

ANZELMO, MILLINER & BURKE LLC
ATTORNEYS AT LAW

3636 SOUTH I-10 SERVICE RD, SUITE 206
METAIRIE, LOUISIANA 70001
(504) 835-9951
(504) 835-9984

April 25, 2019

The Hon. Lora W. Johnson
Clerk of Council
Room 1E09
1300 Perdido St.
New Orleans LA 70112

Re: *Application for Entergy New Orleans, LLC For A Change in Electric and Gas Rates Pursuant to Council Resolutions R-15-194 and R-17-504 and For Related Relief, Docket No. UD-18-07*

Dear Ms. Johnson:

Enclosed please find original and three copies of Rebuttal Testimony of Myron B. Katz, Phd, on Behalf of Building Science Innovators, LLC in the above referenced matter.

Thank you for your assistance in this matter.

Very truly yours,



Thomas W. Milliner

encl. Rebuttal Testimony of Myron B. Katz, Phd
cc: Service List (by email)

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

**APPLICATION OF ENTERGY)
NEW ORLEANS, LLC FOR A)
CHANGE IN ELECTRIC AND)
GAS RATES PURSUANT TO)
COUNCIL RESOLUTIONS)
R-15-194 AND R-17-504)
AND FOR RELATED RELIEF)
)
)**

DOCKET NO. UD-18-07

RESPONSE TO

REBUTTAL TESTIMONY

BY

MYRON KATZ, PhD

ON BEHALF OF

BUILDING SCIENCE INNOVATORS, LLC

1 **Q1. Dr. Katz, have you reviewed ENO’s response to the CLEP tariff that you have**
2 **proposed?**

3 **A.** Yes, in the portion of Mr. Andrew Owens’ testimony specifically focused on Customer
4 Lowered Electricity Price (“CLEP”), he makes no specific objection or analysis, but
5 instead incorporates by reference all the objections set forth in Council Resolution Nos
6 R-16-106 and R-17-100. The entirety of Mr. Owens’ testimony relative to CLEP is as
7 follows:

8 “BSI appears to be proposing the same concept that was rejected by the Council in
9 Resolution Nos. R-16-106 and R-17-100. Those Resolutions identified several flaws
10 with the proposed CLEP concept. Based on my review of Dr. Myron Katz’s Direct
11 Testimony, it does not appear that BSI has addressed any of the Council’s previously
12 stated concerns. As such, ENO is opposed to the implementation of BSI’s proposal.”
13 ENO Rebuttal Testimony Andrew Owens + Exhibits, CNO Docket No UD-18-07,
14 March 22, 2019, page 50.

15

16 **Q2. Have you identified any problems with Mr. Owen’s testimony with regard to CLEP?**

17 **A.** BSI has identified errors in all objections indirectly asserted by Mr. Owens about the
18 CLEP proposal set forth in BSI’s February 1, 2019 testimony in this docket. Because Mr.
19 Owens claims that all those concerns described in the 2017 resolution continue to be
20 short-comings of the current testimony; they are cited within Council Resolution R-17-
21 100 by page number:

- 1 a) “BSI does not explain where this income will come from and whether paying CLEP
2 customers causes rate increases for non-CLEP customers” Council Resolution R-
3 17-100, p 86;
- 4 b) CLEP’s description in 2016 was incoherent. Council Resolution R-17-100, p 88;
- 5 c) ENO claimed that CLEP’s description in 2016 was “based upon numerous flawed
6 concepts and unrealistic assumptions.” and “BSI provides no rational basis” for
7 key assumptions and assertions. Council Resolution R-17-100, p 90;
- 8 d) CLEP “is too complicated for consumers to understand[”] Council Resolution R-17-
9 100, p 91;
- 10 e) “BSI makes many assertions as to the costs, capabilities and potential revenues of a
11 community solar project, but does not offer any analysis, testimony or evidence in
12 support of its assertions.” Council Resolution R-17-100, p 93;
- 13 f) CLEP inappropriately didn’t adhere to the requirements of Council Resolutions No.
14 R-15-140 or No. R-16-106, the first of which sets requirements for Pilot proposals.
15 Council Resolution R-17-100, p 90;
- 16 g) CLEP’s community solar proposal does not provide a funding mechanism. Council
17 Resolution R-17-100, p 92;
- 18 h) CLEP “requires an extensive amount of setup for each customer – new metering
19 equipment ...” Council Resolution R-17-100, p 91;
- 20 i) The conditions that prevailed in 2016 are not substantially different from those
21 present in 2019; and
- 22 j) CLEP as described in 2016 is not substantially different from its description in 2019.

1 Because of Mr. Owens’ blanket assertion on March 22, 2019 that CLEP’s description’s
2 from 2016 short-comings as enumerated in Resolution R-17-100, were not remediated by
3 the refined version of CLEP set forth in BSI’s February 1, 2019 filing in this docket nor
4 that other things have changed substantially since 2016 when the earlier filing occurred,
5 there is no need to delve into the wording of the 2016 motions made to promote the three
6 CLEP pilot programs, but instead each answer will be provided through excerpts from the
7 February 1, 2019 testimony and reference to what has changed since then.

8

9 **Q3. Please explain what is wrong with the statement: “BSI does not explain where this**
10 **income will come from and whether paying CLEP customers causes rate increases**
11 **for non-CLEP customers” Council Resolution R-17-100, p 86.**

12 **A.** BSI notes that neither any intervenor nor the Advisors support this assertion that CLEP’s
13 February 1, 2019 testimony does not explain CLEP well enough nor that CLEP will
14 cause rate increases for non-CLEP customers. In fact, the answer to Q11. HOW DOES
15 CLEP LOWER EVERYBODY’S RATES? occupies five pages in the testimony from
16 pages 22 through 27.

17

18 **Q4. Please explain what is wrong with the statement: CLEP’s description in 2016 was**
19 **incoherent. Council Resolution R-17-100, p. 88.**

1 A. Mr. Owens fails to identify any specific problem concerning the refined version of CLEP
2 set forth in BSI’s February 1, 2019 testimony and, in particular, the highly detailed
3 answers to the following specific questions:

4 Q8. WHAT ARE THE UNDERLYING DEFINITIONS OF CLEP RATES? 11
5 Q9. WHAT ARE THE CLEP RATES YOU PROPOSE? 16
6 Q10. HOW IS EACH CLEP RATE CALCULATED? 19
7 Q11. HOW DOES CLEP LOWER EVERYBODY'S RATES? 22
8 Q12. WHAT ARE ILLUSTRATIONS OF KEY CLEP APPLICATIONS? 27

9

10 **Q5. Please explain what is wrong with the statement: “ENO claimed that “CLEP’s**
11 **description in 2016 was “based upon numerous flawed concepts and unrealistic**
12 **assumptions.” and “BSI provides no rational basis” for key assumptions and**
13 **assertions. Council Resolution R-17-100, p. 90.**

14 A. See previous answer.

15

16 **Q6. Please explain what is wrong with the statement: “CLEP “is too complicated for**
17 **consumers to understand...” Council Resolution R-17-100, p. 91.**

18 A. See previous two answers.

19

1 **Q7. Please explain what is wrong with the statement: “BSI makes many assertions as to**
2 **the costs, capabilities and potential revenues of a community solar project, but does**
3 **not offer any analysis, testimony or evidence in support of its assertions.” Council**
4 **Resolution R-17-100, p.93.**

5 A. See previous three answers.

6
7 **Q8. Please explain what is wrong with the statement: “CLEP inappropriately didn’t**
8 **adhere to the requirements of Resolution No. R-15-140 or R-16-106, the first of**
9 **which sets requirements for Pilot proposals.” Council Resolution R-17-100, p. 90’**

10 A. On a fundamental level, Mr. Owens fails to note the essential fact that what BSI proposed
11 in 2016 within Council Docket No. UD-08-02 were three pilot programs whereas what
12 BSI is proposing in the current docket is an optional rate tariff that any ENO customer
13 may choose to utilize. Because BSI is not proposing a pilot program in this docket,
14 ENO’s objections noted in Council Resolution R-17-100 at the top of page 90 2nd
15 paragraph, and the Advisors’ objections noted on page 90 and the middle of page 91 that
16 BSI failed to comply with the requirements for establishing a pilot program (which BSI
17 denies) are completely inapplicable.

18

19

20

1 **Q9. Did BSI's three pilot applications in 2016 violate any Council Resolutions?**

2 **A.** No. In fact, only the third of these three assertions referred to in the previous answer
3 made any mention of a Council Resolution requiring more or better data than BSI
4 presented in 2016. In the third citation it is stated that:

5 "WHEREAS, the Advisors state that the Council has set forth the criteria that any
6 application for a Pilot Program related to the IRP or Energy Smart Program must
7 meet. The Advisors state that in Resolution No. R-15-140, the Council ruled that
8 prior to the implementation of any new pilot program for the Legacy ENO Energy
9 Smart Program, the Companies must file an application with the Council for
10 review and approval that includes"

11 However, the plain meaning of what the Advisors stated asserts is that Resolution R-15-
12 140 only applies to "prior to the implementation of any new pilot program for the Legacy
13 ENO Energy Smart Program, the Companies must file an application with the Council".

14 But:

15 #1 BSI's CLEP pilot programs were in no way proposed to be for Energy Smart.

16 #2 BSI is clearly not ENO and thus cannot and should not be assumed to be included
17 in the term "Companies" in the second quoted clause; and

18 #3 the fact that ENO has this burden decreed by R-15-140 does not cause the same
19 burden upon any other actor.

20

1 **Q10. Please explain what is wrong with the statement: “CLEP’s community solar**
2 **proposal does not provide a funding mechanism.” Council Resolution R-17-100,**
3 **p.92.**

4 **A.** How CLEP can be applied to community solar is defined on page 17 of BSI’s February 1,
5 2-19 testimony. An example calculation using CLEP’s community solar formula is
6 provided on page 31 of the February 1, 2019 9 testimony.

7

8 **Q11. Please explain what is wrong with the statement: “CLEP “requires an extensive**
9 **amount of setup for each customer – new metering equipment ...” Council**
10 **Resolution R-17-100, p.91.**

11 **A.** In 2016, BSI asserted that ENO had many times promised that it would roll out Smart
12 Meters, (a.k.a. AMI) during the IRP proceedings but this was disputed by both ENO and
13 the Advisors. However, in 2018, the Council approved a roll out of Smart Meters which
14 I understand is proceeding.

15

16 **Q12. Is it true that the conditions that prevailed in 2017 are not substantially different**
17 **from those present in 2019.**

18 **A.** No, the situation has greatly changed since the adoption of Resolutions Nos. R-16-106
19 and R-17-100, particularly regarding smart meters and community solar. See previous
20 answer regarding Smart Meters. Regarding Community Solar, it is significant to note that

1 Community Solar has been substantially approved by the City Council. In fact,
2 Community Solar is the subject of Mr. Owens' ENO's rebuttal testimony on March 22,
3 2019 wherein he devotes ten pages to the current rollout of new rules that would govern
4 Community Solar in New Orleans. See pages 34 through page 44. On December 13,
5 2018, the Utility Committee adopted Resolution R-18-538 but it provided no acceptable
6 funding mechanism. The full Council later adopted the Community Solar resolution but
7 only provided an incomplete funding mechanism, that is: to pay low-income customers
8 the same rate as Net Energy Metering, namely retail price. However, as noted in my
9 direct testimony, CLEP provides a means by which all Community Solar customers can
10 be paid.

11

12 **Q12. Please explain how the nature and detailed definitions of the CLEP proposal has**
13 **been refined since the adoption of Council Resolutions Nos R-16-106 and R-17-100?**

14 **A.** 1) As noted in the February 1, 2019 testimony at page 16, lines 11 through 22, the
15 refined version of CLEP can apply to businesses but CLEP didn't handle business
16 customers in 2016, and

17 2) The February 1, 2019 testimony sets forth a detailed explanation for the
18 coefficient for CLEPm as "\$50" on pages 12 and 20, instead of the "\$57.60" as
19 stated in 2016 and 2017.

20

1 **Q13. What is the BSI's response to Mr. Owen's comments regarding Council Resolution**
2 **NO. R-16-106?**

3 **A.** Council Resolution NO. R-16-106 was a decision to deny giving BSI extra opportunities
4 outside of filing testimony to describe CLEP within the 2015 ENO Integrated Resource
5 Planning process. Consequently, that resolution has no bearing on the issues arising in
6 this proceeding.

7
8 **Q14. Does this conclude your testimony?**

9 **A.** Yes.

10