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Division of Administration

Louisiana Recovery Authority

Action Plan Amendment Number 6 for Disaster Recovery Funds

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1. Introduction

Hurricane Katrina hit the State of Louisiana on August 29, 2005, and Rita slammed into the state on September 24, 2005. They were the second and third Category 5 hurricanes of the 2005 hurricane season. The storms were deadly and costly to communities throughout the Gulf and particularly destructive to Louisiana. More than 1,100 persons lost their lives in Louisiana; approximately 18,000 businesses were destroyed; roads, schools, public facilities, and medical services were washed away; and thousands of people were forced to relocate.

1.A. Description of Physical Damage to Utility Infrastructure: The storms caused unprecedented damage to electric and gas system infrastructure in the State of Louisiana, and especially in New Orleans. The extent of the damage to utility infrastructure there was substantially worse due to the flooding caused by the failure of the federal levee system. The damage to the infrastructure of Entergy New Orleans, Inc. (ENO), the regulated public utility responsible under City charter for providing both electricity and natural gas service in the City of New Orleans, was extensive.

Damage to the electricity infrastructure included:

- All electricity transmission lines were knocked out of service; 78 transmission towers were significantly damaged;
- All 22 electrical substations were knocked out of service. Twelve of the 22 substations were flooded and sustained moderate to heavy flood damage; and
- The electricity distribution facilities received extensive damage from the storm and flooding: approximately 2,300 spans of conductor, covering 95 miles (or 76% of the total of 125 line-miles), over 1,700 poles and over 3,100 cross-arms required replacement.

Damage to the natural gas infrastructure included:

- 12 of 13 operational city gates (i.e. connections from high pressure natural gas transmission pipelines to lower pressure city distribution lines) experienced damage;
- Approximately four million gallons of salt water entered the natural gas distribution system, flooding approximately 60 percent of the system and causing catastrophic damage to: approximately 257 miles of cast iron pipe; 277 miles of low-pressure steel and 310 miles of high-pressure steel were subject to saltwater infiltration; and over 1,400 miles (out of approximately 2,500 miles) of gas service lines were subject to saltwater infiltration; and
- More than 80% of natural gas meters and regulators were destroyed.

Entergy New Orleans (ENO) estimated that approximately 10 percent of the total amount of damage to the electricity and natural gas infrastructure was caused by the storms, with about 90 percent due to the subsequent flooding caused by the failure of the federal levee system intended to protect New Orleans.

1.B. Status of Utility Infrastructure Restoration Efforts: Entergy New Orleans (ENO) mounted an aggressive program to restore electricity and natural gas service. ENO employed in excess of 1,800 personnel from other utility companies to expedite the restoration program. Electricity service to critical loads was restored by mid-October 2005, following the removal of the flood waters. Service to all occupied areas of the City was restored by the end of 2005. However, the level of system redundancy has not yet been returned to pre-Katrina levels, and the flooding may reduce the operational life of certain equipment such as network protectors and transformers. Natural gas service has been restored except for several areas, including Lake Catherine and small areas with the 9th Ward and Lakeview. However, service outages occur due to residual amounts of water in the gas distribution system. In addition, the natural gas distribution system suffered significant corrosion, requiring early replacement of 844 miles of flooded gas mains, beginning in 2007. Additional monitoring and higher levels of preventative maintenance also will be required for the gas mains pending rebuilding.

1.C. Cost for Infrastructure Restoration and Rebuilding: ENO estimates the total cost for restoration of infrastructure, rebuilding of the natural gas system, and at $842 million, of which $250 million may be reimbursed through insurance, leaving a net total cost of $592 million. The LRA retained Navigant Consulting, Inc. to perform a preliminary review of these estimates. The Navigant analysis identified $638 million of the $842 million as related to the restoration of infrastructure and rebuilding of the natural gas distribution system. **After the offset for approximately $250 million in insurance proceeds, the net unmet need for restoration and rebuilding of infrastructure is $388 million.** The breakdown of the cost estimates is shown below:

New Orleans Electricity and Natural Gas Infrastructure Restoration, Rebuilding and Related Costs *	
	$ Millions
Electricity Infrastructure Restoration	160.9
Natural Gas Infrastructure Restoration	121.8
Natural Gas Rebuilding (beginning 2007)	355.0
Total Restoration and Rebuilding	637.7
Less: Estimated Insurance Reimbursement	(250.0)
Net Total	**387.7**

1.D. Availability of CDBG Assistance: P.L. 109-148 provided $11.5 billion to the states of Mississippi, Louisiana, Alabama, Florida and Texas through the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program. Louisiana received $6.2 billion of those funds. Congress allocated an additional $4.2 billion of CDBG funds for Louisiana in P.L. 109-234.

These monies have been designated for "disaster relief, long-term recovery and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes

* Source: Navigant Consulting, Inc. Presentation to Louisiana Recovery Authority, October 12, 2006, based upon estimates provided by Entergy New Orleans, Inc.

in the Gulf of Mexico in 2005." The legislation also gave the authority to the Governor to designate an entity or entities to administer the state's allocation of funds. Moreover, the legislation grants the Secretary broad waiver authority for the application of this additional CDBG funding, so that the necessary recovery assistance can be facilitated.

As the target of investment of this supplemental CDBG assistance, Governor Kathleen Babineaux Blanco has prioritized housing development, infrastructure rehabilitation, and economic development. The CDBG funds are available to the State subject to HUD approval of action plans which describe how the funds will be used. The Louisiana Recovery Authority (LRA) has been charged by the Governor and Louisiana Legislature with statutory responsibility for developing policy and action plans for CDBG funds. The Louisiana Office of Community Development (OCD), the agency that runs the State's annual CDBG Program, will administer the supplemental CDBG recovery program.

To promote sound short- and long-term recovery planning at the state and local levels, the LRA has created task forces that research and report on the redevelopment needs in Louisiana's most affected parishes.

1.E. Recommended allocation of CDBG Funding to Utility Infrastructure Restoration and Rebuilding: On October 12, 2006 the LRA Board approved a Resolution allocating $200 million of CDBG funds for costs that have been incurred by ENO, and will continue to be incurred in restoring electricity and natural gas service to the residents of New Orleans, in order to mitigate extraordinary levels of rate increases that would otherwise be passed on to New Orleans gas and electric utility ratepayers. The $200 million approved by the LRA Board is part of the $1.1875 billion set aside for state and local infrastructure in the first Action Plan. This Action Plan Amendment establishes the criteria for the Ratepayer Mitigation Action Plan. In addition, the State pledged to work with the Congressional delegation, City Council and local governments, business interests, and others to seek additional federal funds to cover future gas system repair costs which are largely due to salt water intrusion that resulted from the failure of the federal government's levee system.

2. Ratepayer Mitigation

Repopulation of New Orleans and associated recovery is necessary for Louisiana, the Gulf Coast region and the nation as a whole:

- Pre-Katrina, New Orleans metropolitan statistical area (MSA) comprised over 1/3 of Louisiana's population:

- New Orleans is a strategic port for the U.S. and associated international commerce;

- New Orleans and the South Louisiana region are key to U.S. energy security needs, providing servicing to offshore oil and natural gas production, petroleum refining and petroleum product and natural gas distribution systems that supply the major consuming regions of the country.

As a direct result of Hurricane Katrina and the subsequent flooding that persisted for weeks, ENO and other Louisiana utility providers sustained damage to their infrastructure that is unprecedented in the utility industry. Significant portions of the electric and gas infrastructure were either damaged or destroyed by the storm and flooding. This destruction resulted in extensive disruptions in service to business and residential communities throughout Louisiana.

The restoration and rebuilding of electricity and natural gas infrastructure is a necessary next step for the recovery of New Orleans. Electric service has become an essential ingredient of the American way of life. A home is not complete without a dependable source of electricity to support the family homestead. Americans spend $200 plus billion dollars annually on electricity. Returning businesses and residents have a primary need for reliable and affordable utility service.

The cost of electric and gas service is a major ownership operation cost that appears in each family's housing budget. For returning residents seeking to return to New Orleans, utility costs are a primary cost of home ownership, together with housing payments (mortgages or rents) and property taxes. Business and housing recovery efforts need to take into account the cost of utility service. The contribution of utility service to economic development and the vitality of the housing efforts was analyzed in detail in several studies that were provided to the LRA by ENO.[1]

As required by Louisiana law, the prudently incurred costs to deliver emergency and temporary services and to rebuild damaged infrastructure for permanent services, not covered by insurance providers, after being approved by the New Orleans City Council, will be passed on to the ratepayers. Utility costs for New Orleans residents will rise substantially if assistance is not allocated to mitigate utility restoration and rebuild costs.

To defray passing the majority of the costs of preparing for and performing utility repairs and restoration related to Hurricane Katrina on to its citizens who have already suffered significant loss, the State seeks to mitigate those costs and the ultimate charge to ratepayers.

The objective of the Ratepayer Mitigation Plan is to protect business and residential customers from bearing the entire cost of the utility infrastructure restoration and rebuilding. $200 million in funds will be allocated through this program and will offset the cost of restoration, reconstruction and rebuilding of an eligible applicant's damaged electric and gas utility systems, and to offset such other fixed costs as may be the responsibility of ratepayers.

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[1] Three economic analyses conducted for ENO support this conclusion. Mr. Gregory Rigamer issued a report entitled "Housing Needs and Recovery Perspectives in the Post-Katrina and Rita Era." Mr . Rigamer is a management consultant and expert in urban planning who is Chief Executive Officer of GCR and Associates. Dr. James A. Richardson, an Alumni Professor of Economics at Louisiana State University, reached a similar conclusion in his "Economic Analysis of Electricity and Natural Gas and the New Orleans Economy. The final report was written by Dr. Timothy P. Ryan, who is an economist and chancellor of the University of New Orleans.

The analysis prepared for the LRA by Navigant Consulting, Inc. confirmed that the net (after insurance) costs of electricity and natural gas infrastructure restoration and rebuilding, if not mitigated through the application of CDBG funds, will be recovered through rates and added to customer bills. **Navigant estimated that the application of $200,000,000 of CDBG funds will avoid an annually recurring increase of $23,943,500 in revenue requirements recoverable through rates.** These costs represent the first year cost, which would be depreciated over a period of time based on the average life of the equipment (an estimated average life might be approximately 20 years).

3. Program Eligibility and Eligible Activity

Eligibility to receive CDBG assistance under this Action Plan is limited to regulated electric and natural gas utility companies certificated by the New Orleans City Council and with service territory in the City of New Orleans that incurred costs resulting from Hurricane Katrina. Entergy New Orleans (ENO) is the sole entity that meets the eligibility criteria.

This proposed CBDG activity is an specifically provided for as an eligible activity under 24 CFR 570.201 (l), which states:

"(l) Privately owned utilities. CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines."

Additional waivers may be necessary for other costs related to the restoration of this privately owned utility as are detailed below.

4. Eligible Costs

CDBG funds may only be used to reimburse the cost of restoration, reconstruction and rebuilding of an eligible applicant's damaged electric and gas utility systems, and only to the extent that such costs would otherwise be recovered through rates charged to customers. Subject to certain waivers being approved by HUD, the eligible costs for reimbursement include costs for:

(1) Emergency and temporary response and permanent restoration of electricity distribution systems, substations, transmission lines, and generation facilities that are located within and serve the residents of the City of New Orleans;

(2) Emergency and temporary response, permanent restoration, replacement and rebuilding of natural gas distribution systems located within and serving the residents of the City of New Orleans;

(3) Emergency and temporary relocation expenses due to the flooding of the City;

(4) Emergency communications, logistics and administrative expenses;

(5) Repair and restoration of damaged support facilities; and

(6) Replacement of materials and equipment inventories used in response and restoration efforts;

A more detailed list of the general categories of eligible restoration and replacement costs, prepared by ENO, is shown in the accompanying table.

General Categories of Eligible Restoration and Rebuilding Costs *

Electricity System

- Distribution overhead lines
- Distribution underground lines
- Substations and voltage conversion equipment
- Transmission lines
- Generation Facilities
- Meter repairs & replacements
- Interim system configuring
- Debris/vegetation removal
- Inventory replenishment
- Control equipment

Natural Gas System

- System condition assessment
- Partial system shutdown
- Dewatering
- City gate repairs & replacements
- Valve, meter & regulator replacement
- Pressure conversion equipment repairs
- Inventory replenishment
- Special equipment/tool replacement

Other or Common Cost Categories

- Temporary office space to replace inundated locations
- Temporary staff relocation
- Logistics during emergency
- Communications
- Temporary staging areas
- Facilities cleanup

- Security
- Administration building repairs
- Customer care center repairs
- Maintenance Facilities

* Many of these categories may be subject to waivers from HUD in order to be CDBG eligible.

Eligible costs are subject to the following limitations:

- All eligible costs must be directly related to damages caused by Hurricane Katrina, and were incurred on or after August 28, 2005;

- Costs are eligible only to the extent that they were incurred to repair, restore, reconstruct, rebuild, and replace facilities and inventories to approximately the same condition or levels that existed before the onset of Hurricane Katrina.

- Eligible costs can include either reimbursement for previously incurred costs for emergency and temporary response and restoration; or reimbursement for future rebuilding costs, subject to true-up once costs are incurred and paid.

- The reimbursement covered under any applicable insurance policy shall be primary to any consideration for receipt of funding through this Partial Action Plan. As such, coverage under all applicable insurance policies shall pay first, or be subrogated back to the State, in the event that coverage was in place. Any uncompensated eligible costs that remain after receipt of all applicable insurance recoveries shall be eligible for payment under this Action Plan.

5. Funding Limitations

Once the level of eligible costs has been established, the award of CDBG funding under this proposed Action Plan Amendment shall be subject to the following additional limitations:

- Eligible costs shall not be reimbursed for more than 90% of their eligible costs.

- Total CDBG funding under this Plan shall not exceed the lesser of 90% of eligible costs or $200 million.

6. Additional Conditions

The October 12, 2006 LRA Resolution established 6 conditions for the award of the CDBG funds, as requested by the City Council of New Orleans. These conditions are incorporated as additional conditions in this proposed Action Plan Amendment, and include:

1. CDBG funds may only be used to offset the cost of restoration, reconstruction and rebuilding of ENO's damaged electric and gas utility systems, and to offset such other unrecovered fixed costs as may be the responsibility of ratepayers. (This condition is addressed in Section 4 of this Action Plan).

2. CDBG funds should be used to mitigate and/or eliminate possible rate increases to New Orleans ratepayers. (This condition is discussed further in Section 2 of this Action Plan).

3. No CDBG funds may be used to profit ENO's parent, Entergy Corporation.

4. ENO must agree that all restoration, reconstruction, and rebuilding costs claimed for CDBG funding must be certified as reasonable and necessary through an independent process approved by the Louisiana Recovery Authority.

5. ENO must not claim in any forum capital assets paid for with CDBG funds as additions to the rate base for ratemaking purposes or for the valuation of ENO's assets in connection with the city's perpetual option to purchase set forth in the applicable 1922 Ordinances, as amended.

6. Any CDBG funds awarded to ENO should be exempt from existing or future liens held by any of the applicant's bondholders and, except to the extent necessary to reimburse audited expenditures for restoration, reconstruction, and rebuilding, the Entergy Corporation debtor-in-possession loan to ENO.

7. Review and Approval of Eligible Costs

The New Orleans City Council is the government entity that analyzes and approves all ENO requests for recovery of costs in rates charged to customers within the New Orleans jurisdiction. Restoration and rebuilding costs for which a utility provider is seeking rate payer mitigation must be submitted to the New Orleans City Council who will follow their normal processes and methodologies for analyzing, auditing and validating these costs to determine eligibility under the Ratepayer Mitigation program.

ENO allows the Council and its Advisors access to the financial books and records of the company as needed, in order to verify and validate costs for incorporation into rates. ENO must extend access to state and federal officials in accordance with administration of the CDBG funds for this program.

ENO also must disclose all related insurance coverage and the status of pending and settled insurance claims. The New Orleans City Council, after analyzing, auditing and validating the pertinent records will provide notice to OCD that certifies the total of uncompensated costs eligible for ratepayer mitigation. Based on this information, OCD will determine the amount of ratepayer mitigation within the limitations described in Sections 5 and 6 of this proposed Action Plan Amendment.

8. **Monitoring**

The State has a monitoring plan for the regular and disaster recovery CDBG programs under the state Office of Community Development. Particular attention will be paid to ensuring that the use of funds are disaster related and that funding allocated will not duplicate other benefits.

The State will ensure through its application process, monitoring of recipients, and oversight by the Office of Community Development, that recipients are not receiving duplication of benefits. The State, drawing upon it's the resources of the OCD and LRA and under its guidance, will coordinate with FEMA, Small Business Administration (SBA), and Corps of Engineers, insurance companies, and other entities during the application process to ensure there is no duplication of benefits. Recipients will be required to provide the appropriate information to the State.

9. Processes in Place to Avoid Fraud, Abuse and Mismanagement

The OCD will work with the State Regulatory Agencies and HUD to develop procedures for mitigating instances of fraud, abuse, and/or mismanagement.

The Office of Finance and Support Services (OFSS) is responsible for payments, federal draw down requests, and state and federal financial reporting. The OCD is responsible for the day to day administration of the CDBG program. Their staff reviews all requests for payment to ensure costs are reasonable and with the scope of the proposed Action Plan Amendment.

The Louisiana Legislative Auditor and the State Office of Inspector General will also work to prevent waste, mismanagement, abuse, fraud and corruption in the CDBG programs.

10. Complaint Referrals

Complaints alleging a specific violation of a statutory or regulatory requirement, including Congressional inquiries, received by HUD at the Headquarters, Regional or Field Office level will be forward to the Office of Community Development for the response.

11. National Objective

This activity will meet the national objective of benefit to low to moderate income persons. Specifically, the national objective citation is 24 CFR Sec. 570.483. (b) (1) Activities benefiting **low and moderate income** persons; area benefit activities. This national objective is appropriate for an activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. According to the most current Low and Moderate Income Summary Data from the U.S. Department of Housing and Urban Development (http://www.hud.gov/offices/cpd/systems/census/lowmod/), 54.6% of New Orleans residents are low to moderate income.

12. Environmental Regulations Compliance

OCD will work with HUD to develop and implement appropriate environmental reviews and/or assessments to ensure compliance with the appropriate federal laws and regulations, including 24 CFR Part 58.

13. Requested Waivers and Alternative Requirements

The language in the Appropriation Acts providing CDBG funding to Louisiana grant the Secretary broad waiver authority for the application of this additional CDBG funding, so that the necessary recovery assistance can be facilitated. The pertinent language states:

> "*[P]rovided further,* That in administering the funds under this heading, the Secretary of Housing and Urban Development **shall waive**, **or specify alternative requirements** for, any provision of any statue or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), **upon a request by the State that such waiver is required to facilitate the use of such funds** or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute…"

Requested Waivers and Alternative Requirements for Infrastructure Restoration and Eligible Activities:

- *The use of CDBG funds for the restoration of privately-owned infrastructure is expressly authorized in the HUD CDBG regulations. Louisiana has identified an area where waivers or alternative requirements may be needed in HUD regulations in order to facilitate utility infrastructure assistance.*

1. **Waiver and Alternative Requirement permitting the use of CDBG funds for reimbursement of regulatory assets**

- Under 24 CFR 570.209(l), the current HUD CDBG regulations permit CDBG funds to be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines. The proposed waiver and alternative requirement would clarify that CDBG funds can be used for reimbursement of transmission, generation and non-facility costs that are recorded as regulatory assets and would otherwise be recovered in future rates. This category of costs would not include the recovery of revenue losses due to the loss of customer base after the storm, because reduced revenues would result in lower net income, and would not be accounted for as a regulatory asset or recovered in future rates.

APPENDIX 1: SUMMARY OF PUBLIC COMMENTS AND STATE'S RESPONSE

The comments received that dealt specifically with this Action Plan as well as responses to those comments are summarized below. Commenters submitting substantive responses to the action plan include individuals, Bill Quigley of the Loyola Law School, the New Orleans Legal Assistance Corporation, the National Housing Law Project, and a staff member of the Department of Public Safety. A comment addressed to the Louisiana Recovery Authority was also received from the Mayor of Westwego requesting funding for waste water treatment and purification facilities.

1. COMMENT: *Advice on rebuilding the power grid.*

Rebuild the New Orleans Power Grid using Natural Gas Fuel Cells at the end user locations to the appropriate reviewing entities. The transmission lines / substations and transformers would not have to be replaced. This makes sense since the existing gas lines must be repaired anyway.

RESPONSE:

> The LRA is committed to rebuilding a smarter, stronger, safer Louisiana and is supportive of the incorporation of energy efficient practices into each expenditure of CDBG dollars. Natural Gas Fuel Cells are recognized as a promising new technology for the clean and efficient generation of electricity. The LRA encourages all recipients of CDBG funds, as well as ENO, to consider the use of such new technologies as they embark on gas and electric system repairs; however, the decision to use such technology is best left to management of ENO and not the LRA. ENO is a subsidiary of a parent company that is shareholder owned. Prudent business practices and the company's fiduciary duty to its shareholders will demand that the most cost efficient methods be used to repair all damages sustained by the storm.

2. COMMENT: *Assistance for municipal utilities.*

Assistance should be provided to municipal utilities so that the customers do not have to pay a higher customer service charge. This would address the need to help communities that are absorbing the influx of citizens who are not yet able to return to their homes because their communities are not yet able to provide essential services.

RESPONSE:

> The CDBG funds have been approved by Congress to assist communities that sustained direct damage by Hurricanes Katrina and Rita. Unfortunately, this restriction would prevent the use of these disaster relief funds to assist communities that have received an influx of evacuees. Municipal utilities have been afforded the opportunity to access other federal dollars to assist with repairs through FEMA's public assistance program. That program requires these entities to provide a match to the dollars approved for individual projects. Several private nonprofit electric cooperatives in the state have applied for and received this type of assistance.

3. COMMENT: *Objection to funding for Entergy*

The funding should not be allocated to Entergy. Entergy should have had adequate insurance to cover their losses. Instead, funding should go to individuals who need assistance with the rebuilding process.

RESPONSE:

Hurricane Katrina exposed the state of Louisiana and specifically the city of New Orleans to an unprecedented amount of damage. The wrath of the storm could not have been anticipated; therefore, such damage could not have been secured by adequate insurance coverage. Experts who reviewed ENO's request for CDBG funding concluded that it would not have been possible for the company to insure against the amount of damage caused by the hurricane. ENO did indeed have insurance coverage and the company expects to receive approximately $250 million in reimbursements from its carrier to defray the gas and electric system infrastructure repair costs.

The allocation of CDBG funds to ENO will benefit individuals who need assistance in the rebuilding process by relieving them of the burden of gas and electric infrastructure repair costs that would otherwise be passed on to them in the form of rate increases. The CDBG allocation will offset restoration, reconstruction, and rebuilding costs.

4. COMMENT: *Place conditions on the funding allocated to ENO*

Conditions should be placed on the funds allocated to Entergy New Orleans (ENO). First, the State should require that ENO be reabsorbed into the Entergy parent company in order to diversify risk of catastrophic loss. At the very least, the State should ensure that ENO is fully insured. Second, the State should require ENO to have active energy efficiency programs and offer rebates and credits to people who make energy efficiency improvements. The Road Home in general should have efficiency incentives. If you are going to pay for storm shutters and other remediation measures, why not energy efficient building, too? There is no reason solar water heaters should not be everywhere in New Orleans. A few incentives on top of the federal incentives such as the Good Cents program run by the Gulf Power utility in Pensacola, Florida would encourage energy efficiency and an increased use of alternative sources of energy.

RESPONSE:

ENO estimates that $250 million of insurance proceeds may be used to reimburse rebuilding costs. Other conditions have been placed on ENO by the LRA upon the request of the City Council of New Orleans as described on page 8 of this Action Plan Amendment.

5. COMMENT: *Reasonable payment plans for Low- and Moderate-Income households*

The commenter does not oppose the underlying principals behind the amendment but questions the proposition that the government and ratepayers shoulder the entire cost burden of rebuilding the systems without placing a reciprocal cost burden on ENO, especially in light of the fact that ENO has continued to report millions of dollars in profits since the hurricanes. In light of the financial hardship that exorbitant utility bills have placed on many returning families, particularly the elderly and disabled, the LRA and ENO are urged to incorporate a provision into the amendment that directs funds toward a program that would finance, or otherwise forgive, the unpaid portion of aged utility bills that are preventing low- and moderate-income families from returning to subsidized housing.

RESPONSE:

The $200 million dollar allocation of CDBG funds to ENO does not cover the full amount of the net unmet need for restoration and rebuilding of its infrastructure. An additional $592 million after accounting for insurance costs that ENO is still required to spend for rebuilding.

The LRA recognizes the hardship that many Louisiana citizens faced when they returned to New Orleans and understands the hardship individuals will face as they seek to return home. The allocation of CDBG funds to ENO is designed to eliminate a portion of the repair costs that ratepayers would otherwise absorb absent this assistance to the company. The rebuilding process will require new and innovative thinking as well as new programs to assist the state and the city of New Orleans in the rebuilding process. The LRA supports the adoption of payment plans for low and moderate income individuals serviced by ENO. However, the LRA legally is not the regulatory body over ENO; that authority lies with the New Orleans City Council. The Council is working with ENO in its efforts to rebuild the city, to bring displaced New Orleans residents back home, and to keep residents in the city who have already returned. The Council is committed to helping its constituents and is being very demanding of ENO in the process.

6. COMMENT: *Flat rate discounts or baseline support for low-income, elderly and disabled households.*

This comment suggests the incorporation of a provision that directs funds toward a program that would provide a flat-rate discount (i.e. 20%) on the monthly utility bills for all qualified low-income households or residential customers with certain medical conditions. Under this program, qualifying customers would be eligible to receive a baseline quantity of approximately 500 kwh of electricity and/or 25 therms of gas per month at the lowest price, in addition to standard baseline quantities.

RESPONSE:

The LRA recognizes the hardship that many Louisiana citizens faced when they returned to New Orleans and understands the hardship individuals will face as they seek to return home. The allocation of CDBG funds to ENO is designed to eliminate a portion of the repair costs that ratepayers would otherwise absorb absent this assistance to the company. The rebuilding process will require new and innovative thinking as well as new programs to assist the state and the city of New Orleans in the rebuilding process. The LRA supports the adoption of payment plans for low and moderate income individuals serviced by ENO. However, the LRA legally is not the regulatory body over ENO; that authority lies with the New Orleans City Council. The Council is working with ENO in its efforts to rebuild the city, to bring displaced New Orleans residents back home, and to keep residents in the city who have already returned. The Council is committed to helping its constituents and is being very demanding of ENO in the process.

7. COMMENT: *Challenge of the use of the "Benefit to Low and Moderate Income Individuals" as the National Objective associated with this Action Plan amendment*

This comment challenges the proposal to count the $200 million to Entergy towards the requirement that over 50% of CDBG funds benefit low and moderate income people. The commenter states that counting this benefit to ENO is unjust and illegal because it represents a bail out of a large corporation and the business community with CDBG funds. It does not represent a program targeting to helping the working poor.

The commenter asserts that for such "area benefit activities" (i.e., like a road or a park, infrastructure is likely to be used by all residents of an area – unlike a "housing benefit" activity where judging benefit is based on the income of the household living in the CDBG-assisted housing unit) the law states that in order to be considered of benefit to low and moderate income people, the area must not only have at least 51% low and moderate income residents, but the activity itself must be "clearly designed to meet identified needs of persons of low and moderate income". [42 USC 5305(c)(2)(A)]

The LRA does not propose that the $200 million be targeted to lower income household meters. Consequently the "full range of direct effects" are very likely to disproportionately benefit businesses and above-income households that have already been able to return to New Orleans.

RESPONSE:

As provided in the Action Plan Amendment on page 10, the activity will meet the national objective of benefit to low to moderate income persons since the Ratepayer Mitigation Plan will benefit all residents in the city of New Orleans where more than 51% of the residents are low to moderate income according to the current Low and Moderate Income Summary Data from the United States Department of Housing and Urban Development. The statute mentioned by the commenter, [42 USC

5305(c)(2)(A)], also includes the following language, “such activity shall be considered to principally benefit persons of low and moderate income if, (i) not less than 51 percent of the residents of such area are persons of low and moderate income.”