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APPLICATION OF ENTERGY GULF §  
STATES, INC. FOR AUTHORITY TO §  
CHANGE RATES AND TO §  
RECONCILE FUEL COSTS §

BEFORE THE  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

**ENTERGY GULF STATES, INC.'S RESPONSE TO OFFICE OF PUBLIC UTILITY  
COUNSEL'S MOTION TO CHANGE DESIGNATION OF CLASSIFIED MATERIALS**

Entergy Gulf States, Inc. ("EGSI") files this Response to Office of Public Utility Counsel's ("OPC's") Motion to Change Designation of Classified Materials. OPC's motion was filed and received by EGSI on May 2, 2008. Accordingly, this response is timely filed.

In its Motion, OPC seeks to declassify Exhibit RLR-4 of EGSI Witness Rory Roberts' Direct Testimony, and the Workpaper of OPC witness Ellen Blumenthal, which was filed separately the rest of her workpapers as the Highly Sensitive Workpaper of Ellen Blumenthal. OPC also seeks to declassify any related materials in Mr. Roberts' Rebuttal testimony, which would be Exhibits RLR-R-1 and RLR-R-4 in his Rebuttal Testimony. The subject matter of these references is federal income tax data. OPC states that Exhibit RLR-4 consists of Mr. Roberts' consolidated tax savings adjustment and that the Blumenthal Workpaper in question is based upon Exhibit RLR-4 and adds the 2006 tax information. With the exception of the addition of the 2006 data in the Blumenthal Workpaper, the data in the documents that OPC seeks to declassify overlaps the data that the Cities sought to declassify in their April 28, 2008, Motion to Change Designation of Classified Materials with regard to the Direct Testimony of Cities witness Michael Arndt, Exhibit MLA-2, pages 1-10 and EGSI's Response to Staff's 11-4. OPC expressly relies on the Cities' April 28 motion, and raises no additional argument in support of its requested declassification. **Order No. 32, issued May 7, 2008 in this docket, denied the Cities' motion to declassify these tax-related materials, and the documents that OPC seeks to declassify here should likewise remain confidential.**

Mr. Rory Roberts' attached affidavit supports the continued confidentiality of this information. The affidavit explains that the information at issue, which provides the basis for the information OPC seeks to declassify, is confidential and highly sensitive because it contains tax data, including taxable income and tax information, and calculations for Entergy Corporation and its subsidiaries (including unregulated, competitive subsidiaries). Further, the information is confidential pursuant to federal law, namely section 6103 of the IRS Code. See 26 U.S.C. 6103. EGSi will of course agree to declassify any particular specific information identified that was publicly released in the past, but disclosure of some tax data 10 years ago does not constitute a blanket waiver of all other tax information for all times. OPC also states that the data is necessary to perform an analysis of the consolidated tax savings, but the confidential status of the data does not prevent the analysis, it simply requires that the data be maintained and presented under the protections required by the Protective Order in this proceeding. **Moreover, in Order No. 32, issued May 7, 2008 in this docket, the ALJs affirmed the confidentiality of such tax data. The same confidential treatment is appropriate here.**

### **Conclusion**

For the reasons explained above, EGSi asks the ALJs to deny OPC's request for change of classification of the following materials:

- Exhibit RLR-4 of EGSi Witness Rory Roberts's Direct Testimony,
- the Highly Sensitive Workpaper of OPC witness Ellen Blumenthal, and
- Exhibits RLR-R-1 and RLR-R-4 in Mr. Roberts' Rebuttal Testimony.


EGSi also asks the ALJs to grant any other relief to which the Company may be entitled.

Respectfully submitted,

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By:

  
\_\_\_\_\_  
Everett Britt  
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ATTORNEYS FOR  
ENTERGY GULF STATES, INC.

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document was served by facsimile, hand-delivery, overnight delivery, or 1st Class U.S. Mail on all parties of record in this proceeding on May 9, 2008.

  
\_\_\_\_\_  
Everett Britt

## **AFFIDAVIT OF RORY L. ROBERTS**

STATE OF LOUISIANA       §  
                                     §  
ORLEANS PARISH         §

Rory L. Roberts, first being sworn, on his oath states:

1.     My name is Rory L. Roberts. I am over eighteen years of age and competent to make this affidavit. I am employed by Entergy Services, Inc. as Director of Income Tax Accounting and Compliance. I am responsible for preparing the federal and state income tax returns and tax accounting data for Entergy Corporation ("Entergy") and its subsidiaries, including Entergy Gulf States, Inc. ("EGSI" or the "Company"). This includes the preparation of tax accounting and related tax data used in making regulatory filings and the preparation and filing of tax accounting testimony. My office address is 639 Loyola Avenue in New Orleans, Louisiana.

2.     Based upon my personal knowledge, the facts stated in this affidavit are true. In addition, in my judgment and based upon my professional experience, the opinions stated in this affidavit are true and correct.

3.     I am making this affidavit in support of the confidentiality of certain information that the Office of Public Utility Counsel ("OPC") seeks to declassify as described in OPC's Motion to Change Designation of Classified Materials, filed May 2, 2008, in Docket No. 34800. Specifically, OPC seeks to declassify the following documents:

- Exhibit RLR-4 of my Direct Testimony.
- The Workpaper of OPC witness Ellen Blumenthal, which was filed separately the rest of her workpapers as the Highly Sensitive Workpaper of Ellen Blumenthal.
- Exhibits RLR-R-1 and RLR-R-4 in my Rebuttal Testimony.

Exhibit RLR-4 consists of my consolidated tax savings adjustment and OPC stated in its motion that the Blumenthal Workpaper in question is based upon Exhibit RLR-4 and adds the 2006 tax information. Exhibits RLR-R-1 and RLR-R-4 in my Rebuttal Testimony contain updates, amendments, and/or adjustments to Exhibit RLR-4.

4. The information contained within the above listed documents includes calculations of the consolidated tax adjustment and has been designated as highly sensitive confidential protected materials. The information is confidential and highly sensitive because it contains tax data, including taxable income and tax information, and calculations for Entergy and its subsidiaries (including unregulated subsidiaries) over the course of several years. The information includes commercially sensitive trade secret information, including taxable income, for Entergy and its subsidiaries (including unregulated subsidiaries). The information is not publicly available. Federal law requires that tax returns and return information be kept confidential, except in limited circumstances not at issue here. *See* Internal Revenue Code of 1986, as amended, § 6103. Disclosing the information in these documents would harm the Company and cause competitive injury because the competitive position of Entergy and its subsidiaries would be jeopardized by revealing sensitive data essential to competing in various non-regulated markets. Thus, the information in the documents that OPC seeks to declassify should remain confidential.

5. The information in the above-listed documents is maintained confidentially by Entergy Corporation and its affiliates, is not made available for public disclosure, and even within Entergy is only made available for review by those employees whose job duties require knowledge of the information. The information is unique to Entergy and its subsidiaries and cannot be readily duplicated by persons outside the Company.

Rory L. Roberts  
Rory L. Roberts

SUBSCRIBED AND SWORN TO before me on the 8 day of May, 2008.

Catharine O. Gracia  
Notary Public in and for the State of Louisiana

**CATHARINE OHLSSON GRACIA**  
**NOTARY PUBLIC, #9775**  
For the State of Louisiana  
My Commission Is Issued For Life.

