

**RESOLUTION
R-18-222**

CITY HALL: June 21, 2018

**BY: COUNCILMEMBERS MORENO, WILLIAMS, GIARRUSSO, BANKS,
AND BROSSETT**

**APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO
CONSTRUCT DISTRIBUTED GENERATION-SCALE SOLAR PHOTOVOLTAIC
SYSTEMS AND REQUEST FOR COST RECOVERY AND RELATED RELIEF**

RESOLUTION AND ORDER APPROVING AGREEMENT IN PRINCIPLE

DOCKET NO. UD-17-05

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans (“Charter”), 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, LLC¹ (“ENO” or “Company”), effective September 1, 2015, is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly-owned subsidiary of Entergy Utility Holding Company, LLC. The other four operating companies are Entergy Arkansas, Inc. (“EAI”), Entergy Louisiana, LLC (“ELL”), Entergy Mississippi, Inc. (“EMI”), and Entergy Texas, Inc. (“ETI”). These five operating companies are referred to collectively as the “Operating Companies;” and

¹ Pursuant to a Council-approved restructuring that was effective December 1, 2017, Entergy New Orleans, Inc. is now operating as Entergy New Orleans, LLC.

Background

WHEREAS, as a result of the lack of data in the 2015 Triennial IRP Proceeding regarding costs, availability, and operational characteristics of renewable resources delivered to New Orleans, the Advisors strongly encouraged ENO to conduct a request for proposals (“RFP”) for renewable power generation to assess what renewable resources might be available and potentially beneficial to New Orleans; and

WHEREAS, ENO has also committed to adding 100 MW of renewable resources to its generation portfolio; and

WHEREAS, on March 22, 2016, Entergy Services, Inc. (“ESI”) published a public notice that ENO intended to issue a renewables-specific RFP, and on July 13, 2016 ENO released the RFP; and

WHEREAS, in response to the RFP, ESI, acting on behalf of ENO, developed a self-build project involving the construction of multiple, distributed generation scale (“DG-scale”) solar photovoltaic (“PV”) systems in New Orleans; and

WHEREAS, on October 6, 2017, ENO submitted its *Application of Entergy New Orleans, Inc. for Approval to Construct Distributed Generation-Scale Solar Photovoltaic Systems and Request for Cost Recovery and Related Relief* (“Application”) requesting that the Council find that it is in the public interest for ENO to construct multiple DG-scale solar PV systems (the “Project”) with a total combined capacity of approximately 5 megawatts alternating current (“MW_{AC}”) in the City of New Orleans and supporting testimony; and

WHEREAS, ENO’s Application explains that the proposed project resulted from the 2016 Renewables RFP and was one of three solar PV resource proposals selected by ENO from the RFP; and

WHEREAS, ENO states that it initially received 17 proposals, of which all conforming bids were for solar PV resources. With respect to the bids received in the RFP, ENO states that only one proposal – ENO’s 5 MW self-build project described in the DG Application – involved DG-scale solar PV systems; and

Proposed Project

WHEREAS, ENO’s Application requests approval of ENO’s plan to construct multiple DG-scale solar PV systems with a total combined capacity of approximately 5 MW_{AC} in the City of New Orleans; and

WHEREAS, ENO further explains that each individual solar PV system comprising a portion of the Project must be at least 100 kW_{AC} and all will be located at sites within Orleans Parish and will interconnect at distribution voltage (less than or equal to 13.2 kV) on ENO’s side of the host site’s electric meter; and

WHEREAS, ENO states that the Project will focus on utilizing rooftops of existing buildings and properties, including customer-owned sites that will be secured under long-term leases and one ENO-owned site (the Dwyer Road service center); and

WHEREAS, ENO states that several important potential benefits of the Project include: (1) helping ENO achieve its commitment to add up to 100 MW of renewable resources to its generation portfolio; (2) allowing ENO to gain real-world experience with operating and maintaining DG-scale solar PV systems; (3) achieving distribution grid benefits; (4) facilitating opportunities for future energy storage (*e.g.* battery) investments; (5) providing economic development benefits to Orleans Parish through increased local investment and use of local labor; and (6) allowing ENO to work directly with its customers to help achieve their goals related to sustainability and/or carbon reduction; and

WHEREAS, ENO explains in the Application that on a pure cost comparison basis, based on the pricing submitted into the 2016 RFP, the Project is more expensive than the other two solar PV proposals also selected. However, ENO notes, it was the only DG-scale project and one of only two proposed projects that would site renewables within Orleans Parish; and

WHEREAS, ENO also explains that it has, through a separate RFP process, selected Brightergy Louisiana LLC (“Brightergy”) as the solar development company to serve as the engineering, procurement, and construction (“EPC”) contractor; and

WHEREAS, ENO states that since Brightergy’s founding in 2010, it has completed more than 1,400 commercial-scale solar projects, making it one of the most experienced commercial solar companies in the U.S. ENO explains that Brightergy will provide all project development, design, and project management for the individual solar PV systems and will lead efforts to negotiate host site lease arrangements. ENO states that Brightergy plans to outsource most aspects of electrical work and hire local companies, subject to input from ENO and consistent with long-standing efforts to support diverse suppliers that meet Brightergy’s qualification criteria for structural reviews and installation services; and

WHEREAS, ENO states that Brightergy has conducted a screening process and identified approximately 50 buildings as possible sites for the Project; and

WHEREAS, under the EPC agreement, Brightergy will have principal responsibility for identifying and developing sites and negotiating the commercial lease terms, but ENO and its legal counsel will be involved during the process and ENO will have final say on the terms of the leases and the acceptability of the overall agreement prior to execution; and

WHEREAS, the Application states that the final estimated installed cost of the Project is \$14.8 million, the majority of which is the EPC Agreement with Brightergy (\$12.3 million). ENO

states that the \$2.5 million in non-EPC costs includes estimated ESI and ENO direct labor costs, indirect costs, overheads, projected Allowance for Funds Used During Construction, and contingency. ENO also states that the final cost estimate accounts for installing roughly 6.4 MW_{DC} in order to yield approximately 5 MW_{AC}; and

WHEREAS, ENO indicates in the Application that it will propose the recovery of costs related to the Project in the 2018 Combined Rate Case. ENO indicates that the Project is expected to be placed into service during Period II, or the preformed rate-effective period, of that proceeding, but that for any costs of the Project incurred beyond that period, ENO expects to request, also as part of the 2018 Combined Rate Case, recovery through an applicable capacity rider and/or any formula rate plan (“FRP”) authorized as a result of that proceeding; and

WHEREAS, in the Combined Rate Case, the Council will determine the appropriate cost recovery methodology and rate mechanism which will provide ENO with the opportunity to recover any prudently incurred project costs and the opportunity to earn a fair rate of return on its investment; and

Development of the Agreement in Principle

WHEREAS, on December 14, 2017, the Council issued Resolution No. R-17-622 setting forth the procedural schedule. In that Resolution, the Council observed that the limited nature of ENO’s request in the Application and the interest of stakeholders and members of the public in renewables and distributed generation in the City of New Orleans that has been expressed from time to time in other dockets suggest that this docket may be ripe for timely review and settlement, and that New Orleans ratepayers may be better served by an expedited procedure leading to a settlement than by a lengthy and costly litigated proceeding. In that Resolution, the Council

encouraged all parties to engage in good faith settlement negotiations to ascertain whether this proceeding may be resolved expeditiously through a settlement among the parties; and

WHEREAS, in Resolution No. R-17-622, the Council adopted a procedural schedule requiring ENO to hold a public meeting, setting an intervention deadline, and requiring the parties to hold settlement conferences and, if successful, to submit an Agreement in Principle (“AIP”) to the Council no later than March 5, 2018. The Resolution also appointed a Hearing Officer and gave the Hearing Officer the authority to change or amend the dates in the procedural schedule for good cause shown and as required by the circumstances of the proceeding; and

WHEREAS, on January 9, 2018, ENO held a public meeting at the Southern University at New Orleans – Lake Campus College of Business and Public Administration to provide information and answer questions concerning the Project and the RFPs ENO issued that generated the Project. In addition to representatives of the Council, ENO, the Advisors, and several members of the public, the meeting was attended by representatives of the Alliance for Affordable Energy (“AAE”), the Gulf States Renewable Energy Industries Association (“GSREIA”), 350 New Orleans, and the American Institute of Architect New Orleans Chapter (“AIA”); and

WHEREAS, timely requests to intervene in the docket were subsequently filed by Air Products and Chemicals, Inc. (“Air Products”), AAE, AIA, and 350 New Orleans. GSREIA requested to intervene out of time, which unopposed request was granted by the Hearing Officer; and

WHEREAS, in February 2018, the parties began settlement talks and discovery pursuant to the Council’s procedural schedule, and held several meetings and conference calls working toward a settlement; and

WHEREAS, the Hearing Officer granted two extensions of time to the parties as settlement talks continued; and

WHEREAS, the parties succeeded in reaching a settlement that is supported by all parties but one, and is unopposed by the remaining party; and

WHEREAS, on May 11, 2018, ENO filed, on behalf of itself, the Advisors and all parties to the case, an AIP reflecting the settlement among the parties and resolving all issues in the case; and

WHEREAS, the signatories to the AIP ("Settling Parties") are ENO, the Advisors, AAE, GSREIA, 350 New Orleans, and AIA, and the AIP is unopposed by Air Products; and

Terms of the AIP

WHEREAS, under the terms of the AIP the Project will continue to expand until the sooner of (i) ENO's installation of a total combined capacity of 5 MW_{AC} or (ii) the expenditure of the Project budget of \$14.85 million. The duration for which each participating site shall continue to participate in the Project shall be determined through the lease negotiations between the Company and that participant, but is expected to extend for the full life of the solar PV assets installed at the customer's location. Similarly, the rate impact is expected to continue for as long as the facilities built under the Project are in service; and

WHEREAS, under the AIP, the target installed cost per watt (direct current or "DC") will be \$2.32/W_{DC}. During construction, should per watt costs rise more than 5%, ENO shall, within 10 business days, notify the Council of the cost increase and causes, and the Council may choose to take action in response to the cost increase, including, but not limited to, modifying its approval of the AIP; and

WHEREAS, under the terms of the AIP, the cost of the Project will be recovered from all customers on a demand basis,² with any necessary tariff provisions addressed in ENO's general rate base proceeding, which it expects to file before July 31, 2018 (the "2018 Rate Case"). ENO represents that the monthly bill impact to a typical residential customer will be \$0.46 (nominal) per month during the first year of the Project; with this estimated impact declining for each subsequent year of the Project; and

WHEREAS, under the terms of the AIP, the Settling Parties agree that the Project will be considered and evaluated as a pilot program, which will provide valuable experience and information for the Council regarding future distributed renewable projects, and as such, is in the public interest; and

WHEREAS, under the AIP, the Settling Parties agree that investments made by ENO pursuant to the public interest finding recommended by the AIP shall be eligible for recovery from customers and that ENO will be afforded a full and fair opportunity to recover the revenue requirement associated with the project; and

WHEREAS, the Settling Parties agree in the AIP that ENO should be authorized to (a) recover any and all prudently incurred costs of the Project; (b) reflect any plant expected to be placed into service through December 31, 2019, as a *pro forma* adjustment to Period II of ENO's 2018 Rate Case; (c) recover any prudently incurred costs beyond the referenced rate effective period through any FRP or similar ratemaking mechanism authorized following the 2018 Rate Case or through an applicable two-step rate adjustment; and (d) proform into ENO's 2018 Rate Case cost of service studies any anticipated first-year operation and management ("O&M") expenses for the Project, with any change in the level of on-going O&M expenses being addressed

² The Council understands this to mean it will be recovered from all customer classes on a demand basis.

in subsequent FRP proceedings or, in the event an FRP or similar ratemaking mechanism is not adopted following the 2018 Rate Case, through an applicable two-step rate adjustment. ENO estimates that its first-year O&M expenses for the Project will be \$128,000; and

WHEREAS, the Settling Parties agree that while specific cost allocations for the Project will be determined as part of the 2018 Rate Case, the capital costs of the Project should be allocated to customers on a demand basis,³ specifically the production demand allocation factor determined by the Council in the 2018 Rate Case; and

WHEREAS, the Settling Parties agree that ENO should be authorized to expend funds consistent with the final estimated costs of the Project submitted with ENO's Application. They also agree that ENO shall undertake commercially reasonable efforts to ensure that the capital costs of the Project shall not exceed the final estimated costs submitted with the Application and shall also undertake commercially reasonable efforts to find opportunities to reduce costs during construction, while maintaining all appropriate quality and safety standards; and

WHEREAS, under the AIP, ENO commits to using commercially reasonable efforts to utilize locally owned businesses and/or Diverse Subcontractors and Suppliers, with acceptable safety and performance records, to provide labor for the Project; and

WHEREAS, under the AIP, ENO commits to using commercially reasonable efforts to prioritize utilizing facilities owned by tax-exempt entities such as government buildings, educational institutions, hospitals, and other non-profit organizations as host sites for the Project; and

³ The Council understands this to mean it will be recovered from all customer classes on a demand basis.

WHEREAS, the Settling Parties expect that the Project will allow ENO to gather data regarding the output of solar DG in New Orleans and its impact on the distribution grid, which shall be filed annually with the Council and parties to the instant docket; and

WHEREAS, the Settling Parties agree that ENO shall file a report with the Council, served on the Advisors and Parties to this proceeding by September 30, 2018, providing details on: (i) the number and total combined capacity of installations placed into service as of the date of ENO's report, (ii) the location and capacity of each installation completed to date, (iii) the total cost expended to date, (iv) the ENO's installed cost per watt to date, (v) the extent to which locally owned businesses and/or Diverse Subcontractors and Suppliers have been employed to date, and (vi) the anticipated timeline for completion of the remaining installations contemplated for the Project; and

WHEREAS, the Settling Parties also agree that following completion of the Project, ENO shall file a report with the Council, served on the Advisors and Parties to this proceeding within 90 days, which report shall detail (i) the number and total combined capacity of installations placed into service, (ii) the general location and name-plate capacity of each installation completed, (iii) the total cost expended, broken out by EPC and non-EPC expenditures, and (iv) the extent to which locally owned business and/or Diverse Subcontractors and Suppliers have been employed; and

WHEREAS, the Settling Parties agree that, to the extent ENO monetizes any Renewable Energy Credits ("RECs") associated with the Project, funds received from such monetization shall be flowed to customers through the Fuel Adjustment Clause ("FAC"); and

WHEREAS, the Settling Parties agree that, following the Council's receipt and review of the reports contemplated herein, the Council may choose to take further actions in relation to the

Project, including but not limited to, (i) instituting further procedural steps for review, discovery, and comment from the Advisors and Parties to this proceeding related to ENO's reports and the Project, (ii) requiring that ENO issue an additional Request for Proposals prior to commissioning any further installation of DG-scale solar PV systems, and/or (iii) requiring that ENO provide estimated costs and a timeline prior to commissioning further installations of DG-scale solar PV systems; and

WHEREAS, the Settling Parties agree that, the subject of voluntary, subscription-based customer participation in renewable resource programs should be examined by the Council in a future regulatory proceeding in which all parties will be afforded the opportunity to participate and provide comments and other input for consideration by the Council, and that such a proceeding may result in the development of a mechanism or mechanisms by which voluntary customer participation helps to offset a portion of the cost of the Project and/or other renewable resources; and

Benefits of the AIP

WHEREAS, the Settling Parties anticipate that the Project will bring several forms of benefits to New Orleans; and

WHEREAS, ENO and the Supportive Intervenors agree that in addition to the capacity and energy savings estimated to be attributable to the Project and the estimated tax savings that could reduce overall costs of the Project, the Project is expected to deliver social and economic benefits to New Orleans. While these factors do not change the revenue requirement for the Project or alter the estimated customer bill impacts attributable to the Project, ENO and the Supportive Intervenors believe that such benefits are worthy of consideration by the Council so that the Council may determine whether such benefits contribute to the Project's ability to fulfill the stated

policy objectives articulated by the Council and Councilmembers related to renewable resources; and

WHEREAS, the Advisors have not had the opportunity to independently verify any quantified social and economic benefits; and

WHEREAS, the ENO and the Supportive Intervenors have quantified the following social and economic benefits: (1) 41 direct jobs and 65 total jobs in Orleans Parish are anticipated to result from the Project; (2) a local economic impact for Orleans Parish expressed as value added to the Project would be approximately \$12.2 million; and (3) estimated total revenues generated for the City of New Orleans as a direct result of the Project could be as much as \$5.4 million; and

WHEREAS, the Supportive Intervenors estimate the social and environmental benefits of reduced carbon emissions resulting from the Project, based on the U.S. Environmental Agency's "Social Cost of Carbon," to be \$1.1 million. While ENO believes its voluntary commitment to stabilize CO2 emissions is an important objective that the Project would help to further, ENO does not agree to the validity or accuracy of the "Social Cost of Carbon" estimate of the Supportive Intervenors; and

WHEREAS, the Settling Parties agree that the Project would contribute a variety of benefits that are relevant, but not specifically quantified, including fulfilling Council goals to meet an increased portion of New Orleans' electricity demand with renewable resources, creating a long term hedge against the costs of conventional generation resources, potential distribution grid and resilience benefits, including facilitating opportunities for investment in future energy storage (*e.g.* battery storage, potentially including placement on City-owned buildings), helping ENO customers to achieve their goals around sustainability and/or carbon reduction, and providing ENO with real-world experience operating and maintaining DG-solar systems; and

Council's Findings

WHEREAS, the Council has established criteria for applications to develop a pilot program. In Resolution No. R-16-106, the Council indicated that a proposed pilot program should include (1) the number of participants, which customer classes are participating, and whether the pilot is a voluntary program; (2) the duration of the proposed pilot program; (3) what data is to be collected and the manner of collection; (4) draft tariff provisions to implement the program (if required); and (5) the anticipated costs and rate impact of the program; and

WHEREAS, the AIP states that with respect to whether participation in the Project is voluntary and which classes of customer will participate, the costs of the program will be allocated to all rate classes of customers on a demand basis, and customers in the non-residential rate classes with suitable rooftop facilities will be eligible to participate voluntarily as a host of a solar facility. The AIP does not set forth a specific number of participants who will be hosts of a solar facility. However, it does set forth a specific capacity to be reached, 5 MW_{AC} which similarly informs the Council of the scope of the Project; and

WHEREAS, the AIP does not express the duration of the project in terms of a specific date or measurement of time, it states that the Project will continue to expand until the sooner of (i) ENO's installation of a total combined capacity of 5 MW_{AC} or (ii) the expenditure of the \$14.85 million budget. The Council observes that ENO states in the AIP that its target to complete all installations of systems comprising the Project is within 12 months of receipt of regulatory approval from the Council. The AIP states that the duration for which each participating site shall continue to participate in the Project shall be determined through the lease negotiations between the Company and that participant, but is expected to extend for the life of the solar PV assets

installed at the customer's location. Similarly, the rate impact is expected to continue for as long as the facilities built under the Project are in service; and

WHEREAS, as described above, the AIP sets forth in detail the data to be collected and various reporting requirements to be imposed upon ENO to transmit relevant data to the Council, parties and Advisors; and

WHEREAS, also as described above, the AIP sets forth the manner in which cost recovery will be determined through the 2018 Combined Rate Case. To the extent that any tariff provisions or revisions are necessary to implement the Project, the Council expects they will be fully and best addressed in that case; and

WHEREAS, the cost of the Project under the AIP is limited to \$14.85 million, which is anticipated to have a nominal monthly bill impact to a typical residential customer of \$0.46 during the first year of the Project, with this estimated impact declining for each subsequent year of the project. ENO and the Supportive Intervenors agree that the target ENO-installed cost per watt (DC) is \$2.32/WDC, and that should the per watt costs rise more than 5%, ENO shall, within 10 business days, notify the Council of the cost increase and causes, and the Council may choose to take action in response to the cost increase, including, but not limited to, modifying its approval of the AIP; and

WHEREAS, the Council finds that its requirements for a pilot program proposal have been met through the AIP; and

WHEREAS, although the social and economic benefits identified in the AIP and the other intangible benefits of the Project (such as the experience and data to be gained regarding how distributed generation performs in New Orleans) cannot yet be measured with mathematical accuracy, the Council, like the Settling Parties, believes that these benefits do exist, and along with

the energy and capacity benefits, will likely outweigh the \$0.46 per month cost on the average residential ratepayer bill; and

WHEREAS, the AIP is attached to this resolution and incorporated herein and made a part hereof: and

WHEREAS, on the basis of the record before the Council and the agreement between ENO and the Council's Advisors, the Council wishes to approve the AIP including all terms and conditions included therein; now therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:

1. The AIP filed by ENO on May 11, 2018, in Docket No. UD-17-05 is supported by all but one party to the proceeding, ENO and the Advisors, and the remaining party does not oppose the AIP, and therefore, on the basis of the record before us, and for the reasons set forth herein, we find that the AIP is just, reasonable, and in the public interest. Accordingly the AIP is approved without modification; and
2. The Council finds that prudent investments made pursuant to the Council's approval of this AIP shall be eligible for recovery from customers and ENO will be afforded a full and fair opportunity to recover the revenue requirement associated with the Project through the mechanisms described in the AIP; and
3. The Council's approval of the AIP between the Parties neither limits the Council's ability to exercise any of its powers or regulatory jurisdiction over ENO and the Project nor requires the Council to take any specific course of action in this or any future proceeding.

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

YEAS: Banks, Brossett, Giarrusso, Gisleson Palmer, Moreno, Nguyen, Williams - 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lara W. Johnson
CLERK OF COUNCIL