

September 30, 2019

BY HAND DELIVERY

Ms. Lora W. Johnson
Clerk of Council
Council of the City of New Orleans
City Hall, Room IE09
1300 Perdido Street
New Orleans, LA 70112

In Re: *A Rulemaking Proceeding to Establish Rules for Community Solar Projects,*
CNO Docket UD-18-03

Dear Ms. Johnson:

Enclosed please find an original and three (3) copies of the *Comments of the Council's Utility Advisors Regarding ENO's Implementation Plan for the Community Solar Program* in the above referenced docket, which we are requesting that you file into the record along with this letter in accordance with your normal procedure.

Sincerely,



Jay Beatmann
Counsel

JAB/dpm
Enclosures

cc: Official Service List for UD-18-03

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

IN RE: A RULEMAKING PROCEEDING TO ESTABLISH RULES FOR COMMUNITY SOLAR PROJECTS)))))	DOCKET NO. UD-18-03
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**COMMENTS OF THE COUNCIL’S UTILITY ADVISORS REGARDING
ENO’S IMPLEMENTATION PLAN FOR THE COMMUNITY SOLAR PROGRAM**

September 30, 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 businesses 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 directed Entergy New Orleans, LLC (“ENO”) to file for the Council’s review and approval a Community Solar Plan setting forth ENO’s plan for implementing the Community Solar Rules, including its program administration plan and relevant tariffs. That Resolution also directed ENO to file its proposed Community Solar Generating Facility (“CSG Facility”) application procedure and its proposed Standard Interconnection Agreement for CSG Facilities.

On August 29, 2019, ENO filed *Entergy New Orleans, LLC’s Implementation Plan for the Council of the City of New Orleans’ Community Solar Rules* (“Implementation Plan”), which includes a discussion of the incremental resources that the ENO currently estimates will be

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

required to support the administration of the Community Solar Program, as well as the proposed recovery of the associated costs and ENO’s proposed processes for (1) Subscriber Organization Application and Interconnection; (2) Subscription Administration; (3) Customer Billing and Accounting; and (4) Regulatory, Reporting and Communications. The Implementation Plan filing also includes ENO’s proposed Program Application, Interconnection Application, Distribution Standards, Interconnection Agreement, Standard Offer Community Solar Power Purchase Agreement, Subscriber Agency Agreement, Initial CSG Facility Subscription Report, Notice of Enrollment, Proposed Rate Schedule, Monthly CSG Facility Subscription Update and PURPA 210 Bi-Annual Avoided Cost Filing. While the Implementation Filing is a good start on developing the processes and documents necessary for the implementation of the Community Solar Program, the Advisors believe several modifications are necessary to bring the Implementation Plan into compliance with the directives in Resolution No. R-19-111.

I. ENO’s Incremental Resource Needs and Proposed Cost Recovery

A. Proposed New Personnel/Full Time Equivalents (“FTEs”)

ENO explains in the Implementation Plan that it will need to hire and train a Community Solar Program Manager (“CSPM”) and that it will require as much as two FTEs of support from Entergy Services, LLC (“ESL”) for back office functions.² ENO explains that the CSPM would perform the functions of acting as a contact person and being “integrally involved” in many aspects of the Community Solar implementation from the initial application process to ongoing subscription administration and program reporting.³ ENO states that this will be a newly-created

² Implementation Plan at 2-3.

³ Implementation Plan at 2.

role at ENO and that ENO will need to staff and train for this role.⁴ ENO argues that the CSPM role must be in place in order to set up the initial program infrastructure and begin receiving and processing program Applications from potential Subscriber Organizations.⁵ The Advisors do not dispute that having a CSPM role would be beneficial to the program, however, the Advisors observe that the need for an FTE to fulfill this role will likely be driven by the number of Subscriber Organizations that participate in the program, and that it may be inappropriate to charge the cost of an FTE to the Community Solar Program until such time as there are sufficient Subscriber Organizations to warrant an FTE. The Advisors suggest that ENO provide clarification as to all of the functions that the CSPM role would perform that would justify a FTE for the role and whether there would be any opportunity to share the FTE with another ENO role for another program until such time as the Community Solar Program is of sufficient size to warrant an FTE solely for the CSPM role.

With respect to the necessary back office support from ESL, given that ESL regularly provides similar types of support to ENO, the Advisors agree that it would be appropriate for ESL to perform such back office functions and to bill its employees' time performing such functions for the Community Solar Program to ENO. The Advisors note that ENO states that it is currently unclear how many FTEs would be required to provide such support, but that ENO estimates it could be as much as two FTEs. The Advisors find this reasonable, but note that with respect to the Community Solar Program, it would only be appropriate for ESL to bill ENO for time actually spent on the Community Solar Program, and that it would not be prudent to hire two additional

⁴ Implementation Plan at 2.

⁵ Implementation Plan at 4.

FTEs solely to support the Community Solar Program until such time as the size of the Community Solar Program requires that much support.

B. Information Technology

ENO reports that administration of the Community Solar Program will require modifications to the Company's Customer Care System to enable tagging of customers as Subscribers to particular CSG Facilities and the calculation and rendering of monthly bill credits.⁶ ENO states that final cost amounts will not be known until the necessary IT projects are completed.⁷ While the Advisors understand that such costs can be difficult to estimate in advance, the Advisors note that the Council cannot render a decision on the reasonableness and prudence of completely unknown costs, and to the extent ENO cannot provide the Council with any estimate of the costs or budget for the project, the Council cannot make a determination as to whether or not such costs are reasonable and prudent. Therefore, ENO will be incurring such costs at its own risk and will have to submit them to the Council for review once they are known for evaluation as to whether they are reasonable and prudent such that ENO should be allowed to recover them from ratepayers.

C. Cost Recovery

ENO proposes to recover the incremental costs of the administration of the Community Solar Program, as well as other reasonable, associated costs incurred from all customers on a "dollar for dollar" basis through a Formula Rate Plan ("FRP"), if approved in Docket No. UD-18-07, or if no FRP is approved in that docket, through the Purchased Power Capacity and Acquisition Cost Recovery Rider, or its replacement.⁸ ENO also notes that the cost of service study under the

⁶ Implementation Plan at 3.

⁷ Implementation Plan at 3.

⁸ Implementation Plan at 3-4.

2018 Rate Case does not include any costs associated with implementation and administration of the Community Solar Program, and such costs would be incremental to the rates established in the 2018 Rate Case.⁹

The Advisors observe that ENO’s proposal assumes an exact cost recovery mechanism for Community Solar Plan costs within the FRP structure, and requires a more specific definition and an illustration related to the FRP proposals in Docket No. UD-18-07. Section VII.G. (1) of the Community Solar Rules state that the Utility shall have a fair opportunity to receive full and timely cost recovery, but does not guarantee “dollar for dollar” recovery of costs. The FRP mechanism is designed to ensure that the total revenues collected by ENO allow ENO to earn its authorized rate of return, it does not guarantee a specific “dollar for dollar” recovery of any particular cost.

The Advisors agree that a Council-approved FRP would be the appropriate mechanism for recovery of the Community Solar Program costs that ENO is permitted to recover from all ratepayers. However, the Implementation Plan should provide the specific FRP exhibit which will show the sub-accounts and description for all Community Solar Program related revenue and expenses. Moreover, the Implementation Plan should reference the annual report required under Rules Section VII.F.(2) of the Community Solar Rules and how the Community Solar Program cost data included in the FRP will correlate with cost data provided in the May 1 Community Solar Program annual report. The Advisors’ FRP proposals in Docket No. UD-18-07 provide for known and measurable projected pro-forma costs, such that an FRP, if approved, and filed in 2020 could provide the opportunity for timely cost recovery of Community Solar Program-related costs incurred in 2020, as well as succeeding FRP evaluation periods.

⁹ Implementation Plan at 3, fn 2.

With respect to ENO’s proposal that if no FRP is approved in Docket No. UD-18-07, the expenses would be recovered through the Purchased Power Capacity and Acquisition Cost Recovery Rider (“PPCACR”) or its replacement, the Advisors note that they have proposed a replacement rider, in Docket No. UD-18-07, Purchased Power Cost Recovery (“PPCR”) rider which would recover costs incremental to existing Purchased Power Agreements not recovered in base rates established in Docket No. UD-18-07. As proposed, the PPCR rider does not include the recovery of Community Solar Program related costs, and an alternative cost recovery mechanism may need to be considered if neither the FRP nor the PPCACR proposal is not approved by the Council.

If a proposed rider would be accepted by the Council as a cost recovery mechanism, ENO proposes to make an initial compliance filing within 120 days after the commercial operations date, with all subsequent compliance filings submitted annually thereafter.¹⁰ However, while Section VII.F. (2) of the Community Solar Rules does require an annual report to be filed by May 1 of each year on the Status of the Community Solar Program, including utility costs associated with administering the Community Solar Program, the Rules do not provide for a separate compliance filing or a proposed 90 day review period following the annual compliance filing, upon which to base the proposed rider’s monthly recovery of Community Solar Program costs. Assuming that a rider is considered for recovery of Community Solar Program costs, the Implementation Plan should provide for how the required annual report and proposed compliance filings would be correlated with respect to costs and differences in reporting times.

¹⁰ Implementation Plan at 4-5.

II. ENO's Proposed Timelines

ENO argues that the CSPM role must be in place to set up the initial program infrastructure and begin receiving and processing program Applications from potential Subscriber Organizations, and estimates it will take a minimum of four months from the date of a Council Resolution approving ENO's Implementation Plan to recruit, hire, and train a person to fill this role.¹¹ ENO, therefore requests that any deadline for beginning to accept Applications from Subscriber Organizations be set at least four months after issuance of the approving Resolution.¹² The Advisors are concerned that the Implementation Plan does not set forth enough specificity as to the role of the CSPM to provide confidence that the four months is necessary, or even that an entire FTE is needed for the role. The Advisors request that ENO provide more details as to the role of the CSPM. The Advisors also believe that it is possible that the four month lead time could be shortened by careful staging of the implementation, such that the process for the receipt of Applications could be in place prior to the finalization of other processes that would occur in subsequent months. The Advisors also request that ENO provide more detail as to the steps necessary before Applications can be accepted and what steps can be completed after Applications begin to be accepted.

III. Subscriber Organization Application and Interconnection

A. Community Solar Program Application

ENO proposes that a Subscriber Organization wishing to participate in the Community Solar Program should submit Form CSG-1, Program Application, which requires proof of fulfillment of the conditions enumerated in Section VII(C)(2)(a-c) of the Community Solar

¹¹ Implementation Plan at 4.

¹² Implementation Plan at 4.

Rules.¹³ After successful completion of the Program Application process, each CSG Facility would be issued an ENO account number through the Customer Care System to facilitate billing for electricity served by ENO and consumed at the CSG Facility site.¹⁴

On Form CSG-1 Page 1, under the heading “Application Instructions,” ENO lists documentation that must be submitted and includes the following item: “Proof of Site Control (evidence of property ownership or executed lease agreement)”. Community Solar Rules Section VII.C.(2)(c) indicates that “The Utility shall accept as proof of site control: evidence of property ownership; an executed lease agreement; or a signed option to purchase a lease.” Form CSG-1 fails to include “a signed option to purchase a lease” as a valid document for proof of site control, therefore does not comply with the Community Solar Rules. ENO should be directed by the Council to modify Form CSG-1 to include “a signed option to purchase a lease” as a form of proof of site control.

Form CSG-1 Page 1, under the heading “Subscriber Organization,” rather than indicating the Subscriber Organization Identification number is “(Provided by Council)” the form should indicate that the Subscriber Organizer Identification Number is “(provided by Council through CURO).” Additionally, because a Subscriber Organization may or may not have an Entergy Account Number at the time of Program Application the form should include language such as: “Entergy Account Number (if the Subscriber Organization has an account associated with the Proposed Solar Generating Facility)” such that applicants will understand that an Entergy Account Number is not a pre-requisite for submitting an application.

¹³ Implementation Plan at 5 and Exhibit A.

¹⁴ Implementation Plan at 5.

B. Program Capacity Limits

ENO proposes that the CSPM will confirm with ENO's Resource Planning and Market Operations organization that projects submitted through the Application process will not exceed the Program Capacity Limit set forth in Section V(A)(1) of the Community Solar Rules and will monitor the overall mix of CSG Facility projects submitted to ensure the category limits set forth in Section V(B) are not exceeded.¹⁵ The Advisors agree this is an appropriate role for the CSPM to perform.

C. CSG Facility Interconnection Application

ENO proposes that at the time a Subscriber Organization would submit a Program Application Form, it would also submit Form CSG-2, Interconnection Application, which would include the information required in Section VII(C)(3) of the Community Solar Rules.¹⁶ After confirming the Program Application is complete, the CSPM would then forward the Interconnection Application and supporting documentation to ENO Distribution Engineering or Distribution Planning for handling, as appropriate.¹⁷ ENO also proposes that CSG Facility projects must comply with the applicable distribution Standard, either Standard DR07-01 or Standard DR07-02.¹⁸ In addition, ENO proposes a process for the collection of the deposit for any required interconnection studies and for execution of Form CSG-3, Interconnection and Parallel Operation of Community Solar Generating Facility Agreement ("Interconnection Agreement").¹⁹

Form CSG-2, Interconnection Application, Page 1, under the heading "Subscriber Organization," should indicate that the Subscriber Organizer Identification Number is "(provided

¹⁵ Implementation Plan at 5.

¹⁶ Implementation Plan at 6 and Exhibit B.

¹⁷ Implementation Plan at 6.

¹⁸ Implementation Plan at 6 and Exhibits C and D.

¹⁹ Implementation Plan at 6 and Exhibit E.

by Council through CURO)” rather than indicating the Subscriber Organization Identification number is “(Provided by Council).” Additionally, because a Subscriber Organization may or may not have an Entergy Account Number at the time the Program Application form is completed, the form should include language such as: “Entergy Account Number (if the Subscriber Organization has an account associated with the Proposed Solar Generating Facility)” such that applicants will understand that an Entergy Account Number is not a pre-requisite for submitting an application.

The Advisors concur that the currently effective Distribution Standards DR07-01 and DR07-02 are the correct standards to apply to CSG Facilities in compliance with Resolution No. R-19-111, and note that it is the Advisors’ understanding that ENO is not proposing, and the Council is not approving in this docket any changes to the currently effective DR07-01 and DR07-02, rather ENO is merely applying the currently effective standards to CSG Facilities.

Community Solar Rules Section VII.B.(2) indicates that “*The proposed Standard Interconnection Agreement for CSG Facilities shall be consistent with the provisions of Entergy's Distribution Design Basis/Standards DR7-01 and DR7-02.*” The Advisors understand that Entergy's Distribution Design Basis/Standards are intended to remain applicable to the CSG facility. Further the Advisors believe that the definitions incorporated in the applicable Distribution Design Basis/Standards should be identical to the definitions for identical terms included in Exhibit E—Form CSG-3, Interconnection Agreement. It appears that in Exhibit E—Form CSG-3, Interconnection Agreement, ENO has redefined or expanded terms that are defined in the applicable Distribution Design Basis/Standards including the terms: Interconnection Facilities, Point of Common Coupling, and System Protection Facilities. Further, Entergy's *Distribution Design Basis/Standards DR7-01 and DR7-02* include provisions for voltage surges or sags, voltage flicker, harmonic distortion, transients and other power issues, and frequency.

Similarly, in Form CSG-3, Interconnection Agreement Article IV.C, ENO includes language related to Requirements for Protection, Inspection, Meters, and Disconnection; all of which were addressed in part or in whole by the applicable Distribution Design Basis/Standards. Because Entergy's Distribution Design Basis/Standards are intended to remain applicable to the CSG facility, it is not appropriate to include different requirements in Exhibit E—Form CSG-3, Interconnection Agreement. Rather, to prevent confusion, absent an explanation as to why the terms of the Interconnection Agreement should be inconsistent with the Distribution Design Basis/Standards, the Interconnection Agreement should reference the appropriate Distribution Design Basis/Standards instead of providing differing provisions. In addition, Form CSG-3, Interconnection Agreement, Article IV.C.1.c address System Quality and references DR7-01 but fails to reference *Entergy's Distribution Design Basis/Standards and DR7-02*. The Advisors believe a reference to both DR7-01 and DR7-02, as applicable, would be more appropriate to accommodate large as well as small CSG Facilities.

Community Solar Rules Section VI. B.(1)e requires that the Subscriber Organization maintain on file “Proof of liability insurance in an amount reasonably adequate to protect the public and the Utility against damages caused by the operation of each CSG Facility. The Council, through CURO or other designated agency, will establish minimum levels of liability insurance that shall be deemed reasonably adequate for CSG Facilities.” Exhibit E—Form CSG-3, Interconnection Agreement Article V. appears to set the value for the Subscriber Organization’s Workers’ Compensation Insurance at \$1,000,000 and Comprehensive General Liability at \$5,000,000. Further the Article requires the Subscriber Organization to furnish ENO with an Additional Insured Endorsement. The Advisors believe that these values cannot be established until such time as the Council, through CURO or other designated agency, establishes minimum

levels of liability insurance. The Interconnection Agreement should be modified to indicate that the Subscriber Organization shall maintain the level of insurance required by the Council.

The Advisors also note that Form CSG-3, the Interconnection Agreement, (Plan Exhibit E), page 2, lists Appendix B as Schedule of Rates. However, Appendix B should be listed as Interconnection Application, Form CSG-2, Exhibit B. In addition, Form CSG-3 (Plan Exhibit E), page 2, lists Appendix F as Customer's Notice of Satisfaction, but should be clarified as "Customer's (Subscriber Organization) Notice of Satisfaction.

Finally, Form CSG-3, the Interconnection Agreement, (Plan Exhibit E) should include a paragraph defining whether the CSG Facility Owner and Subscriber Organization are the same person, or if not, that the CSG Facility Owner authorizes the Subscriber Organization to act on its behalf to perform all the duties, responsibilities, and obligations provided for in the Interconnection Agreement (refer to Section 3.2 of CSG-4 which addresses this issue).

D. Community Solar Power Purchase Agreement

ENO proposes that once the Interconnection Agreement has been executed, but prior to the commencement of commercial operation of the CSG Facility, ENO and the Subscriber Organization will execute Form CGS-4, Standard Offer Community Solar Power Purchase Agreement ("PPA"), which will govern the purchase of and payments for Subscribed and Unsubscribed Energy by the Company from the Subscriber Organization and the rights and obligations of each party.²⁰ ENO explains that the PPA was modeled after the Solar Rewards Community Producer Agreement used by Xcel Energy for the Solar Rewards Community Solar program in Colorado.²¹

²⁰ Implementation Plan at 6-7 and Exhibit F.

²¹ Implementation Plan at 7.

The Advisors have reviewed the Community Solar Power Purchase Agreement, and find that several aspects of it would be unreasonably onerous for a Subscriber Organization that is not a professional, for-profit community solar business. The Community Solar Rules clearly contemplate that a CSG Facility could be owned by a nonprofit entity or organization in addition to being owned by ENO or other for-profit entity.²² The Council’s intent was to allow community organizations such as churches, homeowner associations, condo boards, and the like to own CSG Facilities for the benefit of their members or residents. The Advisors are concerned that some of the provisions in the Community Solar Power Purchase Agreement would effectively and unnecessarily deter these types of community-based projects from forming.

Exhibit F—Form CSG-4, Article IV, 4.2 in its entirety states:

“4.2 Project Development. Prior to the Commercial Operation Date, Subscriber Organization agrees to (i) submit semi-annual progress reports to Company including current status of each Construction Milestone (as specified on Exhibit B), any significant developments or delays along with an action plan for making up delays, and Subscriber Organization’s best estimate of the Commercial Operation Date; (ii) provide copies of reports submitted to the Facility Lender relating to status, progress and development of the project, (iii) Upon Company request, meet with the Company to participate in semi-annual meetings to discuss the progress reports, answer questions, and assess the schedule, and (iv) participate in semi-annual progress review and issue remediation meetings when requested by the Company. Subscriber Organization shall make all relevant contractors available to Company in order to keep the Company fully informed on the status of the development. The semi-annual progress reports are due on every 6 month interval determined from the date the application is created by ENO, ceasing once Commercial Operation has been obtained. Upon request, the Company shall have the right to monitor the construction, start-up, testing, and operation of the CSG Facility at the CSG Facility for compliance with this Agreement, provided, however, that Company shall comply with all of Subscriber Organization’s applicable safety and health rules and requirements. Company’s monitoring of the CSG Facility shall not be construed as inspections or endorsing the design thereof nor as any express or implied warranties including performance, safety, durability, or reliability of the CSG Facility.”

The Advisors believe that this level of intrusion into the Subscriber Organization’s construction process is unreasonable, unnecessary, and not contemplated by either the language or

²² Community Solar Rules at IV(A)(1).

the intent of the CS Rules. The Advisors believe that ENO should (1) have the opportunity to review the interconnection plans for the CSG facility; (2) have the opportunity to witness testing of the CSG facility protection scheme; and (3) be kept informed of any changes to the projected completion and in-service dates in a timely manner, and that the requirements of this section should be reduced to incorporate language to accomplish such limited involvement.

Like Article IV, 4.2 of Form CSG-4, Article IV, 4.5 Maintenance and Repair of CSG Facility, is unreasonable, unnecessary, and not contemplated by either the language or the intent of the Community Solar Rules. The Community Solar Rules place most if not all the risk of the operation and maintenance of the CSG Facility on the Subscriber Organization and not ENO. It is therefore inappropriate for ENO to dictate to the Subscriber Organization how and when the facility shall be maintained. Further the provision in this section that requires that if the Agreement is terminated pursuant to this section, the “...*Subscriber Organization shall pay ENO liquidated damages in an amount equal to the estimated annual generation of the CSG Facility, as determined via PV WATTS, multiplied by the number of years remaining in the Term as of the effective date of such termination, multiplied by the average annual Locational Marginal Price (“LMP”) for the ENO Load Zone for the prior calendar year*” is wholly inappropriate as the contemplated Liquidated Damages would far exceed any harm to ENO as a result of the Subscriber Organization’s failure to Maintain and Repair the CSG facility. Accordingly, Exhibit F—Form CSG-4, Article IV, 4.5 should be deleted.

Exhibit F—Form CSG-4, Article III, 3.3(a) indicates that “*A Customer may not hold Subscriptions representing a total amount of energy in the Community Solar Program that exceeds 100 percent (100%) of the value of the Subscriber’s Baseline Annual Usage.*” This section should also make reference to the Community Solar Rules, Section III.A.(3) which conditions the

participation on other Utility-sponsored renewable programs, such as NEM by indicating that “*A Customer may subscribe to CSG Facility regardless of the Customer's participation in other Utility-sponsored renewable programs, such as NEM, provided that the Customer's participation does not violate, individually or collectively, the eligibility limits of all applicable programs and these Rules.*”

Exhibit F—Form CSG-4, Article IV, 4.1 provides for a specific term of 20 years. The Advisors believe the term should not be discretely set to 20 years, but rather should be open (fill in the blank) such that the term of the Standard Offer Community Solar Power Purchase Agreement can be made coterminous with the corresponding Interconnection Agreement.

Form CSG-4, Article VII, 7.1 (A) makes reference to what appears to be incorrect Section 5.1 (Construction Timeline) with respect to Events of default. However, the reference should not be corrected but rather it should be eliminated as an Event of default. Similarly Exhibit B Construction Milestones to the Form CSG-4 should be eliminated as neither appropriate nor necessary as the construction of the project is the responsibility and risk of the Subscriber Organization. Rather, it would be reasonable for ENO to include a provision that releases ENO from the Power Purchase Agreement should the Subscriber Organization fail to meet the 18-month deadline to begin operating that is set forth in the Community Solar Rules at Section VII(D)(12).

In Form CSG-4 Article 1 – Definitions, 1.13, “Interconnection Agreement,” reference should be made to Form CSG-3 in order to clarify the Interconnection Agreement and the term “Developer” as related to CSG Facility Owner or Subscriber Organization. The term “Developer” is not used or defined in Form CSG-3 or this Form CSG-4.

Form CSG-4, Standard Offer Community Solar Power Purchase Agreement, Article 1 – Definitions, 1.14, “Low-Income Customer” specifies “for the year of subscription”, which implies

that the Subscriber Organization would not be required to certify a subscriber as “low income” beyond the year of subscription. Community Solar Rules Section X.B. does not specify that low-income verification is required of low-income subscribers for each year, however, this section 1.14 is inconsistent with Section 4.7, which states that the Subscriber Organization shall re-certify annually in writing the Low-Income Subscriber status of all subscribers. Those Sections should be made consistent and clarified to state that the annual re-certification applies to the new low-income subscribers for each year, rather than re-certifying low-income subscribers that are continuing their subscription from previous years.

Form CSG-4, Section 3.5, entitled “Responsibility for Verification of Subscriber Eligibility” states that the CSPM should determine if any of the customer information provided is incorrect or incomplete, however, ENO is not actually responsible for verifying whether any particular Subscriber qualifies as a Low-Income Subscriber, rather the Subscriber Organization is required to certify in writing to ENO that it has performed this step.²³ Therefore, while the CSPM should determine whether the Low-Income status information is incomplete, the CSPM does not have the obligation to determine whether it is accurate.

E. Construction Deposits

ENO proposes that as required by Section VII(D)(11-13), if a CSG Facility fails to begin operations within 12 months of approval of an application submitted by a Subscriber Organization, a construction deposit will be collected from the Subscriber Organization, which would be returned if the CSG Facility commences operation within 18 months of the approval of the Program Application, but forfeited if it does not and credited to customers through ENO’s Fuel Adjustment

²³ Community Solar Rules Section X(B).

Charge.²⁴ The Advisors recommend that specific reference be made to the additional \$50 per kW deposit required under the Community Solar Rules at Section VII(D)(11).

IV. Subscription Administration

A. Release of Customer Information

ENO proposes that any Subscriber Organization requesting release of customer account information for a potential Subscriber shall provide an executed Form CSG-8, Subscriber Agency Agreement to ENO.²⁵

CSG-8 states that the Subscriber authorizes the Subscriber Organization to “enter into a long-term contract with ENO on behalf of Subscriber.” The Advisors are concerned that such language could make individual Subscribers subject to the terms of the Interconnection Agreement and the Power Purchase Agreement, which would be inconsistent with Community Solar Rules Section XIII(D)(1) which generally limits the liability of Subscribers to the loss of the funds they commit to invest in a community solar project. The duties and liabilities imposed on Subscriber Organizations in the Implementation Plan should rest upon the Subscriber Organizations and not be passed through to individual Subscribers.

Further, because CSG-8 is a document that individual Subscribers will be expected to execute, the Advisors strongly recommend that the language throughout be simplified and made substantially easier for the average customer to understand what they are signing and what rights and obligations convey when they sign the document. The Council went to considerable lengths in the Consumer Protections and Disclosure provisions of the Community Solar Rules to ensure that Subscribers would be presented with documents that were clear and easy for them to

²⁴ Implementation Plan at 7.

²⁵ Implementation Plan at 7 and Exhibit G.

understand, and it would be advisable for ENO forms presented to Subscribers to similarly be clear and easy for the average customer to understand.

B. Initial Subscriber Report

ENO proposes that in order to facilitate the initial determination of potential Subscriber eligibility contemplated in Section III(B) of the Community Solar Rules, the Subscriber Organization will submit Form CSG-5, Initial CSG Facility Subscription Report to the CSPM at least 60 days prior to the date the CSG Facility is expected to commence operation.²⁶ ENO proposes that if the CSPM determines that any of the customer information provided is either incorrect or incomplete, the Subscriber Organization shall correct the deficiency within five days of notification.²⁷

The Advisors note that while page 7 of the Implementation Plan identifies the Initial CSG Facility Subscription Report as Form CSG-5, it appears to be erroneously labeled as CSG-6 in Exhibit H. Regardless of whether it is CSG-5 or CSG-6, the Advisors' comments here are referring to the Initial CSG Facility Subscription Report at Exhibit H in the Implementation Plan.

The Advisors also note that (as was the case with CSG-4) while the Implementation Plan states that the CSPM should determine whether any of the customer information provided is incorrect or incomplete, ENO is not actually responsible for verifying whether any particular Subscriber qualifies as a Low-Income Subscriber, rather the Subscriber Organization is required to certify in writing to ENO that it has performed this step.²⁸ Therefore, while the CSPM should determine whether the Low-Income status information is incomplete, the CSPM does not have the obligation to determine whether it is accurate.

²⁶ Implementation Plan at 7 and Exhibit H.

²⁷ Implementation Plan at 7.

²⁸ Community Solar Rules Section X(B).

C. Verification of Eligibility

The Community Solar Rules require that a Subscriber's subscription level be limited to 100 percent of the Subscriber's Baseline Annual Usage,²⁹ which is defined as the Subscriber's accumulated electricity use in kilowatt hours ("kWh") for the previous 12-month period at the time the subscription is entered into, as measured at the Utility's meter, net of any distributed generation provided by the Subscriber to the utility system at that meter.³⁰ The Community Solar Rules further state that for a subscriber that does not have a record of 12 months of electricity use at the time of the Subscriber's most recent Subscription, an estimate of the Subscriber's accumulated 12 months of electricity use in kWh, determined in a manner the Council approves.³¹ In the Implementation Plan, ENO proposes that to determine the Baseline Annual Usage when an account has no history available for the first month, ENO would estimate the amount based on historic usage for the same class type (*i.e.*, Residential, Commercial, etc.) and rate group (*i.e.*, RES, SE, etc.) in New Orleans.³² Given that there can be a significant variation in energy use between customers in a particular class type and rate group, the Advisors are concerned that ENO's proposed method will frequently result in a mismatch as to the estimated Baseline Annual Usage that is not likely to ever be corrected.³³

This could result in either Subscribers without Baseline Annual Usage data available having their Subscriptions unnecessarily limited in the long term or Subscribers being allowed to take out Subscriptions for substantially more than their actual Baseline Annual Usage. Moreover,

²⁹ Community Solar Rules Section III.B(1) and (2).

³⁰ Community Solar Rules Section II.

³¹ Community Solar Rules at Section II.

³² Implementation Plan at 8.

³³ Resolution No. R-19-111 clarified that the limit on Subscription size to 100% of the Annual Baseline Usage is only to be applied when the Subscription is entered into, and need not be trued up in subsequent years. Resolution No. R-19-111 at 60.

trying to correct this problem by applying a true-up after the first twelve months of data may be insufficient to remedy a mismatch, because over the course of a year the CSG Facility at issue could become sold out of its capacity or may change the price of its Subscriptions, which would harm the Subscriber whose Subscription was artificially limited at the time that the Subscription was available and advantageous to the customer. Similarly, if the error was significant, a Subscriber Organization that had thought it had successfully subscribed out all of its capacity could suddenly find itself with Unsubscribed Capacity for which it needs to find a new customer. The Advisors recommend that additional factors be added to ENO's criteria, such as consideration of the square footage of the building or space associated with the account and whether or not a NEM installation is on the building to try and ensure that there is not a significant mismatch between the estimated Baseline Annual Usage and the actual Baseline Annual Usage. The Advisors also suggest that ENO add a provision that allows a customer to review the estimated annual usage and to inform ENO of any additional factors that may be unique to the property that the customer believes should be considered in estimating the Baseline Annual Usage, such as machinery or equipment on site that would increase usage above the class and rate type average.

D. Low-Income Status -- Written Certification

ENO proposes that as required by Section X(B) of the Community Solar Rules, each Subscriber Organization shall certify in writing to ENO that the Subscriber Organization has verified Low-Income status of any potential Subscribers it submits to ENO for verification of eligibility to participate on Form CSG-5.³⁴ ENO also proposes that the Subscription Organization re-certify the Low-Income status of its Subscribers in writing by May 1 each year.³⁵

³⁴ Implementation Plan at 8.

³⁵ Implementation Plan at 8.

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

E. Notice of Enrollment

Once eligibility has been confirmed for a new Subscriber, ENO proposes that the CSPM will issue a Form CSG-6, Notice of Enrollment to the Subscriber that conforms to the requirements of Section XII(I)(2)(b-c) of the Community Solar Rules.³⁶

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

F. Net Metering Applications for Community Solar Subscribers

ENO proposes to add a step to its Net Metering interconnection process to check whether a new NEM applicant is also a CSG Facility Subscriber and to ensure that the new NEM installation, when combined with the Subscription, does not exceed 100% of the annual baseline usage.³⁷ If it is determined that the NEM installation would exceed 100%, ENO proposes that the NEM applicant would be notified that the NEM system application will not be processed until the system is reduced in size.³⁸

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

³⁶ Implementation Plan at 8.

³⁷ Implementation Plan at 8-9.

³⁸ Implementation Plan at 9.

V. Customer Billing and Accounting

A. Proposed Rate Schedule

ENO attaches to its Implementation Plan its proposed CSG Facilities Subscription Service rate schedule to be used for calculating and rendering bill credits to Subscribers.³⁹

Exhibit J—Proposed Rate Schedule, Section III.C should be revised consistent with the resolution of the Advisors concern discussed in detail below regarding the calculation of the credit for Low-Income Customers. Section IV. needs to be reworked consistent with the Advisors’ comments regarding the estimate of Baseline Annual Usage for a Subscriber that does not have a record of 12 months of electricity use at the time of the Subscriber's most recent Subscription.

The Proposed Rate Schedule, Section V.B indicates that *“A customer may not hold Subscriptions representing a total amount of energy exceeding 100 percent of the value of the Subscriber’s Baseline Annual Usage, as estimated by the Company.”* This section should also make reference to the Community Solar Rules, Section III.A.(3) which conditions the participation on other Utility-sponsored renewable programs, such as NEM by indicating that *“A Customer may subscribe to CSG Facility regardless of the Customer's participation in other Utility-sponsored renewable programs, such as NEM, provided that the Customer's participation does not violate, individually or collectively, the eligibility limits of all applicable programs and these Rules.”*

Section III.B. of the Proposed Rate Schedule should refer to the CSG per kWh credit as defined in Section VIII.E of the Community Solar Rules, based on the sum of the avoided capacity and energy costs.

³⁹ Implementation Plan at 9 and Exhibit J.

B. Customer Bill Credit Formulas

ENO states that as described in Section VIII(E) of the Community Solar Rules, the credit rate for non-Low-Income Subscribers will be calculated based on the weighted average of the previous calendar year's hourly LMPs at the ENO load zone and the MISO Cost of New Entry for the upcoming MISO Planning Year, and that ENO will use these inputs to calculate the non-Low-Income dollar per kilowatt-hour customer credit rate once per year in May, with that credit rate to be used for the first billing cycle in June through the last billing cycle the following May.⁴⁰ The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

ENO proposes to base the Low-Income credit rate calculation on the source data for the "Revenue per kWh Sold" shown for the applicable rate schedule on page 304 of the prior year's FERC Form 1.⁴¹ The rate calculation would be based on the components of revenue included in FERC Form 1 which are specific to energy.⁴² ENO explains that these energy-related revenues would include those associated with base rate schedule energy charges, applicable riders that apply to kWh such as fuel adjustment, and the portion of percentage-based riders associated with these energy revenues except for non-bypassable riders.⁴³ ENO states that this method is consistent with the treatment of those components under Schedule NEM, Net Metering.⁴⁴

The Advisors believe that ENO's proposed annual calculation does not reflect the requirement in the Community Solar Rules which requires that the calculation be determined in accordance with the rates and charges of the currently effective Low-Income Subscriber's customer

⁴⁰ Implementation Plan at 9.

⁴¹ Implementation Plan at 9.

⁴² Implementation Plan at 9-10.

⁴³ Implementation Plan at 10.

⁴⁴ Implementation Plan at 10.

class tariff. Specifically, ENO's proposal to utilize previous year's data to calculate a charge does not reflect the current nature of credit and the credit should be more appropriately calculated monthly.

C. Application of Subscriber Bill Credits

ENO proposes that the Subscriber Organization would email its proposed Form CSG-7, Monthly CSG Facility Subscription Update to the CSPM in order to provide the current view of participating Subscribers and their proportionate shares of each CSG Facility by the close of business the 10th calendar day of the month.⁴⁵ ENO proposes that it would then read the meter for each CSG Facility on the 2nd day of the month in order to determine the prior month's generation output, which would be used to calculate and render bill credits on a two-month lag, as provided in Section VIII(C) of the Community Solar Rules and would credit each Subscriber by multiplying their most recent proportion of the CSG Facility by the company-metered Output of the CSG Facility and the formula applicable to the Subscriber.⁴⁶

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

D. Unsubscribed Energy

ENO proposes to pay the Subscriber Organization for up to 20% of any monthly unsubscribed energy at the estimated avoided cost in ENO's most recent biennial PURPA 210 filing.⁴⁷

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

⁴⁵ Implementation Plan at 10 and Exhibit K.

⁴⁶ Implementation Plan at 11.

⁴⁷ Implementation Plan at 12 and Exhibits F and L.

E. Subscription Transfers

ENO proposes procedures for three types of Subscription Transfers. First, if a Subscriber sells or otherwise vacates the premises where he/she is living and the new owner/tenant wishes to assume the Subscription at the same or lower amount of capacity the Subscriber Organization would note the change on its next Form CSG-7 and the CSPM would verify eligibility of the new Subscriber.⁴⁸

Second, if a Subscriber moves to a new location in ENO's service territory, and wishes to transfer the Subscription to the new location, the Subscriber Organization would note the change on the next Form CSG-7 with the new information, and the CSPM would determine eligibility.⁴⁹

Third, if a Subscriber leaves the program and releases the capacity back to the Subscriber Organization, then when the Subscriber Organization has a new Subscriber who wants to take the capacity, it would include the new Subscriber's information on the next Form CSG-7 so the CSPM can verify eligibility.⁵⁰

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

F. CSG Program Accounting

ENO states that its revenue and expenses associated with the Subscriber organizations and the Community Solar Program shall be identified separately in general ledger records and maintained in separate revenue and expense sub-accounts and that credits issued to Subscribers

⁴⁸ Implementation Plan at 12.

⁴⁹ Implementation Plan at 12.

⁵⁰ Implementation Plan at 12.

and payments issued to Subscriber Organizations for purchase of Unsubscribed Energy will be recorded in FERC Account 555, Purchased fuel, and recovered through the FAC.⁵¹

Although ENO restates the general accounting requirement of Section VII.G.(4) of the Rules in identifying costs, the Implementation Plan should provide the specific new project codes used in the general ledger entries (i) to identify each of these incremental costs, and (ii) to separate the costs related to Subscriber Organizations and costs incurred to administer the Community Solar Program. The Implementation Plan should also provide a list and description of the separate revenue and expense sub-accounts to which these incremental costs will be recorded.

VI. Regulatory, Reporting and Communications

A. External Website

ENO states that it will maintain an updated public webpage with the information required in Section VII(E)(2) of the Community Solar Rules and that it will include links to the forms and distribution standards as well as the current and previous two years' billing credit amounts.⁵²

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

B. Reporting

ENO states that it will file an annual report by May 1 covering program activities for the prior calendar year and providing specified information and will file semi-annual reports on June 30 and December 31 providing point-in-time snapshots of active CSG Facility projects and total program capacity in kilowatts-AC, as well as filing ad hoc reports as requested.⁵³

⁵¹ Implementation Plan at 13.

⁵² Implementation Plan at 13.

⁵³ Implementation Plan at 13.

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

C. Records Retention

ENO states that it will create//identify the necessary Records Series and/or Business Warehouse archives to comply with the requirements of Sections VII(E)(7) and VIII(L) of the Community Solar Rules.⁵⁴

The Advisors agree that ENO's proposal in this regard is in compliance with the Community Solar Rules.

RESPECTFULLY SUBMITTED:



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⁵⁴ Implementation Plan at 14.

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 30th day of September 2019.

A handwritten signature in blue ink, appearing to read "Jay", is positioned above a horizontal line.

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