

RESOLUTION

NO. R-24-571

CITY HALL: October 10, 2024

**BY: COUNCILMEMBERS MORENO, MORRELL, GIARRUSSO, HARRIS, KING,
GREEN AND THOMAS**

RESOLUTION AND ORDER

COMMUNITY SOLAR PROGRAM IMPLEMENTATION

DOCKET NO. UD-18-03

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans, the Council of the City of New Orleans (“Council”) is the governmental body with the power of supervision, regulation and control over public utilities providing service within the City of New Orleans; and

WHEREAS, pursuant to its powers of supervision, regulation and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities and making all necessary rules and regulations to govern applications for the fixing and changing of rates and charges of public utilities; and

WHEREAS, Entergy New Orleans, LLC (“ENO” or “Company”) is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, the Council has repeatedly expressed support for the efficient use of clean, sustainable technology to improve the quality of life for citizens and businesses; and

WHEREAS, the Council wishes to expand the renewable options available to New Orleans residents, particularly those who are unable to participate in the Net Energy Metering (“NEM”) program; and

WHEREAS, on March 28, 2019, the Council adopted Resolution No. R-19-111, establishing the Community Solar Rules, and subsequently amended those Rules in Resolution Nos. R-19-390, R-22-76, and R-23-507; and

WHEREAS, in Resolution R-23-507, the Council directed ENO to submit a Compliance Filing with 1-) a revised Form CSG-4 – Standard Offer Power Purchase Agreement and 2-) a revised Rate Schedule CSGF – Community Solar Generating Facilities; and

WHEREAS, ENO submitted the Compliance Filing on January 12, 2024, including the required revised Form CSG-4 as well as two different options for the revised Rate Schedule, a new Form CSG-APP that combines Forms CSG-1 – Program Application and CSG-2 – Interconnection Application, an update flow chart reflecting the new Form CSG-APP, and a new Form CSG-RPAR – Request for Pre-Application Report; and

WHEREAS, on April 4, 2024, the Council adopted Resolution No. R-24-137 directing Parties to submit comments on the proposed Rate Schedule CSGF and revised Form CSG-4 by May 10, 2024; and

WHEREAS, after reviewing the comments, the Council adopted Resolution No. R-24-310 ordering additional comments and discussion of the following issues: 1) TNO and AAE's proposed changes to Sections 4.6, 4.8, and 6.3 of Form CSG-4; 2-) proposed changes to Section 3.3 of Form CSG-4; and 3-) the application process, including ENO's proposed Forms CSG-APP and Form CSG-RPAR, deposit amount, and review deadlines, 4) options for implementing a consolidated billing program; and

WHEREAS, on August 19, 2024, TNO and AAE filed a joint motion detailing their proposed changes to Form CSG-4:

1. Section 3.3: Subscriber Lists – ““ENO reserves the right to contest ~~refuse to accept~~ any additions, deletions or changes to the Monthly Subscription Information to the extent such addition, deletion or change results in non- compliance with any of such conditions, and CURO or the assigned Hearing Officer shall be the arbiter of the dispute.”
2. Section 4.2: Renewal (added language) – “Subscriber Organizations shall be allowed to continue to operate and Subscribers shall continue to receive bill credits during negotiation and after the end of the initial term without interruption until the Subscriber Organization elects to stop providing credits”
3. Section 4.5: Deposits – remove the deposit requirement in its entirety; allow for the Council to waive the deposit; reduce the deposit amount from \$50 per kW AC to \$25 per kW AC; a Subscriber Organization shall have 12 months from when the Interconnection Agreement, Power Purchase Agreement, and all studies are complete to become operational rather than 12 months from when the application is approved.
4. Section 4.6: Repair timelines – “The Subscriber Organization shall make best efforts to maintain the CSG Facility and the individual components thereof in good working order at all times during the Term of this Agreement. If, during the Term of this Agreement the CSG Facility or any of the individual components of the system should be damaged or destroyed such that the extent of the damage affecting output exceeds twenty (20) percent of the CSG Facility’s nameplate rating, the Subscriber Organization shall provide ENO written notice of such damage, a description of the equipment damaged, the corresponding reduction to the CSG

Facility's output, and the anticipated duration of repairs to the facility to return the facility to its original nameplate rating. If, after such damage, the CSG Facility is not returned to its original nameplate rating within twenty-four (24) months ~~one hundred and eighty (180) days~~, and cannot prove that they are exercising due diligence to repair the issues, ENO shall have the right, exercisable at its sole option, to terminate this Agreement upon not less than thirty (30) days written notice, with no further obligation of the Parties to perform hereunder following the effective date of such termination. In all other situations, if the CSG Facility is out of operation for more than three hundred sixty-five (365) ~~ninety (90)~~ consecutive days during the Term of this Agreement, ENO shall have the right to terminate this Agreement by providing written notice to Subscriber Organization anytime during the period following the expiration of such three hundred sixty-five (365) ~~ninety (90)~~ days and before the CSG Facility has been made fully operational again."

5. Section 4.8: Annual recertification of low-income subscribers (eliminate) – "~~By May 1 of each year, the Subscriber Organization shall re-certify in writing to the Company the Low Income Subscriber status of all Subscribers to its CSG Facilities that are designated as such.~~"
6. Section 6.3: Repair timelines after Force Majeure events – "In the event that any delay or failure of performance caused by conditions or events of Force Majeure continues for an uninterrupted period of ~~three hundred sixty five (365)~~ seven hundred thirty (730) days from its occurrence or inception, as noticed pursuant to Section 6.2(a)(i) above, the Party not claiming Force Majeure may, at any time following the end of such ~~three hundred sixty five (365)~~ seven hundred thirty (730)

day period terminate this agreement upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure may, but shall not be obligated to, extend such ~~three hundred sixty five (365)~~ seven hundred thirty (730) day period, for such additional time as it, at its sole discretion deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure;” and

WHEREAS, on August 27, 2024, the Council Utilities Regulatory Office (“CURO”) hosted a technical conference for the Parties to discuss the outstanding issues; and

WHEREAS, on September 13, 2024, parties filed final comments; and

WHEREAS, in its final comments, ENO proposed two changes to address concerns related to the application process: 1-) establishing two queues, an application queue and a construction queue; and 2-) executing interconnection agreements after all studies are complete; and

WHEREAS, in its final comments, ENO proposed reducing the deposit amount required to \$25 per kW for the project and extends the amount of time after executing the interconnection agreement for the Subscriber Organization to begin operation to 24 months; and

WHEREAS, in their final comments, TNO and AAE requested that the Council “decouple the deposit timeline from processes ENO controls; and

WHEREAS, TNO and AAE revised their proposed amendments to sections of Form CSG-4 as follows:

1. Section 4.6: Repair timelines – ““The Subscriber Organization shall make best efforts to maintain the CSG Facility and the individual components thereof in good working order at all times during the Term of this Agreement. If, during the Term of this Agreement the CSG Facility or any of the individual components of the system should be damaged or destroyed such that the extent of the damage affecting output exceeds twenty (20) percent of the CSG Facility’s nameplate rating, the Subscriber Organization shall provide ENO written notice of such damage, a description of the equipment damaged, the corresponding reduction to the CSG Facility’s output, and the anticipated duration of repairs to the facility to return the facility to its original nameplate rating. If, after such damage, the CSG Facility is not returned to its original nameplate rating within one hundred and eighty (180) days, and cannot prove to CURO’s satisfaction that they are exercising due diligence to repair the issues, ENO shall have the right, exercisable at its sole option, to terminate this Agreement upon not less than thirty (30) days written notice, with no further obligation of the Parties to perform hereunder following the effective date of such termination. In all other situations, if the CSG Facility is out of operation for more than ninety (90) consecutive days during the Term of this Agreement, and cannot prove to CURO’s satisfaction that they are exercising due diligence to repair the issues, ENO shall have the right to terminate this Agreement by providing written notice to Subscriber Organization anytime during the period following the expiration of such ninety (90) days and before the CSG Facility has been made fully operational again.”
2. Section 6.3: Repair timelines after Force Majeure events - “In the event that any delay or failure of performance caused by conditions or events of Force Majeure continues for an uninterrupted period of three hundred sixty-five (365) days from its occurrence or

inception, as noticed pursuant to Section 6.2(a)(i) above, the Party not claiming Force Majeure may, at any time following the end of such three hundred sixty-five (365) day period terminate this agreement upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure ~~shall may, but shall not be obligated to, extend such three hundred sixty-five (365) day period, for such additional time as it, at its sole discretion deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure, as determined by~~ CURO;” and

WHEREAS, the Council appreciates the participation and diligent efforts of ENO and the Parties, and the Council has reviewed the comments and filings and believes it is in the public interest to make amendments to Form CSG – 4 and to the Community Solar Rules; **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That Form CSG 4 to affect the following changes:

1. ENO reserves the right to refuse to accept any additions, deletions or changes to the Monthly Subscription Information to the extent such addition, deletion or change results in non- compliance with any of such conditions. If a Subscriber will be removed, the Utility shall give both the Subscriber and the Subscriber Organization 30 days notice so that the potential default can be cured.
2. Section 4.2: Renewal (added language) – Subscriber Organizations shall be allowed to continue to operate and Subscribers shall continue to receive bill credits during negotiation and after the end of the initial term without interruption until there is

mutual agreement by the parties to renew or terminate the agreement. Failure of the parties to agree to renew or terminate the agreement within one hundred eighty days of the agreement's expiration shall result in the agreement terminating.

3. Section 4.5: Deposit - If Commercial Operation is not achieved within 18 months following execution of an interconnection agreement, Subscriber Organization shall provide to ENO an additional deposit of \$25 per kW to remain in the Construction Queue. ENO shall return the CSG Facility deposit upon commencement of Commercial Operation, unless the CSG Facility fails to begin operating within 24 months of executing an interconnection agreement. If a CSG Facility fails to begin operating within 24 months of executing an interconnection agreement, the Subscriber Organization shall provide ENO an additional deposit of \$25 per kW for the project to remain in the Construction Queue. ENO shall return the CSG Facility deposit upon commencement of operation unless the CSG Facility fails to begin operating within 36 months of executing an interconnection agreement, in which case the full deposit shall be forfeited by the Subscriber Organization and the CSG Facility shall lose its ability to continue under the Community Solar Program.
4. Section 4.6: Repair timelines – The Subscriber Organization shall make best efforts to maintain the CSG Facility and the individual components thereof in good working order at all times during the Term of this Agreement. If, during the Term of this Agreement the CSG Facility or any of the individual components of the system should be damaged or destroyed such that the extent of the damage affecting output exceeds twenty (20) percent of the CSG Facility's nameplate rating, the

Subscriber Organization shall provide ENO written notice of such damage, a description of the equipment damaged, the corresponding reduction to the CSG Facility's output, and the anticipated duration of repairs to the facility to return the facility to its original nameplate rating. If, after such damage, the CSG Facility is not returned to its original nameplate rating within one hundred and eighty (180) days, and cannot prove to CURO's satisfaction that they are exercising due diligence to repair the issues, ENO shall have the right, exercisable at its sole option, to terminate this Agreement upon not less than thirty (30) days written notice, with no further obligation of the Parties to perform hereunder following the effective date of such termination. In all other situations, if the CSG Facility is out of operation for more than ninety (90) consecutive days during the Term of this Agreement, and cannot prove to CURO's satisfaction that they are exercising due diligence to repair the issues, ENO shall have the right to terminate this Agreement by providing written notice to Subscriber Organization anytime during the period following the expiration of such ninety (90) days and before the CSG Facility has been made fully operational again.

5. Section 4.8: Annual recertification of low-income subscribers – By May 1 of each year, the Subscriber Organization shall submit an affidavit to ENO attesting that they have surveyed their subscribers, made best efforts to ascertain if any have had a change in income status, and the list of low-income subscribers provided is accurate to the best of their knowledge. Any party may challenge a subscriber's reported income status and provide proof supporting the challenge.

6. Section 6.3: Repair timelines after Force Majeure events - "In the event that any delay or failure of performance caused by conditions or events of Force Majeure continues for an uninterrupted period of three hundred sixty-five (365) days from its occurrence or inception, as noticed pursuant to Section 6.2(a)(i) above, the Party not claiming Force Majeure may, at any time following the end of such three hundred sixty-five (365) day period terminate this agreement upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure shall extend such three hundred sixty-five (365) day period if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure, as determined by CURO.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That

1. ENO's request to establish two application queues in GRANTED.
2. Deadlines for a Subscriber Organization to act shall be tolled during periods in which the Subscriber Organization is not in control, such as during study timelines, interconnection upgrade construction, or waiting periods.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO is directed to make all changes to Form CSG-4 and to the Community Solar Rules ordered in this Resolution. No later than November 1, 2024, ENO shall submit the revised Form and Rules to CURO and the Advisors to ensure compliance with the Council's directives.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO's request to utilize Form CSG-APP and Form CSG-RPAR is APPROVED; however, ENO shall 1-) expand acceptable proofs of site control to include emails from property owners expressing interest in the projects and 2-) provide and maintain a list of costs for common utility system upgrades required by distribution interconnections.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS: Giarrusso, Green, Harris, King, Moreno, Morrell, Thomas - 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY



ASSISTANT CLERK OF COUNCIL

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