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LA Public Service Commission

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December 11, 2023

Mr. Brandon Frey
Executive Secretary
Louisiana Public Service Commission
Galvez Building, 12th Floor
602 North Fifth Street
Baton Rouge, LA 70802

VIA HAND DELIVERY

Re: Delta States Utilities LA, LLC And Entergy Louisiana, LLC, ex parte. In Re: Application for Authority to Operate as Local Distribution Company And Incur Indebtedness And Joint Application For Approval of Transfer And Acquisition of Local Distribution Company Assets And Related Relief.
KM File No. 33965-1

Dear Mr. Frey:

Please find enclosed the original and three copies of the Joint Application of Delta States Utilities LA, LLC ("DSU LA") and Entergy Louisiana, LLC ("ELL") for Authority for DSU LA to Operate as Local Distribution Company and Incur Indebtedness and for Approval of ELL to Transfer and DSU LA to Acquire the Local Distribution Company Assets and Related Relief ("Joint Application") and supporting testimonies. The supporting testimonies include the Direct Testimony of Jeffrey Yuknis (public-redacted version) and Direct Testimony of Brian K. Little on behalf of DSU LA and the Direct Testimony of Anthony P. Arnould, Jr. and Direct Testimony of Ryan Jones on behalf of ELL. An original and three copies of the highly sensitive version of Mr. Yuknis' Direct Testimony is also enclosed on a jump drive.

Please file the Application and supporting testimonies into a new docket and provide notice of the docket in the next LPSC Bulletin to be issued in December 2023, with a 15-day intervention period. Please also file under seal the highly sensitive version of the Direct Testimony of Jeffrey Yuknis, pursuant to the provisions of General Order dated August 31, 1992 and Rules 12.1 and 26 of the Louisiana Public Service Commission's Rules of Practices and Procedures. This highly sensitive version contains confidential materials consisting of competitively sensitive market information and infrastructure information, the public disclosure of which could subject DSU LA, ELL, and ELL's customers to a substantial risk of harm.

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Please return a date-stamped copy of (i) the Application and public testimony exhibits and (ii) the highly sensitive Exhibit 1, to my office in accordance with normal procedures. Should you have any questions regarding the above, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

C. R. T

Carrie R. Tournillon

CRT:tp
Enclosures
cc: Ms. Kathryn Bowman (via electronic mail)
Ms. Lauren Evans (via electronic mail)

BEFORE THE

LOUISIANA PUBLIC SERVICE COMMISSION

DELTA STATES UTILITIES LA, LLC, EX PARTE AND ENTERGY LOUISIANA, LLC

DOCKET NO. U-_________

In Re: Application for Authority to Operate as Local Distribution Company and Incur Indebtedness and Joint Application for Approval of Transfer and Acquisition of Local Distribution Company System Assets and Related Relief.

JOINT APPLICATION OF DELTA STATES UTILITIES LA, LLC AND ENTERGY LOUISIANA, LLC

COMES NOW, Entergy Louisiana, LLC ("**ELL**") and Delta States Utilities LA, LLC ("**DSU LA**") (collectively "**Joint Applicants**"), through undersigned counsel, which respectfully requests that the Louisiana Public Service Commission ("**Commission**" or "**LPSC**") issue an order: (i) authorizing DSU LA to operate as a natural gas LPSC-jurisdictional Local Distribution Company ("**LDC**"), (ii) approving as in the public interest the transfer and sale of the Purchased Assets and Assumed Liabilities (defined herein) of ELL's LPSC-jurisdictional LDC ("**ELL Gas Business**") and acquisition by DSU LA of same, inclusive of (a) DSU LA's purchase of the Purchased Assets and assumption of the Assumed Liabilities, in each case as defined in the Purchase and Sale Agreement ("**PSA**"), between ELL, as "Seller", and DSU LA, as "Buyer", dated as of October 28, 2023, and in accordance with the Transaction Agreements, as defined below, and (b) the financing associated with the asset acquisition and associated encumbrance of the LDC assets (including the Purchased Assets) (together the "**Transaction**"), (iii) approving DSU LA's assumption and adoption of the ELL Gas Business rates, rate schedules and riders in effect at the

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LA Public Service Commission

Closing (as defined herein) and/or supported by the most recent evaluation period of ELL's Rate Stabilization Plan ("**RSP**") and Gas Infrastructure Investment Recovery Rider ("**Rider IIRR-G**") filings (collectively, the "**ELL Rates**"), which assumption and adoption will continue until the LPSC's review and approval of DSU LA's proposed base rates, rate schedules and riders as part of a subsequent rate application to be filed by DSU LA not sooner than fifteen (15) months after the Closing, using a prior consecutive twelve (12)-month test period; (iv) approval for DSU LA to create a regulatory asset(s) to defer for future recovery, subject to a prudency review in a future general rate proceeding and net of amounts recovered in ELL Rates adopted by DSU LA at Closing related to the Excluded Assets (as defined in the PSA), of investments made by DSU LA (a) in the assets and services needed to replace the Excluded Assets that will no longer be provided post-Closing, in order to stand up the new LDC facilitate a seamless transition and independent operation of the Purchased Assets on day one post-Closing ("**Day One Readiness**"), and (b) in recognition of the need for DSU LA to make such investments prior to establishment of new LPSC-approved rates in a subsequent rate proceeding at which time the DSU LA expenditures incurred to stand up the new LDC and replace the Excluded Assets and certain services that will no longer be provided by ELL or its affiliate companies after Closing will be reviewed for prudency; (v) determination that the costs of Purchased Assets not yet in service but currently categorized by ELL as construction work in progress ("**CWIP**") do not constitute an acquisition premium (or that the Commission not specifically determine that such costs do constitute an acquisition premium), such that such costs may be eligible for recovery in rates once placed in service, subject to prudency considerations; (vi) approving or not opposing the transfer of customer deposits from ELL to DSU LA, subject to the terms of the PSA; (vii) approving ELL's transfer of certain customer data, including specifically, data related to ELL's advanced metering infrastructure ("**AMI**") system; and (viii) finding that appropriate LPSC orders applicable to the ELL Gas Business continue to be applicable to DSU LA as of the Closing. In addition, the Joint Applicants request this Joint Application be published in the next LPSC Bulletin with a fifteen (15)-day intervention period.

I. DESCRIPTION OF THE JOINT APPLICANTS

1.

ELL is a limited liability company duly authorized and qualified to do and doing business in the State of Louisiana, created and organized for the purposes, among others, of providing natural gas service to residential, commercial, industrial, and governmental customers located within the City of Baton Rouge and East Baton Rouge Parish.[1] ELL's LDC is responsible for the safe and reliable operation, planning, engineering, construction, maintenance, and monitoring of the natural gas system used to serve its approximately 96,000 customers.

2.

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[1] On October 1, 2015, pursuant to Louisiana Public Service Commission ("**LPSC**" or "**Commission**") Order No. U-33244-A, Energy Gulf States Louisiana, L.L.C. ("**Legacy EGSL**") and Entergy Louisiana, LLC ("**Legacy ELL**") combined substantially all of their respective assets and liabilities, including the Legacy EGSL LDC, into a single operating company, Entergy Louisiana Power, LLC, which subsequently changed its name to Entergy Louisiana, LLC ("**ELL**"). Upon consummation of the business combination, ELL became the public utility that is subject to LPSC regulation and is the successor of Legacy EGSL and Legacy ELL.

DSU LA is a Delaware limited liability company and indirect subsidiary of BCP Infrastructure Fund, LP and its affiliated investment vehicles ("**BCP Infrastructure Fund**"),[2] managed by Bernhard Capital Partners Management, LP ("**Bernhard Capital**") and owned by experienced infrastructure investors who, through the BCP Infrastructure Fund, own and operate another LPSC-jurisdictional utility. Bernhard Capital is a Louisiana-headquartered, independent private equity firm with over $3.4 billion in gross assets under management. Bernhard Capital focuses on investing in middle-market firms that provide critical services to government, infrastructure, industrial, utility, and energy sectors as well as investment in utility assets. The Bernhard Capital funds have collectively invested in over 65 services-focused companies across 19 platforms, including investments in several utility companies, and employ 19,000+ people globally, including more than 5,500 direct employees located in Louisiana. Bernhard Capital benefits from its investor-operator capabilities, while leveraging deep relationships and experience across the infrastructure landscape. Accordingly, DSU LA will have the benefit of prudent, financially-sound, and experienced utility owners who have a demonstrated, long-term infrastructure investment record. DSU LA is committed to maintaining the local management of the acquired ELL Gas Business assets to ensure the continuation of important benefits to Louisiana and the local Baton Rouge community that it serves in terms of safety, service reliability and rates,

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[2] Bernhard Capital has acquired several businesses in carve-out transactions from publicly traded companies, similar to the transaction structure associated with the ELL Gas Business assets. Bernhard Capital approaches these transactions as a partner to the seller. Having run a large, publicly traded company, the Bernhard Capital team is sensitive to the issues inherent in carve-out sales of a business. Bernhard Capital has an experienced team in place to ensure the parties work jointly and in cooperation with the LPSC on a smooth and seamless acquisition and transition.

DSU LA was formed for the purposes of the Proposed Transaction and is a subsidiary of Delta State Utilities LA Holdings, LLC ("**DSU Holdings**"), which in turn is a subsidiary of Delta States Utilities, LLC ("**DSU LLC**").

employment, economic development, and charitable contributions. DSU also commits to establish its headquarters in New Orleans, Louisiana and to offer employment to approximately 200 employees primarily engaged in the ELL and Energy New Orleans ("**ENO**") gas businesses, as well as to hire approximately 100 new Louisiana based employees to provide shared services that will no longer be provided by ELL, ENO and Entergy Services, LLC ("**ESL**") (collectively, "**Entergy**") post-Closing. In addition, as discussed in the Direct Testimony of DSU LA witness Mr. Jeffrey Yuknis, DSU LA commits to assume and adopt the rates, rate schedules, and riders of the ELL Gas Business, as well as to assume the commitments and obligations of the ELL Gas Business with respect to plans for capital improvements. DSU LA is also committed to adopting ELL's Incident Command System ("**ICS**") structure until such time that DSU LA develops plans specific to DSU LA.

II. OVERVIEW OF THE PROPOSED TRANSACTION

3.

Pursuant to the terms of the PSA and the Ancillary Agreements thereto (as defined in the PSA) (collectively, "**Transaction Agreements**") between ELL and DSU LA, and contingent upon LPSC approval of the requested relief in this proceeding and certain other conditions set forth in the Transaction Agreements, DSU will acquire the Purchased Assets from ELL in exchange for payment of "**Purchase Price**" (as defined in, and as adjusted pursuant to, the PSA) and assumption of the Assumed Liabilities. The PSA is being provided to the LPSC under seal as highly sensitive protected material ("**HSPM**") as an exhibit to the testimony of DSU LA witness Mr. Jeffrey Yuknis. Upon closing of the Transaction between ELL and DSU LA (the "**Closing**"), the Purchased Assets will be transferred to and owned and operated by, and the Assumed Liabilities will be assumed by, DSU LA. At that point, the natural gas distribution service previously provided by ELL will be provided by DSU LA pursuant to the jurisdiction and regulation of the Commission. The Transaction does not involve a transfer of any shares of stock of Entergy Corporation or its affiliates. After the Closing of the Transaction, ELL will no longer provide any LDC services subject to the Commission's jurisdiction. DSU LA will assume and adopt the ELL Rates and Riders in effect at Closing or supported by ELL's most recent FRP evaluation period, subject to DSU LA filing a general rate application with the LPSC not sooner than fifteen (15) months after the Closing. The Transaction is discussed in more detail in the Direct Testimony of DSU witnesses Mr. Jeffrey Yuknis and Mr. Brian K. Little.

4.

In its simplest terms, the Transaction maintains the local utility management, current employees and purchased assets of the current ELL Gas Business, while also creating a new stand-alone LDC to serve the Baton Rouge area, to which DSU LA will dedicate its sole attention, while also promoting local job growth and investment in new systems and technology to ensure the new LDC can continue to provide reliable and affordable natural gas service into the future. Further, with Bernhard Capital management being Louisiana based, the Transaction will also maintain ownership level management of the LDC assets in Louisiana.

5.

Upon Closing of the Transaction, DSU LA would adopt the ELL Rates, facilitating seamless services to existing customers and rates based upon existing and established procedures. Upon establishing a complete historical test year, DSU LA would then establish, subject to the

LPSC's review and approval, its own base rates and rate stabilization plan pursuant to a subsequent filing, as further detailed below.

6.

The Transaction would have no effect on the LPSC's jurisdiction over the ELL Gas Business assets and service to current ELL gas customers. DSU LA, as a LPSC-jurisdictional LDC, would continue to be subject to the Commission's regulatory powers and DSU LA will be subject to all the rules, regulations and requirements of the LPSC for LDCs.

7.

In conjunction with the filing of this Joint Application at the LPSC, affiliates of the Joint Applicants are also filing a similar application with the City Council of New Orleans ("**New Orleans Council**"), relating to the acquisition by Delta States Utilities NO, LLC ("**DSU LA**") of the Purchased Asset and Assumed Liabilities of the ENO Gas Business, as such terms are defined in the Purchase and Sale Agreement between ENO an DSU NO ("**NO PSA**"). Approval is also needed from the Metropolitan Council of the City of Baton Rouge and Parish of East Baton Rouge ("**Baton Rouge Council**") for ELL to sell its LDC and to transfer its franchises to DSU LA to operate in the City of Baton Rouge and in the Parish of East Baton Rouge. Completion of the Transaction is contingent on the requested relief being approved by the LPSC, Baton Rouge Council and New Orleans Council, among other required approvals, based on the terms and conditions contemplated by the DSU LA and ELL and their affiliated entities.

III. OVERVIEW OF THE BENEFITS OF THE TRANSACTION

8.

The Transaction structure is designed for Day One Readiness and the seamless continuation of safe, reliable and affordable gas service from the regulatory, operational, and customer perspectives on day one post-Closing. Additionally, the transfer of gas assets from an integrated electric and gas utility platform, where the gas assets comprise a small portion of the total Entergy Corporation business, to a DSU platform where the entire enterprise is core focused on the provision of gas service enhances the ability for decisions to be made to the benefit of the gas utility and its customers without consideration of the impact on other competing utility operations. From a regulatory perspective, the Transaction does not diminish the jurisdiction of the Commission over the ELL Gas Business post-Closing. Rather, DSU LA will be regulated and subject to the Commission's jurisdiction, just the same as the ELL Gas Business is today.

9.

From an operational perspective, DSU LA will continue to provide safe, reliable natural gas service to customers and will benefit from the "fit-for-purpose" systems infrastructure and shared services organization developed during the implementation of the Transition Plan, as defined and further discussed in the Direct Testimony of DSU LA witness Mr. Brian K. Little. To further ensure the Day One Readiness standard is achieved, DSU has committed to offer employment to retain all employees who are primarily involved in the ENO and ELL gas LDCs business, and is committed to assuming commitments and obligations of the ELL Gas Business with respect to capital improvements and other storm and incident protocols. DSU LA and ELL are also requesting the Commission authorize the transfer of customer-specific data (*e.g.*, AMI data) from ELL to DSU LA to make the transition as seamless as possible for customers. Thus, the LDC will continue to be operated by the same employees responsible for providing the safe and reliable natural gas service being provided today, pursuant to the same rate schedules and commitments for capital improvements, incident report and storm damage protocols, allowing a seamless transition from ELL to DSU LA.

10.

From the customer perspective, DSU LA is committing to adopt the rate and rate schedules of the ELL Gas Business as described herein, and to file a full rate proceeding not sooner than 15 months post-Closing. DSU LA is also committing to assume ELL's commitment to capital improvements and other disaster plans and protocols. Additionally, although DSU will initially implement the incident response protocols currently in effect for the ELL Gas Business, over time these plans and protocols will be reassessed based on the core-focus principle and adjusted to incorporate the benefits of the experience and resources available to the utility through the Bernhard Capital portfolio of companies, which has extensive critical infrastructure and utility disaster recovery resources available locally in Louisiana. Further, customers are expected to benefit from the modernization of the Information Technology ("IT") and customer interfaces including the development of a customer service center dedicated to gas customers instead of shared among multiple utilities, which will facilitate streamlined resolution of gas customer inquiries. DSU LA is requesting the Commission authorize or not oppose the transfer of certain customer deposits from ELL to DSU LA. Thus, the Transaction will maintain for gas customers rates and services currently provided pursuant to rate schedules previously approved by the Commission.

11.

In addition, as discussed in the Direct Testimony of ELL witness Mr. Ryan Jones, the proposed transaction offers benefits to ENO's electric customers and is fair and reasonable to the shareholders of Entergy Corporation because the transaction will free up available capital and generate a source of capital that otherwise would not be available to make beneficial and productive investments in the electric businesses. As Mr. Jones testifies, to the extent that ELL can reduce its total debt or increase equity through reinvestment, the Transaction would also serve to improve ELL's credit by reducing debt capitalization thereby strengthening the ELL's credit, which strengthening is a benefit to shareholders and customers.

12.

As previously mentioned, DSU will offer employment to retain approximately 200 employees that are primarily engaged in the ENO and ELL gas LDC businesses. As part of such offer of employment, DSU has committed to providing these employees pay and benefits substantially similar to and no less beneficial than what they currently receive from **Entergy**, ensuring that the Transaction is fair and reasonable to Entergy's employees. DSU also estimates the Transaction will result in an additional 100 new jobs in Louisiana to staff a new shared services organization to continue to provide safe, reliable and affordable LDC services, including for example additional customer service employees for staffing a new call center and personnel for shared services in the areas of human resources, information technology, finance and accounting, regulatory, gas supply, government, legal, stores, supply chain and environmental. DSU commits to being headquartered in New Orleans, Louisiana, with additional operational offices located in Baton Rouge. Further, DSU's parent company is committed to maintaining company level management as well as investment-level management in Louisiana, and has an experienced team in place to ensure the parties work jointly and in cooperation with the LPSC on a smooth and seamless acquisition and transition. Thus, the Transaction will increase jobs and support economies in the local communities in which the ENO and ELL gas businesses operate, to the betterment of those communities and the Louisiana economy.

13.

As explained in the direct testimonies of DSU LA witnesses Mr. Jeffrey Yuknis and Mr. Brian K. Little, the Transaction will result in a new, Louisiana-headquartered, core focused, stand-alone LDC that possesses extensive financial, technical, and managerial expertise in the industry with a strong commitment to Louisiana and local job creation. After the Closing, DSU LA will continue to provide a high level of safe and reliable local gas distribution services to all of the current customers of the ELL Gas Business at just and reasonable rates utilizing employees of ELL who are primarily engaged in the current ELL Gas Business operations and accept DSU LA's offer of employment, which will be offered as part of the Transaction. Further, DSU LA is affiliated with Bernhard Capital, and thus will have the ability to obtain capital for any improvements and replacement assets and systems. The Transaction is intended to be seamless to, and should inure to the benefit of, customers. More specifically, a non-exclusive list of benefits include:

a) DSU LA's commitment to stepping into the ELL Rates, as described herein, until a consecutive 12-month period is established to serve as a historical test year for a subsequent rate proceeding, which DSU LA commits to filing not sooner than 15 months after Closing.

b) DSU LA commitment to also adhere to the terms of ELL's other riders, including the Purchase Gas Adjustment Rider ("**Rider PGA**"), until such time as revised by final order of the Commission in a subsequent rate proceeding. This commitment includes committing capital to infrastructure improvements at the same level authorized by the Commission in Orders No. U-32682-A and No. U-36338.

c) DSU LA's financial and technical ability to invest in and integrate additional assets and systems for the new LDC;

d) DSU LA's and its affiliate companies' commitment to offer employment to all of the active employees primarily engaged in the ELL Gas Business and those who return from leave with substantially similar or no less favorable compensation, benefits, and post-retirement benefits as they are currently receiving; and to honor the tenure of such employees as it relates to vacation time, retirement, pension, holidays, disability and leave policies.

e) DSU LA's and its affiliate companies' commitment to assuming the employee pension assets and liabilities associated with Entergy's gas utilities, including more than 160 retirees primarily involved in the ELL Gas Business and ENO Gas Business.

f) DSU LA's and its affiliate companies' commitment to create approximately 100 additional local jobs in Louisiana to provide high-quality gas service to customers.

g) DSU LA's commitment to providing a local, proven, professional management team as the new owners and operators of the ELL Gas Business, combined with the support and experience of a qualified and local ownership management team in Bernhard Capital;

h DSU LA's commitment not to seek recovery of Transaction costs or any acquisition premium associated with the Transaction;

i) DSU commitment to maintain ownership level management of the gas business in Louisiana;

j) DSU LA's commitment to be headquartered in Louisiana;

k) DSU LA's ability to leverage the experience, management resources and support of Bernhard Capital, who's affiliate owns and manages another LPSC-regulated utility in Louisiana;

l) The opportunity for Entergy Corporation to free up capital and generate a source of capital that would otherwise may not be available to make beneficial and productive investments in its electric business, to the benefit of ELL's electric customers; and

m) The opportunity for ELL to reduce its total debt or increase equity through reinvestment, which would also serve to improve ELL's credit by reducing debt capitalization thereby strengthening ELL's credit, which is a benefit to shareholders and customers.

14.

Accordingly, at a minimum, the Transaction will not harm ELL Gas Business customers, employees, shareholders, the LPSC's jurisdiction, and indeed, the Transaction is expected to result in job creation and benefits to local economies. The Transaction is therefore in the public interest.

IV. LPSC JURISDICTION AND STANDARD OF REVIEW

15.

The Commission exercises jurisdiction over public utilities in Louisiana, including ELL, pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states the following:

> The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

16.

Pursuant to its constitutional authority, the Commission promulgated the 1996 General Order,[3] which provides in pertinent parts the following:

> No public utility shall issue any security or assume any obligation or liability as guarantor, endorser, surety or otherwise in respect of any security of any other public utility, or of any person, until it has been authorized to do so by Order of this Commission. *** The Commission shall not approve any issue or assumption of any security, obligation or liability, unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability, the Commission finds that the issue or assumption is for some lawful object within the corporate purposes of the public utility, it is necessary or appropriate for or consistent with the performance by the public utility of its service to the public and will not impair its ability to perform that service, and it is consistent with the public interest and the best interest of ratepayers. *** This General Order does not modify in any manner the General Order issued by this Commission dated 3/18/94 related to Commission approval of sales, leases, etc. Any security issuance that requires a utility to "sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber" the property or assets of the utility must be approved by the Commission under the standards set forth in the 3/18/94 General Order as well. The approval

[3] Louisiana Public Service Commission, ex parte. *In re: Commission approval of security issues and assumptions of liability,* General Order dated November 13, 1996 ("**1996 General Order**").

> of the Commission required under this Order does not apply unless the value of the transaction exceeds ten percent of the gross assets of the public utility or $1,000,000, whichever is lower.

17.

In accordance with its constitutional authority, the Commission also promulgated the 1994 General Order,[4] which provides in pertinent part the following:

> No utility or common carrier subject to the jurisdiction of the Louisiana Public Service Commission shall sell,...transfer, mortgage, or otherwise dispose of or encumber the whole or any part of its franchise, works, property, or system,...nor transfer control or ownership of any assets...of the utility to any other person, corporation, partnership, limited liability company, utility, common carrier, subsidiary, affiliated company or any other entity...where the values involved in Order No. S-35579-A Page 3 4 In re: Request for Letter of Non-Opposition and/or Approval to Transfer and Sell Water Utility System, Incur Indebtedness, Grant Security Interest, and Amend LPSC Order No. U-34690 such action exceed one percent (1%) of the gross assets of such regulated utility or common carrier, or subsidiary thereof, nor in any way commit itself to take such action or affect any right, interest, asset, obligation, stock ownership, or control, involved in such action without prior full disclosure of the prior intendment and plan of such utility or common carrier with regard to such action and without prior official action of approval or official action of non-opposition by the Louisiana Public Service Commission.

18.

The Commission's 1994 General Order sets forth eighteen factors which the Commission shall take into account in determining whether to approve a transaction coming within the General Order's scope. As discussed further herein and in the Direct Testimonies of DSU LA and ELL

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[4] Louisiana Public Service Commission, ex parte. *In Re: Commission Approval Required of Sales, Leases, Mergers, Consolidations, Stock Transfers, and All Other Changes of Ownership or Control of Public Utilities Subject to Commission Jurisdiction*, General Order dated March 18, 1994 (**"1994 General Order"**).

witnesses, the Transaction and the authorization of DSU LA to operate as a natural gas LDC subject of the LPSC's jurisdiction is in the public interest pursuant to the 18-factor test of the LPSC's 1994 General Order. Likewise, as discussed below, authorization to issue debt and encumbering the gas assets for financing associated with the asset acquisition is likewise in the public interest pursuant to the LPSC's 1996 and 1994 General Orders.

V. AUTHORITY TO OPERATE AS NATURAL GAS LDC

19.

DSU LA requests LPSC authorization to operate as a natural gas LDC in the State of Louisiana, subject to the jurisdiction and regulation of the Commission. As previously discussed, DSU LA is a Louisiana-headquartered company formed for the specific purpose of acquiring the Purchased Assets and Assumed Liabilities, as defined in the Transaction Agreements, of the ELL Gas Business, in order to provide natural gas distribution service in Louisiana. DSU LA is a portfolio company of Bernhard Capital, which is a Louisiana based private equity company with a history of prudent and financially-sound investment in utility and infrastructure operators and service companies. DSU LA's management team is comprised of members demonstrating extensive knowledge and experience in the provision of safe and reliable gas service, similar to that currently provided by ELL, and, as a Bernhard Capital portfolio company, DSU LA will benefit directly from its affiliation with another LPSC-jurisdictional portfolio company of Bernhard Capital, as well as the extensive knowledge, experience, and expertise in the utility and infrastructure sectors of the Bernhard Capital team, all as further detailed in the Direct Testimony of DSU LA witness Mr. Jeffrey Yuknis. DSU management and headquarters will be based in Louisiana.

20.

As discussed below and in more detail below and in direct testimonies of DSU LA witnesses, as a Bernhard Capital portfolio company, DSU LA is financially and operationally capable of providing reliable service at reasonable rates to natural gas customers in Louisiana:

Utility Operation Experience – While DSU LA is a newly formed entity, the company is supported by management and employees with substantial depth and experience in operating local gas distribution public utilities, as well as the ELL Gas Business assets themselves. First and foremost, each of the approximately 200 employees primarily involved in the operation of the ENO Gas Business and ELL Gas Business will be offered employment by DSU with substantially similar compensation and benefits as provided by their current employer, as further addressed in the Transaction Agreements. The day-to-day institutional knowledge of these employees is imperative to the seamless transition of service, and will ensure the customers continue to receive the same level of service on day one of DSU LA. These employees have the operations, maintenance, and safety expertise that will allow for the continuation of safe and reliable local gas distribution service to customers. Further, DSU estimates the Transaction will result in an additional 100 new jobs in Louisiana associated with DSU LA and DSU NO providing continued safe, reliable and affordable LDC services, including jobs to replace some service components that will not transfer with the ELL Gas Business assets. Finally, as discussed above, DSU LA's operations are supported by Bernhard Capital's extensive experience investing in critical services and infrastructure, including investment in another LPSC jurisdictional utility, and its management resources with decades of experience in utility operations and services, as further detailed in the Direct Testimony of Mr. Yuknis. DSU LA and DSU NO will be operated and managed by a single Board, which will be located in Louisiana and comprised of members with significant experience in utility and infrastructure operations.

Rates and Capital Structure – DSU LA proposes to adopt the ELL Rates, as described herein, and preserve existing riders, programs, and capital structure that have been approved by the LPSC for the ELL Gas Business.

Plan of Governance – Bernhard Capital has an established history of investing in sound companies and creating value and growth through the injection of strong management resources, experience, and knowledge. Bernhard Capital has acquired several businesses in carve-out transactions from publicly traded companies, similar to the structure of the Transaction. Bernhard Capital approaches these transactions as a partner to the seller. Having run a large, publicly traded company, the Bernhard Capital team is sensitive to the issues inherent in carve-out sales of a business. With respect to DSU LA, Bernhard Capital is committed to maintaining company level management as well as investment-level management in Louisiana and has an experienced team in place to ensure the parties work jointly and in cooperation with the LPSC on a smooth and seamless acquisition and transition. DSU LA will be governed by a Board of Managers that is partially comprised of Mr. Jeffrey Yuknis (Bernhard Capital Managing Director, BCP Investment Committee member), Mr. Foster Duncan (Bernhard Capital Operating Partner), Mr. Julius Bedford (Bernhard Capital Principal), and Mr. Peter Tumminello (Southern Company Gas former Executive Vice President and Group President of Commercial Business). Further, there is a "Transition Plan Team" for the Transaction that is comprised of professionals with decades of experience in utility operations and services and navigating similar transactions. The Transition Plan Team is discussed in the Direct Testimony of DSU LA witness Mr. Brian K. Little, with a chart identifying the team members provided in Exhibit BY-1 to Mr. Little's Direct Testimony.

Operational Structure – Upon Closing of the Transaction, the ENO Gas Business assets and the ELL Gas Business assets will be owned by subsidiaries of DSU, namely DSU LA and DSU NO. The Transaction structure is designed for Day One Readiness and the seamless continuation of safe, reliable and affordable gas service from the regulatory, operational, and customer perspectives on day one post-Closing. Additionally, the transfer of gas assets from an integrated electric and gas utility platform, where the gas assets comprise a small portion of the total business of Entergy Corporation, to a DSU platform where the entire enterprise is core focused on the provision of gas service enhances the ability for decisions to be made to the benefit of the gas utility and its customers without consideration of the impact on other utility operations. Similar to the current ESL structure, there will be a newly formed DSU services company, Delta States Utilities Services, LLC ("**DSU Services**"), that will provide shared services to support the most efficient and low-cost operation of each of the DSU LDC utilities. While day-to-day operations will be similarly managed by the same experienced employees as the ELL Gas Business, the "carve out" of the gas business will benefit customers by allowing employees, management, technology and investment to be core focused on gas operations, whereas currently certain of these same resources may be allocated among gas and electric operations at ELL.

Shared Services – DSU NO and DSU LA will begin receiving shared services from newly formed DSU Services concurrent with the Closing of the Transaction under separate services agreements executed with DSU NO and DSU LA, respectively. The services to be provided by DSU Services to DSU NO and DSU LA will largely be the same as those currently provided by ESL to ENO Gas Business and ELL Gas Business under similar terms and conditions executed by ENO and ELL with ESL, respectively, including the allocation methodologies and formulae for billing all costs of doing business to provide such shared services. However, the allocation methodologies and formulae to be used by DSU Services will be specific to and "fit-to-purpose" for gas-only operations; whereas the cost allocation methodologies and formulae utilized by ESL, and approved by the Federal Energy Regulatory Commission ("FERC"), can be impacted by electric operations. Additional discussion on the organizational structure, shared services and service agreements and allocation methodologies is provided in the Direct Testimony of DSU LA witness Mr. Brian Little.

VI. STAND-ALONE LDC

21.

Currently, ELL operates an electric public utility and a natural gas LDC, each subject to the jurisdiction and regulation of the LPSC. While ELL is able to share some of its operation services between its electric and natural gas utilities, it also must share capital between the two utilities. As a result of the Proposed Transaction, DSU will own and operate a stand-alone natural gas LDC that will not have the same internal division of capital as currently exists between ELL's natural gas operations and significantly larger electric operations.

22.

Standing up the new LDC will require DSU LA to replace certain ELL assets shared between ELL's electric and gas utilities and certain shared services currently provided by ELL that are not transferring to DSU LA at Closing. Over the long-term, however, DSU LA's replacing these Excluded Assets and shared service is expected to provide benefits to customers. As discussed in the direct testimony of DSU LA witness Mr. Brian K. Little, some of the Excluded Assets being replaced have release dates ranging from 2005 to 2020, and the end-of-life maintenance support periods for these systems range from the end of 2023 to 2034. Additionally, certain efficiencies are expected to be achievable by replacing certain of the Excluded Assets and shared services with assets and services focused solely on the LDC. Customers are also expected to benefit from the modernization of the IT and customer interfaces, including the development of a customer service center dedicated to gas customers instead of shared among multiple utilities, which will facilitate streamlined resolution of customer inquiries. Further, DSU LA will still be able to share the cost of certain assets and services with its affiliate LDC, DSU NO, in standing up the LDC businesses in the Baton Rouge area and within the city of New Orleans, respectively. Thus, DSU LA requests the LPSC to approve the Transaction, inclusive of the need to standup the new LDC and replace the Excluded Assets and shared services that will no longer be available after the Transaction's Closing.

VII. RATEMAKING TREATMENTS

23.

DSU LA commits to adopting the ELL Rates in effect at Closing or supported by the most recent evaluation periods of ELL's RSP and Rider IIRR-G. Thus, ratepayers will continue to pay the rates that otherwise would have been in place absent the Proposed Transaction, which rates will stay in place until DSU LA establishes a 12-month historical test year and files a rate case. This period will prolong the time between rate adjustments that would be expected to occur under a new or extended ELL RSP. Further, DSU LA agrees to continue the improvements approved by the LPSC Order No. U-32682-A, inclusive of the continued implementation of ELL's Rider IIRR-G and the planned improvements approved by the LPSC in Order No. U-36338.

24.

As part of this Joint Application, and as supported in the direct testimony of Mr. Brian K. Little, DSU LA is requesting LPSC authority to establish a regulatory asset for purposes of deferring costs for future recovery, net of amounts recovered in ELL Rates adopted by DSU LA at Closing relating to the Excluded Assets, to standup the new LDC and replace certain assets and shared service that will not be transferred to DSU LA or provided by ELL or its affiliates after the Transaction Closing. While DSU LA requests that the need to stand up the new LDC be included in its public interest finding with respect to the Transaction, DSU LA is only requesting an order in this proceeding to establish the regulatory asset for purpose of recovery of prudently incurred costs and expenses in a future proceeding as may be authorized by the Commission. Details on

DSU LA's proposal for establishing a regulatory asset(s) are provided in the Direct Testimony of DSU LA witness Mr. Brian K. Little.

25.

In addition, DSU LA agrees to submit to a full rate review following Closing of the Transaction, no sooner than fifteen (15) months post-Closing. Following Closing, DSU would begin a 12-month period that will serve as an historical test year for the DSU Rate Case. In the rate proceeding, the LPSC will have the opportunity to review DSU LA's test year revenues and expenses, capital structure and proposed return on equity, revenue requirement and rates, based on the historical test year and specific to DSU LA, and prudency of the regulatory asset items associated with implementation of the Transition Plan. DSU is committing to maintain the ELL Rates in effect at Closing or supported by ELL's most recent FRP evaluation period, and to continue to operate under ELL Rates, until any necessary rate adjustments are approved by the LPSC in such a rate proceeding, which changes would be expected to occur approximately 23-25 months post-Closing, which Closing is anticipated to occur approximately 21 months after the date of execution of the PSA. This proposed structure provides the customers of the utility with the benefit of rate consistency during this extended period. Further, this structure provides the LPSC with the opportunity of a full rate review or potential establishment of a rate stabilization plan once sufficient historical test year information becomes available.

VIII. OTHER APPROVALS

26.

In connection with the Transaction, the Joint Applicants seek approval, or non-opposition, from the LPSC of the transfer by ELL of business customer deposits specific to the Gas Business to DSU LA and the approval of the transfer of certain customer data, including specifically, AMI data, by ELL to DSU LA. ELL and DSU LA believe the transfer of such customer deposits and customer data, including AMI data, is in the public interest and is consistent with facilitating a seamless transition for customers.

27.

In addition, DSU LA is requesting that the appropriate orders applicable to the ELL Gas Business be made applicable to DSU LA, which at the time of filing this Joint Application include, but may not be limited to, General Order dated March 24, 1999 (Docket No. U-22407), Order Nos. U-32682-A, U-34320, U-34744, U-35370, U-36265, U-36338, LPSC Letter Ruling dated November 6, 2019, and LPSC General Orders and Special Orders of general application to LPSC-jurisdictional natural gas public utilities.

28.

Further, as part of the Purchased Assets, DSU LA will acquire from ELL the existing CWIP relating to assets that will be placed in service by DSU LA in the future. Accordingly, DSU LA is requesting that such CWIP accounts be determined to not be an acquisition premium (or alternatively, not specifically determined to be an acquisition premium) so that DSU LA has the opportunity for future recovery of the investments once such assets are placed into service post-Closing.

IX. 18-FACTOR TEST

29.

DSU LA seeks a finding from the Commission that the Transaction is in the public interest in accordance with the 1994 General Order. DSU LA's witness Mr. Jeffrey addresses each of the 18 public interest factors set forth in the 1994 General Order in Appendix B to his Direct Testimony. Further, these factors are also addressed in the Direct Testimonies of the other DSU LA and ELL witnesses. Considering the responses provided to 18 public interest factors and the commitments made herein and in the direct testimony of DSU LA witnesses, the Transaction should be found in the public interest.

X. SUMMARY OF WITNESSES SUPPORTING THE JOINT APPLICATION

30.

In support of the Joint Application, DSU LA and ELL are submitting the pre-filed Direct Testimonies of the following witnesses:

A. DSU LA Witnesses

Mr. Jeffrey Yuknis: Mr. Yuknis is Managing Director at Bernhard Capital and a member of the BCP Investment Committee. He will also service on the Board of Managers for DSU, which is the parent company of DSU LA and member of the Board's Transition Committee. Mr. Yuknis' testimony provides an overview of the Transaction, Transaction Benefits, DSU LA and Bernhard Capital. His testimony supports approval of the Transaction and demonstrates how the Transaction and associated financing of the asset acquisition and associated encumbrance of the ELL

Gas Business assets are in the public interest pursuant to the 1994 General Order and 1996 General Order of the Commission. His testimony also supports of DSU LA's request to be authorized to operate as a LDC subject to the jurisdiction of the LPSC. An 18-factor public interest analysis is provided in Appendix B to Mr. Yuknis' testimony.

Mr. Brian Little: Mr. Little is an independent contractor who is affiliated with the consulting firm Anticipate Energy Advisors LLC ("**AEA**"). Mr. Little's testimony introduces and describes the organizational structure of the ELL Gas Business pre-Closing and of DSU LA post-Closing of the Transaction; (2) provides an overview of the plan to transition the ELL Gas Business into stand-alone natural gas utility prior to the Closing of the Transaction ("**Transition Plan**"), such that the DSU utilities are fully and operationally independent on day one post-Closing, as well as discusses the anticipated benefits of the Transition Plan; (3) describes the post-Closing operations, structure and systems of the DSU utilities, including the methodology to be used for allocating shared services costs to DSU LA; (4) discusses the benefits of the new shared services to DSU LA; and (5) discusses the need for a regulatory asset to account for Transition Plan costs. Mr. Little's testimony provides information to enable the Commission to make the public interest findings required under its 1994 General Order.

B. ELL Witnesses

Anthony P. Arnould, Jr.: Anthony P. Arnould, Jr. is the Director of the ELL and ENO LDC gas distribution businesses. Mr. Arnould leads all aspects of delivering safe, reliable and affordable natural gas to Entergy's more than 200,000 natural gas customers in the New Orleans and Baton Rouge areas. He also oversees employees responsible for the construction, engineering, operation and maintenance of gas system in Louisiana. Mr. Arnould's career at Entergy spans more than two decades. Mr. Arnould provides direct testimony in support of the Transaction being in the public interest, including the transition from ELL to DSU LA operations and the fairness and reasonableness of the Transaction to current Entergy employees primarily engaged in gas operations.

Ryan Jones: Ryan Jones is an ELL Regulatory Affairs Manager with responsibility for overseeing and making certain filings on behalf of the ELL Gas Business, including Annual RSP Evaluation Reports, Quarterly Rider IIRR-G rate redeterminations, and Annual Rider IIRR-G Report filings. He is an experienced member of the regulatory affairs team, providing testimony in support of ELL's most recent RSP and Rider IIRR-G extension proceedings, as well as providing regulatory support for monthly and annual PGA filings and PGA Audits. In this proceeding, Mr. Jones provides direct testimony in support of the Transaction being in the public interest and satisfying certain other of the eighteen factors of the 1994 General Order.

XI. TIMING

31.

DSU LA and ELL respectfully request expedited treatment of this Joint Application. Prior to Closing, DSU LA must replace the ELL Excluded Assets, as defined in the Transaction Agreements, and stand up a new, stand-alone LDC that is fully operational on day one post-Closing. A decision by the Commission not later than the June 2024 Business and Executive Session is important for purposes of DSU LA's Transition Plan and capital investments. Thus, DSU LA requests expedited treatment and a fifteen (15) day intervention period for this proceeding.

XII. SERVICE OF NOTICES AND PLEADINGS

32.

DSU LA and ELL request that notices, correspondence, and other communications concerning this Joint Application be directed to the following persons:

For ELL:

Erin M. Murphy
Matthew T. Brown
639 Loyola Avenue
Mail Unit L-ENT-26E
New Orleans, Louisiana 70113
Telephone: (504) 576-4122
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mbrowl2@entergy.com

Lawrence J. Hand, Jr.
Ryan D. Jones
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For DSU LA:

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President
Delta States Utilities NO, LLC
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33.

DSU LA and ELL request that the foregoing persons be placed on the Official Service List for this proceeding and respectfully request that the Commission permit the designation of more than one person to be placed on the Official Service List for service in this proceeding.

XIII. CONFIDENTIAL TREATMENT

34.

As provided in the Commission's Special Order No. 7-2000, dated March 22, 2000, the Commission has found that the disclosure of confidential and proprietary information may not serve the public interest. Therefore, in the light of the commercially sensitive nature of such information, DSU LA and ELL have submitted two versions of the Testimony and Exhibits of Mr. Jeffrey Yuknis, one marked "Public Redacted" and the other marked "HSPM." The confidential information and documents included with this Joint Application may be reviewed by appropriate representatives of the LPSC Staff and intervenors pursuant to the terms and conditions of a suitable confidentiality agreement once such an agreement has been executed in this Docket. This confidential information also is being provided pursuant to, and shall be exempt from public disclosure pursuant to, the Commission's General Order dated August 31, 1992, and Rules 12.1 and 26 of the Rules of Practices and Procedures of the Louisiana Public Service Commission.

XIV. PRAYER FOR RELIEF

35.

WHEREFORE, DSU LA and ELL respectfully request:

1. LPSC approval of DSU LA to operate as a natural gas distribution utility in the state of Louisiana and subject to the jurisdiction of the LPSC;
2. LPSC approval of the transfer and sale of the Purchased Assets and assumption of the Assumed Liabilities, in each case defined in the PSA and in accordance with the Transaction Agreements, of the ELL Gas Business and acquisition by DSU LA of the same as in the public interest;
3. LPSC approval of DSU LA's assumption and adoption of the ELL Gas Business rates, rate schedules and riders in effect at the Closing or supported by the most recent evaluation period of ELL's RSP and Rider IIRR-G, which assumption and adoption

will continue until the LPSC's review and approval of DSU LA's proposed base rates and rate schedules as part of a subsequent rate application to be filed by DSU LA no sooner than fifteen (15) months after the Closing, using a prior consecutive twelve (12)-month test period;

4. LPSC approval for DSU LA to create a regulatory asset(s) to defer for future recovery, subject to a prudency review in a future general rate proceeding and with such recovery to be net of amounts recovered in ELL Rates adopted by DSU LA at Closing related to the Excluded Assets, investments made by DSU LA (a) in the assets and services needed to replace Excluded Assets and services provided by ELL and its affiliate companies, and (b) in recognition of the need for DSU LA to make certain expenditures prior to establishment of new LPSC-approved rates in a subsequent rate proceeding for recovery of DSU LA's investments in standing up the new gas distribution business and replacing certain assets that will not transfer and certain services that will no longer be provided by ELL after Closing;

5. LPSC determination that the costs of Purchased Assets not yet in service but currently categorized by ELL as CWIP do not constitute acquisition premium, or that the LPSC not specifically determine that such costs do constitute an acquisition premium, such that these costs are eligible for recovery in rates once placed in service, subject to prudency considerations;

6. LPSC stating its non-opposition to DSU LA's incurring indebtedness to finance the Transaction and costs to stand-up the new LDC and for DSU LA's encumbering of the Purchased Assets with a mortgage and/or security interest to secure the indebtedness;

7. LPSC approving or stating its non-opposition to the transfer of customer deposits from ELL to DSU LA, subject to the terms of the PSA;
8. LPSC approving ELL's transfer of certain customer data, including specifically, data related to ELL's AMI system;
9. LPSC finding that LPSC ratemaking provisions of orders applicable to ELL continue to be applicable to DSU LA as of the Closing, which at the time of filing this Joint Application include, but may not be limited to, General Order dated March 24, 1999 (Docket No. U-22407), Order Nos. U-32682, U-34320, U-34744, U-35370, U-36265, U-36338, LPSC Letter Ruling dated November 6, 2019, and LPSC General Orders and Special Orders of general application to LPSC-jurisdictional natural gas public utilities;
10. LPSC granting expedited treatment of the Joint Application, including for this Joint Application to be published in the December 2023 LPSC Bulletin, with a 15-day intervention, and considered by the Commission not later than the June 2024 LPSC Business & Executive Session; and
11. For all other general and equitable relief to which DSU LA and ELL show themselves to be entitled.

Respectfully submitted, this 11th day of December. 2023.

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