

RESOLUTION

NO. R-23-553

CITY HALL: December 14, 2023

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

**RESOLUTION AND ORDER REGARDING SAVINGS TARGETS AND PROGRAM
DESIGN FOR ENERGY EFFICIENCY, CONSERVATION, DEMAND RESPONSE AND
OTHER DEMAND-SIDE MANAGEMENT PROGRAMS AS WELL AS CUSTOMER-
OWNED DISTRIBUTED ENERGY RESOURCES AND BATTERY STORAGE**

DOCKET NO. UD-22-04

WHEREAS, pursuant to 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 powers 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 governing the terms and conditions of service, and to govern applications for the fixing and changing of rates and charges for public utilities; and

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

WHEREAS, the Council approves Energy Smart program designs, savings targets, budgets, and incentives for three prospective Program Years every three years upon the conclusion of ENO’s Triennial Integrated Resource Plan (“IRP”) analysis; and

WHEREAS, during the development of the Energy Smart Implementation Plan for Program Years 13-15 at the end of the 2021 IRP proceeding, it became apparent that the Council’s goal of increasing the projected kWh savings from the Energy Smart program by 0.2% per year,

until such time as the program generates kWh savings at an incremental rate equal to 2% of annual kWh sales¹ could potentially be achieved in Program Years 13-15, creating a need for consideration of the next phase of the Energy Smart Program and appropriate future goals for it; and

WHEREAS, comments from parties in the 2021 IRP Proceeding recommended that the Council open a new rulemaking proceeding to consider a broad range of issues including the following: (1) what kWh savings goal should be set to replace the 2% goal for Program Year 16 and beyond, (2) whether a peak demand reduction goal should be included as well as an energy savings goal, (3) whether new programs should target specific geographic areas of the city to address heat islands and customers facing particularly severe energy burdens, (4) the impact on ratepayer bills due to the increasing costs of the Energy Smart programs, and (5) whether Energy Smart participant incentives funded through ratepayers' energy bills is the most appropriate way to achieve all forms of energy efficiency, or whether it might be more cost effective to achieve energy efficiency through regulatory measures such as improved building efficiency standards;² and

WHEREAS, on September 15, 2022, the Council adopted Resolution R-22-413, which established Docket No. UD-22-04 and set forth a procedural schedule to consider modification of the Energy Smart energy efficiency and conservation programs as well as potential Council policies related to demand side management ("DSM"), customer-owned distributed energy resources ("DERs"), and energy storage; and

¹ See Resolution R-15-599.

² Docket No. UD-20-02 Advisors' Report at 28.

WHEREAS, the procedural schedule provided for parties to submit proposals, technical conferences, comments on proposals, an Advisors Report, and comments on the Advisors Report; and

WHEREAS, in comments filed October 31, 2022, ENO did not recommend setting targets above the 2% threshold, due to the potentially significant effects of (1) the Energy Independence and Security Act (“EISA”) legislation announced in April 2022 and (2) new local building code changes on the ability to achieve savings in future years; and

WHEREAS, in its October 31, 2022 comments the Sierra Club proposed: (1) modifying the Energy Smart program to include geographic targeting based on energy burdens, heat islands and certain other indicators; (2) utilizing best practices for low-income energy efficiency programs including programs for low-income renters, avoidance of health and safety deferrals, prioritization of deep energy saving measures, and other best practices; (3) increasing spending on income-qualified (“IQ”) energy efficiency; (4) requiring improved data collection and information sharing regarding utility programs and energy security; (5) leveraging existing and potential city, state, and federal funding for a whole home retrofit approach; and (6) considering new sources of funding related to the Inflation Reduction Act’s (“IRA”) Climate Pollution Reduction Grants and Environmental and Climate Justice Block Grants; and

WHEREAS, in its October 31, 2022 comments, the Alliance for Affordable Energy (“AAE”) proposed: (1) maintaining the 2% energy savings goal; (2) establishing additional performance metrics requiring certain levels of savings and investments to benefit income-qualified customers; (3) an enhanced level of effort for disadvantaged communities; (4) establishing new data collection and reporting protocols to ensure that program benefits are targeted to those most in need; (5) requiring ENO to develop income-qualified program

enhancements to leverage IRA rebates and tax credits; (6) establishing a peak demand reduction target; and (7) establishing a demand-side management working group; and

WHEREAS, in its October 31, 2022 comments, the National Audubon Society (“Audubon”) argued that due consideration of the issues raised in the proceeding requires more time and recommended the formation of a Demand-Side Management Working Group similar to the “Parties Working Collaboratively” working group in Arkansas; and

WHEREAS, on December 8, 2022, the parties convened the first virtual technical conference to discuss proposals; and

WHEREAS, on January 12, 2023, the parties filed responsive comments to proposals; and

WHEREAS, AAE and Audubon filed joint responsive comments addressing: (1) ENO’s recommendation not to set savings goals above 2.0%; (2) enforcement of building efficiency standards; (3) geographic targeting of programs, and program models for consideration to increase participation and savings in such efforts; and (4) a comprehensive analysis of current Energy Smart programs and new savings opportunities; and

WHEREAS, AAE and Audubon assert that the Council should (1) establish an overall savings goal of at least 2%; (2) consider a program model similar to the “Neighborhood Energy Savers” (“NES”)³ program implemented by Duke Energy in its Carolina territories; (3) support building energy efficiency standards, noting that experience in other jurisdictions suggests that “enforcement” is not the best term to use when discussing the role of energy efficiency programs with respect to codes and standards; (4) prioritize establishing a DSM Working Group and identifying an appropriate facilitator for Energy Smart as early as practicable in 2023; and

³ NES targets communities are essentially a relatively high percentage of households meet income-eligibility criteria, where representatives go door-to-door to provide direct install measures to as many households as want to receive them.

(5) initiate a deeper, more comprehensive analysis of Energy Smart program designs and operational practices to identify new savings efficiency opportunities going forward. This work could run in tandem with a DSM Working Group and be completed ahead of Council decision-making on future implementation plans. AAE and Audubon also support the Sierra Club's geographic targeting model developed with DTE Energy in Michigan which notably incorporates pre-weatherization health and safety measures and provides a blueprint of how to work with stakeholders to develop such a program; and

WHEREAS, the Sierra Club recommends that the City Council establish a demand-side management working group to address reforms to the Energy Smart program and related policies coordinated by an independent facilitator selected by the Council; and

WHEREAS, in its responsive comments to the parties proposals, ENO asserted: (1) should the Council set a demand reduction/demand response program ("DR") target, it should be set lower than what was projected in the 2021 DSM potential study due to the current status of ENO's DR programs still being in their infancy; (2) should an IQ customer participation target be set, the Council should consider that there is a significant amount of IQ participation in programs other than the income-qualified weatherization ("IQW") program already; therefore, the historical Energy Smart participation amongst IQ customers is much higher than the level the AAE suggests; and (3) should a DSM Working Group be created, semi-annual meetings initially would be frequent enough to accomplish its goals without hindering program implementation; and

WHEREAS, ENO further requested, with respect to innovative pricing structures regarding ENO's Peak Time Rebate and off-peak electric vehicle DR programs approved for implementation in Energy Smart this year, that ENO be allowed sufficient time to operate to understand customer response, effectiveness, and overall desirability; and

WHEREAS, on March 1, 2023, the Advisors filed the Advisors' Report offering the following guidance: (1) maintain the current goal of generating kWh savings at a rate equal to 2% of ENO's annual kWh sales through the end of Energy Smart Program Year ("PY") 15 (2025), then consider setting the kWh saving targets for PYs 16-19 (2026-2029) based upon the outcome of the DSM potential studies performed in the 2024 IRP proceeding; (2) consider establishing a kW demand reduction goal of 3% of annual system peak beginning with PY15, then set the goal for subsequent program years when the Energy Smart Implementation Plan for PYs 16-19 is approved; and consider a performance incentive for attaining 100% of the goal; (3) Parties should work together to design an appropriate performance incentive that rewards ENO for achieving savings related to measures installed for income-qualified customers while avoiding unintended consequences; (4) consider formally clarifying that addressing inequitable energy burdens, urban heat island impacts, and other environmental and social justice issues is consistent with the Council's goals for the Energy Smart Program and that measures addressing those issues should be exempt from the Total Resource Cost ("TRC") cost-effectiveness test; (5) re-evaluate the goals of the Energy Smart Program which have been primarily focused on cost-effectiveness, with the understanding that increasing the amount of Energy Smart measures proposed by Parties relative to energy burden and heat islands while also attempting to achieve the Council's kWh savings target will likely increase the program's costs and applying the same treatment to those projects as to income-qualified projects will likely reduce overall portfolio cost-effectiveness; (6) create a DSM Working Group that could streamline the Council's process for approving Energy Smart program designs and Implementation Plans; (7) enhance the Energy Smart program offerings for IQ customers and have the Parties work to develop a common understanding of how IQ customer participation is tracked and measured; (8) develop an opt-out geographic targeting and

neighborhood delivery program for Energy Smart, contacting and advising residents of Home Performance with Energy Star Program or IQW Program eligibility and asking them to set up an appointment, or opt out if they do not wish to participate, and consider a pilot program for 2025; (9) foster a more coordinated approach to resolving health and safety issues regarding energy efficiency upgrades, which could be a task within a DSM Working Group; (10) identify enhanced data which could be collected from ENO customers and Energy Smart participants and expanded data tracking by ENO to easily identify geographic clusters of customers that would benefit from IQ programs or programs that specifically address energy burden and urban heat island impacts, consistent with the Customer Bill of Rights and applicable privacy laws; (11) have the Parties develop a proposed program for inclusion in PY15 (2025) and beyond for building code verification and compliance support as new building codes come into effect; (12) leverage all sources of available funding to enhance the Energy Smart Program offerings, with ENO assisted by the proposed DSM Working Group; (13) create a long-term timetable, as recommended by the Parties, for further proceedings in this docket to develop proposals (i) for time-differentiated rate designs that could capture the potential for kW savings related to such programs identified in the DSM Potential Studies, and (ii) for programs for customer-sited distributed energy resources and battery storage; (14) identify potential additional measures and sources of funding to mitigate the impact on customer bills from increased Energy Smart costs, including a budget cap and revising the Energy Efficiency Cost Recovery (“EECR”) Rider cost allocation between customer classes; and (15) require the Parties to provide more clarity on the various proposals they presented in this docket; and

WHEREAS, on March 16, 2023, the Parties conducted a second technical conference;
and

WHEREAS, on March 29, 2023, the Parties filed comments on the Advisors' Report;

and

WHEREAS, AAE and Audubon filed joint comments on the Advisors' Report recommending that: (1) 15% of total portfolio savings attributable to income qualified participation should only come from IQ programs, not market rate programs, but also suggested that it might be reasonable to assume that as much as 1%–2% of portfolio savings could be attributed to IQ participation in market rate programs; (2) the Demand Side Management Working Group (“DSMWG”) be organized around achieving energy justice in New Orleans; (3) the Council should take advantage of the updated and expanded capabilities for Benefit-Cost Analysis (“BCA”) set out in the updated National Standard Practice Manual (“NSPM”)- in particular, the Council should commission the creation of a separate and parallel working group charged with developing a New Orleans-specific BCA framework and test which should then be used by the DSM Working Group, CURO, ENO, and others to provide consistent program design and evaluation across all energy resource programs and initiatives; (4) the Council’s 2% energy savings goal should remain in place after the savings target is achieved in 2024 or 2025, not only as guidance to the Company for IRP modeling purposes, but also as a baseline goal; and (5) the Council should move forward with a demand savings target of 3% for the current Program Cycle;

and

WHEREAS, in response to the Advisors' Report, the Sierra Club agreed with the Advisors that recommendations for enhancing IQ programming, developing a geographic targeting and neighborhood delivery model, and working collaboratively with other agencies and other entities receiving funding could enhance the Energy Smart Program; and

WHEREAS, on April 17, 2023, the parties filed reply comments regarding the Advisors' proposed revisions; and

WHEREAS, in response to the Sierra Club comments, ENO asserted that with regard to geographic targeting and neighborhood-based delivery, ENO's Energy Smart Program has begun to include some geographic targeting elements in the Energy Smart marketing plan for 2023, and it would be easier to track and determine the success of a neighborhood-based delivery program if it were implemented separately from the current IQ programs as a pilot since it would be a different approach than what occurs today and would have a separate budget and goal from the current programs; and

WHEREAS, ENO supported other Sierra Club proposals: (1) targeted outreach to payment-troubled customers; (2) the idea of reducing health and safety deferrals, and as a result, Energy Smart will begin to track health and safety deferrals by program assessors and trade allies in 2024; and (3) the idea of collecting and providing data for the betterment of the Energy Smart program, and working with the Sierra Club and other stakeholders on securing this funding to help support some of the new initiatives suggested in this docket; and

WHEREAS, in response to joint comments filed by AAE and Audubon in response to the Advisors' Report, ENO supports: (1) an increased focus on IQ programs, but with the understanding that increased focus on IQ programs will require increased funding; and (2) the development of a DSMWG to the extent that it does not interfere with implementation of Energy Smart programs; and

WHEREAS, on April 17, 2023, the Alliance and Audubon filed joint reply comments re-asserting: (1) ENO's 2% savings target should be maintained through Program Year 15 and beyond, until such time as there is new information indicating there are compelling reason for the

savings targets to be reconsidered; (2) agreement with the Advisors' recommendation for a 3% demand target, with a requirement that the Company demonstrate actual savings capability, rather than registered enrollment; (3) the DSMWG should be modeled after the Arkansas Parties Working Collaboratively, with a subject matter experienced independent facilitator and specific actionable deliverables with timelines tied to future Council decision-making; (4) geographic targeting for the Energy Smart program following the approach outlined by the Sierra Club proposal; (5) IQ programs should be exempt from the Total Resource Cost test requirements for standard programs; (6) a New Orleans specific benefit-cost analysis framework should be created to reflect local policy priorities, including carbon reduction, energy justice, reducing energy burden, stimulating economic development, and other impacts. Further, a working group established for this purpose should take advantage of the updated and expanded capabilities of the National Standard Practice Manual; and (7) the Council should recognize the unique value of a DSM in-depth analysis and task the DSMWG with developing a scope of work for future consideration by the Council; and

WHEREAS, on April 17, 2023, in response to the Advisors' Report, the Sierra Club filed reply comments asserting: (1) the City Council's final order should include specific deliverables and timelines for a DSMWG; (2) the City Council should take immediate action on certain issues such as, tracking and eliminating health and safety deferrals, targeting resources toward the most burdened parts of the city rather than deferring action to a workgroup; and (3) a geographic targeting program should be more than an ENO marketing strategy, but should also seek to provide enhanced service to the targeted areas, including features such as automatic eligibility for whole-home audits, emphasis on providing all building envelope measures needed for a target number of homes, and avoiding health and safety deferrals by leveraging multiple funding sources; and

WHEREAS, the Council has carefully considered these issues and fully vetted all proposals, notwithstanding whether they are discussed herein; and

WHEREAS, the Council takes note of the substantial consensus among the parties around energy savings and demand reduction goals, increasing emphasis on income-qualified programming and interest in geographic neighborhood program delivery, and alleviating urban heat islanding and inequitable energy burdens; and

WHEREAS, the Council does not have sufficient information at this time to establish such a Working Group and will need to evaluate similar groups in other states such as “Parties Working Collaboratively” to ensure compliance with state and local laws. The Council may reconsider the need for such a working group in the 2024 IRP Proceeding, Docket No. UD-23-01, associated with the DSM Implementation Plan that will be proposed for Energy Smart Program Years 16-18; and

WHEREAS, as noted by multiple parties, many of the proposals in this proceeding require further time for development and are not ripe for adoption at this time; **NOW THEREFORE**

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

THAT:

- (1) ENO shall maintain the current goal of generating kWh savings at a rate equal to 2% of ENO’s annual kWh sales through the end of Energy Smart’s PY 15 (2025). Thereafter, the Council will consider setting the kWh saving targets for PYs 16-18 (2026-2028) based upon the outcome of the DSM potential studies performed in the 2024 IRP proceeding.
- (2) ENO shall establish a 3% of annual peak load kW demand reduction goal beginning with PY15 (2025). The 3% kW demand target shall be for ENO’s non-coincident annual peak for PY15, with the annual peak being calculated based on a three-year

rolling basis. The goal for PY16 and beyond shall also be evaluated as part of the Energy Smart Implementation plan for PYs 16-18 (2026-2028) based on registered DR capacity for PY15 and based on actual kW savings for PY16 and beyond.

- (3) The Council supports an increased emphasis on IQ programming, and the commencement of geographic targeting and neighborhood-based delivery of programs, contacting and advising potential participants of Home Performance with Energy Star Program or IQW Program eligibility. All Energy Smart measures relative to IQ programming, geographic targeting, and neighborhood-based delivery of programs shall be exempt from the TRC cost-effectiveness tests.
- (4) ENO is directed to submit a Geographic Targeting and Neighborhood-Based Delivery Pilot Program with a separate budget and goal from the current programs, including enhanced outreach to customers in those neighborhoods to ensure they are made aware of their eligibility for inclusion in specific Energy Smart Programs. The pilot program should be submitted for Council consideration in the revised Energy Smart Implementation Plan for PY15 (2025).
- (5) The Council finds that it is appropriate and consistent with the Council's policy goals for the Energy Smart Program to increase its focus on IQ customers and to include program offerings that address urban heat islanding and inequitable energy burdens and other energy-related environmental and social justice issues. The Council recognizes that the inclusion of such programs may increase Energy Smart program costs, and finds that such costs must remain subject to the just and reasonable standard. Prospective Energy Smart Implementation Plans should

include offerings that address urban heat islanding, inequitable energy burdens, and other environmental and social justice issues.

- (6) ENO shall develop a proposal, for inclusion in the PY15 (2025) Energy Smart Implementation Plan and beyond, regarding building code verification and compliance support for building owners as new building codes come into effect.
- (7) ENO shall include cost-effectiveness scores for Energy Smart programs using both the weighted average cost of capital (“WACC”) and a pre-determined societal discount rate in the DSM Potential Study and the Energy Smart Implementation Plans.
- (8) ENO is directed to file for Council consideration a revised Energy Smart Implementation Plan for PY15 (2025) consistent with the directives in this Resolution no later than Friday, April 5, 2024.

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

YEAS: : Giarrusso, Harris, King, Moreno, Morrell, Thomas – 6

NAYS: 0

ABSENT: Green – 1

AND THE RESOLUTION WAS ADOPTED.

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