RESOLUTION

NO. R-25-352

CITY HALL: June 26, 2025

BY: COUNCILMEMBERS MORENO, MORRELL, HARRIS, GREEN AND THOMAS

RESOLUTION AND ORDER REGARDING ENTERGY NEW ORLEANS, LLC'S COMPLIANCE FILING

DOCKET NO. UD-18-03

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 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") is a public utility providing electric service to all of New Orleans; and

Background

WHEREAS, on March 28, 2019, the Council adopted Resolution No. R-19-111, establishing the Community Solar Rules, and subsequently amended and/or clarified those Rules in Resolution Nos. R-19-390, R-22-76, R-23-130, R-23-507, R-24-137, R-24-310, and R-24-571; and

WHEREAS, in R-24-571, adopted by the Council on October 10, 2024, the Council ordered certain changes to ENO's Form CSG 4 and the Community Solar Rules and directed ENO to submit a revised form and rules to CURO and the Advisors no later than November 1, 2024 to ensure compliance with the Council's directives; and

WHEREAS, on November 1, 2024, ENO submitted its compliance filing with proposed language for the revised Form CSG-4 and Community Solar Rules reflected in redline and supplemented that filing on January 16, 2025. In response to feedback from the Council's Advisors and CURO on their submissions, ENO submitted a further revised version of CSG-4 on March 6, 2025, a copy of which is attached as Appendix A; and

WHEREAS, on April 2, 2025, Together New Orleans ("TNO") submitted further comments on the New Orleans community solar program,[1] and, on April 24, 2025, in Resolution No. R-25-255, the Council set a comment deadline of May 27, 2025 to afford parties an opportunity to address the issues outlined in TNO's April 2, 2025 filing; and

WHEREAS, TNO's proposed changes sought (1) to reduce insurance requirements for Subscriber Organizations from $3 million to $1 million;[2] (2) to make changes to both section 4.5 of CSG-4 and Section VII.D.9 of the Community Solar Rules to comply with R-24-571, to impose a deposit requirement upon ENO, to substantially lengthen the time period Subscriber Organizations have before the deposit requirement applies, and to require Council approval of each deposit requirement and deposit forfeiture;[3] (3) to eliminate the proposed application queue waitlist and remove the capacity cap from the application queue;[4] (4) to require ENO to update its

[1] Together New Orleans, Comments, submitted April 2, 2025, Docket No.UD-18-03 ("TNO April Comments").
[2] TNO April Comments at 2.
[3] TNO April Comments at 2-4.
[4] TNO April Comments at 4-5.

website's flowchart to show that interconnection agreements can be signed after the system impact study;[5] (5) to keep ENO on track to implement a plan for consolidated billing by July 1, 2025;[6] and (6) to waive deposit invoices being sent under the current version of the Community Solar Rules that will not be applicable under the new version of the Community Solar Rules;[7] and

WHEREAS, ENO[8] and a total of eleven Intervenors[9] filed comments pursuant to Resolution No. R-25-255. The Intervenors supported TNO's proposed changes;[10] and

WHEREAS, ENO requested the Council reject the changes proposed by TNO to the deposit, insurance, and application queue provisions previously ordered by the Council and request Council to approve the pending January 16, 2025 redlined documents submitted in compliance with the Council's direction and Form CSG-4 submitted March 6, 2025; and

WHEREAS, on June 10, 2025, ENO submitted a proposal for consolidated billing; and

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[5] TNO April Comments at 5-6.
[6] TNO April Comments at 6.
[7] TNO April Comments at 7.
[8] Entergy New Orleans, *Entergy New Orleans, LLC's Comments Regarding Together New Orleans' Comments Dated April 2, 2025*, May 27, 2025, Docket No. UD-18-03 ("ENO Comments").
[9] The Intervenors that submitted comments are Carpe Diem Developers, LLC, Algiers Solar, LLC, Green Coast Enterprises,127 Energy, LLC, NOLA Solar Holding Company LLC with SunConnect Corporation, the Gulf States Renewable Energy Industries Association, Finance New Orleans, South Coast Solar, the Alliance for Affordable Energy, Working Power LLC, and the New Orleans Office of Resilience & Sustainability.
[10] The Council notes that in addition to commenting on TNO's proposals, Intervenors proposed more new changes to CSG-4 and the Community Solar Rules. Such proposals will not be considered at this time because they are beyond the scope of this phase of the proceeding which is only considering whether ENO's proposed redlines to CSG-4 and the Community Solar Rules are in compliance with the Council's prior directives and comment on TNO's proposal. In addition, parties have had no opportunity to respond to such new proposals. Should parties wish to pursue such new proposals, they may file a motion to change the Community Solar Rules and CSG-4. However, the continuous addition of new proposals to change the rules by the Intervenors in this docket has prevented the rules from being finalized to date, which, as at least one Intervenor has noted, causes potential investors/financiers to view the market as unstable.

Proposed Redlines of Form CSG 4

WHEREAS, although some of ENO's proposed changes to CSG-4 were not directly ordered in prior Resolutions, the Council finds that those changes either offer helpful clarification or have no substantive impact; and

WHEREAS, the March 6, 2025 version of CSG-4 does not fully reflect the Council's directive in R-24-571 and that the following sentence should be added to the end of Section 4.5 of CSG-4: "The deposit timelines shall be tolled in accordance with the Community Solar Rules."; and

WHEREAS, the Council finds that otherwise, ENO's March 6, 2025 version of CSG-4 is in compliance with the Council's directives; and

WHEREAS, with respect to TNO's proposed changes to CSG-4, the Council declines to further extend the deadlines for CSG Facilities to commence operations. The Council notes that in Resolution R-24-571 it ordered that 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.[11] That requirement should be sufficient to protect Subscriber Organizations from losing deposits and their place into the queue due to delays over which Subscriber Organizations have no control; and

WHEREAS, the Council finds that TNO's proposal to make each deposit requirement and forfeiture individually subject to the Council's approval will place an unreasonable administrative burden upon the Council and its CURO. The Council has already made a determination regarding what the appropriate deposit deadlines and amounts are, revisiting that determination for each

[11] Resolution No. R-24-571 at 10.

application is unwarranted and unduly burdensome on the Council. Should a Subscriber Organization feel that circumstances exist that justify exempting it from the deposit requirements and timelines that all other Subscriber Organizations are subject to, it may petition the Council for a waiver of the applicable Rule; and

WHEREAS, the Council declines to adopt TNO's proposed language imposing a deposit requirement on ENO. Should a Subscriber Organization believe that ENO has violated the Community Solar Rules, it may bring a complaint to CURO in accordance with Section XIV of the Community Solar Rules, and should a Subscriber Organization believe that ENO has breached an agreement, it may bring a complaint in the appropriate court of law. CSG-4 contains a Force Majeure clause governing when delays or failures to perform may be excused, and courts of law are experienced in applying such clauses; and

Proposed Redlines of the Community Solar Rules

WHEREAS, ENO's proposed language regarding the creation of an Application Queue, a Construction Queue, and a waitlist is generally in compliance with the Council's directives, however, certain clarifications to that language are needed in order to improve understanding of how the waitlist and queues are to be administered: and

WHEREAS, the Council currently has no intention of removing the Program Capacity Limit or the CSG Facility Category Limit until such time as the Council has sufficient operational data from the Community Solar Program to assess the impact of the program on both the reliability of the distribution system and customer rates. Whether the impacts on the system and on rates are positive or negative, further changes to the program may be warranted before the program is expanded; and

WHEREAS, the Council clarifies that its intent is that the Community Solar Program Capacity Limit and CSG Facility Category Limit apply to both the Application Queue and the Construction Queue. The Council is aware that these limits have been reached and further applications beyond those limits should not be accepted into the Application Queue unless a pending project in either queue ceases to proceed and is removed from the relevant queue. Admission to the Application Queue triggers the performance of certain interconnection studies and the negotiation of an interconnection agreement between the Utility and the Subscriber Organization. Requiring that such studies be performed potentially years before space in the Construction Queue may become available runs the risk of such studies becoming outdated and needing to be performed again, and consumes resources of the Subscriber Organizations and Utility for projects that may have a low likelihood of being built, slowing the queues for all parties; and

WHEREAS, while ENO may not accept applications into the Application Queue once the Community Solar Program Capacity Limit or CSG Facility Category Limit has been reached, ENO should continue to accept complete applications into the Waitlist. Knowing their place in the Waitlist and the length of the Waitlist will allow Subscriber Organizations to gauge the likelihood of their proposed project being accepted into the Application Queue. Additionally, maintaining the Waitlist will allow ENO to more quickly fill any capacity that becomes available under the Community Solar Program Capacity Limit or CSG Facility Category Limit; and

WHEREAS, to ensure that this intent is properly reflected in the Community Solar Rules and to reduce confusion regarding that issue, the Council finds that several changes should be made to ENO's proposed language; and

WHEREAS, the Council finds that Section V.A.(2) should be clarified by making the following changes to that section as follows:

> (2) ~~Prior to accepting~~ The Utility shall not accept CSG Facility applications beyond the Community Solar Program Capacity Limits or the CSG Facility Category Limits into the Application Queue~~, the Utility shall seek and obtain Council approval~~.

WHEREAS, the Council finds that ENO's proposed language for Section V.A.(3) should be changed as follows:

> (3) ~~If the Council instructs the Utility to continue accepting CSG Facility applications beyond either the Program Capacity Limits or the Category Limits, those applications shall be placed on a Waitlist behind the Application Queue.~~ Once the Application Queue has reached the Community Solar Program Capacity Limit or the CSG Facility Category Limit, any further completed applications received by the Utility shall be put on the Waitlist. The Waitlist shall be administered as follows:

WHEREAS, the Council finds that ENO's proposed language for Section VII.D(7) should be changed as follows:

> (7) The Utility shall assign a unique identification number to each complete application and the application shall be deemed accepted into either the Application Queue or the Waitlist, as appropriate, as of the date the identification number is assigned.

WHEREAS, the Council finds that ENO's proposed language for the Community Solar Rules regarding the administration of the Waitlist is generally in compliance with the Council's directives, but creates ambiguity as to whether or not a Subscriber Organization that declines to reduce the size of their project to match an available slot in the Application Queue keeps their position in the Waitlist. In order to remove that ambiguity, the Council finds that ENO's proposed language for Section V.A(3)(c)(iii) should be modified as follows:

> (iii) The Utility shall work sequentially through the Waitlist in this manner until a project is identified to fill the available slot in the Application Queue. If a project chooses not to reduce its capacity to conform to the available slot, the project shall retain its position in the Waitlist, and the Utility will offer the available slot to the next project in the Waitlist.

WHEREAS, the Council finds that ENO's proposed language did not include language necessary to conform Section VII.C(2)(c) to the Council's directive in Resolution No. R-24-571. That section should be amended as follows:

> (c) Proof of site control. The Utility shall accept as proof of control: evidence of property ownership; an executed lease agreement; ~~or~~ a signed option to purchase a lease; or an email from the property owner expressing interest in the project.

WHEREAS, the Council also finds that for the convenience of the parties and the public, the Council's directives in Resolution No. R-24-137 regarding acceptable proof of Low-Income status should be incorporated into the rules, resulting in the following change to section X.C.:

> C. ~~The Council will provide guidelines for acceptable methods for Subscriber Organizations to verify Low-Income Customer status of Subscribers within 90 days from the effective date of these Rules.~~ A Subscriber Organization shall accept as proof of income to verify Low-Income Customer status (1) a W-2 form or tax return for the previous calendar year demonstrating income at or below 60% of median family income for the New Orleans-Metairie area according to the most recent guidelines available through the United States Department of Housing and Urban Development, or at or below 60% of the estimated median income for the state according to the most recent guidelines available through the Louisiana Housing Corporation, or (2) evidence of enrollment in any federal, state, or local assistance program that limits participation to households whose income is at or below sixty percent (60%) of the Area Median Income for the New Orleans-Metairie area.

WHEREAS, the Council finds that ENO's redline did not incorporate the language of Resolution No. R-24-571 regarding tolling of Subscriber Organization deadlines and finds that the following language should be added at the end of Section VII.D(9):

> (e) Deposit deadlines 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.

WHEREAS, any of ENO's proposed language for the Community Solar Rules not expressly discussed herein is found to be in compliance with the Council's directives; and

WHEREAS, the Council finds that TNO has not provided sufficient evidence that its proposed change to the insurance requirements is reasonable. While TNO argues that a $3 million insurance requirement is too large given the value of the projects, as ENO notes, the Council's requirement in the Community Solar Rules is that Subscriber Organizations must maintain proof of liability insurance "in an amount reasonably adequate to protect the public and the Utility against damages caused by the operation of each CSG Facility."[12] The value of the CSG Facility is not a factor in setting the amount of insurance required, and TNO provides no evidence that the $1 million insurance limit it proposes is reasonably adequate to protect the public and the Utility against damages caused by the operation of each CSG Facility. Therefore, the Council finds no reason to change the existing requirement; and

WHEREAS, the Council finds TNO's request that deposit invoices being sent under the existing Community Solar Rules be waived with the adoption of the revised Community Solar Rules which change the deposit requirements is reasonable and ENO does not oppose the proposal;[13] and

WHEREAS, in response to TNO's proposal that ENO update the flow chart on its website showing the timing of the interconnection process, ENO noted that it "can be done once the Council approves ENO's pending redlines."[14] The Council finds that it would be reasonable for ENO to do so; and

WHEREAS, TNO proposed that the Council hold ENO accountable for its failure to submit a plan for consolidated billing no later than September 30, 2024 that could be implemented

[12] ENO Comments at 3, quoting Community Solar Rules at Section VI.B.1.
[13] ENO Comments at 2, fn 1.
[14] ENO Comments at 2, fn 1

by July 1, 2025. ENO has now submitted a proposal for consolidated billing for the Council's consideration, which requires further procedural steps to address; and

WHEREAS, attached to this Resolution as Appendix A is a redline of form CSG-4 showing ENO's proposed compliance language as modified by the Council; and

WHEREAS, attached as Appendix B is a clean copy of the updated form CSG-4; and

WHEREAS, attached to this Resolution as Appendix C is a redline of the Community Solar Rules showing ENO's proposed compliance language as modified by the Council; and

WHEREAS, attached as Appendix D is a clean copy of the updated Community Solar Rules; **NOW THEREFORE**:

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

1. ENO's proposed language for Form CSG 4, as modified by the Council and attached as Appendix B to this Resolution, is approved.
2. The updated Community Solar Rules, as found in Appendix D to this Resolution, are in compliance with the Council's prior directives and are adopted.
3. TNO's proposal to change the insurance requirements in the Community Solar Rules is denied.
4. ENO is directed to update the flow chart on its website to properly reflect the timing of the interconnection process.
5. ENO is directed to withdraw any requests for deposits issued under the previously effective Community Solar Rules, and to only seek deposits in accordance with the revised Community Solar Rules.

6. The following procedural schedule is adopted to consider ENO's June 10 proposal regarding consolidated billing. With respect to pleadings filed pursuant to this procedural schedule, the Council will consider only comments related to consolidated billing. Any other proposals for changes to the Community Solar Rules must be filed as a separate motion and will not be considered if included in pleadings filed under the procedural schedule below.

    a. A period of discovery is established herein, and it shall extend from the date of the adoption of this procedural schedule through August 29, 2025.

    b. ENO shall convene a technical conference with the Intervenors, the Advisors, and CURO between July 14, 2025 and August 1, 2025 to discuss ENO's consolidated billing proposal.

    c. Intervenor comments on ENO's consolidated billing proposal shall be filed not later than September 5, 2025.

    d. Reply comments shall be filed not later than September 26, 2025.

    e. The Advisors shall file an Advisors Report on ENO's consolidated billing proposal not later than October 24, 2025.

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

YEAS: **Giarrusso, Green, Harris, Moreno, Morrell, Thomas - 6**
NAYS: **0**
ABSENT: **King - 1**
AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Aisha Collier
ASSISTANT CLERK OF COUNCIL

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ENO proposed language in red, Council revisions in blue.

APPENDIX A

Redline of ENO-Proposed
Standard Offer Community Solar Power Purchase Agreement

Copies of the attachment(s) may be seen in full in the Clerk of Council's Office, 1300 Perdido Street, Room 1E09, City Hall or available upon request. Please call 504-658-1085.