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November 19, 2019

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

RE: *Resolution and Order Establishing a Docket and Opening a Rulemaking Proceeding to Establish Renewable Portfolio Standards*
CNO Docket UD-19-01
Our File No.: 7717-47

Dear Ms. Johnson:

Please find enclosed on behalf of Air Products and Chemicals, Inc. the original and three copies of its Reply Comments on Advisors Report in the referenced docket. Please file an original and two copies into the record and return a date-stamped copy to my office in accordance with normal procedures.

Should you have any questions regarding the above, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

Carrie R. Tournillon

CRT/tp
Enclosure

cc: Official Service List UD-19-01 (via electronic mail)

NOV 19 2019
BY: _____

**BEFORE THE**

**NEW ORLEANS CITY COUNCIL**

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| **IN RE: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO ESTABLISH RENEWABLE PORTFOLIO STANDARDS.** | **DOCKET NO. UD-19-01**<br>**November 19, 2019** |

**AIR PRODUCTS AND CHEMICALS, INC.**
**REPLY COMMENTS ON ADVISORS REPORT**

Air Products and Chemicals, Inc. ("Air Products") respectfully submits the following Reply Comments to stakeholder comments on the Advisors' Report and the proposed alternatives for establishing a Renewable Portfolio Standard ("RPS"), which was filed in the referenced docket on September 3, 2019. Pursuant to the Order issued on November 12, 2019, in which the deadline for filing reply comments was extended to November 19, 2019, Air Products Reply Comments are timely filed.

**Summary of Air Products Reply**

Air Product appreciates the extensive analysis put forth by Entergy New Orleans ("ENO") on the rate impacts and feasibility of the alternatives presented by the Advisors and the Energy Future New Orleans ("EFNO") coalition for an energy standard for New Orleans. The analysis demonstrates that the EFNO's proposal for a resilient RPS ("R-RPS") would result in massive rate increases to customers.[1] Further, while the Alternative 1 (RPS) appears less expensive than the R-RPS, it would still be less cost-

[1] *See* ENO Comments at 13, 17-19 and Appendix C at 8 of 13 (Graph: Alternative 3 Indicative Cost Impacts), UD-19-01 (October 15, 2019).

effective for achieving carbon emissions reductions than a standard that allows for clean energy resources other than renewables, such as Alternative 2 (renewable and clean portfolio standard or "RCPS") or the option proposed by ENO.[2]

Air Products continues to support an RCPS should the Council wish to adopt an energy standard for New Orleans. Based on the alternatives provided in the Advisors' Report, Air Products recommends that the Council adopt Alternative 2 (RCPS), with the modifications set forth in Air Products' initial comments and as further refined herein, including in particular Air Products' proposed restructuring of the cost cap. However, Air Products agrees with ENO's concern with overbuilding renewable resources to meet a standard without needing energy to serve ENO load.[3] Thus, Air Products requests that the Advisors and Council incorporate into Alternative 2 ENO's proposed standard of 70% clean energy by 2030 and 100% clean energy by 2050, *to the extent such long term goal is technologically feasible and cost effective to ratepayers.*[4]

Air Products further agrees with ENO that the structure of the cost cap requires clarification and clean up.[5] However, the cost cap should be retained to ensure that customers are protected from overly burdensome and/or unexpected rate impacts. Air

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[2] *See* ENO Comments at 18-19 and Appendix C at 4 of 13 (Graph: Alternative 1 Indicative Cost Impacts) and 6 of 13 (Graph: Alternative 2 Indicative Cost Impacts), UD-19-01 (October 15, 2019).

[3] *See* ENO Comments at 8-11 and Appendix B, UD-19-01 (October 15, 2019).

[4] ENO points out in its comments that numerous studies show that currently viable technologies cannot support 100% carbon free electricity or net-zero carbon emissions by 2050. *See* ENO Comments at 2, UD-19-01 (October15, 2019). To the extent technology does not exist to achieve such a standard, Air Products believes it is premature to impose a technologically impossible standard as a mandate and have ratepayers incur costs to implement a technologically impossible standard. Rather, time and resources would be better spent working to achieve a technologically possible standard.

[5] *See* ENO Comments at 21-21, UD-19-01 (October 15, 2019).

Products supports the inclusion of a cost cap in any standard that is adopted and proposes further herein a revised structure for the cost cap herein.

As Air Products has stated in comments previously filed in this proceeding, to the extent the Council adopts an energy standard, Air Products supports a standard that allows ENO to pursue generation resources (acquisition or contract) that use clean energy (including renewable energy resources and other clean energy resources) when there is a need for additional generation and the proposed resource is the lowest reasonable cost resource to meet the need and provide reliability of service. Thus, Air Products supports flexibility being provided to allow compliance with an RCPS in blocks of years, and believes that the Air Products' proposed cost cap structure similarly allows for such flexibility.

Air Products does take issue with ENO's position on three topics: (i) inclusion of load as a compliance "resource" (*e.g.*, beneficial electrification), (ii) Council disallowances for "mandated" spending over a cost cap, and (iii) the Large Customer Cap. Air Products responds to ENO on these topics further herein.

**Discussion**

Air Products supports the adoption of a modified Alternative 2 (RCPS), as recommended by Air Products in Initial Comments and further refined below.

**Renewable and Clean Standard**

Air Products continues to support an RCPS should the Council desire to adopt an energy standard for New Orleans. ENO presented critical analyses of the RPS and R-RPS options. For example, ENO calculated that the R-RPS proposal would yield total system average rate increases of, at minimum, 30% by 2033 and 65% by 2040, and that "[t]he **entire regional economy would suffer** as attracting new businesses (and retaining existing ones) would be difficult with rate increases of 60% or higher and a technological exclusionary policy."[6] ENO further states that an R-RPS proposal exhibits "seemingly willful ignorance of even the most basic principles of prudent, least-cost resource planning."[7] ENO's analysis of the R-RPS proposal, in particular, shows that it would result in massive rate impacts to customers.[8]

ENO's rate impact analysis supports adoption of Alternative 2, of the three alternatives presented by the Advisors, as the most cost-effective approach for achieving carbon emissions reductions.[9] However, Air Products believes that ENO's proposed 70% clean energy standard by 2030, with a commitment to work with the Council for a long term non-mandatory goal of 100% clean energy by 2050,[10] has merit and warrants consideration. Air Products shares ENO's concern with overbuilding renewables to sell

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[6] *See* ENO Comments at 17, UD-19-01 (October 15, 2019) (emphasis in original).

[7] *See* ENO Comments at 13, ID-19-01 (October 15, 2019).

[8] *See* ENO Comments at 13, 17-19 and Appendix C at 8 of 13 (Graph: Alternative 3 Indicative Cost Impacts), UD-19-01 (October 15, 2019).

[9] *See, e.g.*, Appendix C at 4, 6 and 8 (graphs of indicative cost impacts), UD-19-01 (October 15, 2019).

[10] *See* ENO Comments at 2-3 and 8-11 and Appendix A, UD-19-01 (October 15, 2019).

renewable energy into the MISO market just to tally RECs.[11] ENO has calculated that at the 80% clean energy by 2030 target set forth in Alternative 2, over 50% of incremental solar energy generated would be exported, with less than half serving ENO's actual electric load.[12] Any expectation that such energy sales in the MISO market would produce revenues is pure speculation, and any such revenues would not offset the cost to ratepayers for the investment required to build or procure the renewable resources. The Council should not direct ENO to overbuild resources - - clean, renewable or otherwise - - when there is not a need to serve ENO load. A standard that requires ENO to add resources without a corresponding energy or capacity need should not be adopted.

Moreover, as ENO states in its comment, a 70% clean energy standard by 2030 would achieve a 40% reduction over current emission levels and could be achieved within the 1% cost cap proposed in the Advisors Report.[13] Thus, the standard would be not only effective but also cost-effective, and would not burden ratepayers with costs for acquiring renewable resources solely to satisfy a standard without a corresponding energy need.

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[11] *See* ENO Comments at 12, UD-19-01 (October 15, 2019). As ENO states in its comments: "Going beyond what ENO's analysis supports would not actually result in more clean energy serving New Orleans customers; instead, it would result in ENO 'going long' on renewable generation to meet an arbitrarily-imposed standard where that long position would result in ENO being a significant seller in the market. In this situation, ENO's customers would bear increased exposure to the risk inherent in being a significant net-exporter to the MISO market. ENO's customers would bear the risk for no good reason other than tallying Renewable Energy Credits ('RECs') associated with exported energy to satisfy the arbitrarily high target." *Id.*

[12] *See* ENO Comments at 12, UD-19-01 (October 15, 2019).

[13] *See* ENO Comments at 8, UD-19-01 (October 15, 2019).

**Customer Cost Cap**

Air Products agrees with ENO that there remains questions regarding how the cost cap would be implemented, but Air Products urges that the answer is to resolve those questions in this proceeding, rather than eliminate the cost cap, as the cap is a critical element of any standard to ensure cost control and customer protection. Based on further consideration of this issue, Air Products proposes that the cost cap structure be revised as follows:

- Structure the cap as a 1% increase in rates over those projected for a period of years (*e.g.*, 10 year projection) for implementing the "least cost resource plan," as developed in the most recently concluded Integrated Resource Plan ("IRP") proceeding. This would be calculated by looking at the projected revenue requirement for implementing the least cost resource plan over a period of years (*e.g.*, 10 years), and if the least cost plan does not meet the standard, apply 1% to the total company 10-year revenue requirement to implement the least cost resource plan to get the amount of additional revenue requirement that could be incurred toward meeting the standard over the period of years projected (*e.g.*, 10 years). The new revenue requirement, including the 1% headroom, would set the cap on rates (with a 1% increase in revenue requirement considered equivalent to a 1% rate increase) for the planning period. That same cap would continue to apply for the period projected (*e.g.*, 10 years), unless a new baseline was set through the adoption of a new least cost resource plan in a future IRP proceeding.

- The selection of any additional resource(s) needed for meeting the RCPS standard would not occur in the IRP but would be informed by the analysis of resource costs conducted in the IRP process.
- Since the rate cap is based on ENO's projected total company revenue requirement over a period of years, the utility would not be penalized if the future turns out different than expected - - as long as the projected revenue requirements / rate impacts were made in good faith and the utility was not imprudent (as is the case today with cost recovery of generation resources certified for acquisition).

To implement the above cost cap structure, Air Products proposed in its Initial Comments on the Advisors' Report that the last sentence in Section 5.b) of Alternative 2 be changed to read:

> … The utility shall not incur costs to comply beyond the amount that would increase the average retail rate per kilowatt-hour by more than one percent relative to what the average retail rate per kilowatt-hour would be without the standard.

Based on additional consideration of this issue and consistent with the above discussions, Air Products now requests additional language be included to Section 5.b) of Alternative 2, to further clarify and refine the cost cap, as follows:

> b. As a mechanism to provide ratepayer protection from unreasonable rate increases, the Council hereby establishes an RPS compliance cost cap above which level the utility shall not be required to add renewable energy to its electric energy resource portfolio pursuant to the renewable and clean portfolio standard ("RCPS"). ~~The cost cap in any RPS plan year is one percent (1%) of plan year total utility retail sales revenues beginning in 2021~~The utility shall not incur costs to comply with the RCPS beyond the

> amount that would increase the average retail rate per kilowatt-hour by one percent (1%) relative to what the average retail rate per kilowatt-hour would be without the standard. When the utility's "least cost resource plan" of its most recently concluded Integrated Resource Plan ("IRP") proceeding does not satisfy the compliance standard of an RCPS plan, the utility shall determine the additional revenue requirement allowed under the RCSP cost cap that it can use toward meeting the cap by applying 1% to the total company revenue requirement under the "least cost resource plan" of the most recently concluded IRP proceeding. The utility shall first make a good faith projection of the total company revenue requirement to implement the "least cost resource plan" over a period of 10 years. One percent (1%) of that amount is the additional revenue requirement over and above the revenue requirement to implement the "least cost resource plan" and shall serve as the RCPS cost cap for the 10 year period, unless a new "least cost resource plan" is approved in a future IRP proceeding that would then create a new baseline for calculating the RCPS cost cap.

Air Products submits that looking at the total company projected revenue requirement over a 10-year period for purposes of the cost cap would better align with the rule's provision that allows for meeting the RCPS in blocks of years. Further, the above cost cap structure would pull from the information already available from the most recently concluded IRP proceeding but retain the separate RCPS proceeding for annually submitting the RCPS compliance plan.

**ENO's Discussion on "Disallowances"**

Air Products disagrees with ENO's discussion on "disallowances" for dollars invested in excess of the customer cost cap.[14] ENO claims that the Council cannot mandate it to comply with a standard and then disallow costs, and that "as a matter of

[14] *See* ENO Comments at 24-26, UD-19-01 (October 15, 2019).

law" ENO is entitled to recover the reasonable and prudent costs of complying with any mandate imposed by the Council.[15] ENO cites the "prudent investment rule" and that a utility's investments are presumed to be prudent and allowable.[16] However, as the language of the cost cap provision is written, there is no mandate for ENO to comply with an RCPS if costs will exceed the cost cap: "As a mechanism to provide ratepayer protection from unreasonable rate increases, the Council hereby establishes an RPS compliance cost cap *above which level the utility shall not be required to add renewable energy to its electric energy resource portfolio* pursuant to the renewable and clean portfolio standard." See Section 5.b), Alternative 2 (cited above, emphasis added). Thus, if the Council approves a customer cost cap, there is no mandate to add resources above the cost cap level, and in fact ENO would be prohibited from doing so, such that ENO going beyond the cap would be a violation of the Council's Resolution setting the cap, supporting a disallowance of those costs in excess of the cap.

**Large Customer Cap**

Air Products disagrees with ENO's position on inclusion of a Large Customer Cap.[17] The Large Customer Cap is structured to reduce the utility's RCPS to avoid the cost to Large Customers escalating beyond the amounts allowed for in the cap. [See hilite in below proposed language that was included in Air Products Initial Comments on

[15] *See* ENO Comments at 24, UD-19-01 (October 15, 2019).

[16] See ENO Comments at 24, UD-19-01 (October 15, 2019).

[17] See ENO comments at 26, UD-19-01 (October 15, 2019).

the Advisors Report.[18]] Thus, the Large Customer Cap would not operate to shift costs to other customers, as ENO alleges.

Given the enormous amount of energy that large customers use, the impact to a large customer's rates of implementing any standard would be disproportionate to other customers and risks the large customer becoming uneconomic in the market. This could result in the large customers reducing production (to reduce energy consumption) to the detriment of all customers in the utility service territory.

Thus, Air Products requests that a Large Customer Cap be included in Alternative 2, as was proposed by the Advisors for Alternative 1. As Air Products stated in its Initial Comments on the Advisors Report, the same cost impact considerations for Large Customers should be addressed under an RCPS as a RPS. Air Products again requests the below section be added as new Section 3.a)2, as Air Products proposed in its Initial Comments on the Advisors Report.

> Large Customers Target Cap. The renewable and clean portfolio standard established by this section shall be reduced, as necessary, to provide for the following specific procurement requirements for non-governmental customers at a single location or facility, regardless of the number of meters at that location or facility, with consumption exceeding ten million kilowatt-hours per year. On and after January 1, 2020, the kilowatt-hours of renewable and clean energy procured for these customers shall be limited so that the additional cost of the renewable and clean portfolio standard to each customer does not exceed the lower of one percent (1%) of that

[18] While ENO claims in it is initial comments that it does not purchase energy for individual customers (ENO Initial Comments at 26, FN 67, UD-19-01), Air Products understands the Large Customer Cap language to simply be referring to the amount of energy (kWh) used by a particular customer, and that ENO's overall compliance requirement would be reduced to avoid the large customer incurring additional cost from the RCPS in excess of the lower of 1% of that customer's annual electric charges or $50,000.

> customer's annual electric charges or fifty thousand dollars ($50,000). This procurement limit criteria shall increase by the lower of one-tenth percent (0.1%) or three thousand dollars ($3,000) per year until January 1, 2030, when the procurement limit criteria shall remain fixed at the lower of one percent of that customer's annual electric charges or eighty thousand dollars ($80,000). After January 1, 2030, the Council may adjust the eighty thousand-dollar ($80,000) limit for inflation. Nothing contained in this paragraph shall be construed as affecting the utility's right to recover all reasonable costs of complying with the renewable and clean portfolio standard, pursuant to Resolution R-19-xxx. The Council may authorize deferred recovery of the costs of complying with the renewable and clean portfolio standard, including carrying charges.

**Resources for Meeting an RCPS**

Air Products disagrees with ENO that electrification of the Sewerage and Water Board ("S&WB") and electric vehicle charging stations should be included as "resources" for compliance with the a standard.[19] Both the electrification of the S&WB and addition of electric vehicle charging stations are load, which would increase ENO's sales. Thus, it is a misnomer to call them generation resources.

We also understand that ENO wants to measure the emissions reductions to treat those reductions as credits against compliance, which seems complicated and impractical to do.[20]

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[19] *See* ENO Comments at 26-27 and Appendix C at 11 of 13, UD-19-01 (October 15, 2019).

[20] *See* ENO Comments at 27, UD-19-01 (October 15, 2019). ENO comments: "As stated above, the most appropriate methodology would provide credits to electrification in proportion to the net emissions reductions achieved and create no additional compliance obligations." Air Products believes that basing the compliance credit on the amount of emissions reductions from beneficial electrification methods will be problematic and is not practical.

However, to the extent the addition of any Beneficial Electrification (as defined in the proposed rules) results in reduced emissions in the city, then the additional load (kWh) should be deducted from ENO's retail sales for setting the compliance targets, which is what we understand the Advisors proposed. Air Products supports treating the additional load as an offset to ENO's retail sales for setting the RCPS targets.

RESPECTFULLY SUBMITTED:

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served by hand delivery to the Clerk of Council with a copy to the Director, Council Utilities Regulatory Office, and upon the Official Service List via electronic mail.

New Orleans, Louisiana this 19th day of November, 2019.

Carrie R. Tournillon