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September 28, 2020

Via Electronic Delivery

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

Re: *Resolution & Order Establishing a Docket and Opening Rulemaking Proceeding to Establish Renewable Portfolio Standard*
Council Docket No. UD-19-01

Dear Ms. Johnson:

Enclosed please find attached for electronic filing, Entergy New Orleans, LLC's ("ENO") Reply Comments Concerning the Advisors' Proposed Renewable and Clean Portfolio Standard Regulations in the above referenced docket. As a result of the remote operations of the Council's office related to COVID-19, ENO submits this filing electronically and will submit the requisite original and number of hard copies once the Council resumes normal operations, or as you or the Council otherwise directs. ENO requests that you file this submission in accordance with Council regulations as modified for the present circumstances.

Should you have any questions regarding the above, I may be reached at (504) 576-2984. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Harry M. Barton".

Harry M. Barton

HMB/ddm

Enclosures

cc: Official Service List (*via electronic mail*)

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

RESOLUTION AND ORDER)	
ESTABLISHING A DOCKET AND)	
OPENING RULEMAKING)	
PROCEEDING TO ESTABLISH)	DOCKET NO. UD-19-01
RENEWABLE PORTFOLIO)	
STANDARD)	

**ENTERGY NEW ORLEANS, LLC’S REPLY COMMENTS
CONCERNING THE ADVISORS’ PROPOSED RCPS REGULATIONS**

NOW BEFORE THE COUNCIL OF THE CITY OF NEW ORLEANS (the “Council”), comes Entergy New Orleans, LLC (“ENO” or the “Company”), which respectfully submits its Comments concerning the Advisors’ Proposed Renewable and Clean Portfolio Standard (“RCPS”) Regulations (the “Proposed Rules”), filed on August 29, 2020. As the report submitted with the Advisors’ filing (“Advisors’ Report”) thoroughly documents, the publication of the Proposed Rules is the latest milestone in a proceeding that has been ongoing since March 2019. Participation in the Council’s proceeding has been robust, transparent, and open to all stakeholders, members of the New Orleans community, and participants from outside of New Orleans. In addition to ENO, the parties that have actively participated in the Council’s process, include, but are not limited to, 350 New Orleans (“350”), Air Products and Chemicals, Inc. (“APC”), the Alliance for Affordable Energy (“AAE”), Audubon Louisiana (“Audubon”), PosiGen Solar (“PosiGen”),¹ and the Southern Renewable Energy Association (“SREA”).² Various combinations of intervenors have also submitted joint comments on behalf of an organization dubbed the Energy Future New Orleans (“EFNO”) coalition.³ Parties to the proceeding advocated for the Council to adopt a wide range of varying goals, mandates, and targets at the conclusion of this matter. Several organizations dedicated to fighting climate change and protecting the environment also submitted correspondence to the Council, advocating for adoption of a technology-neutral climate policy.⁴

On April 15, 2020, the Council issued Council Resolution No. R-20-104 (Resolution and Order Providing the Council’s Guidance Regarding the Development of Renewable Portfolio Standards and Establishing a New Procedural Schedule). That Resolution adopted a technology-neutral approach to fighting climate change and provided four overarching directives: “(1) a mandatory requirement that ENO achieve 100% net zero emissions by 2040; (2) reliance on RECs purchased without the associated energy for compliance with the standard being phased out over the ten-year period from 2040 to 2050; (3) ENO has no carbon-emitting resources in the portfolio of resources it uses to serve New Orleans by 2050; and (4) a mechanism to limit cost in any one

¹ PosiGen, LLC is a solar sales and leasing company domiciled outside of New Orleans, in Jefferson Parish.
² SREA is an industry trade group that exists to promote the development of solar, wind, and energy storage resources. See, <https://www.southernrenewable.org/>.
³ EFNO does not exist as a juridical entity according to the Louisiana Secretary of State’s Corporations Database.
⁴ These entities include the Center for Climate and Energy Solutions (“C2ES”), the Clean Air Task Force (“CATF”), America’s Wetland Foundation (“AWF”), Environmental Progress, and Third Way.

plan year to no more than one percent (1%) of plan year total utility retail sales revenues.” The Resolution also directed the parties to participate in technical conferences to provide feedback on drafts of the Proposed Rules to help ensure that the Proposed Rules are optimally designed to achieve the Council’s goals.

The Council’s development of a technology-neutral standard that focuses on reducing carbon emissions through all commercially viable means that are either available today or that may become available in the future is the only approach that has a chance to accomplish the ultimate goal: to fight climate change. As has been documented extensively in this proceeding, scientific, academic, environmental, and industry experts from across the world agree that this kind of “all the tools in the toolbox” approach to reducing carbon emissions is the only way that necessary emissions reductions can be achieved by mid-century. In alignment with this widely-recognized consensus, and in parallel with the Council’s proceeding, Entergy Corporation has developed its own mid-century carbon reduction commitment to achieve net-zero carbon emissions by 2050.⁵ Accordingly, Entergy Corporation as a whole has increased its environmental efforts, which reinforces the Company’s commitment to partnering with the Council in the hard fight to come.

Like the Council, ENO and Entergy Corporation know that these decarbonization goals can only be met with a combination of carbon-free nuclear generation, utility-scale solar and wind generation, energy efficiency (“EE”), beneficial electrification, and other emerging technologies, like grid-scale battery storage and next-generation nuclear. Similarly, ENO has noted that the Council’s goal to limit costs while achieving these aggressive carbon reduction targets can only be achieved through close coordination with the Council’s Integrated Resource Plan (“IRP”) process and by allowing for “banking” of Renewable Energy Credits (“RECs”), consistent with the vast majority of renewable and clean portfolio standards enacted in other jurisdictions.

The Proposed Rules appear to contemplate a technology-neutral approach to decarbonization, which will be reviewed periodically and coordinated with the IRP process, and the Proposed Rules contain allowances for limited banking of RECs. ENO’s Comments largely focus on achieving additional clarity around certain elements of the Proposed Rules, including but not limited to, beneficial electrification, distributed energy resources (“DERs”), interaction with the IRP, cost recovery, and the reporting and monitoring of compliance with interim targets. ENO has also included a limited number of proposed redline edits to the Proposed Rules within these Comments, the majority of which seek to clarify what ENO believes to be the intent of the Advisors and the Council concerning key provisions of the Proposed Rules.⁶

⁵ See, <https://cdn.entergy.com/userfiles/content/environment/docs/net-zero.pdf> As has been noted in prior filings, many utilities have made similar commitments and have noted that their ability to meet such commitments will depend on the ability to incorporate technological innovations into resource portfolios. These utilities will compete with ENO for access to innovative zero-emissions technologies. As a small utility, ENO’s ability to compete with larger entities may be limited, and may be further limited by the proposed cost cap. This is an issue that the parties and Council should monitor during the periodic evaluations of the RCPS policy identified in the Proposed Rules.

⁶ At this juncture, ENO refrains from commenting further on provisions that will facilitate achieving the Council’s goals, but which a few intervenors and non-intervening entities have opposed, *e.g.*, REC banking.

I. Beneficial Electrification

Electrification will play an important role in reducing the overall carbon footprint for New Orleans. The Proposed Rules contain many provisions designed to capitalize on the emissions-reduction opportunities presented by electrification, including a Tier 1 multiplier for qualifying Beneficial Electrification (“BE”) projects, and the ability for ENO to seek Council approval of a higher multiplier for BE projects that produce emissions reductions warranting greater compliance credits. However, the new version of the Proposed Rules contains a modification that would serve as a deterrent to realizing the full potential of reducing emissions through electrification by precluding certain electrification projects from qualifying as BE measures under the Proposed Rules, which is contrary to the Council’s technology-neutral policy goals.

At the Second Technical Conference and in subsequent correspondence, 350 expressed concern about the lack of a minimum emissions reduction threshold for an electrification project to qualify as a BE measure under the RCPS policy. 350 proposed an annual minimum reduction of 5,000 tons of CO₂ for electrification projects to be treated as a BE measure under the rules. Under this proposal, an electrification project that failed to meet this minimum would (i) not create any Clean Energy Credits (“CECs”), (ii) not qualify for a Tier 1 multiplier, and (iii) not have its associated megawatt-hour (“MWh”) sales deducted from Retail Compliance Load in accordance with Section 4(a)(1). ENO and APC opposed this threshold, in correspondence of August 21, 2020, noting that the net emissions reduction required by the then-current draft of the rules provided an appropriate minimum threshold for defining BE measures.

As ENO and APC noted, electrification projects can include many smaller-scale measures that would produce net emissions reductions, thus benefitting New Orleanians and furthering the Council, ENO, and the City’s shared goals, but which would also fail to meet the kind of minimum threshold advocated for by 350. These kinds of measures potentially include electrification of public transportation, electric vehicle programs, electrification of home and commercial appliances, electrification of municipal and commercial operations that currently rely on fossil-fuel, electrification of port facilities, and other emissions-reducing measures.

While these measures reduce emissions, they would also increase Retail Compliance Load if not treated as a qualifying BE measure under the Proposed Rules, thereby increasing ENO’s compliance obligations and the costs ENO incurs to meet the Council’s targets. As such, setting a minimum threshold that precludes such measures from qualifying as a BE under the Proposed Rules will operate as a disincentive for ENO to pursue emissions-reducing electrification measures – a result that runs counter to the Council’s desire to reduce emissions in New Orleans.

The Advisors’ Report acknowledges this detrimental effect, noting that the threshold proposed by 350 “is too high and would be too much of a deterrent to Beneficial Electrification projects.”⁷ However, the Advisors’ Report also describes the Advisors’ support for some minimum threshold “in order to avoid a situation where the utility receives a very large compliance credit for only a minimal or nominal reduction in net carbon emissions from a Beneficial

⁷ See, Advisors’ Report at pg. 13.

Electrification project.”⁸ Although the Advisors’ Report seems primarily concerned with smaller electrification projects receiving a Tier 1 Multiplier,⁹ the Proposed Rules have been modified to include language that would preclude electrification projects producing net emissions reductions of less than 1,500 pounds (“lbs”) of CO₂ per MWh from qualifying as a BE measure under the Rules, thus (i) precluding these projects from earning CECs, and (ii) eliminating the deduction of their associated sales from Retail Compliance Load. The language at issue is as follows:

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.

This new language creates several problems, jeopardizing emission reduction efforts. First, although this change seems intended to address the multiplier issue, it also has the effect of creating the exact result that ENO and APC’s correspondence cautioned against – a scenario in which some electrification measures are disincentivized because they will (i) increase Retail Compliance Load, and (ii) fail to earn CECs for the emissions reductions they produce. The Advisors’ Report and the Proposed Rules acknowledge this deterrent effect by adopting a limited exception for electric vehicle charging infrastructure so that it does not need to meet the proposed minimum threshold to qualify as a BE measure. However, this exception does not eliminate the deterrent effect for other electrification measures that fail to meet the threshold. These measures can include other programs designed to increase electric vehicle usage (some of which the Council has previously found to be in the public interest),¹⁰ electrification of public transportation, electrification of industrial equipment, electrification of port facilities, and other emerging opportunities.

The effect of the new language can be seen when considering shore power electrification of cruise ships at port facilities. Table 1 below compares the emissions profile of a diesel-powered cruise vessel and the generation in the Midcontinent Independent System Operator, Inc. (“MISO”) South region that could replace it.¹¹

Illustrative Estimate of Emissions Benefits of Cruise Ship Electrification (Table 1)

	Cruise Ship ¹²	MISO South	Net Reduction
CO ₂ (lbs/MWh)	1,521	1,200	321
CO ₂ (tons/year)	3,495	2,757	738

⁸ *Id.*

⁹ The discussion of the Advisors’ proposed minimum threshold is heavily couched in terms of the Tier 1 and Tier 2 multipliers, noting that the Advisors used these multipliers to derive the proposed threshold for BE measures.

¹⁰ *See, e.g.*, Council Resolution No. R-19-457 at pg. 174 (“ENO and the Advisors appear to be in agreement that the eTech program should continue, no party opposes it, and it is consistent with the Council’s interest in fostering EV adoption in New Orleans. The Council finds that the eTech program should continue...”).

¹¹ *See*, Advisors’ Report Appendix D at pg. 82. A 1,200 lbs/MWh MISO South marginal CO₂ emission rate is similar to estimates from ENO’s internal modeling and EPA’s calculation of emissions from non-baseload output for the SERC Mississippi Valley region. *See*, EPA, [eGRID Summary Tables](#).

¹² *See*, “Shore Power Technology Assessment at U.S. Ports,” EPA, March 2017.

Under the Proposed Rules, this type of electrification project would not qualify for treatment as a BE measure because it would deliver less than 1,500 lbs/MWh of net CO₂ reductions. Implementing it would thus increase ENO's compliance obligation and create no CECs. Yet, this project could deliver significant annual reductions to net CO₂ emissions within New Orleans, not to mention reductions in emissions of other pollutants that affect local air quality. Yet, the new language in the Proposed Rules creates an inherent disincentive for ENO to pursue this measure.

Additionally, electrification of City buses would be similarly disincentivized by the new language. The ultimate emission impact of bus electrification depends primarily on the fuel efficiency of the buses being replaced, the efficiency of the new electric buses, and the CO₂ content of the electricity used to charge the bus. Under such a project, the City buses to be replaced, which use a 95% diesel and 5% biodiesel blended fuel, would emit approximately 5.72 lbs of CO₂ per mile driven if their fuel economy were in line with the U.S. average for transit buses.¹³ Any electric bus with an efficiency of at least 0.21 miles per total kWh consumed and charged at the approximate average MISO South marginal emission rate would reduce CO₂ emissions. However, the bus would need to travel more than twice as far per kWh (0.472 miles per kWh) in order to meet the 1,500 lbs/MWh net CO₂ reduction threshold. Across four recent electric bus performance case studies performed by the National Renewable Energy Laboratory ("NREL"), the average actual efficiency was only 0.388 miles per total kWh consumed, 18% below the level that a City bus electrification effort would need to qualify as a BE measure.¹⁴ Thus, the new language disincentivizes the pursuit of electrification of buses in New Orleans, despite the Council, the City, and many stakeholders having expressed interest in the local emissions-reducing potential of such an effort. Designing an RCPS policy that inherently disadvantages such emissions reducing measures will not help to achieve the Council's goals.

Moreover, it should be noted that this language requires a net reduction of 1,500 lbs CO₂ per MWh, regardless of a measure's potential for total annual emissions reductions. Under this framework, it would not matter from an RCPS compliance standpoint how much CO₂ an electrification measure removed from New Orleans' atmosphere on an annual basis or over the life of the measure if the measure failed to meet the per-MWh threshold. Thus, the new threshold language may actually be more onerous than what was proposed by 350.

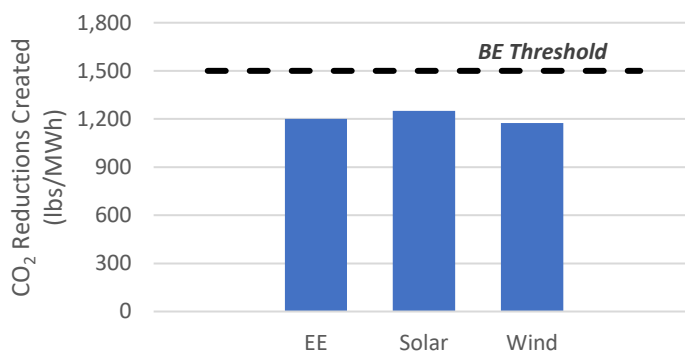
Finally, it is also worth noting that other emissions reductions measures, like energy efficiency and the addition of renewable resources, would fail to meet the per-MWh threshold that

¹³ The average U.S. transit bus fuel economy is 3.26 miles per gasoline gallon equivalent, or 3.77 miles per diesel gallon equivalent. Pure biodiesel emits 78% less CO₂ than diesel, and RTA uses B5 (5% biodiesel fuel). See, U.S. Department of Energy Alternative Fuels Data Center, [Average Fuel Economy by Major Vehicle Category](#); U.S. Department of Energy, [Biodiesel—Clean, Green Diesel Fuel](#); and <https://www.norta.com/About/Environmental-Commitment>.

¹⁴ See, NREL, [Zero-Emission Bus Evaluation Results: County Connection Battery Electric Buses](#); Federal Transit Administration, [Zero-Emission Bus Evaluation Results: King County Metro Battery Electric Buses](#); NREL, [Foothill Transit Agency Battery Electric Bus Progress Report](#); and Federal Transit Administration, [Zero-Emission Bus Evaluation Results: Long Beach Transit Battery Electric Buses](#)," Fuel economy summary statistics in these reports are based on energy consumed by the bus and do not include losses incurred during bus charging; however one study reports 13.1% losses incurred during charging. The average efficiency of 0.388 miles per total kWh consumed applies 13.1% losses during charging to each case study.

is being proposed for electrification, were it to be applied to those measures. Using an average marginal emissions rate in MISO South of approximately 1,200 lbs/MWh, cited by the Advisors’ Report (and similar to estimates from Environmental Protection Agency (“EPA”) and Entergy’s internal modeling¹⁵) allows for calculating the electric sector emissions avoided when measures like energy efficiency or new renewable resources are added.¹⁶ Figure 1 shows that any of a new energy efficiency, solar, or wind resource would each be expected to reduce CO₂ emissions by less than 1,500 lbs/MWh.

Approximate CO₂ lbs/MWh Reductions Associated with Energy Efficiency and New Renewable Resources (Figure 1)



Yet, these measures are considered to be RCPS-compliant under the Proposed Rules, thus creating CECs and potentially receiving a Tier 2 multiplier, while electrification measures producing equivalent or greater emissions reductions would not be RCPS-compliant, and not create CECs, not be deducted from Retail Compliance Load, and not be eligible for multipliers.

ENO acknowledges that the Proposed Rules contain a general exception that would allow ENO to seek Council approval for electrification projects falling below the proposed threshold to receive a CEC or have their associated MWh sales deducted from Retail Compliance Load (Section 1 (a)(2)). However, given that measures falling below this threshold may be, due to their nature, smaller projects, it would not be practical for ENO to seek, or for the Council to litigate, a Council exemption each and every time such a measure is pursued. Moreover, when dealing with smaller commercial customers that may be (i) unaccustomed to the Council’s regulatory processes, (ii) unable to retain legal counsel to engage in such processes, or (iii) put off by the uncertainty of whether an exemption would be granted, the requirement to seek Council approval prior to implementing the emissions-reducing measures could dissuade such customers from engaging with ENO on the potential electrification projects, which, in aggregate, could lead to substantial benefits. Therefore, the deterrent effect would not be alleviated due to this general exception, which would create unnecessary uncertainty about potential electrification efforts. The Council

¹⁵ See, Advisors’ Report Appendix D at pg. 82 and EPA, [eGRID Summary Tables](#). Non-baseload output emissions rate for the SERC Mississippi Valley region is a proxy for the marginal emissions rate applicable to MISO South.

¹⁶ The average CO₂ reductions associated with a measure will depend on its hourly and seasonal profile and the prevailing marginal CO₂ rates. Data from regions that report actual marginal emission rates, like the PJM RTO, suggest that on-peak and off-peak marginal CO₂ emission rates differ by approximately 100 lbs/MWh on average. See, “2015 – 2019 CO₂, SO₂ and NO_x Emission Rates,” PJM, April 2020.

has the opportunity to design a policy that can properly incentivize emissions reductions through electrification; ENO believes the Council should seize on this opportunity rather than design an inherently-flawed electrification policy that might later be corrected by litigating, and possibly dispensing, exemptions on a case-by-case basis.

If the Proposed Rules are adopted as drafted, ENO will be forced to reconsider, or possibly abandon, programs designed to facilitate the kinds of electrification measures identified above because of their ineligibility for complying with the Council's RCPS policy. While abandoning any one small-scale electrification project may not have a significant impact on carbon reductions, adopting a framework that compromises the collective potential of **all** such measures will tremendously, and unnecessarily, limit City-wide emissions reductions over time. ENO does not believe that the Council, the City, or any party to this proceeding is desirous of this outcome.

In order to avoid the situation described above while still addressing the stakeholder concern about smaller projects receiving an outsized multiplier, ENO proposes a slight modification to the definition of Beneficial Electrification in the Proposed Rules:

To qualify as a Beneficial Electrification resource [eligible for a multiplier](#) under this RCPS, the measure must reduce net carbon emissions by no less than 1,500 pounds of CO₂ per Clean Energy Credit earned.

With this minor modification, the Proposed Rules would create a framework where all electrification measures producing a net emissions reduction are eligible to receive CECs and have their associated sales deducted from Retail Compliance Load, while only granting eligibility for a multiplier to those measures producing emissions reductions at or above the stated threshold. By creating this kind of framework, the Council will avoid a situation where the collective emissions-reduction potential of smaller-scale electrification projects is unnecessarily, and arbitrarily, limited. Such a result will be necessary to achieve the Council's goals of aggressively reducing carbon emissions from all sectors of New Orleans' economy.

II. Distributed Energy Resources

The Proposed Rules contain a new definition of DERs that could be interpreted to exclude certain configurations of DERs from being qualified as such under the Proposed Rules. As the Council and Advisors are aware, DERs represent a broad, and ever-expanding, category of technologies and need not be connected behind a customer's meter in order to provide benefits to the distribution grid. Solar photovoltaic ("PV") systems, battery and other forms of energy storage, electric vehicle charging infrastructure, and other DERs can be interconnected directly to the distribution grid, including at substations, provide energy and other grid services to all customers, and provide the benefits associated with DERs to the distribution grid. Literature on, and definitions of, DERs from several industry and regulatory authorities acknowledge this view of DERs as accurate. For example, the National Association of Regulatory Utility Commissioners ("NARUC") notes that "DER[s] are resources located on the distribution grid, often on or close to the customer's premises, and are capable of providing many services to the customer and the grid. DER[s] such as rooftop solar generation can offset the premise's consumption and deliver excess generation into the distribution grid. DER[s], like demand response, [and] can allow the demand on the system to respond to system prices and conditions. DER[s] are not simply supply or demand,

as traditionally thought, but can be multiple types of resources, such as storage or advanced technology paired with a resource, capable of providing a variety of benefits and services to the customer and the grid.”¹⁷ Many other similar definitions exist.¹⁸

To achieve consistency with the prevailing view of DERs and to provide for flexibility in incorporating DERs into RCPS compliance planning, ENO suggests that the new definition of DER be clarified in the following manner:

“**Distributed Energy Resource**” or “**DER**” means a resource sited close to customers that:

- (i) is interconnected to or on the distribution system, or
- (ii) can provide all or some of ~~their~~the immediate electric and power needs of retail customers and/or 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.

This clarification will help ensure that development of all DERs, not just those interconnected behind a customer’s electric meter, can be a part of the portfolio of resources serving New Orleans in compliance with the RCPS policy.

III. IRP Interactions

ENO supports the addition of language in Section 4 that details the calculation of RCPS Compliance Costs and provides that the most recently filed IRP shall inform the calculation of the incremental costs in complying with the RCPS. Section 4(d)(2) of the Proposed Rules uses the term “cost of service” in its definition of incremental costs: “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.” ENO believes the Advisors used the term “cost of service” as analogous to the term “revenue requirement,” intending to refer to the revenue requirements associated with the prospective RCPS plan portfolio for the relevant compliance year as well as the revenue requirement associated with the “but for RCPS” portfolio developed through the IRP

¹⁷ See, NARUC’s Manual on Distributed Energy Resources Rate Design and Compensation, published November 2016, at pg. 16.

¹⁸ See, e.g., Deloitte Center for Energy Solutions, [Managing Variable and Distributed Energy Resources: A New Era for the Grid](#), (“DER[s] are any energy resources that are connected to the grid at the distribution level. This encompasses many resource types and technologies, which may be located in front of or behind the meter.”); California Public Utility Commission’s [Distributed Energy Resources Action Plan: Aligning Vision and Action](#) (September 2016), (““Distributed energy resources (DER) [are] defined as distribution-connected distributed generation resources, energy efficiency, energy storage, electric vehicles, and demand response technologies.”); and [Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators](#), 172 FERC ¶ 61,247 (2020), (“We define a distributed energy resource as any resource located on the distribution system, any subsystem thereof or behind a customer meter. These resources may include, but are not limited to, electric storage resources, distributed generation, demand response, energy efficiency, thermal storage, and electric vehicles and their supply equipment.”).

process, for the relevant compliance year. However, to the extent clarification of this point is needed, ENO recommends making the language of the Proposed Rules more explicit in this regard.

Additionally, ENO believes it is important that the Proposed Rules retain the reference in the current draft to “the optimized resource portfolio that may have been in place absent the requirements of the RCPS” as the point of comparison for determining the incremental costs of an RCPS-compliant portfolio. Referencing the “but-for” optimized portfolio in this manner, rather than referencing a “least cost optimized portfolio” as the point of comparison, is essential for being able to identify the costs of the RCPS that are truly incremental to that policy. This is because defining incremental costs in such a manner allows for consideration of other Council policies (e.g., the 2% DSM goal, the Community Solar Rules) that may cause ENO to incur increased costs as compared to a “least cost” portfolio, but which are not truly incremental costs of implementing the RCPS and, as such, should not be considered a cost of compliance with the policy.

Framing the definition of incremental costs in this way will also provide flexibility for separately considering the costs of complying with other climate policies that may be adopted at a national/Federal level or meeting the voluntary commitments adopted by Entergy Corporation, as outlined above. While costs of compliance with these policies may further the same goals of the RCPS, such costs would not be incurred *because of* the RCPS and, as such, should not be viewed as incremental costs of the RCPS. Given the potential for variability in policies adopted by the Council or other entities that may affect ENO’s resource planning decisions, identifying the optimized portfolio that may have been adopted but for the RCPS will require utilizing a holistic and comprehensive process that allows for consideration of the effects of such policies. The IRP provides this comprehensive framework and the Proposed Rules, as currently drafted, appear to provide the flexibility necessary for analyzing the true costs of RCPS compliance and helping to ensure that those costs do not exceed the limits identified in Resolution No. R-20-104.

IV. Cost Recovery

Section 6 of the Proposed Rules, Cost Recovery, appears, at a high level, to comport with the Prudent Investment rule that governs utilities under Louisiana law.¹⁹ However, Section 6(a)(2) contains language that could be interpreted to be at odds with the law governing cost recovery, and regulation thereof. ENO suggests the following minor modification to address the issue:

2. 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~~ imprudent, in which case, ENO shall not recover the cost of the ACP from Customers.

This change would both comport with Louisiana law and achieve consistency with the language of Section 6(a)(1) of the Proposed Rules, which correctly references the Prudent Investment standard.

¹⁹ See, e.g., *Gulf States Utils. Co. v. La. Pub. Serv. Comm’n*, 578 So. 2d 71, (La. 1991); *So. Cent. Bell Tel. Co. v. La. Pub. Serv. Comm’n*, 594 So. 2d 357, (La. 1992); *Central Louisiana Electric Co. v. LPSC*, 508 So. 2d 1361 (La. 1987).

Section 6(b), which discusses the Customer Protection Cost Cap, should add clarification about the treatment of the costs of banked RECs, which are acquired in one year but retired towards RCPS compliance in a different year. Specifically, ENO seeks confirmation that the costs of RECs purchased and banked for subsequent use will be recovered and count against the cost cap in the compliance year in which they are retired. To do otherwise – to apply the costs to the cost cap in the year that the banked RECs are acquired – could inhibit ENO’s ability to develop its compliance bank. To bridge the gap between purchase and cost recovery of banked RECs, ENO believes the Proposed Rules should confirm that the acquisition costs of purchased RECs that are banked for subsequent use will be treated as part of working capital for ratemaking purposes.

V. Compliance Reporting

Because the Proposed Rules would require ENO to file an Initial RCPS Compliance Plan within 90 days of the adoption of RCPS rules, ENO believes it is important to illustrate its interpretation of how it would structure its prospective compliance plan and, after the compliance year is over, how it would demonstrate retrospective RCPS compliance. In order to illustrate its interpretation of the reporting requirements for prospective RCPS planning and retrospective compliance demonstration, ENO has created simplified mock reports for several sample, hypothetical compliance scenarios. In the process of describing these scenarios, ENO will memorialize its understanding of:

- How it would calculate the RECs and CECs its existing and planned resources are expected to provide (*i.e.*, its “base case”). This includes an assessment of which resources qualify as Tier 1, Tier 2, or Tier 3 resources and the calculation of its potential incremental REC/CEC needs;
- How it could propose to meet its REC/CEC gap in a prospective compliance plan;
- How it could ultimately achieve compliance. ENO will need to do more than simply execute the resource or REC procurements identified in its compliance plan; it will need to adapt its plan as the actual values of parameters like retail sales or resource output vary from planned values. While the compliance plan is configured based on a forward-looking assessment, ENO’s compliance demonstration is tied to the prevailing conditions during the compliance year; and
- How various RCPS elements such as the cost cap, credit multipliers, Retail Compliance Load, etc., would be defined and would interact.

Because three-year compliance plans are filed on a prospective basis but RCPS compliance is assessed based on actual results that are not known until the end of the compliance year (*e.g.*, retail sales, resource performance, etc.), ENO will ultimately vary from its preapproved plan in some fashion, as these examples show. To help illustrate the complications the Rules must provide for to accommodate both the Council’s prospective approval of RCPS compliance plans and retrospective review of actual compliance, ENO offers the following examples.

To make these illustrative examples as useful as possible, generic estimates are used for many parameters such as annual generation from clean energy resources, total ENO sales and revenues, potential ENO compliance portfolios, costs of various compliance options, etc. These figures and assumptions are only meant for illustrative purposes; they do not represent

commitments from ENO and may not reflect ENO’s current outlook on forecasted values for these parameters.

a. Potential ENO 2022 Clean Energy Position (Base Case)

ENO’s existing portfolio contains resources that are projected to provide over 3.7 million CECs and RECs in 2022, including the impact of Tier 2 multipliers for which some of its solar facilities are eligible. With a projected retail compliance load of approximately 6.1 million megawatt-hours, ENO would need to secure approximately 166,000 additional RECs or CECs in 2022 to achieve a 64% RCPS compliance position.

Illustrative 2022 Base Case (Table 2)

2022 ENO Clean Energy Position				
ENO Clean Energy Resources				
Resource	Assumed Capacity Factor	MWhs	Multiplier	CECs or RECs
Nuclear Resources	90.8%	3,336,138	1.00	3,336,138
Hydro Resources	49.6%	9,105	1.00	9,105
Paterson Solar	20.0%	1,752	1.25	2,190
Comm. and Res. Rooftop DG Solar	20.0%	8,760	1.25	10,950
New Orleans Solar Station	27.2%	47,654	1.25	59,568
St. James and Iris Solar PPAs	27.2%	166,790	1.00	166,790
EnergySmart Reductions, 2021-22		177,000	1.00	177,000
Beneficial Electrification, 2021-22		0	1.50	0
Projected Total RECs and CECs				3,761,741
Projected ENO Retail Sales (MWh)				5,960,000
Projected Energy Efficiency (from Measures Implemented 2021-22)				177,000
Proj. Beneficial Electrification (from Measures Implemented 2021-22)				0
Projected ENO Retail Compliance Load (MWh)				6,137,000
2022 RCPS Compliance Requirement (%)				64.0%
2022 RCPS Compliance Requirement (RECs + CECs)				3,927,680
Projected Total RECs and CECs				3,761,741
RECs + CECs Excess/(Shortfall)				(165,939)

The lines labeled “EnergySmart Reductions, 2021-22” and “Beneficial Electrification, 2021-22” represent the single-year impact to illustrative 2022 retail sales of measures installed after January 1, 2021. The following Hypotheticals 1 and 2 explore how ENO could achieve compliance for 2022 starting from this Base Case.

b. Hypothetical Compliance Strategy 1 – Electrification and Purchased RECs

One approach to compliance is to pursue a mix of beneficial electrification and purchased unbundled RECs (in addition to achieving the EE reductions planned in the EnergySmart

program). Starting from the Base Case shown in Section V.a., above, assume that electrification of an industrial process at a large customer’s facility is pursued. ENO could file the prospective Compliance Plan for 2022 shown in Table 3, below:

**Illustrative 2022 Prospective Compliance Plan
Hypothetical 1—Electrification and Purchased RECs (Table 3)**

2022 ENO Clean Energy Position

ENO Clean Energy Resources			
Resource	MWhs	Multiplier	CECs or RECs
Nuclear	3,336,138	1.00	3,336,138
Hydro	9,105	1.00	9,105
In-Parish Solar	58,166	1.25	72,708
Out-of-Parish Solar	166,790	1.00	166,790
EnergySmart Reductions, 2021-22	177,000	1.00	177,000
Beneficial Electrification, 2021-22	0	1.50	0
Incremental EE (beyond EnergySmart)		1.25	0
Electrification (Industrial Customer)	80,000	1.50	120,000
New 50 MW Solar Project		1.00	0
Purchased RECs	45,939	1.00	45,939
Projected Total RECs and CECs			3,927,680

Incremental Costs of Proposed New Resources		
Resource	\$/MWh	\$MM
Incremental EE		
Electrification (Industrial Customer)		\$3.0
New 50 MW Solar Project		
Purchased RECs	\$2.00	\$0.1

Projected ENO Retail Sales (MWh)	6,040,000
Projected EE (from Measures Implemented 2021-22)	177,000
Proj. Ben. Electrification (from Measures Impl. 2021-22)	80,000
Projected ENO Retail Compliance Load (MWh)	6,137,000

2022 RCPS Compliance Requirement (%)	64.0%
2022 RCPS Compliance Requirement (RECs + CECs)	3,927,680
Projected Total RECs and CECs	3,927,680
RECs + CECs Excess/(Shortfall)	0

Projected ENO Retail Revenues (\$MM)	\$604
Proj. Customer Protection Cost Cap (\$MM)	\$6.04
Incremental Costs of Compliance Portfolio	\$3.09
Amount Above/(Below) Cost Cap	(\$2.95)

This plan would be projected to remain under the Customer Protection Cost Cap based on these generic estimates of the cost of purchased RECs and the net cost of electrification (that is, the annualized cost of implementing the electrification project net of the retail revenue collected by ENO from the electrified MWh).

Undoubtedly, the actual conditions experienced in a year will differ from the prospective compliance plan. Retail sales and resource output, for example, may be somewhat higher or lower than projected. Still, after completion of the compliance year, ENO will be required to demonstrate that it has complied with the RCPS based on the actual system conditions, despite having no way of knowing what those actual conditions will be when seeking Council approval of compliance strategies in advance.

Suppose, for example, that the level of generation across all existing renewable and clean resources was lower than projected by about 100,000 RECs/CECs and that retail sales were slightly higher than projected. ENO would need to procure more incremental RECs and CECs than projected, to the extent that doing so would not violate the cost cap. If ENO had previously developed a compliance bank and if its compliance plan did not already account for all the banked credits, it could utilize additional banked credits. Since this illustrative example is centered on the first year of the RCPS, ENO would not have that option available. Table 4, below, represents an

illustrative scenario in which ENO is able to purchase additional unbundled RECs to meet the 64% RCPS standard for the 2022 compliance year.

**Illustrative 2022 Retrospective Compliance Demonstration Report
Hypothetical 1—Electrification and Purchased RECs (Table 4)**

2022 ENO Clean Energy Position

ENO Clean Energy Resources			
Resource	MWhs	Multiplier	CECs or RECs
Nuclear	3,262,655	1.00	3,262,655
Hydro	8,077	1.00	8,077
In-Parish Solar	53,261	1.25	66,576
Out-of-Parish Solar	153,300	1.00	153,300
EnergySmart Reductions, 2021-22	177,000	1.00	177,000
Beneficial Electrification, 2021-22	0	1.50	0
Incremental EE (beyond EnergySmart)		1.25	0
Electrification (Industrial Customer)	80,000	1.50	120,000
New 50 MW Solar Project		1.00	0
Purchased RECs	172,072	1.00	172,072
Total RECs and CECs			3,959,680

Incremental Costs of Proposed New Resources		
Resource	\$/MWh	\$MM
Incremental EE		
Electrification (Industrial Customer)		\$3.0
New 50 MW Solar Project		
Purchased RECs	\$2.00	\$0.3

ENO Retail Sales (MWh)	6,090,000
Energy Efficiency (from Measures Implemented 2021-22)	177,000
Beneficial Electrification (from Measures Impl. 2021-22)	80,000
ENO Retail Compliance Load (MWh)	6,187,000

2022 RCPS Compliance Requirement (%)	64.0%
2022 RCPS Compliance Requirement (RECs + CECs)	3,959,680
Total RECs and CECs	3,959,680
RECs + CECs Excess/(Shortfall)	0

ENO Retail Revenues (\$MM)	\$609
Customer Protection Cost Cap (\$MM)	\$6.09
Incremental Costs of Compliance Portfolio	\$3.34
Amount Above/(Below) Cost Cap	(\$2.75)

Purchased RECs would account for 4% of compliance in this scenario, well below the 25% maximum for 2022.

c. Hypothetical Compliance Strategy 2 – Grid Scale Solar and Purchased RECs

Another compliance strategy starting from the Base Case shown in Section V.a., above, could involve acquiring a 50 MW grid-scale solar facility and using purchased RECs to fulfill any remaining compliance shortfall. For this example, we assume that the incremental cost for the compliance portfolio in 2022 is \$3 million. This prospective compliance plan is summarized below.

**Illustrative 2022 Prospective Compliance Plan
Hypothetical 2 – Grid Scale Solar and Purchased RECs (Table 5)**

2022 ENO Clean Energy Position

ENO Clean Energy Resources			
Resource	MW/hs	Multiplier	CECs or RECs
Nuclear	3,336,138	1.00	3,336,138
Hydro	9,105	1.00	9,105
In-Parish Solar	58,166	1.25	72,708
Out-of-Parish Solar	166,790	1.00	166,790
EnergySmart Reductions, 2021-22	177,000	1.00	177,000
Beneficial Electrification, 2021-22	0	1.50	0
Incremental EE (beyond EnergySmart)		1.25	0
Electrification (Industrial Customer)		1.50	0
New 50 MW Solar Project	119,136	1.00	119,136
Purchased RECs	46,803	1.00	46,803
Projected Total RECs and CECs			3,927,680

Incremental Costs of Proposed New Resources		
Resource	\$/MWh	\$MM
Incremental EE		
Electrification (Industrial Customer)		
New 50 MW Solar Project		\$3.0
Purchased RECs	\$2.00	\$0.1

Projected ENO Retail Sales (MWh)	5,960,000
Projected EE (from Measures Implemented 2021-22)	177,000
Proj. Ben. Electrification (from Measures Impl. 2021-22)	0
Projected ENO Retail Compliance Load (MWh)	6,137,000

2022 RCPS Compliance Requirement (%)	64.0%
2022 RCPS Compliance Requirement (RECs + CECs)	3,927,680
Projected Total RECs and CECs	3,927,680
RECs + CECs Excess/(Shortfall)	0

Projected ENO Retail Revenues (\$MM)	\$596
Proj. Customer Protection Cost Cap (\$MM)	\$5.96
Incremental Costs of Compliance Portfolio	\$3.09
Amount Above/(Below) Cost Cap	(\$2.87)

As with the previous Hypothetical 1, this section will consider the compliance pathways if existing resources produce slightly fewer RECs and CECs than projected and retail sales are slightly higher than projected.

In the Table 6 example below, ENO has purchased the 50 MW solar project contemplated in the prospective compliance plan but determines after the fact that it still requires additional RECs to achieve compliance for the year. Here, ENO is able to purchase additional RECs at a reasonable price and can comply with the 64% RCPS standard for 2022 without exceeding the cost cap.

**Illustrative 2022 Retrospective Compliance Demonstration Report
Hypothetical 2 – Grid Scale Solar and Purchased RECs (Table 6)**

2022 ENO Clean Energy Position

ENO Clean Energy Resources			
Resource	MWhs	Multiplier	CECs or RECs
Nuclear	3,262,655	1.00	3,262,655
Hydro	8,077	1.00	8,077
In-Parish Solar	53,261	1.25	66,576
Out-of-Parish Solar	153,300	1.00	153,300
EnergySmart Reductions, 2021-22	177,000	1.00	177,000
Beneficial Electrification, 2021-22	0	1.50	0
Incremental EE (beyond EnergySmart)		1.25	0
Electrification (Industrial Customer)		1.50	0
New 50 MW Solar Project	119,136	1.00	119,136
Purchased RECs	172,936	1.00	172,936
Total RECs and CECs			3,959,680

Incremental Costs of Proposed New Resources		
Resource	\$/MWh	\$MM
Incremental EE		
Electrification (Industrial Customer)		
New 50 MW Solar Project		\$3.0
Purchased RECs	\$2.00	\$0.3

ENO Retail Sales (MWh)	6,010,000
Energy Efficiency (from Measures Implemented 2021-22)	177,000
Beneficial Electrification (from Measures Impl. 2021-22)	0
ENO Retail Compliance Load (MWh)	6,187,000

2022 RCPS Compliance Requirement (%)	64.0%
2022 RCPS Compliance Requirement (RECs + CECs)	3,959,680
Total RECs and CECs	3,959,680
RECs + CECs Excess/(Shortfall)	0

ENO Retail Revenues (\$MM)	\$601
Customer Protection Cost Cap (\$MM)	\$6.01
Incremental Costs of Compliance Portfolio	\$3.35
Amount Above/(Below) Cost Cap	(\$2.66)

On the other hand, it might not be possible to acquire sufficient additional RECs or CECs to meet the 64% RCPS standard while also remaining below the cost cap. For example, Table 7, below, shows an illustrative compliance scenario where ENO has purchased the 50 MW solar project identified in its prospective compliance plan and determines after the fact in its retrospective compliance report that it needs additional RECs to comply for 2022. But here, purchased RECs are more costly than previously assumed, so ENO reaches the cost cap without meeting the 64% RCPS standard for 2022, as shown below.

**Illustrative 2022 Retrospective Compliance Report
Hypothetical 2 – Grid Scale Solar and Purchased RECs (Table 7)**

2022 ENO Clean Energy Position

ENO Clean Energy Resources			
Resource	MWhs	Multiplier	CECs or RECs
Nuclear	3,262,655	1.00	3,262,655
Hydro	8,077	1.00	8,077
In-Parish Solar	53,261	1.25	66,576
Out-of-Parish Solar	153,300	1.00	153,300
EnergySmart Reductions, 2021-22	177,000	1.00	177,000
Beneficial Electrification, 2021-22	0	1.50	0
Incremental EE (beyond EnergySmart)		1.25	0
Electrification (Industrial Customer)		1.50	0
New 50 MW Solar Project	119,136	1.00	119,136
Purchased RECs	150,500	1.00	150,500
Total RECs and CECs			3,937,244

Incremental Costs of Proposed New Resources		
Resource	\$/MWh	\$MM
Incremental EE		
Electrification (Industrial Customer)		
New 50 MW Solar Project		\$3.0
Purchased RECs	\$20.00	\$3.0

ENO Retail Sales (MWh)	6,010,000
Energy Efficiency (from Measures Implemented 2021-22)	177,000
Beneficial Electrification (from Measures Impl. 2021-22)	0
ENO Retail Compliance Load (MWh)	6,187,000

2022 RCPS Compliance Requirement (%)	64.0%
2022 RCPS Compliance Requirement (RECs + CECs)	3,959,680
Total RECs and CECs	3,937,244
RECs + CECs Excess/(Shortfall)	(22,436)

ENO Retail Revenues (\$MM)	\$601
Customer Protection Cost Cap (\$MM)	\$6.01
Incremental Costs of Compliance Portfolio	\$6.01
Amount Above/(Below) Cost Cap	\$0.00

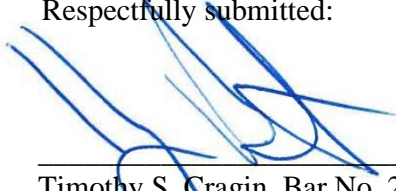
Of course, if the predetermined level of the alternative compliant payment (“ACP”) was less costly than these purchased RECs, ENO would pay the ACP up and until either the 64% RCPS level or the cost cap was reached.

The issues raised in this section, and many other issues, will need to be assessed as ENO develops and files, and as the Council and Advisors evaluate, ENO’s first Compliance Plan. ENO hopes the illustrative examples provided above can be a start toward assessing, and achieving clarity around, the complexities that can and will arise during implementation of the RCPS policy.

VI. Conclusion

ENO believes that, to date, the Council and all parties have made excellent progress toward developing a framework for a technology-neutral RCPS policy that will allow for a continued reduction of the carbon emissions associated with electric service, as well as other essential services in New Orleans, while also continuing to maintain low rates for electric service. The clarifying language ENO discusses in these Comments is intended to further these objectives, as adopted by the Council in Resolution No. R-20-104. ENO looks forward to reviewing comments from other parties related to the Proposed Rules and hopes to continue working with all stakeholders in a productive manner as the Council nears adoption of a final version of the Proposed Rules.

Respectfully submitted:



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CERTIFICATE OF SERVICE

Docket No. UD-19-01

I hereby certify that I have served the required number of copies of the foregoing report upon all other known parties of this proceeding, by the following: electronic mail, facsimile, overnight mail, hand delivery, and/or United States Postal Service, postage prepaid.

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New Orleans, Louisiana, this 28th day of September, 2020.



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