



VOTE SOLAR

July 15, 2019

By Hand Delivery

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

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 an original and three (3) copies of the Energy Future New Orleans Coalition filing in the above-mentioned docket. Please file the attached communication and this letter in the record of the proceeding and return one time stamped copy to our courier, in accordance with normal procedures. 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

RECEIVED
JUL 15 2019

BY:

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

**Establishing a Docket and Opening a Rulemaking
Proceeding to Establish Renewable Portfolio
Standards**

Docket No. UD-19-01

**JOINT REPLY OF 350 NEW ORLEANS, ALLIANCE FOR AFFORDABLE ENERGY,
NATIONAL AUDUBON SOCIETY, DEEP SOUTH CENTER FOR ENVIRONMENTAL
JUSTICE, POSIGEN SOLAR, SIERRA CLUB, SOUTHERN RENEWABLE ENERGY
ASSOCIATION, AND VOTE SOLAR (COLLECTIVELY THE “ENERGY FUTURE
NEW ORLEANS” COALITION OR “EFNO”) PROPOSING A DRAFT RESILIENT
AND RENEWABLE PORTFOLIO STANDARD FOR THE CITY OF NEW ORLEANS**

Pursuant to City Council Resolution R-19-109 (“Resolution”), the parties of the Energy Future New Orleans Coalition (“EFNO”) respectfully and jointly submit this reply to propose a draft rule to the Council that is the product of collaborative input from these intervenors and additional stakeholders in the community. After reviewing all parties’ opening comments and proposals for a renewable portfolio standard for the city, EFNO has proactively worked to consolidate parties with similar positions and to establish a process for achieving broader input from the community and interested or impacted organizations that are not intervenors to this proceeding. That process continues beyond this submission.

This reply puts forward EFNO’s draft rule for the Council to adopt a Resilient and Renewable Portfolio Standard (“R-RPS”) that, unlike a typical state renewable portfolio standard, puts a central focus on ensuring that programs and policies supporting the growth of renewable energy resources provide tangible and significant benefits to communities that might

otherwise be left out of this type of economic transformation.¹ It is a central pillar of the R-RPS to provide economic opportunity for low-income communities in New Orleans, through programs that produce bill savings and new local workforce opportunities in the energy services industry, and to ensure that the costs and benefits of the program are equitably shared. For example, the draft R-RPS outlines mechanisms to ensure Disadvantaged Business Enterprises are part of the market transformation, describes structures to set goals for distributed resources in Orleans Parish, and provides a path forward to create a Public Purpose Fund, something like Washington DC’s successful Sustainable Energy Trust Fund, to enable low-income participation in clean energy programs. Also at the core of the program design is the desire to achieve an electric system in New Orleans that is more resilient, by hardening critical infrastructure with stand-alone microgrids and providing opportunities for customers to install and utilize resilient renewable energy resources that can provide emergency power during outage conditions and valuable grid services to the utility during ordinary operating conditions. These twin pillars fit the demands specific to New Orleans in a way that will provide a shining example to the rest of the country and the world of how a city at the front edge of the climate crisis can take action to address the root cause and to provide defense and mitigation against increasingly more severe weather events.

While the draft R-RPS rule represents the joint reply submission of all members of EFNO, many individual intervenor members will submit reply comments that represent the individual party’s response to other specific intervenors. This joint reply is done for the

¹ The Draft R-RPS Rule is attached as “Appendix A.” A high-level explanation of the rule is attached as “Appendix B.”

convenience of the Council and parties, in lieu of each EFNO member submitting an appendix containing the draft rule.

Respectfully Submitted this 15th day of July, 2019,

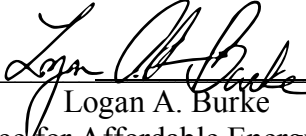
BY:

<p>Logan A. Burke <i>/S/ Logan A. Burke</i> Alliance for Affordable Energy, Executive Director 4505 S. Claiborne Ave. New Orleans, LA 70125 Email: Logan@all4energy.org Tele: (504)208-9761</p>	<p>Andy Kowalczyk <i>/S/ Andy Kowalczyk</i> 350 New Orleans, Just Transition Group 1115 Congress St New Orleans, LA 70117 Email: a.kowalczyk350no@gmail.com Tele: (415) 676-1047</p>
<p><i>/s/ Beverly Wright</i> Beverly Wright Deep South Center for Environmental Justice, Executive Director 9801 Lake Forest Blvd. New Orleans, LA 70127 Email: beverlyw@dscej.org Phone: 504-510-2943</p>	<p><i>/S/ Karen J. Profita</i> Karen J. Profita Vice President National Audubon Society/Audubon Louisiana 5615 Corporate Blvd., Suite 600B Baton Rouge, LA 70808 Email: KProfita@Audubon.org Phone: (225) 768-0820</p>
<p><i>/s/ Beth Galante</i> Beth Galante PosiGen, Senior VP of Business Development 819 Central Ave. Suite 210 • New Orleans • LA • 70121 Email: bgalante@posigen.com Tele: 504.293.4819</p>	<p><i>/s/ Cherelle Blazer</i> Cherelle Blazer Sierra Club Beyond Coal Campaign Representative for Louisiana Sierra Club 1240 N. Claiborne Ave New Orleans, Louisiana 70116 Email: cherelle.blazer@sierraclub.org Tele: (214) 604-0425</p>
<p><i>/S/ Simon Mahan</i> Simon Mahan Southern Renewable Energy Association, Executive Director Email: simon@southernwind.org Tel: 337-303-3723</p>	<p><i>/S/ Thadeus B. Culley</i> Thadeus B. Culley Vote Solar, Regional Director 1911 Ephesus Church Rd Chapel Hill, NC 27517 Email: thad@votesolar.org Tele: (504) 616-0181</p>

CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused to be served by electronic mail, or by U.S. Mail where no electronic mail service is possible, a true and correct copy of the **“JOINT REPLY OF 350 NEW ORLEANS, ALLIANCE FOR AFFORDABLE ENERGY, NATIONAL AUDUBON SOCIETY, DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE, POSIGEN SOLAR, SIERRA CLUB, SOUTHERN RENEWABLE ENERGY ASSOCIATION, AND VOTE SOLAR (COLLECTIVELY THE “ENERGY FUTURE NEW ORLEANS” COALITION OR “EFNO”) PROPOSING A DRAFT RESILIENT AND RENEWABLE PORTFOLIO STANDARD FOR THE CITY OF NEW ORLEANS** on all parties listed on the official service list for Docket No. UD-19-01.

Dated this 15th day of July, 2019.



Logan A. Burke
Alliance for Affordable Energy

Appendix A

Resilient and Renewable Portfolio Standard (R-RPS)

Draft Rule Proposal by the Energy Future Orleans Coalition

Section 1. Purpose

It is the intent of the Resilient and Renewable Portfolio Standard (“R-RPS”) to:

1. Strengthen New Orleans through a focus on energy resilience and local energy resources;
2. Ensure that the benefits of renewable energy are equitable, accessible, and affordable for all residents;
3. Provide new economic opportunities to underserved communities by expanding and diversifying the energy workforce and enabling programs that reduce energy cost burdens on low-income residents; and
4. Attract and retain companies and industries that value ready access to renewable energy resources.

Section 2. Definitions

“Beneficial Electrification” means any program or process that replaces direct fossil-fuel use as a source for power and heat with electricity in a way that reduces overall emissions and energy costs, including but not limited to charging infrastructure supporting electrification of motor vehicles, electrification of home and commercial appliances that use natural gas, and electrification of municipal and commercial operations that currently rely on fossil-fuel use to power equipment.

“Community or Shared Solar Program” means a program that encompasses facilities, entities, and requirements implemented by the Council’s Community Solar Rules under Resolution R-19-111 and any future Council actions modifying those rules.

“Council” refers to the Council of the City of New Orleans.

“Customer” means a retail electric customer account holder of the electric utility.

“Electric Utility” refers to the utility providing electric service to customers in the City of New Orleans and regulated by the Council.

“Equity” means fair access to resources and opportunities, addressing and avoiding racial, economic and environmental disparities stemming from traditional energy systems with solutions that benefit systemically disadvantaged communities and customers.

“Low-Income Customer” means a Customer whose gross annual household income is at or below 200% the Federal Poverty Level, as eligibility is defined in the Council’s Energy Smart program.

“M-RETS” means the Midwest Renewable Energy Tracking System, a web-based system used by power generators, utilities, marketers, and qualified reporting entities. M-RETS registers projects in all states and provinces across North America. M-RETS tracks Renewable Energy Certificates (RECs) and facilitates REC transactions by issuing a unique, traceable digital certificate for every megawatt-hour (MWh) of renewable energy generated by registered units or imported into its system.

“Microgrid System” means a group of interconnected loads and renewable or resilient energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to its interaction with the electric utility’s grid and is able to operate in parallel to the electric utility in a grid-connected mode and to operate in an island-mode that electrically isolates the entity from the electric utility’s grid.

“MISO-Connected Renewable Energy Resource” means a renewable energy resource that is first put into service on or after January 1, 2020 and is interconnected to transmission-level voltage within the Midwest Independent System Operator’s footprint.

“NEM Rules” means the New Orleans Net Energy Metering Rules as adopted by Council Resolution No. R.07-132.

“R-RPS” means the Resilient and Renewable Portfolio Standard.

“Renewable Energy Certificate” or “REC” means a certificate representing an exclusive contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of electric energy generated from a renewable energy resource. One REC results from one megawatt-hour (MWh) of electric energy generated from a renewable energy resource.

“Renewable Energy Resource” means a generating facility that relies on solar photovoltaic and solar thermal resources, wind resources, run-of-the-river hydroelectric resources, geothermal resources, or tidal and wave energy resources to generate electricity.

“Resilient Energy Resource” means a renewable energy resource and any enhancement or addition to that facility, including but not limited to energy storage devices, automation controls, and advanced inverters, which allow the renewable energy resource to operate in island-mode during electrical outages to provide emergency power to onsite facilities or facilities on a microgrid, and to operate in parallel with the electric utility’s grid under normal conditions to supply some combination of electric power, frequency regulation, or other ancillary services to the electric utility’s grid according to the dispatch orders or defined operational conditions of the grid operator.

“Retail Compliance Load” means the total jurisdictional retail sales for an electric utility during an annual period.

“Tier 1 Resource” means any resilient energy resource that is interconnected to distribution-level voltage within the electric utility’s service territory and any renewable energy resource that is operated as part of a microgrid system.

“Tier 2 Resource” means any renewable energy resource that is interconnected to distribution-level voltage within the utility’s service territory that is not a Tier 1 resource.

“Tier 3 Resource” means a MISO-connected renewable energy resource or any other renewable energy resource that is first put into service on or after January 1, 2020 and deliverable to the electric utility.

Section 3. Renewable and Resilient Energy Portfolio Standard

A. **Integrated Resource Plan Requirements for R-RPS Compliance.** An electric utility’s Integrated Resource Plan must examine alternative accelerated economic retirement dates for utility-owned or procured fossil-fuel fired generation. This includes financial analysis of any fossil power plant that would have any debt after being fully depreciated by 2040.

1. Alternative accelerated retirement dates shall be five years and ten years prior of the expected useful life of a generation unit, or prior to the announced retirement date.
2. Accelerated retirement dates shall be compared against an IRP “base case.”
3. In the accelerated retirement date sensitivity runs, an electric utility is prohibited from replacing retired capacity or expired contracts associated with fossil-fuel generating plants with new fossil-fuel generating plants.
4. Integrated Resource Plans should take into account the impacts of Tier 1 and Tier 2 resources on transmission and distribution planning, including the plans to harden or modernize the grid, and identify opportunities for Tier 1 or Tier 2 resources to defer or avoid planned distribution and transmission investments.

B. **Compliance requirements.** An electric utility must meet the specified percentage of retail compliance load with generation from renewable energy resources for each target year and maintain that minimum compliance portfolio level for each year thereafter:

1. 20% of retail compliance load by 2023;
2. 25% of retail compliance load by 2025;
3. 40% of retail compliance load by 2029;
4. 55% of retail compliance load by 2033; and
5. 100% of retail compliance load by 2040.

All compliance requirements, including the composition requirement for Tier 1 and Tier 2 resources in subsection C, must be independently verified and tracked via an internet-based, publicly accessible RPS dashboard on the electric utility’s website. The electric utility shall provide an annual compliance filing with the Council to demonstrate that

minimum compliance requirements have been achieved and to present an action plan to remediate any deficiency in a timely manner.

C. **Compliance portfolio composition requirements.** The compliance portfolio may be satisfied by any combination of Tier 1, Tier 2, and Tier 3 resources, so long as the compliance portfolio:

1. Meets at least 10% of the minimum compliance portfolio requirements in subsection B of this Section with Tier 1 resources by the compliance year 2025 and thereafter;
2. Meets at least 30% of the minimum compliance portfolio requirements in subsection B on this Section with a combination of Tier 1 and Tier 2 resources by the compliance year 2025 and thereafter; and
3. Meets at least 10% of the minimum compliance portfolio through a combination of Tier 1 and Tier 2 resources by the compliance year 2025 and thereafter that are utilized or operated for the direct financial benefit of low-income customers by providing bill savings.

Section 4. Resilient Energy Resources (Tier 1 Resources)

A. **Customer-sited behind-the-meter resources.** Resilient energy resources that are located on the retail customer's side of the electric utility's meter and are configured to be used, at least in part, to offset part or all of the customer's own retail electric load shall be counted toward Tier 1 requirements provided that:

1. such resilient energy resources are participating in a Council-approved demand response program or any other program that is developed to allow the electric utility to dispatch energy, capacity, ancillary services, or provide other grid support functions from the resilient energy resource in exchange for just and reasonable compensation to the owner or operator of the facility for use of and use-related degradation of the equipment;
2. in the event of an outage of the electrical grid, the resilient energy resource is capable of disconnecting and isolating or islanding from the electric utility's electric grid and is allowed to provide up to 100% of its available energy storage and onsite generating capacity to serve behind-the-meter loads during outage events; and
3. the renewable energy resource is separately metered by a production meter and registered with M-RETS for purposes of creating RECs.

B. **Grid-connected renewable energy resources that are part of a microgrid system.** Renewable energy resources that are located on the electric utility's side of the retail electric meter and operated as part of a microgrid system shall be eligible to be counted as a Tier 1 resource provided that the renewable energy resource is separately metered and registered with M-RETS and any generation from non-renewable energy resources also operating on the microgrid is excluded from the measurement.

C. Within 180 days of the effective date of this rule, the Council will open a docket to develop programs, tariffs, and standard form power purchase agreements to implement this section.

1. For behind-the-meter resilient energy resource programs, the electric utility shall consult with the R-RPS community advisory group and adopt minimum Tier 1 targets for participation of households with a gross annual household income of less than 50% of Area Median Income.
2. For all resilient energy resource programs, the electric utility shall propose, in consultation with the R-RPS community advisory group, to develop additional financial incentives, grants, and rebates, assignable to a third-party provider, to support the development and utilization of Tier 1 Resources for low-income customers dependent on electrically-powered medical devices, government buildings, hospitals, universities, publicly-funded K-12 schools, grocery stores, municipally-operated pumping stations, affordable housing developments, qualifying low-income single-family dwellings, or any other critical infrastructure that promotes community resiliency and public safety during prolonged outages of the electric utility's transmission or distribution systems. Any financial supports provided by the Council to encourage development of resilient energy resources must take into account the need for geographic and socio-economic diversity in the deployment of projects and the need for projects to result in tangible economic, environmental, health, and safety benefits for participating low-income households and communities. The R-RPS community advisory group shall identify geographic zones for which the electric utility shall provide for equitable distribution of total publicly-funded financial supports or incentives for Tier 1 Resources.
3. Tier 1 resource programs shall promote modernization of the electric utilities grid by incorporating customer-sited resources that are programmable or dispatchable by the electric utility to improve system reliability, power quality, and to better integrate higher penetrations of renewable energy resources on the grid.
4. Tier 1 resource programs shall allow third-party installations and leveraging of private, non-ratepayer investments to mitigate the total cost of Tier I resources on New Orleans' ratepayers.

Section 5. Customer Program Resources (Tier 2 Resources)

- A. An electric utility shall not treat customer use of onsite or offsite renewable energy resources pursuant to a program in this section as a purchase of electricity from the customer, including kilowatt-hour bill credits associated with net energy metering and community or shared solar that are used to offset participating customers' retail purchases of electricity from the electric utility.
- B. An electric utility shall be granted the renewable energy certificates associated with all generation by renewable energy resources created from customer programs pursuant to this section where the owner or operator has opted not to register with M-RETS and such registration by the electric utility can be achieved at a reasonable cost. For net energy metering facilities, which have not individually been registered through M-RETS by the owner or operator of the facility, the electric utility shall seek Council approval of a methodology for calculating and estimating a REC equivalent for renewable energy resources engaged in net energy metering. The net energy metering

REC equivalent may be used to satisfy both Tier 2 and overall portfolio requirements but may not be used for any other purpose.

C. An electric utility shall be allowed to estimate reductions in compliance load achieved by utility-funded energy efficiency and demand response programs that are approved after January 1, 2020. The electric utility shall seek Council approval of a methodology of calculating a REC equivalent in filing its initial compliance plan or in any subsequent application as needed to update that plan. The energy efficiency and demand-response REC equivalents generated in excess of the Council's savings goals may be used to satisfy both Tier 2 and overall portfolio requirements but may not be used for any other purpose.

D. The following customer programs are eligible to be counted under Tier 2:

1. Net energy metering;
2. Community Solar with virtual net metering;
3. Council-approved, utility-funded energy efficiency programs and demand-response programs; and
4. Any non-Tier 1 resource program that supports the utilization of renewable energy resources, demand response, or energy efficiency for the direct financial benefit of low-income customers residing in single-family homes or multi-family affordable housing.

Section 6. MISO-Connected or Deliverable Renewable Energy Resources (Tier 3 Resources)

A. The electric utility may procure renewable energy resources, bundled with certified RECs, as a Tier 3 resource. RECs must be retired against compliance accounts.

Section 7. Renewable Energy Certificates

A. **Registration of Renewable Energy Certificates.** All Tier 1, Tier 2, and Tier 3 RECs must be registered through M-RETS and retired against compliance accounts. REC equivalents for Tier 2 Resources do not need to be registered with M-RETS to count toward R-RPS compliance, but may not be used for any other purpose other than R-RPS compliance.

B. **Banking of Renewable Energy Certificates.** An electric utility may not carry over RECs for a period more than one year past the date of creation. RECs must be retired against compliance accounts in the compliance year that they were created.

Section 8. Net Energy Metering

A. Customers that opt to participate in the net energy metering program shall have the right to continue receiving service under the net metering tariff and NEM rules in effect at the time they apply for net energy metering service for a period of at least twenty years. At any time during that period, the customer may transfer to any other alternative tariffs or programs for customer-sited renewable energy resources offered by the utility and approved by the Council.

B. Customer-generator facilities shall not be required to pay additional or separate charges for electric service that would not apply to the customer if the customer were not a customer-generator and shall be guaranteed the right to remain on the rate schedule that would apply if the customer was not a customer-generator. Nothing limits a customer-

generator's ability to opt-in to a voluntary rate schedule or alternative programs for customer-sited renewable energy resources.

Section 9. Community or Shared Solar Programs

By January 2021, the R-RPS Advisory Group shall make recommendations regarding the Council's existing Community or Shared Solar rules and whether additional programs or actions are required to:

1. Promote community ownership of community or shared solar projects;
2. Promote job training in socially and economically disadvantaged communities;
3. Expand easy access to Community or Shared Solar to renters and apartment dwellers;
4. Meet the needs of large commercial or industrial customers; and
5. Meet the needs of city, parish, state, or federal governmental agencies located within the service territory of the electric utility.

Any such recommendations accepted or implemented in modified form by the Council shall be incorporated in the electric utility's resource and infrastructure planning and plan development.

Section 10. Beneficial Electrification

The electric utility may count the known and measurable increase in retail electric sales that is directly attributable to beneficial electrification of conversion of Sewerage & Water Board fossil-fuel generators or from electric vehicle charging as a decrement to minimum compliance load in the compliance years 2023 through 2025.

Section 11. Resilient and Renewable Portfolio Standard Compliance Plan and Reports

- A. Within 30 days of adoption of this rule, the Council shall establish an R-RPS compliance docket and require the electric utility to file an initial compliance plan with the Council within 180 days of adoption of this rule.
- B. On July 1 of each year, the Electric Utility must file a progress report detailing the progress toward the next portfolio compliance requirement, including a projection of ability to meet requirement and corrective actions to be taken to help meet the requirements.
- C. All interested persons shall have the right to intervene and the opportunity to provide comment.

Section 12. Local and Diversity Hiring Requirement for Tier 1 and Tier 2 Resources

- A. By January 1, 2021, the R-RPS community advisory group shall work with the Office of Supplier Diversity to develop a certification for vendors of renewable energy resources and related services that can demonstrate:
 1. Fair wages and safe working conditions for employees relative to national industry averages and standards;
 2. A demonstrated commitment and process for hiring persons from socially and economically disadvantaged communities who have participated in a renewable energy or energy efficiency job-training program;
 3. A commitment to local businesses and non-profits that serve low-income, socially and economically disadvantaged communities; and

4. A demonstrated commitment to the City of New Orleans' Disadvantaged Business Enterprise (DBE) Program and process for subcontracting with local DBE companies.
- B. For utility-owned Tier 1 and Tier 2 Resources, the electric utility must certify in its annual compliance filing that all outside vendors that are used to install, construct, operate, manage, or maintain these utility-owned resources are certified with the Office of Supplier Diversity under this Section.
- C. The Council may condition participation in resilient energy resource programs or the receipt of any third-party assignable rebates or direct incentives to customers provided through the electric utility on the use of vendors certified with the Office of Supplier Diversity under this Section.

Section 13. Utility Performance Incentives and Alternative Compliance Payments

- A. The electric utility may not treat any lost revenues associated with behind the meter use of a Tier 1 or Tier 2 resource by a retail electric customer as an incremental cost of meeting the minimum compliance portfolio requirement, but an electric utility may track and estimate such lost revenues for purposes of subpart C of this section.
- B. An electric utility that fails to meet the minimum compliance portfolio requirement after 2023 must pay an alternative compliance payment into an R-RPS public purpose fund account for exclusive use to support programs for the benefit of low-income customers. The electric utility may recover no more than 25% of the costs of alternative compliance payments in rates or other charges to customers. The alternate compliance payment will be calculated as follows:
 1. For failure to meet Tier 1 carve-out requirements:
 - i. \$300/REC in the compliance years 2025 through 2029;
 - ii. \$225/REC in the compliance years 2030 through 2033;
 - iii. \$150/REC in the compliance years 2034 through 2040; and
 - iv. \$150/REC for all compliance years after 2040.
 2. For failure to meet the combination of Tier 1 and Tier 2 carve-out requirements after Tier 1 requirements or alternative compliance payment obligations have been satisfied, Tier 2 alternative compliance payments shall be:
 - i. \$200/REC in the compliance years 2025 through 2029;
 - ii. \$150/REC in the compliance years 2030 through 2033;
 - iii. \$100/REC in the compliance years 2034 through 2040; and
 - iv. \$50/REC for all compliance years after 2040.
 3. For failure to meet the overall minimum portfolio requirement after Tier 1 and Tier 2 requirements or respective alternative compliance payment obligations have been satisfied, the Tier 3 alternative compliance payment shall be:
 - i. \$75/REC in the compliance years 2023 through 2029;
 - ii. \$50/REC in the compliance years 2030 through 2033;
 - iii. \$25/REC in the compliance years 2034 through 2040; and
 - iv. \$15/REC for all compliance years after 2040.
- C. By December 31, 2020, the Council shall establish a working group to investigate establishment of performance-related incentives for the electric utility for efficient or accelerated achievement of R-RPS compliance requirements.

Section 14. Cost Recovery and Cost Caps

A. The electric utility may recover purchases of electricity and renewable energy certificates that do not exceed the electric utility's full avoided costs in the same manner as purchased power consistent with regulations adopted by the Council and the Federal Energy Regulatory Commission pursuant to the Public Utilities Regulatory Policies Act of 1978.

B. Any amounts paid for the purchase of bundled electricity and associated RECs in excess of the electric utility's avoided costs and all unbundled REC purchases by the electric utility shall be considered an incremental cost of the R-RPS and shall be recovered through a per customer monthly charge, not to exceed:

1. \$1 per month for residential customers
2. \$10 per month for small commercial customers
3. \$50 per month for large commercial and industrial customers

C. Any incremental costs that exceed what can be collected from customers pursuant to the cost caps in subsection B shall be treated as a regulatory asset and be amortized over at least a twenty-year period, subject to reasonable adjustments to reflect reasonable carrying costs of those balances.

D. Lost revenues or reduced retail sales to the electric utility associated with Tier 2 Customer Programs are considered a reduction to load and are not considered a purchase of electricity or RECs and shall not be counted as an incremental cost of the R-RPS.

E. Upon recommendation of the R-RPS community advisory group, the Council shall consider whether it is necessary to waive the recovery of incremental R-RPS costs from low-income households to advance the purpose of this rule while protecting low-income customers from significant bill increases.

Section 15. Formation of an R-RPS Advisory Group

A. By June 1, 2020 and for each three-year period thereafter, members of the Council and the Mayor shall each appoint one citizen to the R-RPS Advisory Group. City Council members must appoint persons that are not employed either directly or indirectly by the electric utility that reside within their district, provided that at-large City Council members and the Mayor may select persons that reside anywhere within the service territory of the electric utility providing distribution service. Each member of the R-RPS Advisory Group will serve a three-year term and may be reappointed to serve multiple terms.

B. The R-RPS Advisory Group may enact bylaws and rules of order for the conduct of its meetings and elect a chairperson, a secretary, and a treasurer. All meetings of the R-RPS Advisory Group shall be open to the public and shall be held at a place and time to accommodate traditional work schedules in order to maximize public opportunities for input. The R-RPS Advisory Group may determine the manner of public participation in meetings, but only duly-appointed advisory group members may vote on an official recommendation of the R-RPS advisory group to the City Council.

C. The R-RPS Advisory Group will propose an annual budget to the Utilities Committee not to exceed \$50,000 that will be dispersed annually by the electric utility and held in escrow by the Council until the funds are required by the R-RPS Advisory Group to cover administrative and operating costs. The R-RPS Advisory Group budget

shall be considered an incremental cost of the R-RPS and be collected by the electric utility from ratepayers through the appropriate R-RPS cost recovery mechanism. The proposed budget will be limited to administrative costs, including the needs for meeting space and materials necessary for public meetings. Members of the R-RPS Advisory Group will not receive compensation, but the R-RPS Advisory Group may include the cost of educational materials that directly advance the purpose of the R-RPS Advisory Group in its annual budget.

Section 16. Establishment of Public Purpose Fund

By January 1, 2023, the electric utility shall establish a Public Purpose Fund account for purposes of allocating funding to R-RPS programs specifically dedicated to benefit low-income customers. The fund will provide financial supports or additional incentives to encourage participation of qualifying low-income households in R-RPS Tier 1 and Tier 2 programs to ensure equitable sharing of the benefits of these programs.

The account may be funded through various mechanisms including Alternative Compliance Payments and a Public Purpose charge, to be instituted by the Council, which may be funded based on kilowatt-hour retail sales. The Council may set an appropriate budget for the charge.

The Council may also, after consultation with and upon recommendation by the R-RPS community advisory group, utilize revenues from the Public Purpose Charge to establish a “Green Bank” or other community-based financial services entity to provide credit enhancements and other financing assistance to enable low-income and credit-stressed households to have ownership of Tier 1 and Tier 2 projects. The Public Purpose Charge shall not be counted as an incremental cost of the R-RPS for purposes of determining compliance with retail cost caps. The Council may exempt low-income households from the public purpose charge.

Section 17. Severability

The provisions of this R-RPS rule are severable. If any section, subsection, paragraph, subparagraph item, sub-item, sentence, clause, phrase, or word of this R-RPS rule is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the rule.

APPENDIX B

Explanation of Renewable and Resilient Energy Portfolio Standard (R-RPS) Draft Rule

The resilient and renewable portfolio standard (R-RPS) and accompanying rules represent a comprehensive response to other parties' comments within the proceeding, placing individual policy initiatives and preferences into the context of a full rule. The R-RPS is a joint product of Energy Future New Orleans ("EFNO"), a coalition of intervenors in this proceeding and was drafted with broad public input from New Orleans citizens and stakeholders at a June 2019 symposium at Tulane Law School.

This appendix provides a high-level summary of the draft R-RPS rules and explains some of the specific mechanisms and decisions made in the rule text. EFNO submits this draft rule for consideration by the New Orleans City Council and the Council's Advisors, as the appropriate form of an RPS that meets the challenges and opportunities specific to the city and people of New Orleans.

Section 1. Purpose

The purpose section provides a set of guiding principles for the R-RPS. Each of the programs, rules, and policies below should contribute toward the fulfillment of one or all of the R-RPS goals to:

- **Strengthen New Orleans through a focus on energy resilience and local energy resources.** In a region with increasing environmental risks and vulnerable populations, having access to critical energy services is a necessity. Renewable energy resources are already creating more resilient communities in the Southeast, and New Orleans should benefit from resilient energy resources.
- **Ensure that the benefits of renewable energy are equitable, accessible, and affordable for all residents.** New Orleans' climate action plan notes that the City should "take action on climate can help us address" some of the shocks and stresses that low-income households and communities of color face, "with the opportunity to alleviate poverty and unemployment while improving neighborhoods and community connections." This is a central pillar of the R-RPS.
- **Provide new economic opportunities for underserved communities by expanding and diversifying the energy workforce and enabling programs that reduce energy cost burdens on low-income residents.** Transitioning New Orleans to a sustainable energy future presents a massive economic opportunity for the city, and the R-RPS ensures that Disadvantaged Business Enterprises (DBEs) get a fair share.
- **Attract and retain companies and industries that value ready access to renewable energy resources.** The R-RPS sets forth a vision for an energy future that is socially and ecologically sustainable, and industries that share that vision are natural partners for building out New Orleans' renewable energy resources. Access to renewable energy is becoming a key part of economic competitiveness with other states and regions that are competing to attract twenty-first century industries.

Section 2. Definitions

Renewable Energy Resources. Following the Council’s lead in the opening resolution, the R-RPS considers eligible only those resources that are fundamentally clean and sustainable, and pushes Entergy New Orleans (“ENO”) to continue to add zero carbon-emitting renewables. At the same time, a wide variety of technologies are enabled to create a diverse, reliable, and resilient generation portfolio. Specifically, the technologies enabled here are solar (thermal and photovoltaic), wind, geothermal, and fuel cells using renewable fuels.

- **Renewable Energy Resources do not include biomass, regardless of origin.** Burning woody biomass for energy emits carbon and local air pollutants in the same manner as fossil fuels. While such fuels may be hypothetically carbon-neutral (due to re-growing forests and crops), the scientific community has found that practically achieving neutrality is nearly impossible.
- **Nuclear resources are also ineligible.** The R-RPS is designed to spur the development of a new clean energy economy that serves the city with renewable, equitable, and resilient power. Given that ENO already receives its power from the Grand Gulf, Riverbend, Waterford 3, and ANO nuclear power facilities, including nuclear power in the R-RPS would artificially inflate the percentage achievement and dilute the ability of the policy to galvanize new clean energy. The R-RPS does not dis-incentivize or punish the nuclear resources that currently provide power to ENO.

Section 3. Renewable and Resilient Energy Portfolio Standard

The Utility will meet a mandatory 55% renewable energy target by 2033. The 55% target is designed to balance the Council’s R-RPS vision with a prudent eye toward ENO’s current generation fleet and future retirement of those assets. Setting ambitious, yet achievable minimum portfolio requirements establishes New Orleans as a leader in the clean energy economy and paves the way for a more resilient power system and greater economic opportunities for the people of New Orleans. The R-RPS also includes interim goals to ensure that steady progress and investment is made, as is prudent for an equitable and cost-effective achievement of the goal.

The R-RPS sets a 100% renewable energy target by 2040. New Orleans acknowledges that an economy-wide transition to carbon-free resources is not only possible but achievable by mid-century, and any portfolio standard created by the Council should be crafted with an eye towards that transition.

The Integrated Resource Plan (IRP) process will be adjusted to align with the goals of the R-RPS. As a part of New Orleans energy future, the R-RPS will impact how the Company plans for new resources and which resources are deemed most prudent and cost-effective. The R-RPS ensures that fulfilling RPS targets is a part of the Company’s ongoing IRP process and that early-retirement scenarios for uneconomic fossil-fired resources are adequately considered as a means to accelerate progress toward the 100% R-RPS end goal.

Renewable Resources are divided into three tiers, with different percentages assigned to each. Renewable energy encompasses a wide ecosystem of resources, and each provide different services, benefits, and attributes. EFNO believes that New Orleans will be best served by a mix of resources that speak directly to the city’s diverse needs. Large-scale, remote resources might provide lowest-cost bulk power, while rooftop distributed resources bring local benefits to owners and contribute to a more resilient grid.

To achieve that diverse mix, the R-RPS identifies three tiers of resources and requires ENO to fulfill a portion of its generation from each of them. Despite the critical importance of Tiers 1 and 2, it’s important to note that they make up a minority of total required renewable generation for compliance (most renewable generation can be procured from anywhere in MISO). To account for the time and effort embedded in implementing the R-RPS and fostering new distributed renewable development, tier requirements phase in between year one of the rule and 2025. This would allow ENO to meet its first compliance target in 2023 with a heavier mix of large-scale Tier 3 resources, mitigating any cost impacts and providing a long runway to deploying programs that most effectively satisfy the central pillars of the R-RPS to support development of local, resilient resources in a manner that promotes social and economic equity for New Orleans. The tiers are further described below.

Section 4. Resilient Energy Resources (Tier 1)

What are Resilient Energy Resources (Tier 1 Resources)? Tier 1 resources deliver on the potential for distributed renewable resources to provide grid services and reliability alongside clean, zero-carbon power. Tier 1 resources represent the smallest proportion of renewable energy required to comply with the R-RPS, but their implications on ENO’s electrical grid—contributing to a more distributed, renewable, and resilient power system—are much broader. Tier 1 will phase in over time, eventually representing 10% of the total R-RPS requirement by 2025. EFNO envisions solar + storage playing a large role in satisfying Tier I requirements, as programs should be designed that leverage individual’s own private investment, possibly by inducing participation in demand response and other programs with rebates to defray the upfront costs of adding versatile energy storage to any onsite renewable energy resource.

Additionally, larger institutions—colleges, medical centers, government agency buildings, etc.—that operate a microgrid can count renewable energy resources that are integrated into the operation of that microgrid as a Tier 1 resource. This could provide incentive for hardening and reinforcement of critical loads that are essential to public safety and health in times of emergency or prolonged electrical outages.

Eligible Tier 1 Resources

- **Customer-sited behind-the-meter resources.** Behind-the-meter distributed renewable power at homes and civic institutions can and will provide a valuable resilience source for the city. The R-RPS rule directs ENO to implement a nation-leading program to utilize distributed energy resources, and they will provide independent, ‘islandable’ power during disruptions to the New Orleans grid.

- **Renewable energy resources connected to a microgrid system.** Microgrids are the natural next step for providing resilient power to the New Orleans community. Typically, microgrids consist of multiple energy generation and/or storage technologies, and they may include a mix of renewable and nonrenewable generation. Only the portion of generated electricity from eligible renewable resources will be counted for the purposes of the R-RPS.

An ongoing proceeding will ensure that Tier I resources are pursued in a way that is equitable, cost-effective, and resilient. Resources in this tier promise to bring many benefits to New Orleanians—from air pollution benefits to more reliable electricity, critical services in times of need, and economic development benefits like jobs and economic activity. EFNO recognizes that this twenty plus year vision of New Orleans energy future must be an iterative process that develops and evolves based on available information, program experience, and community response. If the R-RPS is to be implemented equitably, how these programs are designed, implemented and distributed should be a conversation with multiple stakeholders. The proceeding proposed in this section provides a forum for that conversation. It specifically designates several topics to be tackled by the proceeding: Goals and pathways for low-income participation; prioritization of civic and community institutions like schools and churches; and designing economic incentives and programs to achieve those goals. To the extent that it is relevant for meeting New Orleans’ clean energy goals, the Council is also empowered to explore modernizing the grid to better integrate distributed renewable energy resources.

Section 5. Customer Program Resources (Tier 2)

What are Customer Program Resources (Tier 2 Resources)? Tier 2 resources empower consumers to directly participate in the clean energy economy. The resources identified under this tier predominantly represent those resources that customers themselves have chosen, installed, and, in many cases, own themselves. To meet the compliance requirements of this tier, ENO can acquire these credits through net metering, virtual net metering, or Council-approved incentive programs. Like Tier 1, requirements for Tier 2 resources phase in over time, combining with Tier 1 resources to represent at least 30% of the total renewable energy requirement by 2025.

Eligible Tier 2 Resources:

- **Net Metering.** The R-RPS builds on the success of the City’s existing net energy metering policy in leveraging private investment to deploy significant renewable energy capacity at no direct costs to other customers. The R-RPS rule makes clear that a utility’s lost revenues associated with net energy metering are not a cost of the R-RPS and provide certainty and clarity to net energy metering customers that they will not face discriminatory rate tariffs if they choose to invest in an onsite renewable energy resource.
- **Community Solar.** Community solar will be further elaborated in section 9.
- **New Energy Efficiency and Demand Response programs.** ENO already engages in energy efficiency and demand response programs as a regular part of its IRP. Only those programs and savings implemented in excess of Council’s energy efficiency targets are eligible for compliance with the R-RPS.

- **Non-Tier 1 Resources (including demand response and energy efficiency) that meet R-RPS goals of providing equitable benefits for low-income customers.** The R-RPS sets ambitious goals for a more equitable New Orleans, but all stakeholders benefit from more options to participate in the clean energy economy. This provision allows the Council to establish the program that is right for New Orleans.

Section 6. MISO-Connected or Deliverable Renewable Resources (Tier 3)

What are Tier 3 resources? In many parts of the country, the most cost-effective energy is now coming from renewable, zero-carbon resources. Placing these resources in Tier 3 allows ENO to take advantage of the cost-effective wind and solar resources in the Mid-continent Independent System Operator (MISO) and beyond, providing that ENO can certify that the energy is delivered to the city. This category gives ENO significant flexibility to meet the largest portion of minimum portfolio requirements (e.g., 70% of total requirements going forward after 2025) with price competitive wind and solar across the country, subject to modest deliverability requirements.

Section 7. Renewable Energy Credit.

Renewable Energy will be tracked through Renewable Energy Certificates (RECs).

Regardless of the tier of resource, the R-RPS will use renewable energy certificates (RECs), tracked by M-RETS, to track ENO's use of renewable energy resources. Using RECs is generally best practice in clean energy accounting, allowing the social and environmental attributes of energy to be traded and credibly claimed without double-counting issues. For many Tier 2 customer programs, ENO will have the ability to estimate count REC-equivalents from net energy metering or from load and demand reductions associated with demand response and energy efficiency. The details of counting these equivalents is left for future implementation and development, as the rule leaves significant breathing room for the Council and ENO to develop programs and estimation methods to meet the 2025 compliance year.

Timing & Banking. Only renewable energy generated after the approval of this rule is eligible to be used for compliance of the R-RPS. This requirement ensures that REC requirement actually contributes to the value proposition of current and future projects (achieving 'additionality'), rather than relying on a large pool of un-claimed RECs generated in the past in MISO. After the program begins, however, RECs may be retired only up to one year after the energy was generated.

Section 8. Net Energy Metering.

Preserving Net Energy Metering for new customers. Across the country, Net Energy Metering has been recognized as a policy that drives new renewable energy projects, splits benefits between distributed generation customers and the grid, and presents an intuitive way for customers to understand how they're interacting with the grid. Net metering is already providing power and benefits for customers in New Orleans, and that number is set to increase as more households and businesses go solar through the R-RPS. The city should ensure that these new

solar participants get the same benefits that New Orleanians have thrived under for the past several years.

The rules under this section provide certainty for policymakers, customers, and developers that net energy metering will continue to serve customers in three ways:

- Existing customers can be assured that even if distributed generation policy changes, they can count on net metering for 20 additional years
- Customers won't be exposed to any discriminatory charges that would otherwise damage the value proposition for going solar.
- ENO is empowered to upgrade their grid to handle the new distributed generation as a part of the R-RPS.

Section 9. Community Solar.

Community solar unlocks participation in renewable energy for everyone. An equitable energy future demands that everyone has access to renewable energy chances. While the current rooftop solar business model has worked for many New Orleanians, it also leaves the most vulnerable communities out. When households have shaded roofs, or don't own their homes, or live in multi-family housing, or simply don't have the cash to invest in new equipment, they can be left out of the clean energy economy. Community solar solves that problem by allowing households and businesses to 'subscribe' to energy from solar panels, without requiring that they have to purchase the equipment and physically connect it to their home or business. As such, community solar represents a significant economic opportunity for New Orleans and is ready means for an inclusive clean energy future. The provisions in this section outline a flexible community solar model that can be used to generate Tier 2 resources and benefits for all New Orleanians.

Section 10. Beneficial Electrification.

De-carbonizing S&WB will count for R-RPS compliance. The R-RPS does not cover every source of climate-changing carbon dioxide emissions, and New Orleans and ENO should be recognized for the work to de-carbonize the city outside of the electrical system. Moving the Sewerage & Water Board's generation from fossil-fueled to electrical represents a singular opportunity for ENO to clean provide clean energy and clean air benefits to the city. This section provides an opportunity for the Company to be rewarded for investing in zero-emissions S&WB technology and electric vehicle charging infrastructure, with a short eligibility window to incentivize quick action.

Section 11. Renewable and Resilient Energy Portfolio Standard Compliance Plan and Reports.

Plans are only as good as they are implemented. This section requires that ENO submit its plans to comply with the requirements of the R-RPS every year, with an opportunity for any and all interested stakeholders to participate in the process. This structure ensures that stakeholders

have regular opportunities to contribute to the plan, and maintains accountability for ENO as they plan for procuring new renewables.

Section 12. Local and Diversity Hiring Requirement for Utility-Owned Tier 1 and Tier 2 Resources.

Ensuring equitable benefits on all parts of the clean energy economy. While much of the R-RPS is concerned with ensuring that the benefits of consuming clean energy are equitably distributed, the same principle should apply to the economic benefits of producing, designing, developing, and installing the same clean energy products. This section defines a certification for a supplier that shares the benefits of clean energy with laborers, communities of color, and New Orleans’ Disadvantaged Business Enterprise program. Under the requirements of this section, all outside vendors installing or operating ENO-owned Tier 1 and 2 resources must meet those standards.

Section 13. Utility Performance Incentives and Alternative Compliance Payments.

Alternative Compliance Payments act as a backstop. While the R-RPS is designed to make compliance with these goals as efficient as possible for the Company, it also accounts for when the Company is unable to meet those requirements in a given year. For every Renewable Energy Credit that is not achieved by the Company, it will be required to pay a penalty that varies by tier of resource and over time. These alternative compliance payments also act as a cost cap, providing ENO with an ‘out’ if fulfilling the R-RPS is more extensive than expected. The alternative compliance payments through 2040 are defined below:

Resilient and Renewable Portfolio Standard Alternative Compliance Payments, by Resource Tier and Year (\$/MWh)

Year	Tier I Resource ACP (\$/MWh)	Tier II ACP (\$/MWh)	Tier III ACP (\$/MWh)
2023-2025			\$ 75
2025 - 2029	\$ 300	\$ 200	\$ 75
2030 - 2033	\$ 225	\$ 150	\$ 50
2034 - 2040	\$ 150	\$ 100	\$ 25
After 2040	\$ 150	\$ 50	\$ 10

Alternative Compliance Payments will pay for low-income programs. Payments made from ENO will go into a fund designated specifically for low-income programs. This design ensures that low-income households get support for renewable energy resources that’s roughly commensurate with the cost of renewables. The fund used to collect ACP expenditures is further described in Section 16.

The ACP numbers are derived from estimates of what the levelized cost of energy (LCOE) of a proxy resource in each tier might be, assuming the federal renewable energy tax credits

(ITC/PTC) expire prior to the first compliance years for each tier. This conservative assumption also assumes little to no cost reductions in underlying technology and installation. Accordingly, these numbers could overestimate the LCOE of new resources if the ITC/PTC are extended and if other factors drive down installed costs. It is important to remember that the ACP is a cap and, if the renewables are procured in a competitive fashion, renewable energy resources should be able to be procured at prices far below these ACP values. A developer should look at these numbers and be able to get confidence from a bank to secure a loan. For reference, DC's ACP for rooftop solar (w/o storage) in 2025 is \$400 per REC.

Section 14. Cost Recovery and Cost Caps.

This section delineates how the Company should pay for renewable energy and RECs and how those costs should be ultimately passed to ratepayers. The section identifies the existing Public Utilities Regulatory Policy Act of 1978 (PURPA) avoided cost rate (the price at which independent power producers are entitled to sell power to a utility) as the benchmark for the cost of renewables that the Company can directly recover from ratepayers without a cap. All costs that are in excess of the avoided cost of the power will be treated as an incremental cost of the R-RPS and will be subject to a monthly per customer account cost cap.

It also places simple ceilings for electricity bills: The R-RPS will not add an incremental cost of more than \$1 per month for residential customers, \$10 per month for commercial customers, and \$50 per month for the largest customers. The falling costs of renewable energy suggest that the costs of achieving the R-RPS will not approach these cost caps, but putting these elements in place provides a comprehensible assurance for all stakeholders. If needed, the Company and the community advisory group (described below) can opt to waive recovery from low-income customers.

If ENO should exceed the incremental cost caps during any compliance year, they would be allowed to accumulate the carrying costs of any balances in a regulatory account and amortize recovery of those costs over at least a twenty-year period to reduce the financial risk to the utility while mitigating rate impacts to retail customers.

Section 15. R-RPS Advisory Group.

The R-RPS also establishes an R-RPS advisory group, made up of citizens of New Orleans and appointed by the city council. The advisory group would provide citizens of New Orleans an essentially unprecedented level of input into their energy system and the transition to clean energy. Members would be appointed by the Council and the Mayor to three-year terms and would act as a quasi-public body, with regular public meetings. The Advisory Group will provide the iterative input the Council needs to ensure that the R-RPS continues to evolve and develop in a manner that is the best interest of New Orleans as a whole. The intent of the R-RPS Advisory Group is to provide a channel for ongoing public input and to maximize transparency around the implementation and development of specific R-RPS proposals.

Section 16. Establishment of Public Purpose Fund.

Providing a financial engine for equitable renewable energy. The public purpose fund, established in this section, enables those programs for low-income participation referred to in Sections 3, 4, 5, and 13. Funds for the program will always be supplied by ENO's alternative compliance payments, and further resources could be supplied through a Public Purpose Charge on all kilowatt-hours sold by the Company. Similar charges have proven successful in jurisdictions like Washington D.C., where the Sustainable Energy Trust Fund is financed through a per-kWh charge. This rule contemplates an account that may be funded through multiple streams, including those described in the rule and allowing for future development of mechanisms.

Designed in conversations with stakeholders in New Orleans, the Public Purpose Fund has a goal of supporting ownership of renewable energy projects by low-income communities in New Orleans. Through ownership of these projects, low-income communities and institutions can exert greater autonomy about how projects are designed and who receives the economic benefits. The R-RPS is not prescriptive when it comes to what kinds of programs the Public Purpose Fund might support. Instead, this section allows the programs funded to emerge as the R-RPS develops and stakeholders get a better idea of what types of support would be most helpful to New Orleans.

Section 17. Severability.

This section ensures that in the case of a regulatory or legal challenge to any portion of the rule, the R-RPS as a whole will continue to function. EFNO strongly endorses the legal validity of the tiered structure of these rules, as in-state RPS requirements that have a technical basis for the distinction (i.e., providing resilience, mitigating transmission constraints, interconnecting to certain level voltages and grid systems, or providing local resource adequacy) are not discriminatory against out-of-state commerce and are constitutionally valid. Should the Council or Presiding Judge request, EFNO stands ready to provide legal briefing demonstrating the constitutional validity of specific provisions of these rules or the rules as a whole.