

RESOLUTION

NO. R-23-130

CITY HALL: April 6, 2023

BY: COUNCILMEMBER MORENO

SECONDED BY: COUNCILMEMBER GREEN

**RESOLUTION AND ORDER RELATED TO MADISON ENERGY INVESTMENTS,
INC. MOTION TO AMEND COMMUNITY SOLAR RULES**

DOCKET NO. UD-18-03

WHEREAS, pursuant to the Constitution of the State of Louisiana and 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” or “Company”) is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, the Council has repeatedly expressed support for the efficient use of clean, sustainable technology to improve the quality of life for citizens and businesses; and

WHEREAS, the Council wishes to expand the renewable options available to New Orleans residents, particularly those who are unable to participate in the Net Energy Metering Rules for the City of New Orleans program; and

WHEREAS, on March 28, 2019, the Council adopted Resolution No. R-190-111, establishing the Community Solar Rules (“Rules”); and

WHEREAS, on July 13, 2022, Madison Energy Investments (“MEI”) filed its Motion to Amend the Community Solar Rules (“Motion”); and

WHEREAS, on August 18, 2022, the Council adopted Resolution R-22-370, establishing a comment period to seek input from the parties to this docket on MEI’s July 13, 2022 Motion to Amend the Community Solar Rules; and

WHEREAS, the ENO and the Coalition for Community Solar Access (“CCSA”) submitted comments as part of this proceeding; and

WHEREAS, in its Motion, MEI proposed increasing the tariff rate for all subscribers by compensating all subscribers at the full retail rate with Low-Income Benefits and Public Entity Benefits adders¹; and

WHEREAS, in its Comments, ENO contends that MEI’s Motion does not address the impact of these changes to the tariff rate for other ENO customers²; and

WHEREAS, in its Comments, CCSA supports considering “a credit rate that is based on a subscriber’s retail rate for electricity for non-low- and moderate-income (“LMI”) customers, plus an additional adder to facilitate greater low-income participation and any other goals the Council may want to set for the program going forward”³; and

WHEREAS, the Council agrees with ENO’s contention that MEI has not put forth sufficient information related to the impact of the proposed rate changes on ENO customers; and

¹ MEI Motion at 4.

² ENO Comments at 7.

³ CCSA Comments at 5.

WHEREAS, in its Motion, MEI proposed raising the maximum Community Solar Generating (“CSG”) Facility size from 2 MW to 5 MW⁴; and

WHEREAS, in its Comments, ENO contends that increasing the maximum size of CSG Facilities from 2 MW to 5 MW “decreases the probability that a proposed CSG Facility will be able to interconnect to ENO’s distribution network without triggering significant upgrades,”⁵ and increases the likelihood that the CSG Facility will “impact the distribution grid and lead to higher integration costs”⁶; and

WHEREAS, in its Comments, CCSA supports increasing the project size cap from 2MW to 5MW to maximize buildable area in an already land-constrained and flood-prone region, citing a preliminary buildable area analysis conducted using Anderson Optimization solar siting software showing more than 45 parcels in the ENO service area with 15+ acres of buildable area⁷; and

WHEREAS, the Council is persuaded by the arguments made by MEI and CCSA that increasing the permitted size of CSG Facilities subject to the Company’s review as provided in the Rules has the potential to increase participation in the program; and

WHEREAS, in its Motion, MEI proposed eliminating “Article XIII. Consumer Protection and Disclosure – section G. Subscriber Funds” and replacing this section with a requirement that ENO manage consolidated utility billing for its subscribers⁸; and

⁴ MEI Motion at 5. It should be noted that MEI’s Motion requests “that the minimum Community Solar Generating Facility size be raised from 2 MW to 5 MW.” The Rules do not have a minimum size requirement; rather, there is a cap of 2MW per parcel for CSGs. *See* Rules at 5 All comments in response to this request interpret the proposal as increasing the maximum permitted size not establishing a minimum size requirement.

⁵ ENO Comments at 7.

⁶ ENO Comments at 8.

⁷ CCSA Comments at 10.

⁸ MEI Motion at 5.

WHEREAS, in its Comments ENO contends that the consolidated billing model proposed by MEI does not include a corresponding agreement or payment to ENO, lacks sufficient detail, and “appears to be illogical and unnecessarily complex”⁹; and

WHEREAS, while the Council is interested in investigating consolidated billing for Subscribers, there is not sufficient information in the present proceeding to eliminate the escrow safeguard for customers or to determine whether it is feasible for the Company to implement consolidated billing; and

WHEREAS, in its Motion MEI proposed amending Article IV, Sec A(6) of the Rules to include “The Utility (Entergy New Orleans) must purchase and pay for Output from the CSG Facility¹⁰,” and

WHEREAS, the Council finds there is not sufficient information in the Motion or in the Parties’ Comments to grant MEI’s request to amend the Rules. Further, the Council finds that the requirement under Article IX. Unsubscribed Energy is sufficient to address MEI’s concerns and ensure CSG Facilities are properly scaled to meet Subscriber demands; and

WHEREAS, in its Motion, MEI proposed assigning ownership of renewable energy credits (“RECs”) generated by CSG Facilities to Subscriber Organizations by removing “Article XII. Renewable Energy Credit Ownership – section B. The ownership and title to all renewable energy attribute or Renewable Energy Credits associate with the CSG Facilities shall belong to the individual Subscribers”¹¹; and

WHEREAS, in its Comments, ENO contends that if ENO customers bear the financial risks of a project through a long-term PPA as proposed by MEI, “RECs would need to be

⁹ ENO Comments at 8.

¹⁰ MEI Motion at 6.

¹¹ MEI Motion at 6.

transferred to ENO under the PPA for ENO to retire in order to ensure that Subscribers benefit from the renewable attributes”¹²; and

WHEREAS, in its Comments, CCSA supported the subscriber ownership of RECs to maintain the economic stability of projects¹³; and

WHEREAS, the Council finds that there is not sufficient evidence in the record to support amending the Rules related to the ownership of RECs; and

WHEREAS, in its Motion MEI proposed increasing the PPA term limit from ten years to twenty years¹⁴; and

WHEREAS, the Council finds that the Rules do not establish a term limit for PPAs and that there is not sufficient evidence in the record to support amending the Rules; and

WHEREAS, in its Motion, MEI proposed amending Article V, B(1)(b) of the Rules, which establishes the minimum requirement for Low-Income Subscribers for a Community Solar Generating Facility to be classified in the Low-Income Category at 30%, to raise the minimum requirement of Low-Income Subscribers for Low-Income Category CSG Facilities to 40% “creating more opportunity for Low-Income Subscribers to reap the benefits of the program”¹⁵; and

WHEREAS, in its Comments, ENO contends that MEI has not provided a reasoned basis for the proposal to raise the LMI enrollment requirement, and that “this change would increase the cost ultimately borne by non-participating customers because qualifying low-income Subscribers receive a higher monthly credit rate”¹⁶; and

¹² ENO Comments at 9.

¹³ CCSA Comments at 4.

¹⁴ MEI Motion at 6.

¹⁵ MEI Motion at 7.

¹⁶ ENO Motion at 9.

WHEREAS, in its Comments, CCSA supports the proposal to increase the LMI customer enrollment requirement to 40% per project, citing the potential to reduce the energy burden for LMI customers and increase in likelihood that customers will be able to pay their bills each month¹⁷; and

WHEREAS, the Council finds that there is not sufficient evidence in the record to support amending Article V, B(1)(b) of the Rules; and

WHEREAS, in their Comments, CCSA included several proposals that were beyond the scope of the proceeding related to MEI's Motion; and

WHEREAS, the Council finds that CCSA may file an application for the Council to consider revisions to the Rules not included in MEI's Motion; and

WHEREAS, on January 6, 2023, MEI filed Reply Comments to ENO's Comments to MEI's Motion to Amend the Community Solar Rules although no Council resolution (nor order of the Hearing Officer), provides for filing of "Reply Comments" to the Comments filed on December 7, 2022; and

WHEREAS, on January 10, 2023, the hearing officer, Judge Jeffrey Gulin, issued a Memorandum and Order providing that parties shall have until January 17, 2023, to submit Reply Comments; and

WHEREAS, on January 17, 2023, ENO filed Reply Comments in response to comments filed by MEI on January 6, 2023; and

WHEREAS, based on the record before the Council, the Council deems it in the public interest to grant MEI's request to increase the maximum permissible size of CSG Facilities, to

¹⁷ CCSA Comments at 13.

deny other aspects of the Motion, and to request additional information from the Parties as follows;

NOW THEREFORE

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That:

- 1) MEI's proposal to raise the maximum Community Solar Generating Facility size from 2MW to 5MW is GRANTED
- 2) MEI's proposal to amend Article IV is DENIED

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That:

- 1) On or before May 12, 2023, CURO shall convene technical conference to discuss the remaining issues, including but not limited to changes to the tariff rate, including whether the definition of "low-income customer" should be amended; consolidated billing; ownership and valuation of RECs; increasing the minimum requirement of Low-Income Subscribers per CSG Facility; and PPAs.
- 2) On or before June 16, 2023, Parties shall file additional Comments related to the remaining issues.
- 3) On or before July 7, 2023, Parties shall Reply Comments to Comments on the remaining issues.

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

YEAS: Giarrusso, Green, Harris, King, Moreno, Thomas - 6

NAYS: 0

ABSENT: Morrell - 1

AND THE RESOLUTION WAS ADOPTED.

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