give comments. He told me that I could not go in.
11. At one point, someone came through the crowd and asked people to sign comment cards and said they would take them into the room and people would be called on to comment. I filled out one of these cards, but I was not called on before I had to leave to attend to other matters, approximately one and a half hours after I had arrived.
12. I received photos via text message from someone inside showing that there were empty seats in the meeting room.
13. I intended to observe this public meeting and give comments, but I was prevented from entering the meeting room.
14. I also attended the March 8, 2018 meeting of the full City Council. I arrived approximately 15 minutes in advance of this meeting, which this time was early enough to secure a seat in the back of the room. I later noticed that entry to the room was being regulated, and I also observed that unlike the usual practice of the City Council, at this meeting people were not allowed to stand against the back and side walls, as they usually are permitted to do.
15. I intended to give similar comments at this meeting, and would have added my particular concern for the Vietnamese community, as they are so opposed to this plant as a community. I personally know one of the staff members of one of the City Council members who said that she would sign me up to comment, so I waited throughout the

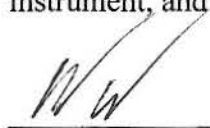
entire meeting, but I was never called on to comment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 15<sup>th</sup> day of April, 2018.

  
\_\_\_\_\_  
ROBERT DESMARAIS SULLIVAN

On this 15<sup>th</sup> day of April, 2018, before me personally appeared ROBERT DESMARAIS SULLIVAN, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued to:

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

**Exhibit 15**

**Affidavit of Jacob Horwitz**



**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF JACOB HORWITZ**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Jacob Horwitz, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over 12 years.
2. I am currently domiciled at 1304 Ursulines Ave, New Orleans, Louisiana 70116.
3. I am currently the Interim Executive Co Director of the New Orleans Workers' Center for Racial Justice, a non-profit, membership based, multi-disciplinary impact strategy center, which I have worked at since December of 2006.
4. I moved to New Orleans to work at the New Orleans Workers' Center for Racial Justice to work on issues of economic and racial justice, which have long been a concern of mine. In particular, a chief focus of mine, and the Workers' Center, is the intersection of economic and racial justice, for example, how communities of color, which are overwhelmingly low-income, are disproportionately affected by environmental pollution and increases in costs of public services.
5. I first learned about the proposed Entergy plant at a Power Coalition meeting. The Workers' Center is a member of the Power Coalition. I was particularly troubled to learn about how the pollution caused by the plant would disproportionately impact communities of color in New Orleans East, as well as the fact that the proposed rate hikes by Entergy, whose rates are already significant, especially for those with limited incomes, to pay for the plant would fall especially heavily on low-income communities, who are disproportionately people of color.
6. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning Entergy New Orleans's proposed gas plant, with my co-worker Alfred Marshall. We arrived approximately 10 to 15 minutes before the scheduled start time of 10 am.

7. Upon arriving at the floor of the meeting room, I observed approximately 50-60 people in the hallway who had not been able to enter the meeting room because they were told that the room was filled to capacity and no one else would be allowed inside. Several people said that they were letting in only the Entergy executives but were not letting in residents.
8. Alfred and I walked up to the front of the crowd and approached the doors to the meeting room, which were guarded by security staff. Alfred spoke with one of the security guards, who made clear that they were not letting anyone else into the meeting room.
9. As they were locked out of the meeting, people decided to hold an impromptu parallel "hearing" of their own in the hallway. A number of people spoke about their concerns regarding the plant and why they were opposed to it.
10. The crowd repeatedly asked to be let in. I did not observe additional people being let in over the course of the hour that we were there.
11. People were also singing and chanting in the hallway, to make sure that the people in the meeting room knew there were more people outside who were not being let in. Among other things, the crowd chanted and sang about being locked out.
12. We were not able to see inside the meeting room or observe any of the meeting, as the security was keeping tight control of the doors.
13. Several City Council members passed through the crowd in the hallway on their way into the meeting room. People in the crowd explained the situation and that they wanted to enter and observe the meeting and provide public comment, and asked if the council members could help get them in, but to no avail.
14. I wanted to observe this meeting, but I was unable to do so. I had to leave approximately one hour after I arrived to attend to other matters.
15. I also intended to provide public comment at this meeting, to put on the record that the New Orleans Workers' Center for Justice as an organization is against the proposed plant as well as myself as a resident of New Orleans, but as I was never allowed into the room, there was no opportunity for me to sign up to give comments.
16. Had I been allowed to comment, I would have spoken about the real human cost of the oil and gas industry. I would have also spoken about how the Workers' Center was formed




in the aftermath of Hurricane Katrina, the devastating effects of which were largely due to bad policies of the federal and local governments, which largely impacted people of color. I would have explained that this is another such bad policy, and we do not need another gas plant polluting the environment with negative effects, including weakening of the levees.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16 day of April, 2018.

  
JACOB HORWITZ

On this 16<sup>th</sup> day of April, 2018, before me personally appeared JACOB HORWITZ, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

  
\_\_\_\_\_  
Notary Public

State of Louisiana, Parish of Orleans  
My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

**Exhibit 16**

**Affidavit of Andrew Wells**

**IN THE ORLEANS PARISH CIVIL DISTRICT COURT**

**AFFIDAVIT OF ANDREW WELLS**

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Andrew Wells, being duly sworn, depose and state as follows:

1. I am over 18 years of age and have been a resident of New Orleans, Louisiana for over a year.
2. I am currently domiciled at 3015 Constance St, New Orleans, Louisiana 70115.
3. I am currently the Data and Targeting Manager at the Power Coalition for Equity and Justice, a non-profit team of organizations who believe in the power of community and taking action, and whose goal is to equip Louisianans with the knowledge and information they need to find their voice and learn where and when to use it.
4. I moved to New Orleans to work at the Power Coalition to work on issues of economic and racial justice, which are a longstanding concern of mine.
5. I first learned about the proposed Entergy plant through VAYLA New Orleans, a member organization of the Power Coalition. VAYLA is a progressive multi-racial community-based organization in New Orleans that empowers youth and families through supportive services and organizing for cultural enrichment and positive social change. VAYLA's Founder and Executive Director, Minh Nguyen, spoke to the Power Coalition board about the proposed plant, the concerns VAYLA has about it, and VAYLA's campaign against it.
6. Through VAYLA and Minh, I learned that the proposed plant would have devastating effects on the surrounding environment and communities, and that the city government has been unresponsive to the concerns of residents. Both of these issues are of great concern to me, personally and professionally.
7. On February 21, 2018, I attended the meeting of the Utility, Cable, Telecommunications and Technology Committee of the New Orleans City Council concerning Entergy New



Orleans' proposed gas plant. I arrived right around the scheduled meeting start time of 10 am.

8. I parked across the street from the building where the meeting was being held and entered the building and went up to the floor where the meeting was going to take place. When I arrived at that floor, I saw a large crowd of approximately 40-50 individuals congregating in the hallway. I attempted to enter the meeting room, but the doors were closed. People in the hallway were talking about how the meeting was full and officials were barring any other people from entering.
9. I saw people that I knew from VAYLA and other organizations in the Power Coalition, and I spoke with them about what was happening. During the time that I was there, approximately 45 minutes, more people showed up who were planning to attend the meeting and give comments. The most people I saw in the hallway at one point were approximately 60-70.
10. While I was in the hallway, I overheard numerous people asking various city officials why they were not being allowed in, but no answers were given.
11. A number of people who had come to the meeting intending to give testimony but were unable to get into the meeting decided to give their testimony in the hall. People were also singing and chanting and having various conversations about what was going on.
12. I intended to observe this public meeting, but because the doors were closed and people were not permitted to enter, I was unable to do so.
13. One of the things that I found most objectionable was that there was a large group of elderly Asian individuals, approximately 15-20 people, who are representative of the community in the immediate area surrounding the proposed plant, who were unable to get in and observe the meeting and give comments. VAYLA had organized buses from these communities, through the Vietnamese church, Mary Queen of Vietnam.
14. It was very upsetting to me that these people who had made a significant effort to attend this public meeting, to bear witness and give public comment on how the plant would affect them and their community, were barred from observing the meeting and giving

comment. These people were there when I arrived and still there when I left around 10:50 am.

I declare under penalty of perjury that the foregoing is true and correct.

Executed by me on this 16<sup>th</sup> day of April, 2018.

Andrew H. Wells, Jr.  
ANDREW WELLS

On this 16<sup>th</sup> day of April, 2018, before me personally appeared ANDREW WELLS, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed it as his free act and deed.

[Signature]  
Notary Public

State of Louisiana, Parish of Orleans

My Commission Expires Life

MR. ALEXANDER BOLLAG  
NOTARY PUBLIC  
Notary ID No. 133757, Bar Roll No. 34447  
State of Louisiana  
My Commission is Issued for Life

## **Exhibit 17**

**Letter from William P. Quigley, Susan Stevens Miller, and  
Jill Tauber to the New Orleans City Council (Mar. 6, 2018)**



LOYOLA  
UNIVERSITY  
NEW ORLEANS

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COLLEGE OF LAW  
LAW CLINIC  
Clinical Extern Programs  
Homeless Advocacy  
Gillis Long Pro Bono Program  
Catholic Legal Immigration Network Detention Program

William P. Quigley  
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Susan Stevens Miller  
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[smiller@earthjustice.org](mailto:smiller@earthjustice.org)

March 6, 2018

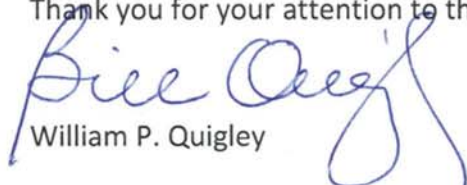
TO: Laura W. Johnson, Clerk of City Council, 1300 Perdido Street, New Orleans, LA

Re: Violation of Louisiana Open Meetings Law, LSA, R.S. 42:11 and the following, by City Council Utility Committee February 21, 2018 – Application of Entergy New Orleans for Approval to Construct New Orleans Power Station, Docket UD-16-02.

Attached please find a letter dated March 6, 2018 indicating pending litigation because of violations of the Louisiana Open Meetings Law at the meeting referenced above.

Copies of these documents are being served on all parties by electronic mail and or US First Class mail.

Thank you for your attention to this matter.

  
William P. Quigley





COLLEGE OF LAW  
LAW CLINIC  
Clinical Extern Programs  
Homeless Advocacy  
Gillis Long Pro Bono Program  
Catholic Legal Immigration Network Detention Program

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March 6, 2018

TO: Members of the New Orleans City Council:

Council Member and Mayor Elect Latoya Cantrell [lcantrell@nola.gov](mailto:lcantrell@nola.gov)  
Council Member Jason Rogers Williams [jasonwilliams@nola.gov](mailto:jasonwilliams@nola.gov)  
Council Member Stacy Head [shead@nola.gov](mailto:shead@nola.gov)  
Council Member Susan Guidry [sgguidry@nola.gov](mailto:sgguidry@nola.gov)  
Council Member Nadine M. Ramsey [districtc@nola.gov](mailto:districtc@nola.gov)  
Council Member Jared C. Brossett [jcbrossett@nola.gov](mailto:jcbrossett@nola.gov)  
Council Member James Gray [jagray@nola.gov](mailto:jagray@nola.gov)

Re: Violation of Louisiana Open Meetings Law, LSA, R.S. 42:11 and the following, by City Council  
Utility Committee February 21, 2018 – Application of Entergy New Orleans for Approval to  
Construct New Orleans Power Station, Docket UD-16-02.

Dear City Council Members:



Please be advised that numerous people and organizations have complained of violations of the Louisiana Open Meetings Law by the New Orleans City Council Utility Committee in its meeting on February 21, 2018.

Because of those complaints, we are collecting affidavits in preparation for litigation to void the results of that meeting due to violations of the Open Meeting Law. We bring this to your attention in case you would rather do the meeting over and do it legally, saving the City and everyone involved the time and trouble and uncertainty of litigation over the process.

Under the Open Meetings Law, "It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of this Chapter shall be construed liberally." R.S. 42:12.

On February 21, 2018, the Utility, Telecommunications and Technology Committee ("UTTC") of the New Orleans City Council held a public meeting to consider a resolution and order regarding the Application of Entergy New Orleans, Inc. for Approval to Construe New Orleans Power Station and Request for Cost Recovery and Timely Relief, Docket UD-16-02.

The manner in which the UTTC conducted this meeting violated the Louisiana Open Meetings Act. ("OMA"), thus violating the rights of 350-New Orleans as well as other citizens of New Orleans. Therefore, the actions taken by the UTTC on February 21, 2018 are voidable by the court and the City Council must require the UTTC to consider the Entergy Application at a properly conducted open meeting.

Pursuant to the Louisiana Constitution, "No person shall be denied the right to observe the deliberations of public bodies . . . except in cases established by law." La. Const. art. XII, § 3. To effectuate this provision, the Louisiana Legislature adopted the OMA. The purpose of the OMA is to allow the public to observe and evaluate public officials, public conduct and public institutions. *Courville v. La. Recreational and Used Motor Vehicle Commission*, 21 So.3d 340 (2009). A public body means city governing authorities, including any committee or subcommittee of that authority. LA RS 42:13 (A) (2). A meeting is covered where a quorum of a public body convenes "to deliberate or act on a matter which the public body as an entity has supervision, control, jurisdiction, or advisory power." LA RS 42:13 (A) (1). Unquestionably, the OPA applies to the UTTC Committee Meeting held on February 21, 2018.

On February 21, 2018, the UTTC held its monthly meeting at the Pan American Conference Center Auditorium. At the start of the meeting, the doors to the auditorium were closed. Approximately 50-60 community members who arrived at 9:30 to attend the meeting were prevented from entering the auditorium by security.

Consider the experience of just one person, Renate Heurich, who, as a cofounder of 350-New Orleans, was a representative of a party to UD-16-02. Ms. Heurich was one of the many New

Orleans residents who were denied their right to observe the UTTC meeting. After waiting for about 90 minutes, a limited number of people were allowed access. However, even as more people left the auditorium, no one else was allowed to enter.

At approximately 12:30, 2 1/2 hours after the meeting began, people were still waiting outside the auditorium. After someone exited, Ms. Heurich entered the room and observed at least 20 empty seats. Security approached Ms. Heurich and informed her that she was not allowed in. However, Ms. Heurich proceeded down the steps, pointing to the many empty seats. Subsequently, security motioned a second security guard to escort Ms. Heurich out of the auditorium. Ms. Heurich informed security that she intended to sit in one of the numerous empty seats, but security insisted that she leave the room. Ms. Heurich complied with this directive.

Clearly, Ms. Heurich's, and the other 50 or more citizens of New Orleans, right to observe the UTTC meeting was violated. Pursuant to the OMA, actions taken in violation of the OMA are void. As such, the UTTC vote on the resolution and order is void. Thus, the City Council must decline to consider the resolution and order.

The following specific violations of the Open Meetings Law are brought to your attention.

First, the Notice of the Agenda of the Meeting was changed within 24 hours of the meeting, a violation of RS. 42:19 A(1)(b)(ii)(aa).

Second, many members of the public, including individuals who were official parties to the proceedings, and community organizations with deep stakes in the outcome, were not allowed into the meeting for hours, even when seats were available, in violation of RS 42:14 A.

Third, members of the public who waited outside the meeting room for hours with no expectation of being admitted to the meeting ultimately left. Conducting the meeting in this manner rendered the public's right to comment illusory, in violation of RS 42:14 D.

As a result, the action taken at the meeting of February 21, 2018 can be judicially declared void in accordance with RS. 42:24. Other remedies including penalties and attorney fees can be awarded.

Best,

/s Bill Quigley

William P. Quigley

Jill Tauber

Susan Stevens Miller



Cc:

Rebecca H. Dietz [rhdietz@nola.gov](mailto:rhdietz@nola.gov)

City Attorney City of New Orleans  
1300 Perdido Street  
New Orleans, LA 70112