

**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

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| <b>IN RE: A RULEMAKING PROCEEDING<br/>TO ESTABLISH RULES FOR<br/>COMMUNITY SOLAR PROJECTS</b> | )<br>)<br>)<br>)<br>) | <b>DOCKET NO. UD-18-03</b> |
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**POST-TESTIMONY REPLY BRIEF OF THE ADVISORS REGARDING  
CONSOLIDATED BILLING FOR THE COMMUNITY SOLAR PROGRAM**

May 18, 2026

## **I. Introduction**

If the Council decides to approve consolidated billing, the adoption of net crediting consolidated billing with guaranteed savings, implemented under the Advisors' Redline of the Community Solar Rules, would not create retail electric competition in New Orleans. It would not, as ENO alleges "inappropriately transform[] ENO into a commercial intermediary for an unregulated third-party."<sup>1</sup> The proposed structure merely requires ENO to provide a billing service to its own customers – namely relaying their Subscription Fee to their Subscriber Organization on their behalf. Although the Subscriber's Allocated Credit is a per-kWh credit (which is true under both Dual Billing and Consolidated Billing), the Subscriber is not purchasing kWhs of electricity from the CSG Facility – rather, as is clear under the Community Solar Rules, the Subscriber is either purchasing or leasing solar panels or capacity in the CSG Facility,<sup>2</sup> giving them an ownership or leasehold right in the CSG Facility itself, which entitles them, under the Community Solar Rules, to self-supply with the electrical output that corresponds to their interest in the facility.

This is the same result as when a Net Energy Metering customer installs solar panels on their own roof and uses the electricity from those panels. Just as the company that installs the solar panels on a customer's roof is not a competitive retail electric supplier, neither is the company that builds and operates the CSG Facility in which the ENO customer purchases an ownership or leasehold interest.

## **II. Contrary to Claims Made by ENO, Consolidated Billing Has Been Successful in Other Jurisdictions**

ENO claims that other jurisdictions have experienced difficulties in implementing consolidated billing that have created numerous ongoing billing issues and can result in a negative customer experience.<sup>3</sup> However, ENO fails to acknowledge the language that immediately follows its quote of the NYPSC Order, which makes it clear that the ongoing issues being encountered with respect to consolidated billing were resulting from the utilities' failure to implement it properly, such as "customers do not receive a utility bill for several months and later received multiple bills within a short period or a very high bill for that extended period," "[community solar subscribers] not receiving appropriate credits on their bills," and "significant delay on the part of

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<sup>1</sup> ENO Post-Testimony Brief at 20.

<sup>2</sup> Community Solar Rules at XIII.I.(1)(a)(xi).

<sup>3</sup> ENO Post-Testimony Brief at 15-16.

the utilities in implementing an efficient and automated billing process.”<sup>4</sup> Rather than repealing consolidated billing for community solar, the NYPSC decided to adopt billing performance metrics for the utilities, with a negative revenue adjustment tied directly to the utilities’ community solar crediting and billing performances.<sup>5</sup> Further, some two years after the Order cited by ENO, the NYPSC issued another order stating that consolidated billing with net crediting for a certain type of community solar project that had been lagging in implementation “shall begin within a reasonable time frame,”<sup>6</sup> ensuring that consolidated billing would be implemented for all projects as the NYPSC had directed in its original order.<sup>7</sup>

With respect to the Minnesota Court of Appeals case ENO quotes in their brief, the quoted language is, on its face, not applicable to consolidated billing. The quote states that the utility may “reduce the credit rate to most subscribers”<sup>8</sup> which pertains to how the value of the per-kWh rate that subscribers receive for the energy put onto the system on their behalf is calculated, not how it is billed.

Finally, ENO references witness Wemple’s discussion of Maryland State Bill 1 (“SB1”) which ended consolidated billing, but fails to acknowledge that what SB1 ended was the purchase of accounts receivable by an electric company from a residential electricity supplier.<sup>9</sup> However, under Maryland Public Utilities Code §7-306.2(c)(1) and (2), community solar energy generating systems, subscribers, subscriber organizations and subscription customers are excluded from the definitions of “electric company” and “electricity supplier” and therefore, SB1, which made no changes to that section, does not appear to apply to community solar.

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<sup>4</sup> New York Public Service Commission, Case 19-M-0463, Order, September 15, 2022, pp.3-4.

<sup>5</sup> *Id.* at 5.

<sup>6</sup> New York Public Service Commission, Case 19-M-0463, Order Approving Net Crediting for Volumetric Community Distributed Generation Projects, December 20, 2024, at p12.

<sup>7</sup> *Id.* at 11.

<sup>8</sup> ENO Post-Testimony Brief at 16.

<sup>9</sup> See SB1 at p.28, found here <https://legiscan.com/MD/text/SB1/id/2998316>

### III. Subscriber Organizations Should Be Paid Only If the Subscriber Pays the Subscription Fee

AAE, TNO and SunConnect in their brief oppose the Advisors’ proposal to allow ENO to “claw back” payments to Subscriber Organizations if a Subscriber fails to pay their electric bill in full.<sup>10</sup> While they state that witness Arreola-Lennox strongly cautions against adopting the approach,<sup>11</sup> they do not cite to her testimony to support that assertion, nor have the Advisors found any discussion in her testimony of that topic. Witness Arreola-Lennox may oppose the approach, but no such evidence has been entered into the record, nor have the parties had any opportunity to seek discovery related to the basis of her opposition to the approach.

The Advisors’ proposal that ENO be required to adjust the remittances to Subscriber Organizations in the event a Subscriber fails to pay their electric utility bill in full is an essential measure to protect non-participating ENO customers from having to pay Subscriber Organizations when Subscribers fail to pay their bills. Consolidated billing with net crediting is a service offered by a utility to its customers, it is simply relaying the customer’s Subscription Fee to the Subscriber Organization on the Subscriber’s behalf. If the Subscriber fails to pay the Subscription Fee embedded in their bill, then the Subscriber Organization should not receive payment. If ENO were required to pay the Subscriber Organization whether or not the Subscriber pays their ENO bill, the funds to do so would have to come from ENO’s other customers. Of particular note, in New Jersey, where the utility is required to pay the Subscriber Organization whether or not it receives payment from the Subscriber, it is specifically required *because* the utility, unlike the Subscriber Organizations, is entitled to recover its losses through rates<sup>12</sup> – in other words, *because* the utility can raise its rates to all customers to make up for the shortfall in payments from Subscribers. This would be an inappropriate result in New Orleans where many customers suffer from a high energy burden, and would be inconsistent with the Council’s directive that the “rules should protect non-participating ratepayers from risks associated with the program.”<sup>13</sup>

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<sup>10</sup> AAE/TNO/SunConnect Brief at 7.

<sup>11</sup> *Id.*

<sup>12</sup> Sandler, Simon, Bentham Paulos, and Jenna Harmon. 2024. *Community Solar Billing: An Exploration of Implementation and Alternatives*. Golden, CO: National Renewable Energy Laboratory at 11. NREL/TP-6A20-90867. <https://www.nrel.gov/docs/fy25osti/90867.pdf>.

<sup>13</sup> Resolution No. R-18-223 at 3.

AAE, TNO and SunConnect assert without citing to any evidence in the record, that the Advisors’ proposal would lead to “credit screening and preferential enrollment of financially secure customers who technically qualify as LMI, while excluding the very customers the program is intended to benefit.”<sup>14</sup> While the Advisors have no doubt that there are different levels of financial hardship among residents in New Orleans, the Advisors believe that if a customer “technically qualifies” as an LMI customer under the rules, that they have as much right as any other LMI customer to be treated as such. If AAE, TNO, and SunConnect believe that the definition of Low-Income Subscriber in the Community Solar Rules is allowing customers who should not qualify as Low-Income Subscribers to be treated as such, the remedy would be to adjust the definition of Low-Income Subscribers, not to make all other ENO customers, including low-income customers, pay the Subscription Fee of any Subscriber that fails to pay their ENO bill.

AAE, TNO, and SunConnect also argue that Subscriber Organizations will be incentivized to avoid enrolling customers perceived as financially higher risk. However, there are already multiple incentives in the Community Solar Rules to encourage Subscriber Organizations to enroll Low-Income Subscribers. Specifically, 50 percent of the Community Solar Program Capacity Limit is reserved for CSG Facilities where a minimum of 30 percent of the facility output goes to Low-Income Subscribers.<sup>15</sup> And as is demonstrated by Advisors Exhibit VMP-5, there are already eight CSG Facilities in the Construction and Application Queues that meet that requirement, which is roughly 44 percent of the projects in the queues.

In addition, if consolidated billing under the Advisors’ Redline of the Community Solar Rules is implemented, Subscriber Organizations will earn more money from Low-Income Subscribers than from similarly situated non-Low-Income Subscribers because their Allocated Credit will be higher. Non-Low-Income Subscribers receive an Allocated Credit based on the full retail rate, while Low-Income Subscribers receive an Allocated Credit based on the full retail rate plus 2 cents.<sup>16</sup> Under consolidated billing with net crediting and guaranteed savings, the Subscriber Organization receives a percentage of the Allocated Credit. For example, if the full retail rate is 14 cents, a Subscriber Organization offering a 5% guaranteed savings rate to its Subscribers would make \$128.80 from a non-Low-Income Subscriber whose portion of the CSG Facility produced 1000 kWh, but would make \$147.20 from a Low-Income Subscriber whose

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<sup>14</sup> AAE, TNO, and SunConnect Brief at 8.

<sup>15</sup> Community Rules at V.B.

<sup>16</sup> Community Solar Rules at VIII.E.

portion of the CSG Facility produced 1000 kWh, a difference of \$19 for that month.<sup>17</sup> With the capacity carve-out for projects with Low-Income Subscribers and the ability of the Subscriber Organizations to earn more money from Low-Income Subscribers, the Advisors believe that the Council's existing rules adequately encourage Subscriber Organizations to enroll Low-Income Subscribers while also protecting ENO's other customers, including low-income customers, from additional cost increases when Subscribers fail to pay their bills.

#### **IV. ENO Erroneously Claims That the Council's Policy Decision to Approve Consolidated Billing in New Orleans Would Constitute Impermissible Micromanagement of ENO's Business**

ENO asserts that the Council's approval of consolidated billing for electric customers would amount to the "micromanagement of core aspects of ENO's business by requesting that ENO modify its billing system to accommodate consolidated billing."<sup>18</sup> According to ENO, its current billing system is a "core function of the management and operation of its utility business, and the changes contemplated would represent a significant and costly departure from existing practices."<sup>19</sup>

However, ENO mischaracterizes the potential decision contemplated by the Council. Policy decisions related to the provision of services by the utility to its customers is squarely within the Council's regulatory authority. Subscribers within the Council's Community Solar Program will also be ENO customers and the Council may adopt policies that contribute positively to the customers' experience with the utility. While Subscriber Organizations may benefit from consolidated billing services, all customers receiving consolidated bills are ENO customers, and ENO is not being required to "fund billing system upgrades for private, competitive businesses" as ENO argues.<sup>20</sup> As for the costs of consolidated billing, if the Council requires consolidated billing as part of the Community Solar Program, ENO would not be financially harmed or deprived

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<sup>17</sup> 1000kWh\*14 cents = \$140.00 Allocated Credit, minus the 5% guaranteed savings to the non-Low-Income Subscriber (\$140\*.05 = \$7) and the 3% Utility Administrative Fee to ENO (\$140\*.03 = \$4.20) comes to a total for the Subscriber Organization of \$128.80. 1000kWh\*16 cents = \$160.00 Allocated Credit, minus the 5% guaranteed savings to the Low-Income Subscriber (\$160\*.05 = \$8) and the 3% Utility Administrative Fee to ENO (\$160\*.03 = \$4.80) comes to a total for the Subscriber Organization of \$147.20 for the Low-Income Subscriber.

<sup>18</sup> ENO Post-Testimony Brief at 24.

<sup>19</sup> *Id.*

<sup>20</sup> ENO Post-Testimony Brief at 20.

of any property resulting from such requirement. As proposed by the Advisors, Subscriber Organizations, not ENO or its shareholders, would pay the expense of consolidated billing.

In addition, a policy decision that approves consolidated billing is well within the Council's regulatory authority. As a general rule, "[E]very point of contact between the public and a utility which relates to the performance by the latter of its public duties is subject to regulation" by the Council.<sup>21</sup> In this instance, the Council has complete authority to adopt regulatory policy that benefits ENO's customers in New Orleans. If the Council finds consolidated billing to be in the public interest, then ENO may make the necessary decisions to implement and fulfill the Council's policy objective. A Council policy decision to order ENO to provide a service to its customers, especially at no cost to ENO or its shareholders, is not micromanagement of ENO's business. ENO is free to make its own internal business decisions about software, billing programming, and personnel that it believes is appropriate to comply with the Council's regulatory policy.

#### **V. ENO's Untimely Argument That Community Solar Causes Cross-Subsidization Should Be Rejected**

ENO's repeated assertions in its original brief that community solar causes cross-subsidization are untimely and unrelated to consolidated billing.<sup>22</sup> These arguments are an attempt to distract the Council from the underlying issue – whether consolidated billing is in the public interest and should be adopted by the Council. This cross-subsidization issue goes to the merits of community solar which the Council evaluated and decided years ago and that decision was not appealed by any party, including ENO. Thus, these untimely and irrelevant arguments should be rejected.

#### **VI. Subscriber Organizations and Community Solar Participants Will Benefit From Consolidated Billing and Should Bear the Costs**

ENO argues that consolidated billing does not yield net customer benefits or societal benefits to customers and therefore, would not serve the public interest.<sup>23</sup> This, however, is a narrow and disjointed argument against consolidated billing. A successful Community Solar Program is in the public interest. To that end, the Council could find that consolidated billing

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<sup>21</sup> *Floyd & Co. v. Cincinnati Gas & Elec. Co.*, 96 Ohio App. 133, 145; 120 N.E.2d 596, 604 (1954) citing 73 C.J.S., Public Utilities, § 12.

<sup>22</sup> ENO Post-Testimony Brief at 4,16,17, and 23.

<sup>23</sup> *Id.* at 1-2.

would contribute to a successful Community Solar Program and therefore, is also in the public interest. ENO repeatedly criticizes consolidated billing while ignoring the beneficial characteristics of the service that could contribute to the overall success of Community Solar. If the Council finds that consolidated billing would have an overall positive effect on the Community Solar Program, which is in the public interest, then the Council could find consolidated billing to be in the public interest and require it to be offered to participating ENO customers.

The Advisors agree that the tangible benefits identified for consolidated billing appear to accrue to Subscriber Organizations and community solar participants. The Advisors' recommended safeguards would adequately address ENO's concerns and considerably reduce the risk of non-participating customers paying the increased costs associated with consolidated billing. For these reasons, Subscriber Organizations and program participants should bear the costs of the program in full.

Respectfully submitted,

DENTONS US LLP,

/s/ J. A. Beatmann, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply Brief of the Advisors Regarding Consolidated Billing for the Community Solar Program has been served upon “the Official Service List” via electronic mail and/or U.S. Mail, postage properly affixed, this 18<sup>th</sup> day of May 2026.

*/s/ J. A. Beatmann, Jr.*

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J. A. Beatmann, Jr.