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Entergy Corp. is raking in millions supplying power to New Orleans' suburbs and three other states, so why can't it use that money to help out its customers in Katrina-devastated N.O.?

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BY PAM RADTKE RUSSELL, BUSINESS WRITER
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Despite asking for millions of dollars from New Orleans customers and the federal government to rebuild its shattered electric and gas system, Entergy Corp. on Tuesday reported millions in profits for the third quarter in a row since Hurricane Katrina struck.

Though its earnings were slightly down from last year, Entergy Corp. reported earning $282 million between April and June on revenue of $2.63 billion. Why, then, is the company's subsidiary, Entergy New Orleans, asking for rate increases of at least $45 per month per customer, and why is Entergy Corp. taking the firm stance that it can't help bail out its hurricane-ravaged subsidiary and instead is asking for federal aid of $718 million?

"Rain or shine, Entergy has made money from New Orleans. This year it and its parent company has profited again. Isn't it time they gave something back?" said Betty Wisdom, a member of the board of directors for the Alliance of Affordable Energy.

Entergy Corp. doesn't have any obligation to help its subsidiary, according to the company. As a holding company, Entergy Corp. is Entergy New Orleans' sole stockholder. And just as stockholders don't have to pay for the costs of a company of which they own stock, Entergy Corp. doesn't have to pay for the debts of its subsidiaries, according to the company. That would be comparable to a stockholder of Microsoft Corp. having to pay out of his own pocket for payroll the company can't make.

"If Entergy were to hand over millions of dollars that it does not owe, it would not be fulfilling its legal obligation to shareholders and could be sued by shareholders," said Theo Bunting, chief financial officer for Entergy Nuclear, a subsidiary of Entergy Corp.

But Mike Fontham, a utilities attorney who advises the Louisiana Public Service Commission, often in cases against Entergy and its subsidiaries, said he knows of nothing that would prevent Entergy Corp. from helping out Entergy New Orleans.

"This is a public spirit question, not what they are required to do," Fontham said.

Whether Entergy Corp. is compelled to put forward more money to help rebuild the electricity and gas system might rest in the hands of the agencies that regulate the companies.

The New Orleans City Council's utilities committee and other city officials are likely to negotiate a compromise with the company and its bankruptcy judge that will give Entergy New Orleans some federal grant money and allow it to earn some money from ratepayers, but also keep ratepayers from shouldering the entire burden of rebuilding the system.

Council President Oliver Thomas, head of the utilities committee, said Entergy Corp. should make some type of commitment to help rebuild the system.

"I would hope that the company would feel some responsibility to the mothers and fathers that have all these years paid Entergy for their power," Thomas said.

One of the committee's advisers, Clint Vince, said the council will do what it can to protect ratepayers.

"The council will use the bully pulpit. It's not fair to put it all on the ratepayer's back, especially when corporate earnings are high. It's a matter of balance," he said. "I think Entergy can do much more for New Orleans than it has to date. There's a zone of reasonableness in which ratepayers don't have all the burden and shareholders will not be unduly harmed."

Privilege, at a price

As a subsidiary of Entergy Corp., Entergy New Orleans operates under an agreement with the city of New Orleans that gives it the exclusive right to provide electricity and gas to the city's residents.

Though it has a monopoly on those services, its ability to make a profit is supposed to be kept in check by a regulating authority, in this case the New Orleans City Council.

As a regulated monopoly, Entergy New Orleans can make a profit, but it also must provide reliable service.

"The general proposition for utilities is that they are freestanding entities that provide monopoly service," said Glen Thomas, a utility attorney and a former chairman of the Pennsylvania Public Utility Commission. "They are entitled to return on the investment; they are allowed to make a profit. That's a general rule of thumb, basic utility 101."

It's also law, backed up by a landmark 1944 decision by the U.S. Supreme Court.

Entergy Corp. has about $1 billion invested in its system in New Orleans and $150 million in equity in the system.

"They have put a lot of money into New Orleans. With hope, they get some of it back," said Lawrence "Tubby" St. Blanc, secretary of the state Public Service Commission.

To keep its end of the bargain, Entergy New Orleans has restored power to all but a small portion of the city, although only about 80,000 of its previous 190,000 customers have returned. The council is only now beginning to review a request for the company to increase rates to recoup those costs.

Because its costs have exceeded its revenue, and there's no quick way to recover its costs from ratepayers, the company is in bankruptcy.

"We're a business, but we're not really a normal business," said Dan Packer, chief executive officer of Entergy New Orleans. "We're not Wal-Mart; we can't set prices."

The company's attempt to set those prices began in June, when it asked the council to let it increase monthly rates an average of $45 per customer. That increase includes money to pay for storm damage from Hurricane Katrina and to build a reserve fund for future storm damage.

That request also includes a roughly 10 percent rate of return on its investment, a profit allowed under the agreement with the city. But that amount can be changed by the council.

"The commission has discretion on those rates of return," Glen Thomas said. "Should their rate of return be reduced or should rates be increased: That's ultimately the balancing act."

By February, the council expects to have analyzed and approved a rate increase that is considered reasonable.

Investors' risk

Typically, if the council doesn't allow the requested increase, Entergy New Orleans could go to court to fight the decision.

If the court ruled in the city's favor, however, Entergy New Orleans would absorb the cost itself, not pass it on to its parent company.

But in November, the Bush administration forwarded another option: Make the parent company, which had $909 million in earnings in 2004, pay to rebuild the system.

"The risk of a financial loss from a natural disaster is one that any investor in a private firm must face, and it would be wrong for the taxpayer to bail out those investors after the fact," Allan B. Hubbard, then-chairman of the Gulf Coast Recovery and Rebuilding Council, wrote to the company

Those positive earnings have continued. For the second quarter of 2006, Entergy posted earnings of $281.8 million, or $1.33 per share, on revenue of $2.63 billion, compared with year-ago earnings in the second quarter of $286.2 million, or $1.33 per share, on revenue of $2.45 billion. Net income dropped to $289.6 million from $292.5 million a year ago. As a result of those earnings, the company's stock shot up 2.3 percent, to $78.80.

Entergy New Orleans also saw its earnings rise to 5 cents a share for the quarter, compared with 4 cents a share last year at this time, though the company says the most recent quarter's earnings numbers reflect unusual circumstances, including delayed interest payments because of bankruptcy proceedings and the sale of power that was not needed in New Orleans.

Limits on earnings

Entergy Corp. has steadfastly argued that turning to its shareholders for money for Entergy New Orleans is not an option. Ratepayers, not shareholders, bear the burden of repairing the system because the company is restricted in how much it can earn.

The company "does not have the ability to earn limitless rates of return like Shell or Mobil," said Kathryn Lichtenberg, an attorney for Entergy's regulatory division.

Investors in the company accept a lower rate of return knowing that costs of operating the utility and any disasters are paid for by ratepayers. "The return is a reflection of risk," Lichtenberg said. "The return does not include the risk of responsibility of storm losses."

As a holding company, Entergy Corp. says it is not liable for the debts of its subsidiary; it's only at risk for the amount of its investment. The company's structure is not unlike dozens of other utility holding companies, such as Southern Co. and Duke Energy Corp. It is unique, however, to have a subsidiary as small as Entergy New Orleans.

"Entergy Corp. has no obligation to pass on advance funds to Entergy New Orleans," Bunting of Entergy said. "They wouldn't do so unless it's a prudent investment."

Entergy Corp. has provided a line of credit up to $200 million for Entergy New Orleans at a low interest rate to help keep its subsidiary solvent.

But other money would come only if Entergy Corp. thought it was a good investment.

"Entergy Corp. could invest more in Entergy New Orleans," Packer said. "They do it with the understanding that it's a worthwhile investment. They are looking for some return."

The creation of a holding company benefits the ratepayers as well as the shareholders, said Sanford Berg, director of the **Public Utility Research Center** at the University of Florida.

"One of the reasons for setting up the holding company is that these companies are fundamentally different and have fundamentally different risks," Berg said. "They are not organized to push risk back up through the companies, nor should regulators allow Entergy to push costs back down."

'A two-way deal'

The structure of a holding company also should protect customers from paying more if the holding company isn't doing so well.

"It's a two-way deal. Customers don't get burdened with holding company debt if the holding company is in big, big trouble, or at least they shouldn't," said Glen Thomas.

The structure of a holding company, in effect, should protect customers of Entergy Arkansas from paying for the recovery of Entergy New Orleans, but also protect Entergy New Orleans customers from paying for disasters in Arkansas.

That all sounds fine on paper, said Dave Reinebolt, executive director for Ohio Partners for Affordable Energy, a consumer advocacy group, but in practice, a company usually benefits more from the agreement.

"What about all the profits that flowed up to the parent company in previous years?" he asked. In many instances, utilities will go to a regulatory body to ask for a rate increase when their profits are down, but if they make a greater-than-expected return, they don't ask for rates to be lowered, he said.

In New Orleans, Reinebolt said he expects some increase for ratepayers, but it's up to the regulatory body and the company to lessen that impact as much as possible.

"In a disaster like this, there's got to be some limit on the profit, otherwise they are going to kill the goose that laid the golden egg," Reinebolt said.

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Pam Radtke Russell can be reached at prussell@timespicayune.com or (504) 826-3351.

ENTERGY CORP. reported earnings of $282 million between April and June. However, Entergy Corp., which is financially isolated from the debts of its subsidiaries, continues to take a firm stance that it can't help...

ENTERGY NEW ORLEANS, which was financially ravaged by Katrina to the tune of $718 million

...a figure that Entergy New Orleans is using to justify a rate increase of $45 per month per customer.

GRAPHIC: STAFF PHOTO BY TED JACKSON
As Jefferson Parish has rebounded and is a sea of lights, in New Orleans power is mostly restored but there are fewer people to use it.

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