



The Council
City of New Orleans
City Council Utility Regulatory Office

Erin Spears
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September 3, 2019

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

RE: Resolution and Order Establishing Rules for Community Solar Projects, CNO
Docket No. UD-18-03

Dear Mrs. Johnson:

Enclosed please find an original and three (3) copies of the Joint Report of the Council Utilities Regulatory Office ("CURO") and the Council's Utility Advisors Regarding the Proposed Enforcement Provisions of the Community Solar Rules.

Thank you for your assistance in this matter.

Sincerely,


Erin Spears

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

**IN RE: A RULEMAKING)
PROCEEDING TO ESTABLISH)
RULES FOR COMMUNITY SOLAR) DOCKET NO. UD-18-03
PROJECTS)
)**

**JOINT REPORT OF THE COUNCIL UTILITIES REGULATORY OFFICE
AND THE COUNCIL'S UTILITY ADVISORS REGARDING THE
PROPOSED ENFORCEMENT PROVISIONS OF THE COMMUNITY SOLAR RULES**

September 3, 2019

The Council of the City of New Orleans (“Council”) has long supported the efficient use of clean, sustainable technology to improve the quality of life for citizens and business in New Orleans, including the adoption in 2007 of Net Energy Metering (“NEM”) rules, allowing New Orleans residents and businesses to put solar panels on their rooftops and net out on their energy bills their energy use against their energy production. In further support of this goal, on June 21, 2018, the Council issued Resolution No. R-18-223 establishing a docket to consider establishing a community solar program to create another option for those unable to participate in NEM to offset their energy use in whole or in part through local solar. In Resolution No. R-18-223, the Council sought comments on a White Paper and Proposed Rules submitted to the Council by the Utility Advisors.¹ After receiving the comments of the parties and a final Advisors’ Report, the Council adopted Community Solar rules in Resolution R-19-111.

In Resolution No. R-19-111, the Council reserved its approval as to the proposed Section XIV. Enforcement of These Rules, because that section had not previously been put out for public comment. In Resolution No. R-19-111, the Council allowed for public comment on that section and directed the Council Utilities’ Regulatory Office (“CURO”) and the Advisors to file a joint report to the Council detailing (1) any recommended changes based upon the comments of the parties regarding the proposed Section XIV. Enforcement of These Rules; (2) an estimate of what personnel would be needed for CURO to successfully undertake the functions set forth for CURO in the Community Solar Rules; (3) an estimate of what additional budget or resources for CURO would be needed for CURO to successfully undertake the functions set forth for CURO in the

¹ White Paper of the Council’s Utility Advisors Regarding Community Solar and Other Shared Distributed Energy Resources, June 2018 (“White Paper”).

Community Solar rules; and (4) any further proposed forms or procedures CURO intends to employ in order to fulfill its responsibilities under the Community Solar Rules.

The proposed section reads as follows:

XIV. ENFORCEMENT OF THESE RULES

- (1) CURO, with the assistance of a Hearing Officer, as necessary, may impose a penalty on the Council's behalf for any violation of these rules of up to \$1000 per violation and may, if appropriate in light of the particular violation, void a Subscriber's contract with a Subscriber Organization and require the Subscriber Organization to refund any monies paid by the Subscriber as a remedy for a violation of these provisions.
- (2) Any person who believes that a Subscriber Organization (including the Utility acting as a Subscriber Organization) has violated the provisions contained herein in a manner that aggrieves that person may send a written description of the alleged violation to the Council, through its CURO. The written description shall include the name of the Utility or Subscriber Organization ("Respondent"), a concise description of the alleged violation, and the complaining person's ("Complainant") name and contact information.
- (3) CURO may, request and obtain additional information regarding the alleged violation from the Complainant and the Respondent. CURO shall also notify the Respondent formally of the complaint, assess whether the Complainant has informed the Respondent of his or her complaint and whether the Respondent has had an opportunity to resolve the issue to the Complainant's satisfaction without CURO or Council intervention.
- (4) If, based on the information obtained by CURO, the CURO finds there is cause to believe a violation of the Council's regulations may have occurred, the Complainant and Respondent have not been able to resolve the issue without Council intervention and the Respondent wishes to challenge the complaint, CURO shall refer the matter to a Hearing Officer who shall conduct a process to allow both parties a fair opportunity to present their evidence and arguments and the Hearing Officer will render a decision as to whether a violation occurred and what the penalty should be. If the Respondent admits to the complaint, CURO may impose the authorized penalty on the Council's behalf.
- (5) Either the Complainant or the Respondent may appeal the decision of CURO and/or the Hearing Officer to the Council.
- (6) Should CURO and/or the Hearing Officer determine that the behavior complained of cannot be adequately remedied by a penalty of up to \$1000 and/or voiding the contract between Subscriber and Subscription Organization and requiring refund of any monies paid by the Subscriber,

either CURO or the Hearing Officer may refer the matter up to the Council for further proceedings. The Council will then set an appropriate procedural schedule, consider the matter and exercise its penalty authority as appropriate in light of the circumstances.

- (7) Should CURO and/or the Hearing Officer observe a pattern of continued violations of these rules by the Utility or a Subscriber Organization that is undeterred by the application of the remedies the Council has authorized CURO and the Hearing Officer to impose, either CURO or the Hearing Officer may refer the matter up to the Council for further proceedings. The Council will then set an appropriate procedural schedule, consider the matter, and exercise its penalty authority as appropriate in light of the circumstances.
- (8) All other contract or legal disputes that arise between a Subscriber and the Subscriber Organization not pertaining to a violation of these provisions shall be brought in the appropriate city or district court in the City of New Orleans. CURO shall provide the Council with annual reports on consumer complaints related to the program.

1. Recommended Changes to Section XIV. Enforcement of These Rules

Comments on the proposed rule were received by only one party, Entergy New Orleans, LLC (“ENO”). ENO suggested only one minor edit to true up subsection (7) to the language in subsection (2) and clarify that these enforcement provisions only apply to ENO insofar as ENO chooses to become a Subscriber Organization. ENO’s proposed modification is as follows:

- (7) Should CURO and/or the Hearing Officer observe a pattern of continued violations of these rules by ~~the Utility~~ or a Subscriber Organization (including the Utility acting as a Subscriber Organization) that is undeterred by the application of the remedies the Council has authorized CURO and the Hearing Officer to impose, either CURO or the Hearing Officer may refer the matter up to the Council for further proceedings. The Council will then set an appropriate procedural schedule, consider the matter, and exercise its penalty authority as appropriate in light of the circumstances.

In light of the fact that ENO’s proposed edit is consistent with the intent of the rules, the lack of opposition to the change by any party, and that a different procedure is already in place for customers to file formal complaints related to issues arising from ENO’s provision of service as a franchised and regulated electric and gas utility, the Advisors and CURO agree that ENO’s proposed edit is appropriate and recommend that the Council approve the Section with the edit.

2. & 3. **An estimate of what personnel, budget, or resources would be needed for CURO to successfully undertake the functions set forth for CURO in the Community Solar Rules**

Assuming the number of subscriber organizations ("S.O.") registered in the first full year of the community solar program does not exceed 10, CURO does not anticipate the need for additional staff or hearing officers, nor an increase in its budget beyond what is currently approved for the office. At that staffing level, CURO anticipates being able to register new S.O. and review, track, and respond to subscriber complaints. If there are more than ten S.O. in the first full year of the community solar program, CURO recommends adding an additional office assistant to support CURO's other administrative responsibilities. The starting salary for an office assistant ranges from approximately \$23,000 to \$30,000. As a part of the annual report CURO is required to submit to the Council, CURO will provide an update on any changes to staff or budgetary requirements.

4. **Any further proposed forms or procedures CURO intends to employ in order to fulfill its responsibilities under the Community Solar Rules**

As required under Section VI of the Community Solar Rules, CURO will utilize the attached form to register S.O. A list of S.O. will be published on the New Orleans City Council's website. Each organization will be required to update the information provided with 30 days of any change. Further, each organization is required to renew its registration no later than March 30 annually beginning in the first calendar year after the S.O. registers with the City Council.

RESPECTFULLY SUBMITTED:



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been served upon the following parties of record by electronic mail on this 3rd day of September 2019.

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**NEW ORLEANS CITY COUNCIL COMMUNITY SOLAR
SUBSCRIBER ORGANIZATION REGISTRATION**

Note: Application must be complete with required documents attached, at time of submission

Legal Name of Subscriber Organization	Is this a renewal application? Y/N
Owner Name	Telephone Number
	Email Address
Name of Registered Agent in Orleans Parish	Telephone Number
	Email Address
Business Address	
Address (or Location) of Facility	
REQUIRED ATTACHMENTS	
I. Description of Facility a. DC and AC Nameplate Capacity, b. Major Equipment List, c. Interconnection Requirements, and d. Relevant Design Details II. Proof of Liability Insurance III. Proof of Registration "In Good Standing" with the Louisiana Secretary of State IV. Proof of Professional Licenses V. Copy of Subscriber Organization's Occupational or General Business License obtained from the City's Bureau of Revenue	
For Council Use Only	
Date Received	Subscriber Organization Identification Number