June 22, 2020

Via Electronic Mail

Ms. Lora W. Johnson, CMC, LMMC
Clerk of Council
Council of the City of New Orleans
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In Re: RESOLUTION AND ORDER ESTABLISHING ADOCKET AND OPENING A RULEMAKING PROCEEDING TO ESTABLISH RENEWABLE PORTFOLIO STANDARDS
DOCKET NO. UD-19-01

Dear Ms. Johnson:

Please find enclosed the Alliance for Affordable Energy 's Comments in the above-mentioned docket. Please file the attached communication and this letter in the record of the proceeding. As a result of the remote operations of the Council's office related to COVID-19, AAE submits this letter electronically and will submit the requisite original and number of hard copies once the Council resumes normal operations, or as you direct. AAE requests that you file this submission in accordance with Council regulations as modified for the present circumstances. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention,

Sincerely,

Logan A Burke
Executive Director
Alliance for Affordable Energy

Issues of Concern Raised during the First Technical Conference of June 5, 2020 Pursuant to the Resolution and Order Providing the Council's Guidance Regarding the Development of Renewable Portfolio Standards, R-20-104

Comments by

Energy Future New Orleans[1]

to the

Council of the City of New Orleans
and Parties to Docket UD-19-01

Overview:

On June 5, 2020, and at the direction of the New Orleans City Council in Resolution R-20-104, the parties in Docket UD-19-01 participated in a virtual technical conference hosted by the Council's Advisors. According to the Council's Resolution, the parties were asked to consider changes to the Advisors' Alternative 2 for the purpose of developing draft regulations for a renewable portfolio standard with the following mandates:

1) A mandatory requirement that Entergy New Orleans (ENO) achieve 100% net zero emissions by 2040;
2) Reliance on RECs purchased without associated energy for compliance with the standard being phased out over the 10-year period from 2040 to 2050;
3) Entergy New Orleans has no carbon-emitting resources in the portfolio of resources it uses to serve New Orleans by 2050; and
4) A mechanism to limit costs in any one plan year to no more than one percent (1%) of plan year total utility retail sales revenues.

[1] Energy Future New Orleans is a coalition of organizations that includes Intervenors in City Council Utility Docket 19-01: 350 New Orleans, Alliance for Affordable Energy, Deep South Center for Environmental Justice, National Audubon Society, Sierra Club and Vote Solar.

EFNO has carefully reviewed the Advisors' Alternative 2. In addition, EFNO has analyzed the Advisors' reports, position statements and responses to questions during the first technical conference. Based on this review and analysis, EFNO finds that Advisors' Alternative 2 is fundamentally and structurally flawed.

Instead of creating a framework that encourages early achievement of goals, can achieve the cost reductions, and other requirements set forth by the Council, the Advisors' Alternative 2 creates incentives, opportunities, and excuses for Entergy to fail in meeting these requirements. Simply stated, the structural frame for the Advisors' Alternative 2 seems to be that doing the right thing must cost more money than the status quo, that achieving targets should be delayed whenever is convenient for Entergy, and that delivering a clean and affordable energy mix for New Orleans is a second- or third-order priority at best. Advisors' Alternative 2 reflects a fundamentally flawed structural approach for several reasons:

- Advisors' Alternative 2 creates incentives for gaming and underperformance, which are detailed in the below comments.
- Renewable and clean energy goals consistently prove easier to achieve than anticipated[2],[3]
- Renewable and clean energy goals always turn out to be less expensive to achieve than anticipated.[4],[5]
- African American low-income households in New Orleans currently have the second highest energy cost burden of all low income populations in US cities,[6] which can be alleviated by an effective renewable portfolio standard.[7]

[2] Aug. 27, 2019.Allen Best. Colorado Cooperative to Hit Clean Energy Goal a Decade Early. Energy News Network. https://energynews.us/2019/08/27/west/colorado-cooperative-to-hit-clean-energy-goal-a-decade-early/

[3] Nov. 22, 2017. World Economic Forum. California Could Hit Its Renewable Energy Target Years Ahead of Schedule.. https://www.weforum.org/agenda/2017/11/california-may-reach-its-renewable-energy-goal-10-years-early/

[4]January 2016. A Retrospective Analysis of the Benefits and Impacts of U.S. Renewable Portfolio Standards. https://emp.lbl.gov/sites/default/files/lbnl-1003961_presentation.pdf

[5] June, 2020, Plummeting Solar, Wind, and Battery Costs can Accelerate our Clean Energy Future. http://www.2035report.com/wp-content/uploads/2020/06/2035-Report.pdf?hsCtaTracking=8a85e9ea-4ed3-4ec0-b4c6-906934306ddb%7Cc68c2ac2-1db0-4d1c-82a1-65ef4daaf6c1

[6] American Council for an Energy Efficient Economy. Lifting the High Energy Burden on American Cities. April 2016. https://www.aceee.org/research-report/u1602

[7] Institute for Policy Studies. How States Can Boost with Renewables for All: Renewable Portfolio Standards and Distributed Solar Access for Low Income Households. April 2017. https://ips-dc.org/wp-content/uploads/2017/04/RPS-Report.pdf

- Emissions from oil and gas energy resources have health-damaging consequences that disproportionately impact Black communities[8] and contribute to climate change.
- Clean energy technologies are developing faster than anticipated.
- The threats of climate change are accelerating and worsening.[9]

EFNO recommends modifications to the Advisors' Alternative 2 that are responsive to our needs in New Orleans. These modifications contribute to a climate policy that encourages early achievement and over-performance; a racial equity and economic justice policy that alleviates energy cost burdens for African American low-income households; and an energy policy that encourages innovation, including through incentives to the utility.

EFNO further recommends modifications to Advisors' Alternative 2 that include:

- Shared Savings if the 1% revenue cap is not hit in any particular year to create an incentive for least-cost performance.
- Accelerated elimination of multipliers and other "cliffs" based on updated forecasts of costs and benefits.
- Direct linkage to rate case evaluation of return on equity and other earnings aspects based on RPS performance.
- Requirement that mid-and upper-level utility executive compensation and bonuses be expressly tied to RPS achievements.
- Enhanced incentives for targeting compliance solutions toward disadvantaged customers and neighborhoods.

Policy, framework and design elements to achieve the Council's mandated objectives as well as local policy goals, such as those above, would have dramatically improved and refocused the tone of discussions in the first technical conference and would have greatly improved Advisors' Alternative 2. This is not an academic exercise. Climate change and economic hardships for the majority of New Orleans residents are realities that should not be ignored. However, the Advisors' Alternative 2 is not currently designed to rapidly, affordably, and

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[8] NAACP and the Clean Air Task Force. Fumes Across the Fence Line: the Health Effects of Air Pollution from Oil & Gas Facilities on African American Communities. Nov. 2017. https://www.naacp.org/climate-justice-resources/fumes-across-fence-line/#:~:text=The%20NAACP's%20Environmental%20and%20Climate,Facilities%20on%20African%20American%20Communities

[9] Fourth National Climate Assessment. Oct. 2018. https://nca2018.globalchange.gov/

effectively transition the energy base for life and work in New Orleans and, therefore, will not achieve the Council's mandates.

EFNO offers the following comments as a follow-up statement to the positions and concerns noted during the technical conference. These comments are being submitted to all parties and to all Council Members as well. At this point in time, the Advisors have not provided for a notice and comment process in which they record and address comments.

Areas of Concern:

Definitions

Ahead of the technical conference the Advisors provided to the parties a table of definitions used in various utility dockets in New Orleans alongside the definitions used in Alternative 2. Many of the definitions agree across dockets. However, there are some definitions which either are not included in Alternative 2 or are not aligned with achievement of RPS objectives, and therefore would not support the Council's four stated goals.

In most instances, Advisors took the position that pre-existing definitions could not be reconsidered, expanded, or adjusted to account for RPS goals achievement and structure. This "least-common denominator" approach to certain key definitions will unreasonably constrain the RPS process and frustrate Council goals from the very start. For example, EFNO pointed out places where the net metering rules definition recommended by the Advisors was in error and not written with an RPS in mind. The Advisors indicated no willingness to entertain updating and correcting of those definitions for use in the RPS.

"Demand-Side Resources" - The Advisors expressed unwillingness at conforming the definition of Demand-Side Resources (also more commonly known as "Distributed Energy Resources" or "DER"). As one glaring example, the Advisors' definition of these resources does not include energy storage. Energy storage is absolutely critical to enabling cost-effective deployment of distributed generation, electric vehicles (which are themselves a kind of energy storage), demand response, load management, and other DERs. Costs for storage are falling rapidly and already storage prices outperform those for gas-fired peaking generators. Energy storage is a fundamental tool for improving reliability, especially on the outage-prone ENO system, and is an essential resource for improving system resilience. Excluding storage from the definition of Demand-Side Resources / DERs is unreasonable.

The use of customer owned, behind-the-meter energy storage as a demand side management resource is increasingly common, and especially useful for shifting energy loads and lowering demand on the distribution grid. In many regions, a residential 'time of use' tariff, which has been discussed between Council and EFNO members, actually expedites the usage of energy storage as a demand side resource. In this sense, it should be included in the definition of a demand side resource for the RCPS, since it will increasingly be used as a demand side resource on the distribution grid.

As an example of the problem created by the Advisors' refusal to use an updated and comprehensive definition for Demand-Side Resources / DER, the definition would preclude RPS "beneficial electrification" compliance credit for replacing a diesel emergency generator with a battery energy storage system.

As a further example, it also appears that fuel cell technology, which produces electricity and heat through chemical rather than combustion processes, is excluded from the definition of Demand-Side Resources / DER.

The failure to fully think through the importance of a comprehensive and up-to-date definition for Demand-Side Resources is deeply concerning, and reflects an approach by the Advisors that fails to reflect the urgency and importance of the Council's agenda.

"Net Zero" - Though the Council has included "net zero" carbon emissions as a primary goal, the Advisors' Alternative 2 does not include a definition for the term. This gap will likely create an unnecessary risk of confusion, delay, and under-performance. Critical issues to be addressed in such a definition include where in the system emissions are counted, where they are netted, how RECs count toward net-zero calculations, and how proposed tier multipliers relate to actual emissions.

Data Dashboard

EFNO's letter, filed May 11, 2020 and in advance of the first technical conference, included a recommendation that a Data Dashboard should be constructed, publicly posted, and regularly updated by ENO. The simple principle behind this proposal is that achieving a truly clean, affordable, and reliable electricity system for New Orleans is a public endeavor requiring constant monitoring and transparency and high levels of public engagement. Thus far, the EFNO coalition's requests for the creation of a dashboard and other data- and progress-tracking tools to support public engagement with and utility achievement against RPS goals have been met with silence. As during the technical workshop, we reiterate our call for regularly updated, publicly available data about both utility operations and RPS progress. Hiding the information or visiting progress only once a year--as proposed in the Advisors' Alternative 2--is bad management and bad policy.

An ENO Data Dashboard should not be narrowly constructed to only provide conclusory calculations or constrained by excessive claims of confidentiality. It should be a full-featured and current compendium of the facts desired by stakeholders to empower participation in utility oversight and engagement. The Council has set New Orleans on a path toward deep decarbonization, and a Data Dashboard will provide a common basis in fact for policy, business, and household decisions for years to come.

One issue, surfaced during the first technical conference, revealed how important a common factual framework is for achieving the Council's goals in this proceeding. Entergy reported on the expected percentage of "clean" energy that has been forecast for 2020, both with and without the proposed tier multipliers. Lack of factual clarity relating to this report precisely underscores the need for a regularly updated and transparent dashboard, including a percentage of compliance, broken down by clean energy source, RECs, and multipliers used to reach this number, alongside other pollutants (and reductions) resulting from Entergy's portfolio.

During the conference, Entergy reported that in 2019 the company reached 54.5% "zero emissions." In 2020 the reported number is 56.6% with 57.3% achieved if multipliers were applied. When asked if these calculations for 2020 take into account the significant 2020 loss of generation at Entergy's largest current source of "zero emissions energy," Grand Gulf, the answer was no. According to both the Energy Information Administration and the Nuclear Regulatory Commission, Grand Gulf has spent 117 days below 100% capacity, and in fact,103 of those days were at 0% generating capacity, well in excess of the expected outage for refueling. If Grand Gulf is able to run at 100% for the remainder of the year, the capacity factor for 2020 will fall between 68% and 71.8%, well below the national average of 93.5% for a nuclear generator. This means the forecast of 56.6%, or even 57.3% zero emissions with multipliers, is a significant over-statement of "zero emissions" for 2020. Without a transparent Data Dashboard, the Council and the public are forced to wait until an end of year report, and potentially until after Entergy complies with data requests in order to unravel the details.

This example points out the need for accuracy and honesty in data reporting, standards for data production, and the need for granular data and clarity. All of these are essential for calculating the incremental cost of the policy, an exercise that must be ongoing and not solely on a once-a-year basis. The significant difference between real and hypothetical data for Grand Gulf operations could end up an end-of-year surprise under the structure proposed by the Advisors--a surprise that could lead to cost-cap busting expenses and delay in achieving RPS objectives.

Averaging and Banking

Alternative 2 proposal includes a provision for Entergy to propose multi-year project spending. Entergy proposed that it also be allowed to bank and average annual compliance credits in order to smooth costs. Policies that allow either multi-year "averaging" of renewable energy achievements and emissions reductions, or that allow "banking" of RECs are antithetical to long term climate action goals. While banking and averaging are technically different, they both discourage over-performance and focus solely on very short term goals, rather than the urgent race to decarbonize, transition to deliverable renewable energy, and reduce pollutants.

Banking is reserving over-performance in one year for later crediting. Banking epitomizes the Advisors' structural approach to incentivizing the minimal level of performance. Over-performance, however, is not a bad thing and the response to over-performance should not be intentional underperformance in subsequent years. The incremental yearly targets are not the goal--the goal is decarbonization on the fastest, more cost-effective timeline achievable. Averaging would encourage the utility to think according to its own development cycle but could create instability in the market for clean energy resources. Averaging and banking also make RPS progress more vulnerable to disruptors such as major storms or economic downturns. As described earlier, the final policy should focus on developing incentives for over-performance, not excuses to underperform in any given year.

REC-Related Issues

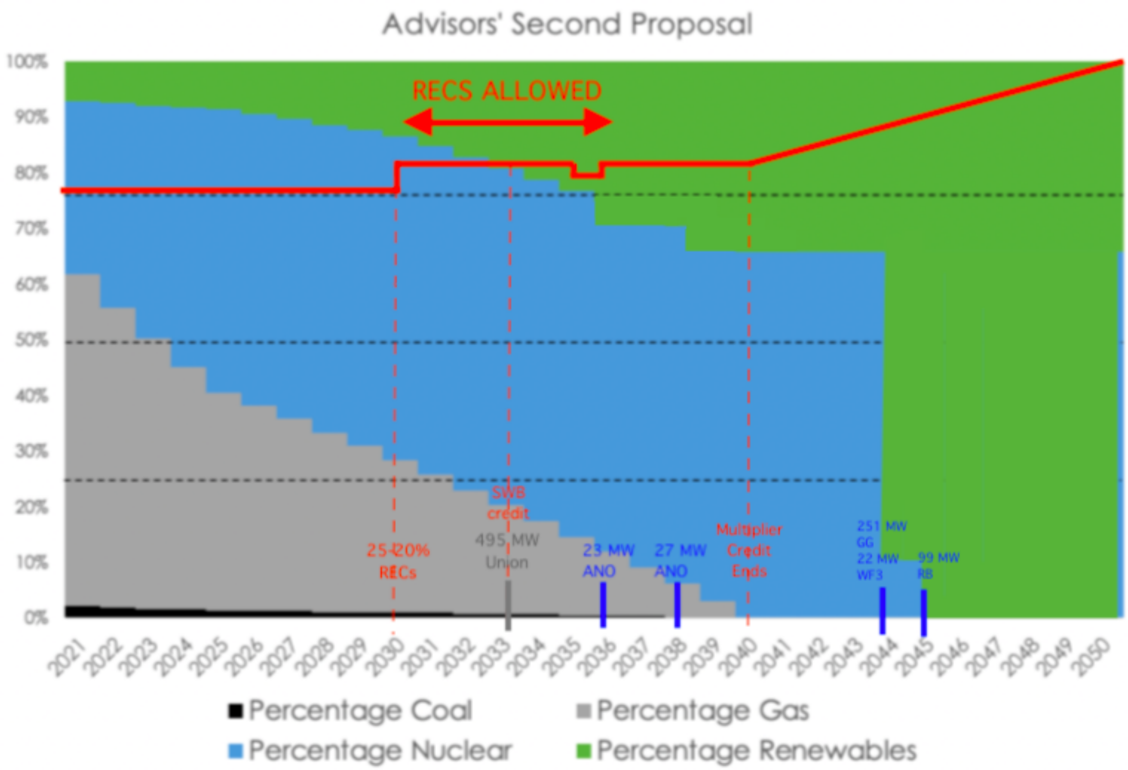
A number of very significant issues remain relating to the use of certificates, such as Renewable Energy Certificates (RECs) and "Clean Energy Certificates" for compliance purposes under Advisors' Alternative 2. The Advisors should clarify that unbundled RECs from outside MISO may not be used for compliance purposes. The Advisors should maintain a distinction between certificates from renewable sources and those from any other sources. Vintage rules for RECs should be clarified, as well as banking rules. Finally, the proposal should address how RECs and other certificates generated from projects within Orleans Parish can be used.

Multipliers

The use of multipliers or "extra credit" in the current draft of the RCPS sets up "cliffs" along the way when the extra credit goes away. Most concerning is the alignment of some of these cliffs with other known "drop off" dates for existing resources. For example, Alternative 2 calls for the end of multipliers in the same year as the phase out of RECs. Both of these facets of the RCPS enable the utility in the early years to reduce actual renewable (or even clean) energy use, and when they evaporate suddenly in 2040 a considerable cliff, both in terms of resource needs and potential costs, will be reckoned with. Another exists in 2033 when multiplier credit for electrification for Sewerage and Water Board ending aligns with the retirement of Entergy New Orleans' largest fossil generator, Union Power. If multipliers are to be used they must never become an excuse to not reach the stated goals.

The proposed structure in the RCPS creates a web of interlocking and dynamic obligations and compliance constraints. In some cases, there are very abrupt changes. Abrupt changes create a likelihood of performance failure or excessive costs in those change years. Abrupt changes are therefore the point at which, absent long-range planning and resource acquisition, the cost cap could be exceeded, which could delay achievement of goals. Therefore, the Advisors should revise the compliance schedule to eliminate abrupt compliance requirement changes to make greater use of "stair-step" mechanisms, as is proposed for the phase out of reliance on RECs for compliance. The image below illustrates the alignment of some of these compliance constraints and their overlapping timelines. EFNO suggests a "stair-step" mechanism that does not extend into the same timeline as the 2040-2050 stepdown of RECs.

In any situation in the proposal where multipliers are used, or increased load due to beneficial electrification creates an exemption from the required goal, or a standard is phased in at a later date, the total difference in compliance obligation must be divided by the number of years in the provision to create an evenly distributed incremental compliance obligation. For example, if multipliers are allowed for 10 years, and the result is a 20% change in the compliance obligation, the 20% increase should phased in at a rate of 2% per year for 10 years prior to the deadline, and NOT imposed in one step in year 10.



EFNO notes there appeared to be consensus during the first technical conference by all parties that there should not be an opportunity to double count multipliers for single measures or actions. To do so would cause further risk of difficulty when stepping down these multipliers. This clarification should be reflected in the updated version.

Low to Moderate Income Programs

At the end of the technical conference, there was a brief discussion on the apparent lack of attention for New Orleans' households that are low/moderate income (LMI). EFNO recommends more time and attention in this docket be dedicated to addressing the high energy cost burdens on households that could be alleviated with modifications to Alternative 2. EFNO offers the following as possible solutions and supports for LMI.

- Encourage LMI programming through the tier system, assigning Tier 1 credits to resources that benefit LMI customers.
- Ensure no disproportionate impact on LMI customers and communities, which can be achieved by, for example, waiving any compliance cost of the RPS for customers in this category.
- Incorporate a safeguard provision to the regulation to be developed that states as follows: The utility's spending on and beneficial impacts to LMI customers shall not be less than 100% of the share of the LMI customers as a percentage of the total population in

Orleans Parish. This would require a baseline understanding of 1) the definition of LMI and 2) an estimate of customer households who fall into this category.

- Consider instituting a simultaneous and parallel development of policy of the Council that targets energy burdens in Orleans Parish. EFNO recommends a working group during this process to develop recommendations to support New Orleans Low-Income households.

CleanNola Fund

In relation to the enforcement of the RCPS, the allocation of Alternative Compliance Payments to the CleanNola Fund is an ill-defined concept in its current form. Although compliance payments are commonly referred to as 'alternative compliance payments,' they should never be viewed as simply an alternative to comply with the mandate of the RCPS. Instead this payment should be seen as a failure to comply with the RCPS. CleanNola fund is not yet a well defined concept, which is a cause for worry. Primarily, it's important that the nature of this fund is not an incentive for ENO to underperform on the RCPS, and yet still provides a benefit to the community.

It is perhaps best utilized to provide opportunities for the LMI community to have greater access to resources that lower carbon emissions in Orleans Parish while additionally providing opportunities for workforce development in clean energy sectors.

Beneficial Electrification

The Advisors' Alternative 2 proposal has provisions relating to beneficial electrification (e.g., converting direct thermal or transportation systems to electricity as the primary fuel) that are confusing and troubling, especially because the current proposal seems to award a 1.5X multiplier to all beneficial electrification. The provisions require a fundamental rewrite, including clear principles, definitions, and rules.

EFNO raised concerns relating to multiplier "cliffs," as discussed above, the opportunity for benefits from hybrid solar/storage electrification projects, the benefits to health from electrifying inefficient direct fuel combustion, especially in low-income neighborhoods, and other factors.

Net Metering

Net metering raises several issues overlooked in the Advisors' Alternative 2 proposal. These include the need for updating definitions, discussed above; and the treatment of RECs and renewable energy claims associated with net metered generation in Orleans Parish.

Conclusion:

The EFNO coalition provides this letter to confirm our positions and concerns about the Advisors' Alternative 2, following the first technical conference. We look forward to principled and informed development of the regulations and forthcoming technical conferences.

Andy Kowalczyk / 350 New Orleans - Chair of Just Transition Group
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In Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO ESTABLISH RENEW ABLE PORTFOLIO STANDARDS. DOCKET UD-19-01

I hereby certify that I have on this 22nd day of June 2020, served the required number of copies of the foregoing correspondence upon all other known parties of this proceeding, by USPS or electronic mail.

Logan A. Burke

Logan Atkinson Burke
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June 22, 2020

RULEMAKING PROCEEDING TO ESTABLISH RENEWABLE PORTFOLIO STANDARDS

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