



September 28, 2020

Via Electronic Mail

Ms. Lora W. Johnson, CMC, LMMC
Clerk of Council
Council of the City of New Orleans
Room 1E09, City Hall
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**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 Energy Future New Orleans's (EFNO) Reply Comments and Redline of the Advisors Comments in the above-mentioned docket. Please file the attached communication and this letter in the record of the proceeding. As a result of the remote operations of the Council's office related to COVID-19, EFNO submits this letter electronically and will submit the requisite original and number of hard copies once the Council resumes normal operations, or as you direct. EFNO requests that you file this submission in accordance with Council regulations as modified for the present circumstances. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention,

Sincerely,

A handwritten signature in black ink, reading 'Logan Atkinson Burke', is written over a horizontal line.

Logan Atkinson Burke
Executive Director
Alliance for Affordable Energy
Energy Future New Orleans

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

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

Docket No. UD-19-01

Overview:

Over the course of the past six months, the parties working as the Energy Future New Orleans Coalition have endeavored to deliver the Council a resolution that will successfully reduce greenhouse gas emissions in Orleans Parish cost-effectively and rapidly, by re-thinking how our power is made, moved, and used. We have filed multiple comments, and letters into this docket to encourage transparency and faithfulness to the transition of New Orleans energy mix to efficient and renewable energy to mitigate the city’s climate change-inducing pollution. As a follow up to our recent letter to the Council¹, we have included in this filing a “clean” policy red-line (Appendices A and B) that the Council should feel confident in approving to meet their decarbonization goals. This policy would connect existing planning cycles with renewables implementation and would sidestep a complicated patchwork regulatory approach advanced by the Council’s Advisors. After considerable effort to advance recommendations that would ensure that the Advisors’ proposal would achieve the Council’s objectives, we have concluded that it is better to strike an unnecessarily complicated and weak regulation until data and analysis can be gathered to properly inform and support it. Fortunately, such analysis and reporting will be under way shortly through the current cycle of Integrated Resource Planning in Docket UD-20-02. The prudent course of action is to take advantage of the in-depth analysis that will be part of the IRP in determining the need for and structure of RPS structure and components.

Below we outline a series of reply comments to the report filed by the Advisors with their most recent draft (“draft rule”) of their proposed regulation for a Renewable and Clean Portfolio

¹ August 27, 2020. Correspondence from Energy Future New Orleans Coalition to City Council

standard. While these comments raise important issues in themselves, they cumulatively reinforce our recommendation for passage of a streamlined RPS resolution.

Process and Draft Rule

EFNO's efforts to engage in the most recent procedural schedule for a Renewable Portfolio Standard were stymied by the Advisors and Entergy's insistence on advancing an agenda for technologies such as carbon capture, sequestration, and utilization, and nuclear power, which are either (or both) unlikely or unnecessarily expensive resources, and despite the clear intention of the Council to shift New Orleans energy to cost effective and renewable resources, complemented and enabled by energy efficiency and energy storage. Reliance on unproven and unrealistic technology is simply a subterfuge for inaction today, and will add unnecessary delay and uncertainty to achievement of the Council's goals. Furthermore, the complexity of the draft rule inherently invites gaming and administrative dispute, primarily due to so many complicating features to the rule. Provisions like those that suggest the utility file for waivers for special projects that are out of step with the rule only invites wasteful spending on administrative dispute resolution.

Advisors put words in the Council's mouth, asserting that the expression of the four issues called out in the April Council resolution was intended by the Council to be a repudiation or de-prioritization of the important policy issues that led to this proceeding. The draft rule does a great disservice to the Council and the citizens of New Orleans. In this process, stakeholders have been presented with the opportunity to comment, to be sure. But the Advisors have not provided the most basic due process step of responding to those comments and articulating a justification.

One unfortunate reality of the process employed by the Advisors has been a failure to respond to and provide explanations for adopting or rejecting comments of the parties as the process was ongoing. As a result, new ideas--often beneficial to the utility--have appeared unannounced and unexpected in versions of the regulations. Many of these are compromises that weaken and complicate the regulation, and are, by and large, appeasements lacking any grounding in a fact- and data-based analysis of the resources and costs, such as would result from an Integrated Resource Planning process.

For example, there is no reason to avoid conducting the analysis needed to support a specific approach rather a blanket exemption for EV infrastructure. In the context of a renewable portfolio standard, while transportation electrification is generally a good thing, it can produce peak demand increases and generally builds load, and electrification of buses and service vehicle can result in targeted emissions reduction in dense urban and environmentally disadvantaged neighborhoods—these impacts should be assessed in order to *optimize* a transportation electrification solution.

Council has been presented with an option to choose an incremental and diluted approach to a clean energy transformation, but such an approach will inevitably result in delay, arguments, and lack of regulatory certainty necessary to sustain market formation. We believe the Council has chosen to commit to decisive climate action, and to establish clear, strong, and durable commitment to a clean energy future; this is ultimately why we provide below a more straightforward rule.

Net Energy Metering

EFNO does not agree with the Advisors that the NEM docket, UD-13-02, should be re-opened at this time. We disagree with the view that current Net Metering customers use the grid as a battery. The Council should give no credence to or take any action based on Advisors' comments about self-generator customers using the grid as a battery. This notion is not only wrong as a matter of electrical physics, but also wholly unjustified as a matter of rate regulation. In fact, energy injected from customer generator facilities immediately serves the nearest unserved load, passing through an Entergy meter as it goes, and generating full retail revenues paid by the customer. Furthermore, NEM customers act as a load modifier to reduce the total amount of compliance required by the utility during the most expensive peak periods of energy use. Finally, while the Advisors suggest that the Council cannot have confidence that NEM RECs are legitimate, this is precisely why EFNO members suggest that a registry for voluntary REC retirement should be created to support the city's renewable goals and maintain existing NEM rules.

Items not addressed by Advisors:

Equity - The City Council Can and Must Do More to Advance Equity, but the Advisors' Proposed RCPS regulations ignore equity. Equity in this case means both equity in the allocation of burdens as well as equitable access to sustainable energy services and benefits. The City Council has the opportunity to advance both these aspects of energy justice and equity by requiring that a renewable portfolio standard provide economic opportunity for low-income households in New Orleans. Such opportunity should include programs that are directed to:

- clean up energy systems and reduce local and climate impacts,
- produce much needed bill savings, and
- create new local workforce opportunities in the energy services industry.

Low income households in New Orleans are predominantly African American, citizens who struggle each month to pay Entergy bills. The high cost of Entergy bills contributes to the affordable housing crisis for both renters and homeowners in New Orleans. A national report² with support from the NAACP, found that the energy cost burden for low income households in New Orleans is 18.9 percent. That means nearly one in five dollars of household income has to go to paying energy bills, money that could be enriching the New Orleans economy rather than just Entergy shareholder wallets. This is the second highest energy cost burden in the nation among US cities, and five times higher than the national median of 3.5 percent.

High unemployment and a lagging local economy in New Orleans have worsened in the COVID-19 pandemic. New workforce and business opportunities can be achieved by diversifying our local economy with an innovative energy sector with requirements for renewable energy that can serve households and businesses in New Orleans. This was the great promise of the RPS, at least until the Advisors turned the Council's vision into a confusing and less effective bureaucratic jumble.

² April 2016, Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities. Ariel Drehobl and Lauren Ross. <https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf>

Furthermore, in lieu of providing an alternative claim about the superior value of economic development and job creation for renewable energy resources, this potential is dismissed as outside of the scope of the proposal. Regardless, bills need to be paid by New Orleans residents that earn wages. Renewable energy, and energy efficiency jobs do pay wages and a renewable portfolio standard can establish a policy environment where these jobs are made available to New Orleans residents. The draft regulations fail to address the significant equity needs in New Orleans and proven rulemaking to meet these needs. The Advisors ignore the steps taken by other utility regulators to advance equity in a renewable portfolio by providing financial incentives for low income households to generate their own electricity from renewable sources. One example of the better approach is the District of Columbia's Solar for All Program, which funds the installation of solar panels on the homes of 100,000 low income households and senior citizens' homes. We note that finalization of the Council's Community Solar rules would go a long way in advancing equitable outcomes, but even this great initiative cannot make up for the shortcomings in the draft RPS proposal. The City Council can and must do more to align its policy actions on equity with its regulation of utility matters. This can be achieved by establishing requirements for a renewable portfolio standard that advances equity.

Claims about Economic Development - Instead of acting simply as Advisors to UD-19-01, the Advisors have acted like a stakeholder. Proposing their own clean energy standard, that arbitrarily picks and chooses certain pieces of Entergy New Orleans', and EFNO's proposals and then claim that economic development was never an issue within the scope of the docket, is dishonest. Section 2 d) of R-19-109 begs this question of local economic development to be answered, but there has not been a serious debate over the merits of local resource development, only an outright refusal of the economic value of more local resources, and now there is a suggestion from the Advisors that economic development was never an intention behind the resolution. Additionally, on page 4 of the resolution, while it was noted that some states prioritize economic development in their RPS's, and that there are challenges to the Dormant Commerce Clause, there are RPS regulations that prioritize local economic development. The Advisors did not respond to the allegation that Entergy New Orleans brought that any RPS that prioritizes local economic development is in clear violation of this commerce clause. Instead they chose to forego engagement on this topic.

Clean energy jobs are the fastest growing job sector in the country. COVID-19 has laid bare the risk of an undiversified economy, with a narrow focus on the hospitality sector in New Orleans. The Advisor's concept in the draft rule, insists it is not the aim of the RCPS to create the conditions for increased local economic development in renewables, is their own, and not the Council's. Furthermore, it is harmful to the people of New Orleans that deserve not only a resilient energy infrastructure, but also a resilient and homegrown local economy.

Aggregated Energy Storage - The Advisors have likewise created an unworkable and incomplete approach to energy storage that might even frustrate achievement of Council goals. The Advisors appear to lack an understanding of how non-utility storage, including aggregated storage solutions, can provide several benefits that could improve the performance of the RPS. These benefits include reduction in costs, facilitation of deployment of local clean energy generation, enhanced energy efficiency performance, demand response, and other services less expensive than utility generation. These issues can and should be addressed in the IRP in order to inform the role of storage in the RPS.

Conclusion

EFNO remains committed to supporting the Council's efforts to confirm authoritative greenhouse gas pollution mitigation goals, with cost effective and equitable policies that enable the development of a renewable and efficient energy future for New Orleans. We urge the Council to take clear action that enforces carbon reduction and climate goals and aligns existing resource planning efforts.

350 New Orleans - Andy Kowalczyk

Audubon Louisiana - Brent Newman

Alliance for Affordable Energy - Logan Burke

Greater New Orleans Housing Alliance - Andreanecia Morris

**In Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A
RULEMAKING PROCEEDING TO ESTABLISH RENEWABLE PORTFOLIO
STANDARDS. DOCKET UD-19-01**

I hereby certify that I have on this 28th day of September, 2020 served the required number of copies of the foregoing correspondence upon all other known parties of this proceeding, by USPS or electronic mail.



Logan Atkinson Burke
Alliance for Affordable Energy

**RULEMAKING PROCEEDING TO ESTABLISH RENEWABLE PORTFOLIO
STANDARDS**

DOCKET UD-19-01

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Appendix A
Draft Proposed Regulation

EFNO PROPOSED REVISIONS

DRAFT Renewable and Clean Portfolio Standard (“RCPS”)

SECTION 1: OVERVIEW

- a. **Intent:** It is the intent of the Renewable and Clean Portfolio Standard (“RCPS”) to:
1. Aggressively pursue reductions to carbon emissions to improve the health and quality of life of the citizens of New Orleans, ~~and~~ to reduce the City’s impact on climate change, through the adoption and use of clean, local, renewable energy resources in the City. which is an existential threat to the City’s security.
 2. Ensure that the City has a safe, ~~and~~ reliable, renewable, efficient, and sustainable power supply to meet the needs of the current generation and future generations. ~~at a reasonable cost and retain as much flexibility as possible to employ a wide range of currently known and yet to be developed zero-emissions energy technologies.~~

~~This RCPS is intended to promote and foster these goals and does not in any way limit the Council’s authority to pursue these intentions through additional measures. The Council may waive any provision of these rules in advance upon a showing of good cause under the circumstances and upon a demonstration that such waiver serves the intent of this RCPS and may deem the Utility to be in compliance. In particular, this RCPS does not prevent parties from proposing and the Council from considering and approving projects consistent with the intent of this RCPS that do not conform precisely to the interim goals, Customer Protection Cost Cap, or other requirements set forth herein if the party(ies) proposing the project are able to successfully demonstrate to the Council that the project is nevertheless consistent with the intent of the RCPS, would benefit the Utility’s customers, and meets any other Council standards or requirements applicable to that project (such as, for example, a project where interim goals and budget numbers are averaged and achieved over a block of years rather than strictly as provided in this RCPS). All proposals to modify or request to waive the goals or requirements of the RCPS shall be filed at the Council and served on parties to Docket No. UD-19-01, with opportunity for parties to issue discovery and provide comment.~~

- b. **Periodic Review:** In order to ensure that this RCPS continues to meet the Council’s intent as set forth in Section 1(a), the Council will conduct a review of progress and plans for meeting the requirements of this RCPS as a part of the triennial integrated resource planning (“IRP”) process. ~~it is the Council’s intention to conduct a review of this RCPS at least every five years. Such review shall consider a wide array of relevant factors, including, but not limited to: progress toward ultimate and interim goals; developments in climate science, impacts on customers, technological developments; market developments, and progress on actual emissions reductions of the Utility’s~~

portfolio.⁴ At the end of such review, the Council will make a determination as to whether the RCPS remains appropriate for the City or whether it requires modification. Nothing in this provision prevents the Council from conducting a more immediate or frequent review of the RCPS than set forth in this provision should the Council determine that circumstances warrant more frequent or immediate review. Projects undertaken prior to any change in the RCPS would be grandfathered, such that they continue to receive the RCPS Compliance Credit they were entitled to receive prior to the change in RCPS.

SECTION 2: DEFINITIONS

“Alternative Compliance Payment” or “ACP”: The ACP is a payment to be made by the utility when it is unable to comply with the RCPS through reasonable measures, but still has funding available to it under the cap set by the Customer Protection Cost Cap set forth in the rules. The ACPs (unit cost per MWh) shall be calculated in accordance with Section 5 of this RCPS, and will be placed in the CleanNOLA Fund established in Section 7 of this RCPS.

“Beneficial Electrification” means any program or process that replaces direct fossil fuel use as a source of power and/or heat with electricity in a way that — when the electric utility’s emissions are accounted for — reduces overall emissions, 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. To qualify as a Beneficial Electrification resource under this RCPS, the measure must reduce net carbon emissions by no less than 1,500 pounds of CO₂ per Clean Energy Credit earned.

“Carbon Sequestration” means the fixation of atmospheric carbon dioxide in a carbon sink through biological or physical processes. A carbon sink is a reservoir that absorbs or takes up released carbon from another part of the carbon cycle.

“CCUS” means carbon capture, utilization and sequestration.

“Clean Energy Credit” or “CEC” one Clean Energy Credit results from (1) each MWh of electricity produced by a Zero Carbon Emissions Resource, (2) each MWh reduction in consumption resulting from DSM installed after January 1, 2021, (3) or each MWh consumed or produced by a Beneficial Electrification measure or a Qualified Measure.

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

“Community Solar Generation Facility” or “CSG Facility” means a solar energy facility that meets the definition of a Community Solar Generation Facility under the Council’s Community Solar Rules.

⁴ Because the most significant of the utility’s generation-related emissions is carbon dioxide, and the most urgent climate problems at the time of the adoption of this RCPS are being caused by carbon dioxide, this RCPS focuses specifically upon reductions in carbon dioxide emissions. The Council recognizes that other forms of air emissions and pollution can also be harmful to the environment

“Community Solar Rules” means the Community Solar Rules for the Council of the City of New Orleans adopted by Council Resolution No. R-19-111 (and as modified by any subsequent Council action).

“Conservation Program” means a program, often relying on encouraging customers to reduce energy use, in which a utility company provides energy-saving guidance or provides free or low cost devices for saving energy, such as energy efficient light bulbs, flow restrictors, weather stripping, and water heater insulation. ~~To be applicable to RCPS compliance, the kWh reduction from a conservation program must be a deemed savings or prescriptive measure approved by the Council, such as with the Energy Smart program.~~

“Cost of Compliance” the cost of compliance with the RCPS shall be the incremental costs incurred by ENO over and above the costs to serve its load in accordance with the utility’s most recently approved IRP. ~~that are attributable solely to the compliance with the RCPS policy, as calculated in Section 4(d) of this RCPS.~~

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

“CURO” means the Council Utilities Regulatory Office.

“Demand-Side Management” or **“DSM”** means an action, usually under a utility-managed program, that reduces or curtails the load associated with end-use equipment or processes, often used to reduce customer load during peak demand and/or in times of supply constraint. DSM is the management of customer loads through programs such as energy efficiency and conservation measures, which actively reduce energy use, or demand response, which shifts customer loads from peak periods.

“Distributed Energy Resource” or **“DER”** means a resource site close to customers that can provide all or some of their immediate electric and power needs and can also be used by the system to either reduce demand (such as energy efficiency) or provide supply to satisfy the energy, capacity, or ancillary service needs of the grid. The resources, if providing electricity or thermal energy, are small in scale and close to load. Examples of different types of DER include solar photovoltaic, wind, combined heat and power, demand response, electric vehicles, microgrids, and energy efficiency.

“Energy Efficiency Programs” or **“EE”** means programs that are aimed at reducing the energy used by specific end-use devices and systems, typically without affecting the services provided. Examples include high-efficiency appliances, efficient lighting programs, high-efficiency heating, ventilating and air conditioning (HVAC) systems or control modifications, efficient building design, advanced electric motor drives, and heat recovery systems.

“Energy Storage Resource” means a resource that stores and manages energy and customer loads. Such resources may include chemical energy storage resources such as batteries, flow batteries, and fuel cells or mechanical energy storage resources such as pumped storage hydropower, flywheels, and pressurized gas storage systems, as well as thermal energy storage technologies.

~~and human health, and does expect that this RCPS will also result in reductions of air emissions and pollution beyond carbon dioxide. The Council may consider broadening the focus of this RCPS to other forms of air emissions and pollution in the future.~~

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

“Green-e” means the formal certification of RECs provided by the Center for Resource Solutions' Green-e® certification program, distinct from the tracking of RECs.

“Incremental DSM” costs and corresponding kWh would include the Energy Smart program budgets and cumulative kWh in excess of the Council’s existing 2% goal.

“Low-Income Customer” means a Customer whose gross annual household income is at or below 50 percent of Area Median Income for the relevant period or who is certified as eligible for any federal, state, or local assistance program that limits participation to households whose income is at or below 50 percent of Area Median Income.

“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” means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid. A microgrid can connect and disconnect from the grid to enable it to operate in both grid-connected or island mode.

“MISO” means the Midcontinent Independent System Operator, Inc., or its successor.

“MISO-Connected Renewable Energy Resource” means a renewable energy resource that is interconnected to transmission-level voltage within the MISO’s footprint.

“NEM Rules” means the New Orleans Net Energy Metering Rules adopted by Council Resolution No. R-07-132 (and as modified by any subsequent Council action).

~~**“Net Zero Emissions”** refers to the state in which the Utility has fully offset the carbon emissions associated with the resources serving its Retail Compliance Load through the acquisition of clean energy resources, as demonstrated by producing or purchasing enough RECs or CECs such that the resulting RCPS Compliance Credits offset 100% of the utility’s Retail Compliance Load. RECs utilized to reach Net Zero Emissions may be purchased by the utility without the purchase of the associated energy to the extent permitted in Section 3 of this RCPS.~~

~~**“Qualified Measure”** means a project, program or measure within Orleans Parish which produces a measurable net reduction in carbon emissions in Orleans Parish, is cost effective from the utility perspective, and is approved by the Council for purposes of RCPS compliance.~~

“RCPS” means the Renewable and Clean Portfolio Standard.

~~**“RCPS Compliance Credits”** means the sum of RECs and CECs multiplied by the applicable tier multiplier.~~

“Renewable Energy Credit” or “REC” means a 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 MWh of electric energy generated from a renewable energy resource. ~~To qualify for compliance purposes, RECs must meet the following conditions: (1) they were generated from a Renewable Energy Resource in MISO, the Electric Reliability Council of Texas, or elsewhere that are deliverable into the MISO region; (2) they are Green-e certified at the time of their creation and are subsequently tracked with M-RETS or an equivalent; and (3) they are retired against the compliance requirements in the compliance year in which they were utilized for compliance.~~

“Renewable Energy Resource” means a facility that generates electricity using solar thermal, photovoltaic, wind, geothermal, fuel cell using renewable fuels, hydroelectric generation, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

~~**“Retail Compliance Load”** means the total jurisdictional retail sales, measured in kWh, for an electric utility during an annual period, as adjusted in Section 4(a) of this RCPS.~~

~~**“Tier 1 Resource”** means any resource or Qualified Measure that reduces carbon emissions from existing sources within Orleans Parish, including, but not limited to, new/additional CCUS on existing fossil-fired generation resources inside Orleans Parish and Beneficial Electrification of sources of emissions inside Orleans Parish. A measure qualifies as a Tier 1 Resource by producing a net reduction in existing carbon emissions in Orleans Parish of no less than 1,500 pounds of CO₂ per CEC earned. In order to receive compliance credits as a Tier 1 Resource, irrespective of whether the default tier multiplier is used, the Utility must submit to the Council either (1) a certified engineering calculation demonstrating the net reduction in emissions, or (2) data demonstrating the measured emissions of the resource prior to the implementation of the measure and after the implementation of the measure. Electric Vehicle charging stations located in Orleans Parish shall qualify as a Tier 1 Resource regardless of the level of emissions reductions achieved, but the Utility must still provide the Council with either the certified engineering calculation demonstrating the net reduction or the data demonstrating measured emissions. To the extent that a proposed measure that would otherwise qualify for a different Tier can be demonstrated to have reduced net emissions from an existing source of emissions in Orleans Parish by not less than 1,500 pounds of CO₂ per CEC earned, it may qualify as a Tier 1 resource.~~

~~**“Tier 2 Resource”** means any Renewable Energy Resource, Zero Carbon Emissions Resource, or DER in Orleans Parish, including Incremental DSM.~~

~~**“Tier 3 Resource”** means any Renewable Energy Resource or Zero Carbon Emissions Resource not eligible for Tier 1 or Tier 2, but that is in MISO or that is deliverable into the MISO region. This includes non-Incremental DSM installed after January 1, 2021.~~

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

~~**“Zero Carbon Emissions Resource”** means any resource that generates electricity without producing carbon emissions and that does not qualify as a Renewable Energy~~

~~Resource under this RCPS, including, but not limited to nuclear, and fossil-fueled generators where 100% of carbon emissions are captured through CCUS.~~

SECTION 3: RENEWABLE AND CLEAN PORTFOLIO STANDARD

a. The Utility must meet the specified percentages of total energy generated or procured to serve retail load (“total energy”) ~~Retail Compliance Load~~ with a combination of Tier 1, 2 and 3 resources as follows:

1. 2022: 64% of total energy ~~Retail Compliance Load~~, with not more than 25% compliance through RECs purchased without the associated energy.
2. 2023: 66% of total energy ~~Retail Compliance Load~~, with not more than 25% compliance through RECs purchased without the associated energy.
3. 2024: 68% of total energy ~~Retail Compliance Load~~, with not more than 25% compliance through RECs purchased without the associated energy.
4. 2025: 70% of total energy ~~Retail Compliance Load~~, with not more than 25% compliance through RECs purchased without the associated energy.
5. 2026: 72% of total energy ~~Retail Compliance Load~~, with not more than 24% compliance through RECs purchased without the associated energy.
6. 2027: 74% of total energy ~~Retail Compliance Load~~, with not more than 23% compliance through RECs purchased without the associated energy.
7. 2028: 76% of total energy ~~Retail Compliance Load~~, with not more than 22% compliance through RECs purchased without the associated energy.
8. 2029: 78% of total energy ~~Retail Compliance Load~~, with not more than 21% compliance through RECs purchased without the associated energy.
9. 2030: 80% of total energy ~~Retail Compliance Load~~, with not more than 20% compliance through RECs purchased without the associated energy.
10. 2031: 82% of total energy ~~Retail Compliance Load~~, with not more than 19% compliance through RECs purchased without the associated energy.
11. 2032: 84% of total energy ~~Retail Compliance Load~~, with not more than 18% compliance through RECs purchased without the associated energy.
12. 2033: 86% of total energy ~~Retail Compliance Load~~, with not more than 17% compliance through RECs purchased without the associated energy.
13. 2034: 88% of total energy ~~Retail Compliance Load~~, with not more than 16% compliance through RECs purchased without the associated energy.
14. 2035: 90% of total energy ~~Retail Compliance Load~~, with not more than 15% compliance through RECs purchased without the associated energy.
15. 2036: 92% of total energy ~~Retail Compliance Load~~, with not more than 14% compliance through RECs purchased without the associated energy.
16. 2037: 94% of total energy ~~Retail Compliance Load~~, with not more than 13% compliance through RECs purchased without the associated energy.
17. 2038: 96% of total energy ~~Retail Compliance Load~~, with not more than 12% compliance through RECs purchased without the associated energy.

18. 2039: 98% of total energy ~~Retail Compliance Load~~, with not more than 11% compliance through RECs purchased without the associated energy.
19. 2040: 100% of total energy ~~Retail Compliance Load~~, with not more than 10% compliance through RECs purchased without the associated energy.
20. 2041: 100% of total energy ~~Retail Compliance Load~~, with not more than 9% compliance through RECs purchased without the associated energy.
21. 2042: 100% of total energy ~~Retail Compliance Load~~, with not more than 8% compliance through RECs purchased without the associated energy.
22. 2043: 100% of total energy ~~Retail Compliance Load~~, with not more than 7% compliance through RECs purchased without the associated energy.
23. 2044: 100% of total energy ~~Retail Compliance Load~~, with not more than 6% compliance through RECs purchased without the associated energy.
24. 2045: 100% of total energy ~~Retail Compliance Load~~, with not more than 5% compliance through RECs purchased without the associated energy.
25. 2046: 100% of total energy ~~Retail Compliance Load~~, with not more than 4% compliance through RECs purchased without the associated energy.
26. 2047: 100% of total energy ~~Retail Compliance Load~~, with not more than 3% compliance through RECs purchased without the associated energy.
27. 2048: 100% of total energy ~~Retail Compliance Load~~, with not more than 2% compliance through RECs purchased without the associated energy.
28. 2049: 100% of total energy ~~Retail Compliance Load~~, with not more than 1% compliance through RECs purchased without the associated energy.
29. 2050: 100% of total energy ~~Retail Compliance Load~~, with 0% compliance through RECs purchased without the associated energy.

~~b. **RCPS Tier Multipliers:** For years 2021 through 2040, RECs or CECs from Tier 1 Resources shall be credited at a multiplier of 1.5; Tier 2 Resources at a multiplier of 1.25; and Tier 3 Resources at a multiplier of 1.0 for compliance purposes. After 2040, the tier multiplier for all tiers shall be 1.0. These tier multipliers shall be applied as default multipliers for determining compliance RECs or CECs unless the Utility can provide workpapers that support a different multiplier for a specific measure that can be evaluated and accepted by the Council. A resource shall only receive RCPS compliance credits in one Tier; to the extent a resource is eligible to be included in more than one Tier, it should receive the highest tier multiplier for which it is eligible. The Council shall specifically evaluate the continued appropriateness of the Tiers and applicable tier multipliers, and the years in which tier multipliers should be applied in each Periodic Review of this RCPS.~~

~~c. **Credit Related to Energy Storage Resource:** Depending upon the manner in which an Energy Storage Resource is utilized, it may or may not be eligible for RCPS Compliance Credits. Council approval of the RCPS Compliance Crediting mechanism applicable to any specific Energy Storage Resource will be required prior to the inclusion of any Energy Storage Resource in the Utility's RCPS Compliance and will be based upon the proposed application of the Energy Storage Resource. To the extent that the Utility intends to utilize an Energy Storage Resource for RCPS Compliance, it should propose the project to the Council for the Council's consideration, with an explanation as to how the project~~

~~specifically serves the goals of the RCPS and what RCPS Compliance Credit the Utility proposes be earned by the project. Nothing in this provision alters any other requirement for Council approval for the Utility to acquire or construct a resource or to include the costs of a resource in rates.~~

SECTION 4: COMPLIANCE AND REPORTING

~~a. Calculation of Retail Compliance Load~~

- ~~1. Retail Compliance Load is the reported annual MWh sales for each compliance year, increased by the cumulative MWh savings of DSM programs installed after January 1, 2021, and decreased by the additional MWh sales in that year related to a Beneficial Electrification measure.~~

~~b. Calculation of RCPS Compliance Credits~~

- ~~1. RCPS Compliance Credits for each compliance year are calculated by adding: (i) the RECs and the CECs associated with the compliance year, multiplied by the applicable tier multiplier; (ii) RECs as allowed through the Banking and Compliance Reserve provision that are applied in that year.~~
- ~~2. CECs associated with Beneficial Electrification can be applied as RCPS Compliance Credits until 2040.~~

~~c. Calculation of Percentage of Retail Compliance Load~~

- ~~1. RCPS Compliance Credits (MWh) are divided by Retail Compliance Load (MWh), and expressed as a percentage.~~

d. Calculation of RCPS Compliance Costs

1. The RCPS Cost of Compliance is calculated as all incremental costs prudently incurred by the Utility in complying with RCPS Section 3 as identified in the utility's most approved RCPS compliance plan from its most recently approved IRP., ~~including, but not limited to, the incremental costs of new resources for compliance, the Utility's net fixed costs related to Beneficial Electrification, the Incremental DSM costs, and other costs related to RCPS compliance.~~
2. Incremental costs are the total electric utility cost of service incurred as a result of the Utility's operations in compliance with the RCPS less the total electric utility cost of service associated with the optimized resource portfolio that may have been in place absent the requirements of the RCPS. The Utility's most recently filed Integrated Resource Plan shall inform the calculation of incremental costs as to the optimized resource portfolio that may have been in place absent the requirements of the RCPS.

- e. Upon the Utility's submission of its final Integrated Resource Plan ("IRP") Report for each triennial IRP cycle, the utility shall develop a three-year prospective RCPS Compliance Plan, ~~including a three-year Banking and Compliance Reserve provision for RECs, and the Utility's calculation of the ACP.~~ The RCPS Compliance Plan shall be submitted to the Council for the Council's review and approval. Within 90 days of the adoption of this RCPS, the Utility shall submit to the Council a proposed Initial RCPS Compliance Plan as an amendment to the current IRP. ~~for the interim prior to the conclusion of the next triennial IRP cycle.~~

f. By May 1 of each calendar year, the Utility shall file a Compliance Demonstration Report with the Council regarding its achievement of the RCPS goal for the prior calendar year and its plan for achieving the goal in the current calendar year as part of the three-year RCPS Compliance Plan. The report should include the following clear and concise information that:

- 1) Either (a) demonstrates that the Utility has complied with Section 3; or (b) explains the reason the Utility was unable to comply, the magnitude of the shortfall expressed in kWh, ~~and the Utility's calculation of the applicable ACP.~~
- 2) A calculation of the incremental cost (if any) of compliance with the RCPS over and above costs ENO would have otherwise incurred to serve its load in the preceding calendar year.
- 3) An energy portfolio report for the preceding compliance year which shall identify the MWh hours produced by each supply and demand-side resource comprising the utility's total resource portfolio. RECs purchased and utilized by the utility and their associated MWh, including RECs that can be associated with net metering, and incremental MWh associated with DSM and other eligible resources should also be included in the energy portfolio report. For each resource in the portfolio, the utility shall identify the resource name, MWh, fuel type, the average per MWh energy-related cost associated with that resource, and the average per MWh energy-related revenue received from MISO for that resource.
- 4) A carbon emissions report that details the carbon emissions resulting from the production of the electricity used by the Utility to serve its Retail Compliance Load, whether or not each generator is owned by the Utility.

~~g. The Utility shall construct and maintain a publicly-accessible data portal ~~an easy-to-find web page~~ with a user-friendly interface where it makes available to the public a comprehensive set of data relating to the utility and its operations, finances, RCPS actions, and other information. ~~copies of all reports and documents related to the RCPS and~~~~

h. the Utility's carbon emissions that it submits to the Council or any other relevant government agency or public body.

~~i. Banking and Compliance Reserve Provision~~

~~The utility may use RECs produced and Green-e certified in one compliance year for compliance in either of the two subsequent compliance years, subject to a review of the accounting for the banking and compliance reserve, and provided that the utility was in compliance for the compliance year in which the RECs were created. In addition, the utility shall demonstrate to the satisfaction of the Council that such compliance credits:~~

- ~~1. were in excess of the compliance credits needed for compliance in the compliance year in which they were generated;~~
- ~~2. do not exceed the REC limitation specified in Section 3 for compliance with the RCPS in the year they were generated or produced; and~~
- ~~3. have not otherwise been, nor will be, sold, retired, claimed or represented as part of clean energy output or sales, or used to satisfy obligations in other jurisdictions.~~

~~SECTION 5: ENFORCEMENT~~

~~a.—In the event that the Utility is unable to comply with the RCPS standard using reasonable measures for the applicable calendar year, the Utility shall make an Alternative Compliance Payment (“ACP”) into a CleanNOLA Fund established by the Council for the purposes of fostering efforts to reduce carbon emissions within Orleans Parish. The ACP shall be structured as \$/MWh of shortfall.~~

- ~~1. The ACP (\$ per MWh) will be determined by the Council in the Council’s Resolution approving the Utility’s RCPS Compliance Plan, and the ACP will be applicable for the prospective three calendar years.~~
- ~~2. The ACP shall be based on the highest market value of RECs in MISO over the prior three years, multiplied by a 1.15 multiplier.~~
- ~~3. The ACP, when combined with the RCPS compliance cost that is incurred in any calendar year, shall not exceed the Customer Protection Cost Cap set forth in Section 6.~~

~~b.—Nothing in this section limits the Council’s authority to impose penalties for the violation of the Council’s regulations.~~

SECTION 6: COST RECOVERY AND CUSTOMER PROTECTION COST CAP

a. The Utility shall be allowed to request cost recovery for RCPS compliance as follows:

1. The Utility shall be allowed the opportunity to recover prudently incurred costs in complying with the RCPS ~~a mandated renewable and clean portfolio standard.~~
2. The Utility shall fully document its RCPS incremental costs and account for deviations in actual spending from the costs identified in the most recent RCPS Compliance Plan.
3. ~~The Utility shall be allowed to recover the ACP unless it is demonstrated to the Council and the Council finds that the Utility’s failure to comply with the RCPS was unreasonable, in which case, ENO shall not recover the cost of the ACP from Customers.~~

~~b.—As a mechanism to provide customer protection from unreasonable rate increases, the Council hereby establishes an RCPS Customer Protection Cost Cap that the Utility shall not exceed to acquire RCPS Compliance Credits. The Customer Protection Cost Cap in any RCPS plan year is one percent (1%) of plan year total utility retail sales revenues, beginning in 2022.~~

- ~~1. If the Utility can support its finding that, in any given year, the cost of RCPS compliance through all reasonable measures is projected to be greater than the Customer Protection Cost Cap as established by the Council’s RCPS, the Utility shall not be required to incur costs in excess of the Customer Protection Cost Cap, and will be deemed to have complied with that year’s target as set forth in Section 3, once it has expended up to the Customer Protection Cost Cap (including any ACP).~~
- ~~2. The existence of this condition excusing performance in any given year shall not operate to delay the annual increases in the RCPS in subsequent years. When the utility can generate or procure RCPS Compliance Credits at or below~~

~~the Customer Protection Cost Cap in order to comply with the RCPS, it shall be required to add such resources.~~

- ~~3. For rate classes with fewer than 3 customers, the Council will review and adjust rates through the Utility's decoupling mechanism, such that the increase in the allocated total cost of service related solely to RCPS Cost of Compliance for those rate classes is no greater than 1%.~~

SECTION 7: CLEANNOLA FUND

The Council shall establish a CleanNOLA Fund ("Fund") ~~which for the purposes of fostering the reduction of carbon emissions in Orleans Parish. The Fund shall prioritize projects designed to reduce carbon emissions from existing sources of such emissions in Orleans Parish. The Fund shall not at any time be transferred to, or lapse into, or be comingled with the General Fund of the City of New Orleans and it~~ shall be administered in accordance with the Council's directives.

Appendix B

Draft Proposed Regulation

EFNO PROPOSED REVISIONS “clean”

DRAFT Renewable and Clean Portfolio Standard (“RCPS”)

SECTION 1: OVERVIEW

- a. **Intent:** It is the intent of the Renewable and Clean Portfolio Standard (“RCPS”) to:
1. Aggressively pursue reductions to carbon emissions to improve the health and quality of life of the citizens of New Orleans, to reduce the City’s impact on climate change, through the adoption and use of clean, local, renewable energy resources in the City. which is an existential threat to the City’s security.
 2. Ensure that the City has a safe, reliable, renewable, efficient, and sustainable power supply to meet the needs of the current generation and future generations.

Periodic Review: In order to ensure that this RCPS continues to meet the Council’s intent as set forth in Section 1(a), the Council will conduct a review of progress and plans for meeting the requirements of this RCPS as a part of the triennial integrated resource planning (“IRP”) process.

SECTION 2: DEFINITIONS

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

“**Community Solar Generation Facility**” or “**CSG Facility**” means a solar energy facility that meets the definition of a Community Solar Generation Facility under the Council’s Community Solar Rules.

“**Community Solar Rules**” means the Community Solar Rules for the Council of the City of New Orleans adopted by Council Resolution No. R-19-111 (and as modified by any subsequent Council action).

“**Conservation Program**” means a program, often relying on encouraging customers to reduce energy use, in which a utility company provides energy-saving guidance or provides free or low cost devices for saving energy, such as energy efficient light bulbs, flow restrictors, weather stripping, and water heater insulation.

“**Cost of Compliance**” the cost of compliance with the RCPS shall be the incremental costs incurred by ENO over and above the costs to serve its load in accordance with the utility’s most recently approved IRP.

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

“**CURO**” means the Council Utilities Regulatory Office.

“**Demand-Side Management**” or “**DSM**” means an action, usually under a utility-managed program, that reduces or curtails the load associated with end-use equipment or processes, often used to reduce customer load during peak demand and/or in times of supply constraint. DSM is the management of customer loads through programs

such as energy efficiency and conservation measures, which actively reduce energy use, or demand response, which shifts customer loads from peak periods.

“Distributed Energy Resource” or **“DER”** means a resource site close to customers that can provide all or some of their immediate electric and power needs and can also be used by the system to either reduce demand (such as energy efficiency) or provide supply to satisfy the energy, capacity, or ancillary service needs of the grid. The resources, if providing electricity or thermal energy, are small in scale and close to load. Examples of different types of DER include solar photovoltaic, wind, combined heat and power, demand response, electric vehicles, microgrids, and energy efficiency.

“Energy Efficiency Programs” or **“EE”** means programs that are aimed at reducing the energy used by specific end-use devices and systems, typically without affecting the services provided. Examples include high-efficiency appliances, efficient lighting programs, high-efficiency heating, ventilating and air conditioning (HVAC) systems or control modifications, efficient building design, advanced electric motor drives, and heat recovery systems.

“Energy Storage Resource” means a resource that stores and manages energy and customer loads. Such resources may include chemical energy storage resources such as batteries, flow batteries, and fuel cells or mechanical energy storage resources such as pumped storage hydropower, flywheels, and pressurized gas storage systems, as well as thermal energy storage technologies.

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

“Green-e” means the formal certification of RECs provided by the Center for Resource Solutions' Green-e® certification program, distinct from the tracking of RECs.

“Incremental DSM” costs and corresponding kWh would include the Energy Smart program budgets and cumulative kWh in excess of the Council’s existing 2% goal.

“Low-Income Customer” means a Customer whose gross annual household income is at or below 50 percent of Area Median Income for the relevant period or who is certified as eligible for any federal, state, or local assistance program that limits participation to households whose income is at or below 50 percent of Area Median Income.

“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” means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid. A microgrid can connect and disconnect from the grid to enable it to operate in both grid-connected or island mode.

“MISO” means the Midcontinent Independent System Operator, Inc., or its successor.

“MISO-Connected Renewable Energy Resource” means a renewable energy resource that is interconnected to transmission-level voltage within the MISO’s footprint.

“NEM Rules” means the New Orleans Net Energy Metering Rules adopted by Council Resolution No. R-07-132 (and as modified by any subsequent Council action).

“RCPS” means the Renewable and Clean Portfolio Standard.

“Renewable Energy Credit” or **“REC”** means a 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 MWh of electric energy generated from a renewable energy resource

“Renewable Energy Resource” means a facility that generates electricity using solar thermal, photovoltaic, wind, geothermal, fuel cell using renewable fuels, hydroelectric generation, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

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

SECTION 3: RENEWABLE AND CLEAN PORTFOLIO STANDARD

a. The Utility must meet the specified percentages of total energy generated or procured to serve retail load (“total energy”)with a combination of Tier 1, 2 and 3 resources as follows:

1. 2022: 64% of total energy with not more than 25% compliance through RECs purchased without the associated energy.
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29. 2050: 100% of total energy with 0% compliance through RECs purchased without the associated energy.

SECTION 4: COMPLIANCE AND REPORTING

- a. Calculation of RCPS Compliance Costs
 - 1) The RCPS Cost of Compliance is calculated as all incremental costs prudently incurred by the Utility in complying with RCPS Section 3 as identified in the utility's most approved RCPS compliance plan from its most recently approved IRP.
 - 2) Incremental costs are the total electric utility cost of service incurred as a result of the Utility's operations in compliance with the RCPS less the total electric utility cost of service associated with the optimized resource portfolio that may have been in place absent the requirements of the RCPS. The Utility's most recently filed Integrated Resource Plan shall inform the calculation of incremental costs as to the optimized resource portfolio that may have been in place absent the requirements of the RCPS.
- b. Upon the Utility's submission of its final Integrated Resource Plan ("IRP") Report for each triennial IRP cycle, the utility shall develop a three-year prospective RCPS Compliance Plan. The RCPS Compliance Plan shall be submitted to the Council for the Council's review and approval. Within 90 days of the adoption of this RCPS, the Utility shall submit to the Council a proposed Initial RCPS Compliance Plan as an amendment to the current IRP
- c. By May 1 of each calendar year, the Utility shall file a Compliance Demonstration Report with the Council regarding its achievement of the RCPS goal for the prior calendar year and its plan for achieving the goal in the current calendar year as part of the three-year RCPS Compliance Plan. The report should include the following clear and concise information that:
 - 1) Either (a) demonstrates that the Utility has complied with Section 3; or (b) explains the reason the Utility was unable to comply, the magnitude of the shortfall expressed in kWh.
 - 2) A calculation of the incremental cost (if any) of compliance with the RCPS over and above costs ENO would have otherwise incurred to serve its load in the preceding calendar year.
 - 3) An energy portfolio report for the preceding compliance year which shall identify the MWh hours produced by each supply and demand-side resource comprising the utility's total resource portfolio. RECs purchased and utilized by the utility and their associated MWh, including RECs that can be associated with net metering, and incremental MWh associated with DSM and other eligible resources should also be included in the energy portfolio report. For each resource in the portfolio, the utility shall identify the resource name, MWh, fuel type, the average per MWh energy-related cost associated with that resource, and the average per MWh energy-related revenue received from MISO for that resource.
 - 4) A carbon emissions report that details the carbon emissions resulting from the production of the electricity used by the Utility to serve its Retail Compliance Load, whether or not each generator is owned by the Utility.
- d. The Utility shall construct and maintain a publicly-accessible data portal with a user-friendly interface where it makes available to the public a comprehensive set of data relating to the utility and its operations, finances, RCPS actions, and other information.
- e. The Utility's carbon emissions that it submits to the Council or any other relevant government agency or public body.

SECTION 6: COST RECOVERY AND CUSTOMER PROTECTION COST CAP

a. The Utility shall be allowed to request cost recovery for RCPS compliance as follows:

1. The Utility shall be allowed the opportunity to recover prudently incurred costs in complying with the RCPS.
2. The Utility shall fully document its RCPS incremental costs and account for deviations in actual spending from the costs identified in the most recent RCPS Compliance Plan.

SECTION 7: CLEANNOLA FUND

The Council shall establish a CleanNOLA Fund (“Fund”) which shall be administered in accordance with the Council’s directives.