

OIG IN BRIEF

Why the OIG Did This Report

New Orleans is the only city in the United States to regulate an investor-owned energy utility where there is a state-level agency in place. The Home Rule Charter of the City of New Orleans empowers the City Council (Council) with the authority to grant franchises, set rates, and exercise regulatory control over utilities operating in Orleans Parish. Regulatory decisions made by the Council affect the utilities in addition to every resident, business, and governmental entity in New Orleans.

The city's energy utilities are undergoing significant changes and it is unclear exactly how customers in New Orleans will be affected. These changes further highlight the need to examine the regulatory framework.

The OIG asked the following questions: Are the city's utility customers best served by the Council's unique regulatory authority? Or would the Louisiana Public Service Commission (LPSC) be a more appropriate regulator? How does the Council deploy its regulatory resources? Are the Council's regulatory processes designed to maximize effectiveness and transparency?

To answer these questions, the OIG partnered with a utilities expert, TBG Consulting, to perform a detailed assessment of the strengths and weaknesses of the city's local regulatory model and make recommendations intended to serve the interests of energy customers in New Orleans. TBG's President has over four decades of experience in helping regulatory agencies improve their effectiveness.

A report to the City of New Orleans, June 17, 2015.

View OIG report IE 12-011. For more information contact Nadiene Van Dyke at (504) 681-3200 or nvandyke@nolaig.org.

New Orleans Utilities Regulation

What the OIG/TBG Found

The Council's regulatory approach and practices lacked basic safeguards to ensure transparency, prevent misconduct, and promote effective decision-making. In addition, the Council's longstanding practice of outsourcing nearly all regulatory activities resulted in higher than necessary regulatory costs because much of the work could have been performed by a well-trained in-house staff at a lower cost. The lack of appropriate controls, absence of an in-house staff, and nonparticipation by non-Council controlled entities (i.e., the City's Executive Branch) resulted in an insular regulatory process driven almost exclusively by the outside consultants and the utilities.

Local regulatory authority has provided New Orleans utility customers with distinct advantages compared to state-level regulation by the LPSC. However, the approach and practices within the local regulatory framework did not meet industry standards practiced by state-level regulatory commissions throughout the nation. In order to increase regulatory effectiveness and transparency, regulators typically:

- Supplement in-house resources with outside consultants as needed; the Council allocated approximately 96 percent of its 2013 regulatory budget for outside consultants.
- Implement safeguards to ensure that no party has unfair access to or influence over a decision-maker; Councilmembers were allowed to have private conversations with the utilities or other parties.
- Separate their personnel into either a trial or an advisory role to increase transparency and ensure the decision-making process is fair and impartial; the Council's outside consultants provided testimony and contributed evidence (i.e., trial role) and then recommended a decision to Councilmembers based on that same information (i.e., advisory role).
- Solicit independent viewpoints to ensure that all stakeholder positions are considered before regulatory decisions are made; the City did not have a publicly-funded public advocate and the City's Executive Branch did not fulfill its regulatory responsibilities.
- Provide regulatory documents and testimony on their websites so that interested parties can review rate applications and other information; utilities regulated by the Council did not make electronic versions of these materials readily available.

What the OIG/TBG Recommended

Despite the deficiencies identified during this review, the Council should retain its regulatory authority until there is further clarity on how changes to the Entergy operating companies will affect utility customers in New Orleans. However, a significant overhaul of the regulatory framework is needed to increase the likelihood that regulatory decisions made by the Council promote the overall public interest.

Local regulatory processes should be just as robust as those provided by other regulatory agencies. The recommendations presented in this report are intended to provide the Council and the City's Executive Branch with ways to improve local utilities regulation, including increasing the number of participants with defined roles in the regulatory process, building in-house capacity, and implementing safeguards to protect the integrity of the regulatory process and promote effective decision-making.