UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA

In re	:	**Bankruptcy Number**
	:	**05-17697**
ENTERGY NEW ORLEANS INC.,	:	**Section "B"**
	:	**Chapter 11**
DEBTOR.	:	**Reorganization**

MOTION PURSUANT TO SECTION 1121(d) OF THE BANKRUPTCY CODE FOR AN ORDER TERMINATING THE EXCLUSIVE PERIODS WITHIN WHICH THE DEBTOR MAY FILE AND SOLICIT ACCEPTANCES TO A PLAN OF REORGANIZATION AND AUTHORIZING FINANCIAL GUARANTEE INSURANCE COMPANY TO FILE AND SOLICIT ACCEPTANCES FOR ITS PLAN OF REORGANIZATION

NOW INTO COURT, through its undersigned counsel, comes Financial Guaranty Insurance Company ("FGIC"), insurer of certain secured bonds issued pursuant to the Mortgage and Deed of Trust dated as of May 1, 1987, and related supplemental indentures, and files this motion for entry of an order pursuant to section 1121(d) of title 11 of the United States Code (the "Bankruptcy Code") terminating the exclusive periods (the "Exclusive Periods") within which Entergy New Orleans, Inc. (the "Debtor" or "ENOI") may file and solicit acceptances to its proposed plan of reorganization and authorizing FGIC to file and solicit acceptances for its proposed alternative plan of reorganization. In support of this Motion, FGIC respectfully represents as follows:

INTRODUCTION

1. Throughout this case and until very recently, ENOI, in concert with and under the control of its parent, Entergy Corporation ("Entergy", and together with ENOI, the "Entergy Parties"), steadfastly took the position that ENOI would not exit bankruptcy or meet its other prepetition financial obligations except pursuant to a plan of reorganization that benefited

Entergy to the detriment of the creditors of this estate and the citizens of the City of New Orleans. The Entergy Parties insisted that such a plan provide as follows (the "Original Proposed Plan Terms"):

i. Entergy and its affiliates would be paid immediately in full in cash the amount of all of their claims against ENOI, in the aggregate amount of approximately $66 million (possibly with additional postpetition interest), plus an additional $26.5 million to be paid on account of non-affiliate unsecured claims that otherwise would need to be paid before the Entergy Parties could justify paying themselves;

ii. Entergy would retain more than $170 million in equity in the Debtor, through its common stock;

iii. the Debtor's emergence from bankruptcy would be contingent upon its actual receipt of Community Development Block Grant monies ("CDBGs") (resulting in a delay of the Debtor's exit from bankruptcy until at least the end of 2007);[1] and

iv. the bondholders' recovery would be limited to the pre-bankruptcy repayment terms on the bonds.

The Entergy Parties designed their plan with the primary goal of paying off Entergy's affiliate claims and maintaining Entergy's position as the holder of 100% of ENOI's equity, with little regard to ENOI's future liquidity. Essentially, a plan based upon the Entergy Parties' Original Proposed Plan Terms would sacrifice the long-term stability of ENOI, in favor of providing an immediate benefit to Entergy and its affiliates. Such a plan – aside from simply being inequitable – clearly would not have been feasible, and, thus, would not have been confirmable as a matter of law.

2. FGIC and The Bank of New York ("BNY"), as successor trustee, advised the Entergy Parties of their strong objections to ENOI's Original Proposed Plan Terms, as well as

[1] ENOI also threatened that if it did not receive "adequate" CDBG money, it would not be able to exit chapter 11 until 2009.

their intention to object to ENOI's third request for an extension of its exclusive periods. As a result of such objections, as well as certain political pressure that FGIC believes may have been brought to bear upon ENOI, the Debtor recently advised FGIC of its intentions to make certain minimal modifications to the Original Proposed Plan Terms, including postponing repayment of the $66 million in claims of its affiliates for a short period of time. FGIC's understanding is that the Debtor intends to file with this Court a plan of reorganization that embodies such terms on or before October 25, 2006 (the "Debtor's Proposed Plan"). However, such a plan (even as modified) does not even begin to address FGIC's concerns about the feasibility, timing and, ultimately, the confirmability of a plan which: (i) fails to protect the liquidity of ENOI; (ii) fails to ensure that ENOI will be financially able to provide service in the future to the citizens of New Orleans; and (iii) will delay ENOI's exit from bankruptcy until at least the end of 2007. Simply put, the Debtor's Proposed Plan – even as modified from the Original Proposed Plan Terms – will leave ENOI with inadequate capital to operate its business and provide uninterrupted and continuous services to New Orleans into the future.[2]

3. After two extensions of the Exclusive Periods and over a year in bankruptcy, the plan to be proposed by the Debtor will be patently unconfirmable. The creditors in this case should not be required to wait for the Debtor's Proposed Plan to fail (and to be burdened with the costs of a time consuming and expensive failed solicitation process) before having the option to consider alternative plans. This is especially true here, where FGIC can (and, given the opportunity, will) propose a plan that will satisfy the requirements of section 1129, will expedite

[2] In addition, FGIC expects that Entergy will be extracting tens of millions of dollars in dividend payments from ENOI on account of its common stock interest in ENOI in the first few years after bankruptcy.

distributions to creditors, will preserve the Debtor's liquidity and will treat creditors fairly.[3] FGIC's proposed plan not only would protect the bondholders' long-term investment in ENOI, but also would protect the City and the residents of New Orleans.[4]

4. Terminating exclusivity at this time will not affect adversely the Debtor's co-existing right to file its plan. Indeed, FGIC envisions a plan process in which creditors will have an opportunity to vote on the two competing plans (or plan provisions). Of course, FGIC is willing to work with the Debtor to create an agreed upon competing plan process that will be both efficient and economical (including the use of one disclosure statement for both plans).

BACKGROUND

5. On September 23, 2005, the Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor continues to operate its business and manage its properties as a debtor and debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108.

6. On December 13, 2005, the Debtor filed a Motion for an Order Extending the Time Periods Within Which the Debtor has the Exclusive Right to File a Plan of Reorganization

[3] Among other things, FGIC's plan would hold the CDBG funds and insurance recoveries in the Debtor's estate for a reasonable period of time to protect properly the Debtor financially, and would provide that claims of the Debtor's affiliates would be paid over a reasonable period of time. In addition, such plan would not be contingent on the actual receipt of CDBG funding (but would provide for the proper application of such funds) and, thus, would provide for confirmation and consummation of a plan in the very near term.

[4] As soon as practicable after entry of an order approving this Motion, FGIC intends to file its plan or alternative plan provisions with the Court. FGIC has not included a plan herewith in order to ensure that it has complied with the provisions of section 1125(b) of the Bankruptcy Code. At this time, FGIC anticipates that the Disclosure Statement filed (or to be filed) by the Debtor, as the same may be modified to reflect FGIC's alternative plan or plan provisions, could be used for FGIC's plan as well in order to expedite the process.

and Solicit Acceptances Thereof (the "First Exclusivity Motion", Dkt. No. 467). No objections were filed to the First Exclusivity Motion.

7. On January 5, 2006, the Court entered an Order granting the First Exclusivity Motion (the "First Exclusivity Order", Dkt. No. 529). By the First Exclusivity Order, the Court enlarged the existing exclusivity periods by ninety (90) days, authorizing the Debtor to maintain the exclusive right to file a plan of reorganization and solicit acceptances thereof until April 21, 2006 and June 20, 2006, respectively.

8. On March 23, 2006, the Debtor filed a Second Motion for an Order Extending the Time Periods Within Which the Debtor has the Exclusive Right to File a Plan of Reorganization and Solicit Acceptances Thereof (the "Second Exclusivity Motion", Dkt. No. 717).

9. On April 4, 2006, the Official Committee of Unsecured Creditors (the "Committee") filed the Opposition of the Official Committee of Unsecured Creditors to the Second Motion of Entergy New Orleans, Inc. for an Order Extending the Time Periods Within Which the Debtor has the Exclusive Right to File a Plan of Reorganization and Solicit Acceptances Thereof.

10. On April 18, 2006, the Court entered an Order granting the Second Exclusivity Motion (the "Second Exclusivity Order", Dkt. No. 767). By the Second Exclusivity Order, the Court further enlarged the existing exclusivity periods by one hundred twenty (120) days, authorizing the Debtor to maintain the exclusive right to file a plan of reorganization and solicit acceptances thereof until August 21, 2006 and October 18, 2006, respectively.

11. On July 27, 2006, the Debtor filed a Third Motion for an Order Extending the Time Periods Within Which the Debtor Has the Exclusive Right to File a Plan of Reorganization and Solicit Acceptances Thereof (the "Third Exclusivity Motion", Dkt. No. 1051). By the Third

Exclusivity Motion, the Debtor requested an enlargement of one hundred twenty (120) days of the time periods within which it has the exclusive right to file a plan of reorganization and solicit acceptances thereof, through and including December 19, 2006 and February 15, 2007, respectively.

12. The Court entered orders extending the Debtor's exclusive right to file a plan until the date of the hearing on the Third Exclusivity Motion (Dkt. Nos. 1058 and 1085). That hearing was scheduled for October 23, 2006. However, on October 20, 2006, the Debtor informed the Court that it did not intend to go forward with the Third Exclusivity Motion and that it intended to file a plan of reorganization on or before October 25, 2006. As a result, the Debtor, FGIC, BNY and the Committee agreed, with approval of the Court, to an extension of the Debtor's exclusive period to file a plan through October 25, 2006. Unless terminated earlier, the Debtor's exclusive period to solicit acceptances of its plan will expire sixty (60) days thereafter.

RELIEF REQUESTED

13. By this Motion, FGIC seeks termination of the Exclusive Periods to allow FGIC to file its alternative plan (or plan provisions) for the Debtor. As set forth more fully herein, the Debtor has proposed (or, upon information and belief, intends to propose) a plan of reorganization which is patently unconfirmable. The bondholders intend to vote to reject the Debtor's Proposed Plan and to object to the terms of such plan on the basis that, among other things, the plan is not feasible and cannot satisfy the requirements of section 1129(a) of the Bankruptcy Code. Rather than waiting for the Debtor to solicit acceptances of an unconfirmable plan, FGIC seeks to propose its own alternative plan of reorganization (or alternative plan provisions) for the Debtor.

A. Maintenance of Exclusivity Will Harm the Debtor's Creditors

14. Section 1121(d) of the Bankruptcy Code grants this Court authority to terminate the exclusivity periods for cause. Section 1121(d) provides, in relevant part:

> On request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

11 U.S.C. § 1121(d). Section 1121(c) of the Bankruptcy Code further provides that if the exclusive periods have been terminated, "[a]ny party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor . . . may file a plan." 11 U.S.C. § 1121(c). FGIC, as the insurer of $75 million of the secured bonds issued by ENOI and having the right and entitlement under the applicable documents to vote such bonds, clearly is a party in interest entitled to propose a plan of reorganization for the Debtor.

15. The exclusivity periods may be terminated if creditors are harmed by the maintenance of such exclusivity periods. See In re Timbers of Inwood Forest Assocs., Ltd., 808 F.2d 363, 372 (5th Cir. 1987), *aff'd* United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365 (1988); In re Mirant Corp., Nos. 4-04-CV-476-A & 4-04-CV-530-A, 2004 WL 2250986, at *2 (N.D. Tex. Sept. 30, 2004). "Section 1121 was designed, and should be faithfully interpreted, to limit the delay that makes creditors the hostages of Chapter 11 debtors." In re Washington-St. Tammany Elec. Coop., Inc., 97 B.R. 852, 855 (E.D. La. 1989) (quoting In re Timbers, 808 F.2d at 372). Moreover, plan exclusivity provisions may not be employed as a tactical devise to pressure parties to yield to a plan they consider unsatisfactory. See H.R. Rep. No. 595, 95th Cong., 1st Sess. 231-32.

16. In this case, permitting the Entergy Parties, through the Debtor, to monopolize the plan process almost certainly will cause harm to creditors. As set forth more fully herein, if the

Entergy Parties are permitted to go forward with an unconfirmable plan, distributions to creditors are likely to be delayed, and the estate will incur unnecessary administrative costs and expenses. These same creditors, together with the citizens of New Orleans, also will be subject to future harm if the Entergy Parties are permitted to pursue a plan which endangers ENOI's future liquidity. Moreover, allowing the Entergy Parties to go forward with a plan that so clearly favors ENOI's affiliates – without any plan against which creditors can measure such unfair treatment – pressures creditors to yield to a plan that, in the long term, is far inferior to potential alternative plans.

17. For the foregoing reasons, this Court should terminate exclusivity and permit FGIC to file a plan which would be in the best interests of the estate, its creditors and the citizens of New Orleans.

B. The Debtor's Failure to File a Confirmable Plan Constitutes "Cause" To Terminate Exclusivity

18. A debtor's inability to propose a confirmable plan constitutes sufficient "cause" to terminate exclusivity pursuant to section 1121 of the Bankruptcy Code. 11 U.S.C. § 1121(d) (requiring a showing of "cause" for an enlargement of the exclusive periods); In re Southwest Oil Co. of Jourdanton, Inc., 84 B.R. 448, 451 (Bankr. W.D. Tex. 1987) ("Some promise of probable success in formulating [a] plan of reorganization is an element of cause for an extension of the exclusivity period"); In re Grossingers Assoc., 116 B.R. 34, 36 (Bankr. S.D.N.Y. 1990) (finding that in order to maintain their exclusive periods, debtors should be required to show "probability success in formulating a plan of reorganization"); In re Texaco, Inc., 81 B.R. 806, 812 (Bankr. S.D.N.Y. 1988) (indicating that where there are major obstacles to a debtor's successful reorganization, such obstacles will be considered "cause" for the reduction of the exclusive periods).

19. Here, the Debtor's Proposed Plan would drain ENOI of a substantial amount of the cash that it will receive in CDBG money and from insurance recoveries by using such funds for the benefit of Entergy and its non-debtor affiliates. As a consequence thereof, ENOI will be left with a deficient balance sheet and the future of the Debtor's business will be in jeopardy. In addition, the Debtor's purported plan would attempt to impose an improper reinstatement of the bondholder's debt that would not be permitted under section 1124 of the Bankruptcy Code. Accordingly, the Debtor's Proposed Plan is not feasible, it fails to comply with the applicable provisions of the Bankruptcy Code and, thus, it cannot satisfy the requirements for confirmation set forth in section 1129 of the Bankruptcy Code. Finally, termination of exclusivity is especially appropriate here, where FGIC is prepared to propose a confirmable plan that has the best interests of the estate, its creditors and the citizens of New Orleans in mind.

20. Based on the foregoing, cause exists for the termination of exclusivity now.

NOTICE

21. As evidenced by the Certificate of Service filed with the Court, adequate and sufficient notice of this Motion has been provided by first class mail, postage prepaid, upon (i) the office of the United States Trustee; (ii) counsel to the Committee; (iii) Debtor's counsel; (iv) Entergy Corporation's counsel; (v) the parties listed on the Top Twenty (20) Largest Unsecured Creditors; and (vi) all entities who have filed notices of appearance and a request for service of papers in this matter.

WHEREFORE, FGIC requests that, after such hearing as this Court deems proper under the circumstances, this Court enter an order granting the Motion, terminating the Exclusive Periods, and granting such other and further relief as is just and proper.

Respectfully submitted, this 24th day of October, 2006.

/s/ Rudy J. Cerone

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