

July 7, 2023

**VIA ELECTRONIC MAIL** (*lwjohnson@nola.gov*)

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

In Re: *Resolution and Order Establishing a Docket and Opening a  
Rulemaking Proceeding to Establish Rules for Community Solar  
Projects, CNO Docket UD-18-03*  
Our File No.: 7717-42

Dear Ms. Johnson:

Enclosed please find for electronic filing, Air Products and Chemicals, Inc.'s ("Air Products") Reply Comments on Proposed Changes to Community Solar Rules in the referenced docket. As confirmed with your office today, the requisite original and number of hard copies are not mandatory to formalize this filing in the docket.

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

Very truly yours,



Carrie R. Tournillon

CRT/tp  
Enclosure

cc: Official Service List UD-18-03 (via electronic mail)

**BEFORE THE  
NEW ORLEANS CITY COUNCIL**

**IN RE: RESOLUTION AND ORDER  
ESTABLISHING A DOCKET AND  
OPENING A RULEMAKING  
PROCEEDING TO ESTABLISH RULES  
FOR COMMUNITY SOLAR  
PROJECTS.**

**DOCKET NO. UD-18-03  
July 7, 2023**

**AIR PRODUCTS AND CHEMICALS, INC.  
REPLY COMMENTS ON PROPOSED CHANGES TO  
COMMUNITY SOLAR RULES**

Air Products and Chemicals, Inc. (“Air Products”) respectfully submits these reply comments pursuant to Resolution R-23-130 of the Council of the City of New Orleans (“Council”) to respond to comments filed by stakeholders on June 16, 2023, regarding potential changes to Community Solar Rules initially adopted by the Council in March 2019. Air Products does not support the changes to the Council’s Community Solar Rules that have been proposed by several parties and that would serve to further burden non-participating customers of Entergy New Orleans, LLC (“ENO”) with costs of a providing solar power to other ENO customers. Parties who are advocating for these changes submit that the question is whether the Community Solar Rules are working to promote development of community solar garden (“CSG”) projects. However, that question only leads to greater subsidies in order to force a program into existence and increase electricity costs for other non-participating customers. Rather, the question should be whether the Community Solar Rules strike

a reasonable balance between promoting CSG projects and protecting ENO ratepayers from unreasonable costs.

### **Costs to Non-Participants Should Not Be Increased**

Air Products objects to changes proposed by parties that will increase costs to non-participants. As ENO demonstrated in its additional comments dated June 16, 2023, under the current Subscriber credit rates the cost of a portfolio of CSG projects totaling 55 MW-AC would result in approximately \$5.9 million in net costs to be borne by all ENO electric customers - - including non-participants - - over an initial two-year period, which does not include costs that would be associated with billing and customer service. This amounts to approximately \$29.5 million over a 10-year PPA term and approximately \$59 million over a twenty-year PPA term - - which would be recovered from all customers (participating and non-participating) through ENO's fuel adjustment clause ("FAC"). And if the Council were to authorize higher credits and/or incentives for Subscribers or expand the customers eligible to receive credits based on full retail rates, the costs of developing CSG projects would be even more expensive, unfairly burdening non-participants. Air Products agrees with ENO's opposition to changes that would increase those costs to ENO customers who do not participate in the program.

In 2018, the Community Solar credit rate and cost recovery were highly debated.<sup>1</sup> Regarding the credit rate, the Council determined that minimizing the rate

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<sup>1</sup> In addition to the amount of the credit rate, issues of cost recovery of the credit rate from non-participating customers and manner of recovery (kW versus kWh) were also debated.

impact on ENO's non-participating customers should be a goal of the Subscriber Credit pricing mechanism.<sup>2</sup> Thus, the compromise was to allow low-income customers to receive full retail rates; other customers were allowed rate credits based on the MISO Locational Marginal Prices ("LMPs") at the ENO Load Zone. Likewise the Council rejected use of financial incentives paid for by other ENO customers, and suggested that non-profit organizations and other community benefit groups could work with low-income customers to subsidize their participation in CSG projects.<sup>3</sup>

The Council should again reject attempts by parties to require ENO customers to subsidize other customers. Proposals to increase credits to full retail rates for all participating customers, to expand the customers eligible to receive full retail rates, and to create financial incentives for low-income customers should be rejected. There is no support for how such changes would maintain a reasonable balance between promoting Community Solar and protecting ratepayers from unreasonable costs.<sup>4</sup>

Likewise, eliminating the 20 percent cap on ENO's responsibility for unsubscribed CSG projects should be rejected. This cap was implemented to protect ENO customers from cost impacts of unsubscribed CSG projects and what would

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<sup>2</sup> Resolution R-19-111 at 46 (March 28, 2019)

<sup>3</sup> Resolution R-19-111 at 14-15 (March 28, 2019).

<sup>4</sup> Air Products notes that a significant concern of the Advisors in the initial proceeding was the potential impact of a set-aside of CSG capacity for low-income customers on the success of a community solar program. *See* Resolution R-19-111 at 7-12 (March 28, 2019). However, based on stakeholder comments in the initial proceeding, the Advisors increased the percent of capacity of CSG projects set aside for Low-Income Subscribers, resulting in the Council's Community Solar Rules having the second highest low-income set aside in the country at the time of adoption of the Rules. *See* Resolution R-19-111 at 12 (March 28, 2019). Yet, this important concern in developing the Community Solar Rules has not been raised by parties seeking as a potential factor in the lack of any CSG projects developed to date; rather the focus has been on the amount of credits.

amount to a guaranteed PPA for developers.<sup>5</sup> There is no support in the record that such cap should be eliminated or that such customer protection is not needed.

Further, increasing ENO's administrative costs only increases costs to non-participants who have to pay for such costs in their retail rates. And use of the proposed consolidated billing appears to put the financial risk of a Subscriber defaulting on its Subscription payments on ENO, and therefore potentially ENO's customers, and should be rejected. A Subscriber Organization should be responsible for collecting its Subscription payments and issuing credits to its Subscribers.

### **ENO's Proposed Low-Income "Pilot" Program Is Not a Pilot Program**

In its Additional Comments dated June 16, , 2023, ENO proposes implementation of a low-income pilot program if the Council wants to evaluate Community Solar projects with 20-year terms. However, pilot programs are in place for short periods of time, typically around 3 years, to test a program. Whereas, the low-income program proposed by ENO would have a 20-year term, and thus is not a "pilot" program. Air Products suggests that if the Council wishes to evaluate a Community Solar program with a 20-year term, the Council could require ENO to issue a request for proposal ("RFP") for a Community Solar program with a 20-year term and for a limited number of MWs, to allow for evaluation of the projects bid into the RFP, including with respect to cost impacts. However, there should be no requirement for ENO to select a project if there is not a project that strikes an

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<sup>5</sup> Resolution R-19-111 at 47-150 (March 28, 2019).

appropriate balance between promoting Community Solar and protecting customers from unreasonable costs.

### **Community Solar Should Count Towards RCPS Compliance**

Air Products supports positions of ENO and the Alliance for Affordable Energy that there should be some consideration of renewable energy credits (“RECs”) generated by CSG project in ENO’s Renewable and Clean Portfolio Standard compliance requirements - - either through an ability to count RECs from CSG projects towards ENO’s RCPS compliance requirement or through a carve out for locally generated RECs.

RESPECTFULLY SUBMITTED:



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon all known parties of record via electronic mail.

New Orleans, Louisiana this 7<sup>th</sup> day of July, 2023.



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Carrie R. Tournillon