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Harry M. Barton Senior Counsel Legal Department -- Regulatory

May 11, 2018

## Via Hand Delivery

Ms. Lora W. Johnson, CMC, LMMC Clerk of Council Council of the City of New Orleans City Hall, Room 1E09 1300 Perdido Street New Orleans, LA 70112



#### Re: Application of Entergy New Orleans, Inc., for Approval to Construct **Distributed Generation-Scale Solar Photovoltaic Systems and Request** for Cost Recovery and Related Relief CNO Docket No. UD-17-05

Dear Ms. Johnson:

Entergy New Orleans, LLC ("ENO") hereby submits for your further handling an original and three copies of an Agreement in Principle ("AIP") among the parties in the abovecaptioned matter. The AIP provides for resolution of all issues in the referenced proceeding wherein ENO seeks, among other relief, a determination from the Council of the City of New Orleans ("Council") that ENO's proposal to construct multiple distributed generation-scale solar photovoltaic systems with a total combined capacity of approximately 5 MW<sub>AC</sub> in the City of New Orleans (the "Project") is in the public interest and that ENO should be authorized to recovery all prudently-incurred costs of the Project.

The AIP reflects a settlement and accommodation of the signatories, which include all parties to the proceeding. Please file an original and two copies into the record and return a datestamped copy of the same to our courier. Additionally, ENO request that this matter be placed on the agenda of the June 14, 2018 meeting of the Utility, Cable, Telecommunications and Technology Committee for approval and subsequent consideration by the full Council.

Thank you for your assistance with this matter.

Sincerely Harry M. Barton

HMB\bkd

Enclosures Official Service List (via electronic mail) cc:

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### **BEFORE THE**

## **COUNCIL OF THE CITY OF NEW ORLEANS**

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APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO CONSTRUCT DISTRIBUTED GENERATION-SCALE SOLAR PHOTOVOLTAIC SYSTEMS AND REQUEST FOR COST RECOVERY AND RELATED RELIEF

**DOCKET NO. UD-17-05** 

### **AGREEMENT IN PRINCIPLE**

Applicant, Entergy New Orleans, LLC<sup>1</sup> ("ENO" or "Company"), the Independent Legal and Technical Advisors (the "Advisors") to the Council of the City of New Orleans (the "Council"), and Intervenors (i) the Alliance for Affordable Energy ("AAE"), (ii) Gulf States Renewable Energy Industries Association ("GSREIA"), (iii) 350 New Orleans, and (iv) the American Institute of Architects New Orleans Chapter ("AIA") (AAE, GSREIA, AIA and 350 New Orleans are collectively referred to as the "Supportive Intervenors") hereby agree to settle and resolve the captioned matter upon the following terms, which shall be presented to the Council of the City of New Orleans ("Council") for approval. The remaining parties do not oppose this Agreement in Principle ("AIP"), as designated by their representatives' signature below.

1. On October 6, 2017, ENO filed an application requesting that the Council find that it is in the public interest for ENO to construct multiple distributed generation ("DG")-scale solar photovoltaic ("PV") systems with a total combined capacity of approximately 5  $MW_{AC}$  in the City of New Orleans ("Application"). In support of the Application, ENO included the Direct Testimonies and Exhibits of D. Andrew Owens, Seth E. Cureington, and Orlando Todd.

<sup>&</sup>lt;sup>1</sup> Effective December 1, 2017, Entergy New Orleans, Inc. underwent a Council-approved corporate restructuring to become a limited liability company. Accordingly, the utility formerly operating as Entergy New Orleans, Inc. is now operating as Entergy New Orleans, LLC.

2. ENO's plan to construct multiple DG-scale solar PV systems (the "Project") with a total combined capacity of approximately 5 MW<sub>AC</sub> in the City of New Orleans resulted from the 2016 Renewables Request for Proposals ("RFP"). ENO issued the final version of the RFP documents on July 13, 2016, after having made draft RFP documents available for public review and comment on May 6, 2016 and holding a Bidders Conference to solicit additional questions and comments from potential bidders on June 1, 2016. ENO's Operating Committee selected the Project from the RFP on May 9, 2017.

3. Of the 17 proposals representing approximately 325 MW of total capacity received in response to the 2016 RFP for renewable resources, only one proposal - ENO's 5 MW self-build project - involved DG-scale solar PV systems. Since it is also the first commercial-size rooftop solar PV project proposed by ENO for New Orleans, it should be viewed similarly to other pilot projects undertaken by the Company.

4. ENO targets to complete all installations of systems comprising the Project within12 months of receipt of regulatory approval from the Council.

5. The final estimated installed cost of the Project included in ENO's application are \$14.85 million, the majority of which is an Engineering, Procurement, and Construction ("EPC") contract with Brightergy Louisiana, LLC ("Brightergy") in the amount of \$12.3 million.

6. Following the submission of ENO's Application on October 6, 2017, the Council issued Resolution R-17-622, on December 14, 2017, setting forth the procedural schedule for the instant docket.

7. On January 9, 2018, ENO held a public meeting at the Southern University at New Orleans – Lake Campus College of Business and Public Administration to provide information and answer questions concerning the Project and the RFP. In addition to

representatives of the Council, ENO, the Advisors, and several members of the public, the meeting was attended by representatives of the AAE, GSREIA, 350 New Orleans, and the AIA.

8. Resolution R-17-622 permitted parties to intervene in this proceeding on or before January 26, 2018. Air Products and Chemicals, Inc. ("Air Products"), AAE, AIA, and 350 New Orleans all intervened within this timeframe. GSREIA requested to intervene out of time, which unopposed request was granted by the Hearing Officer, the Honorable Jeffrey S. Gulin.

9. On February 6, 2018, ENO, the Advisors, Air Products, AAE, GSREIA and 350 New Orleans participated in an initial settlement conference. AIA did not attend or participate in the initial settlement conference.

10. On February 8, 2018, the Advisors issued their First Set of Data Requests to ENO. On February 15, 16, and 19, 2018, ENO provided responses to the Advisors' First Set of Data Requests. ENO also provided a supplemental response to request ADV 1-9 on March 12, 2018.

11. On February 16, Air Products and Chemicals, Inc. ("Air Products") issued its First Set of Requests for Information to ENO. On February 26, 2018, ENO provided responses to Air Products' First Set of Requests for Information.

12. On February 22, 2018, the Advisors issued their Second Set of Data Requests to ENO. On March 5, 2018, ENO provided responses to the Advisors' Second Set of Data Requests

13. On February 28, 2017, all Parties in the Docket participated in a second settlement conference.

14. On March 2, 2018, the AAE issued its First Set of Requests for Information to ENO. On March 9, 12 and 13, 2018, ENO provided responses to the AAE's First Set of

Requests for Information.

15. On March 14, 2018, Air Products issued its Second Set of Requests for Information to ENO. On March 22, 2018, ENO provided responses to Air Products' Second Set of Requests for Information.

16. On March 16, 2018, Judge Gulin, granted an Unopposed Motion to extend the deadline for filing a proposed agreement in principle from March 19, 2018 until April 6, 2018.

17. On March 23, 2018, all parties in the Docket participated in a third settlement conference.

18. On April 5, 2018, Judge Gulin again granted an unopposed motion to extend the deadline for filing an agreement in principle from April 6, 2018 until April 20, 2018.

19. ENO, and the Supportive Intervenors agree that in addition to the capacity and energy savings estimated to be attributable to the Project<sup>2</sup> and the estimated tax savings that could reduce overall costs of the Project, the Project is expected to deliver social and economic benefits to New Orleans. While these factors do not change the revenue requirement for the Project or alter the estimated customer bill impacts attributable to the Project,<sup>3</sup> ENO and the Supportive Intervenors believe that such benefits are worthy of consideration by the Council so that the Council may determine whether such benefits contribute to the Project's ability to fulfill the stated policy objectives articulated by the Council and Councilmembers related to renewable resources. The Advisors have not had the opportunity to independently verify any quantified

<sup>&</sup>lt;sup>2</sup> See ENO's response to request ADV 1-8.

<sup>&</sup>lt;sup>3</sup> See ENO's response to AAE 1-3, which provides estimated monthly bill impacts for residential customers, exclusive of the effects of property tax and any expected energy and capacity cost savings, for a 25 year period. The estimated monthly bill impact to a typical residential customer is \$0.46 (nominal) per month during the first year of the Project; this estimated impact declines for each subsequent year of the Project.

social and economic benefits. The social and economic benefits that ENO and the Supportive Intervenors have quantified include:

- Employment ENO estimates that 41 direct jobs and 65 total jobs in Orleans Parish are anticipated to result from the Project.<sup>4</sup>
- Local Economic Impact ENO estimates the total local economic impact for Orleans Parish expressed as value added to the Project would be approximately \$12.2 million.<sup>5</sup>
- Local Government Revenue ENO estimates total revenues generated for the City of New Orleans as a direct result of the Project to could be as much as \$5.4 million.<sup>6</sup>
- Carbon Emissions Reduction The Supportive Intervenors acknowledge the value of social and environmental benefits of reduced carbon emissions resulting from the Project, referred to by the US Environmental Protection Agency as the "Social Cost of Carbon." Preliminary estimates show the benefit of reduced carbon emissions as \$1.1 million. While ENO believes its voluntary commitment to stabilize CO2 emissions<sup>7</sup> is an important objective that the Project would help to further, ENO does not agree to the validity or accuracy of the "Social Cost of Carbon" estimate submitted by the Supportive Intervenors in this Docket.

In addition, ENO, the Advisors, and the Supportive Intervenors agree that the Project would contribute a variety of benefits that are relevant, but not specifically quantified, including fulfilling Council goals to meet an increased portion of New Orleans' electricity demand with

<sup>&</sup>lt;sup>4</sup> See ENO's response to request ADV 1-9, based on IMPLAN analysis provided by Dr. Steven Nivin.

<sup>&</sup>lt;sup>5</sup> See ibid; see also ENO's response to request APC 2-1.

<sup>&</sup>lt;sup>6</sup> See ENO's response to APC 2-1 and HSPM Exhibit DAO-2.

<sup>&</sup>lt;sup>7</sup> Since 2001, Entergy Corporation has operated under a voluntary commitment to stabilize CO2 emissions. The current commitment is to stabilize emissions from owned power plants and controllable power purchases through 2020 at 20 percent below year 2000 levels. Entergy Corporation was the first investor-owned utility in the United States to make such a commitment.

renewable resources, creating a long term hedge against the costs of conventional generation resources, potential distribution grid and resilience benefits including facilitating opportunities for investment in future energy storage (*e.g.* battery storage, potentially including placement on City-owned buildings), helping ENO customers to achieve their goals around sustainability and / or carbon reduction, and providing ENO with real-world experience operating and maintaining DG-solar systems.

20. ENO commits to using commercially reasonable efforts to utilize locally owned businesses and/or Diverse Subcontractors and Suppliers,<sup>8</sup> with acceptable safety and performance records, to provide labor for the Project.

21. ENO commits to using commercially reasonable efforts to prioritize utilizing facilities owned by tax-exempt entities such as government buildings, educational institutions, hospitals, and other non-profit organizations as host sites for the Project.

22. In Resolution No. R-16-106, the Council indicated that a proposed pilot programs should include (1) the number of participants, which customer classes are participating, and whether the pilot is a voluntary program; (2) the duration of the proposed pilot program; (3) what data is to be collected and the manner of collection; (4) draft tariff provisions to implement the program; and (5) the anticipated costs and rate impact of the program.

23. With respect to whether participation in the Project is voluntary and which classes of customer will participate, the costs of the program will be allocated to all rate classes of customers on a demand basis, and customers in the non-residential rate classes with suitable rooftop facilities will be eligible to participate voluntarily as a host of a solar facility under the Project. Further, with respect to Project sites, the Application does not include a specific number

<sup>&</sup>lt;sup>8</sup> This term shall have the same meaning as defined in Clause 18.3 of the EPC contract (Exhibit DAO-3).

of participants for the Project, but does include a specific capacity to be reached which similarly informs the Council of the scope of the Project. Although the Application does not state the duration of the Project as an expression of time, ENO and the Supportive Intervenors clarify that the Project will continue to expand until the sooner of (i) ENO's installation of a total combined capacity of  $5MW_{AC}$  or (ii) expenditure of the funds as contemplated in paragraph 29. The duration for which each participating site shall continue to participate in the Project shall be determined through the lease negotiations between the Company and that participant, but is expected to extend for the life of the solar PV assets installed at the customer's location. Similarly, the rate impact is expected to continue for as long as the facilities built under the Project are in service. ENO and the Supportive Intervenors agree that the target ENO installed cost per watt (DC) is \$2.32/W<sub>DC</sub>.<sup>9</sup> During construction, should per watt costs rise more than 5%, ENO shall, within 10 business days, notify the Council of the cost increase and causes, and the Council may choose to take action in response to the cost increase, including, but not limited to, modifying its approval of this AIP.

24. Costs of the Project will be recovered from all customers on a demand basis, with any necessary tariff provisions addressed in the 2018 Rate Case (defined further herein). ENO estimates the monthly bill impact to a typical residential customer will be \$0.46 (nominal) per month during the first year of the Project; with this estimated impact declining for each subsequent year of the Project.<sup>10</sup>

25. ENO, the Advisors, and the Supportive Intervenors, through this AIP, agree that ENO's plan to construct multiple DG-scale solar PV systems with a total combined capacity of

<sup>&</sup>lt;sup>9</sup> See HSPM Exhibit DAO-2

<sup>&</sup>lt;sup>10</sup> See ENO's response to AAE 1-3, which provides estimated monthly bill impacts for residential customers, exclusive of the effects of property tax and any expected energy and capacity cost savings, for a 25 year period.

approximately 5  $MW_{AC}$  in the City of New Orleans should be considered and evaluated as a pilot program, which will provide valuable experience and information for the Council regarding future distributed renewable projects, and as such, is in the public interest.

26. ENO, the Advisors, and the Supportive Intervenors agree that investments made by ENO pursuant to the public interest finding recommended in paragraph 26 above shall be eligible for recovery from customers and that ENO will be afforded a full and fair opportunity to recover the revenue requirement associated with the Project.

27. ENO, the Advisors, and the Supportive Intervenors agree that ENO should be authorized to a) recover any and all prudently incurred costs of the Project; b) reflect any plant expected to be placed into service through December 31, 2019 as a pro forma adjustment to Period II of ENO's general base rate proceeding, which it expects to file before July 31, 2018, as required in Council Resolution R-17-504 (the "2018 Rate Case"); c) recover any prudently incurred costs beyond the referenced rate effective period through any FRP or similar ratemaking mechanism authorized following the 2018 Rate Case or through an applicable two–step rate adjustment; and d) proform into ENO's 2018 Rate Case cost of service studies any anticipated first-year O&M expenses for the Project, with any change in the level of on-going O&M expenses being addressed in subsequent FRP proceedings or, in the event an FRP or similar ratemaking mechanism is not adopted following the 2018 Rate Case, through an applicable two-step rate adjustment. ENO estimates that its first-year O&M expenses for the Project will be \$128,000.

28. ENO, the Advisors, and the Supportive Intervenors agree that the Project should be considered a pilot project, and while the specific cost allocations for the Project will be determined as part of the 2018 Rate Case, the capital costs of the Project should be allocated to

customers on a demand basis, specifically the production demand allocation factor determined by the Council in the 2018 Rate Case.

29. ENO, the Advisors, and the Supportive Intervenors agree that ENO should be authorized to expend funds consistent with the final estimated costs of the Project submitted with ENO's Application. ENO shall undertake commercially reasonable efforts to ensure that the capital costs of the Project shall not exceed the final estimated costs submitted with the Application, and shall also undertake commercially reasonable efforts to find opportunities to reduce costs during construction, while maintaining all appropriate quality and safety standards.

30. With respect to the data to be collected, it is expected that the Project will allow ENO to gather data regarding the output of solar DG in New Orleans and its impact on the distribution grid, which will be important data for future resiliency planning and the evaluation of future DG proposals. This data and information shall be filed annually with the Council and parties in this docket.

31. ENO, the Advisors, and the Supportive Intervenors agree that ENO shall file a report with the Council, served on the Advisors and Parties to this proceeding, by September 30, 2018, providing details on: (i) the number and total combined capacity of installations placed into service as of the date of ENO's report, (ii) the location and capacity of each installation completed to date, (iii) the total cost expended to date, (iv) the ENO's installed cost per watt to date, (v) the extent to which locally-owned businesses and/or Diverse Subcontractors and Suppliers have been employed to date, and (vi) the anticipated timeline for completion of the remaining installations contemplated for the Project.

32. ENO, the Advisors, and the Supportive Intervenors also agree that following completion of the Project,<sup>11</sup> ENO shall file a report with the Council, served on the Advisors and Parties to this proceeding, within 90 days, which report shall detail (i) the number and total combined capacity of installations placed into service, (ii) the general location and name-plate capacity of each installation completed, (iii) the total cost expended, broken out by EPC and non-EPC expenditures, and (iv) the extent to which locally owned businesses and/or Diverse Subcontractors and Suppliers have been employed.

33. ENO, the Advisors, and the Supportive Intervenors agree that, following the Council's receipt and review of the reports contemplated herein, the Council may choose to take further actions in relation to the Project, including but not limited to, (i) instituting further procedural steps for review, discovery, and comment from the Advisors and Parties related to ENO's reports and the Project, (ii) requiring that ENO issue an additional Request for Proposals prior to commissioning any further installation of DG-scale solar PV systems, and/or (iii) requiring that ENO provide estimated costs and a timeline prior to commissioning further installations of DG-scale solar PV systems.

34. ENO, the Advisors, and the Supportive Intervenors agree that the subject of voluntary, subscription-based customer participation in renewable resource programs should be examined by the Council in a future regulatory proceeding in which all parties will be afforded the opportunity to participate and provide comments and other input for consideration by the Council. Such a future proceeding may result in development of a mechanism, or mechanisms, by which voluntary customer participation helps to offset a portion of the cost of the Project and/or other renewable resources.

<sup>&</sup>lt;sup>11</sup> For purposes of this section, completion of the Project shall be considered as the sooner of (i) ENO's installation of a total combined capacity of  $5MW_{AC}$  or (ii) expenditure of the funds as contemplated in paragraph 29, above.

ENO, the Advisors, and the Supportive Intervenors agree that, to the extent ENO 35. monetizes any Renewable Energy Credits ("RECs") associated with the Project, funds received from such monetization shall be flowed to customers through the Fuel Adjustment Clause ("FAC").

Except as may be expressly stated herein, the terms included in this AIP shall 36. have no precedential effect in any other transactions, proceedings, or otherwise. It is recognized that this AIP was entered into as a result of negotiations between the parties and reflects concessions and considerations that are unique to the facts and circumstances of this proceeding. Subsequent to the execution of this AIP, any party shall, without prejudice, have the right to take any position on any similar issues in future rate proceedings, including FRP proceedings, or in other regulatory proceedings or appeals therefrom.

37. This AIP reflects a compromise, settlement and accommodation among the signatories, and the terms and conditions herein are interdependent. All actions by the Company contemplated or required by this AIP are conditioned upon the Council's issuance of a final order consistent with the terms of this AIP.

**AGREED TO BY THE FOLLOWING PARTIES:** 

By:

Name:

Date: 5/11/18

REPRESENTING ENTERGY NEW ORLEANS, LLC

By: <u>Jon A. Bucke</u> Name: Logan A. Bucke REPRESENTING ALLIANCE FOR AFFORDABLE ENERGY	Date: <u>5/11/18</u>
By:	Date:
Name: REPRESENTING GULF STATES RENEWABLE ENERGY INDU	JSTRIES ASSOCIATION
By:	Date:
Name:	
REPRESENTING 350 NEW ORLEANS	
By:	Date:
Name:	
REPRESENTING AMERICAN INSTITUTE OF ARCHITECTS N	EW ORLEANS CHAPTER
By:	Date:
Name:	
REPRESENTING NEW ORLEANS CITY COUNCIL ADVISORS	

By:	Date:
Name:	
REPRESENTING ALLIANCE FOR AFFORDABLE ENERGY	
By: <u>All</u> T	Date: 5/11/18
Name: Will Feldman	
REPRESENTING GULF STATES RENEWABLE ENERGY IND	USTRIES ASSOCIATION
By:	Date:
Name:	
REPRESENTING 350 NEW ORLEANS	
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REPRESENTING AMERICAN INSTITUTE OF ARCHITECTS	NEW ORLEANS CHAPTER
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REPRESENTING GULF STATES RENEWABLE ENERGY INDUSTRIES ASSOCIATION		
By: Kenak theid	Date: <u>5-11-2018</u>	
Name: Renate Heurich		
REPRESENTING 350 NEW ORLEANS		
By:	Date:	
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REPRESENTING AMERICAN INSTITUTE OF ARCHITECTS NEW ORLEANS CHAPTER		
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REPRESENTING NEW ORLEANS CITY COUNCIL ADVISORS		

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REPRESENTING GULF STATES RENEWABLE ENERGY I	
Ву:	Date:
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REPRESENTING 350 NEW ORLEANS	
By: Cinple Mai	_ Date: <u>May 11, 2018</u>
Name: Angela Morton, Presiden	12018
REPRESENTING AMERICAN INSTITUTE OF ARCHITEC	TS NEW ORLEANS CHAPTER
Ву:	Date:
Name:	
REPRESENTING NEW ORLEANS CITY COUNCIL ADVI	SORS

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Ву:	Date:
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Name:	
REPRESENTING GULF STATES RENEWABLE ENERGY INDU	STRIES ASSOCIATION
By:	Date:
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REPRESENTING 350 NEW ORLEANS	
By:	Date:
Name:	
REPRESENTING AMERICAN INSTITUTE OF ARCHITECTS NE	W ORLEANS CHAPTER
By: <u>Clint Vin /ex</u> Name: <u>Clinton A. Vince</u>	Date: <u>5/11/18</u>
REPRESENTING NEW ORLEANS CITY COUNCIL ADVISORS	

## SUPPORTED OR NOT OPPOSED BY THE FOLLOWING SIGNATORIES:

SUPPORTED / NOT OPPOSED By: Tournillon n Name: rio

Date: <u>May 11, 2018</u>

REPRESENTING AIR PRODUCTS AND CHEMICALS, INC.

# CERTIFICATE OF SERVICE Docket No. UD-17-05

I hereby certify that I have served the required number of copies of the foregoing report upon all other known parties of this proceeding, by the following: electronic mail, facsimile, overnight mail, hand delivery, and/or United States Postal Service, postage prepaid.

Lora W. Johnson Clerk of Council Council of the City of New Orleans City Hall, Room 1E09 1300 Perdido Street New Orleans, LA 70112

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Renate Heurich 350 Louisiana 1407 Napoleon Avenue Suite C New Orleans, LA 70115

New Orleans, Louisiana, this N<sup>th</sup> day of May, 2018. Harry M. Barton