

March 1, 2024

BY ELECTRONIC MAIL

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

Re: Resolution and Order Providing Guidance and Establishing Procedural Deadlines with Respect to Continued Efforts to Encourage Development of Electric Vehicle Charging Infrastructure and Electric Vehicle Adoption - Council Docket UD-18-01

Dear Ms. Johnson:

Enclosed please find the *Initial Advisors' Report* for filing in the above referenced docket. Please file the enclosed document and this letter in the record of this proceeding in accordance with your current procedures.

Sincerely,

/s Jay Beatmann

Jay Beatmann
Counsel

JAB/dpm
Enclosures

cc: Official Service List

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

NO. R-23-396

**RESOLUTION AND ORDER PROVIDING GUIDANCE AND ESTABLISHING
PROCEDURAL DEADLINES WITH RESPECT TO CONTIUNED EFFORTS TO
ENCOURAGE DEVELOPMENT OF ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE AND ELECTRIC VEHICLE ADOPTION**

DOCKET UD-18-01

INITIAL ADVISORS' REPORT

I. Background:

In Council Resolution No. R-18-100 the New Orleans City Council (“Council”) determined that the “use of electric vehicles is in the public interest and is consistent with earlier Council resolutions.”¹ The Council also determined that electric vehicle (“EV”) charging hosts and providers who purchased electricity from a regulated utility and charged EV owners to charge their vehicles were not considered public utilities under the City Charter and the Code of City Ordinances and, therefore, were not subject to utility regulation by the Council. However, that Resolution did not address any matters related to EV charging hosts and providers powered by alternative means.

Additionally, Council Resolution No. R-18-100, established Council Utility Docket No. UD-18-02 to consider “other regulatory matters related to electric vehicles and electric vehicle

¹ See, e.g., Council Resolutions R-17-428 (Resolution Regarding Climate Action for a Resilient New Orleans Strategy) and R-17-303 (Resolution supporting the Paris Agreement).

charging stations...,” beyond the “limited issue” addressed in the Resolution.² Subsequently, in Resolution No. R-18-537, the Council ordered an expansive and ongoing information gathering process to “provide the Council with the maximum amount of information to make the broadest and most comprehensive evaluation of electric vehicles and electric vehicle charging matters to develop sound policy decisions....” This ongoing process has produced several other EV and EVCI related resolutions, all directed toward encouraging broader and more rapid EV adoption in the city.

In Council Utility Docket No. UD-18-07 (“2018 Rate Case”) the Council approved an Electric Vehicle Charging Infrastructure Rider (“EVCI Rider”) that allowed ENO to construct, own, and operate electric vehicle charging infrastructure on customers’ property and recover the costs over ten (10) years. The Council also authorized ENO to invest \$500,000 in 30-50 free-to-use electric vehicle chargers located on public property after determining siting locations through a stakeholder process.

Subsequently, in Council Resolution No. R-23-75, the Council granted ENO’s “Request to Modify its Electric Rate Schedules to Expand Access to Electric Vehicle Charging Infrastructure in the City of New Orleans” and approved the “Electric Vehicle Charging Demand Adjustment Rate Schedule (“EVCDA Rider”)” both to increase EV charging infrastructure to facilitate the faster, broader adoption of electric vehicles. In July 2022, ENO filed an additional request for approval of a public direct current fast charging (“DCFC”) station project (“DCFC Project”) for the expressed purpose of promoting EV adoption.

² Matters relating to electrical vehicle charging infrastructure (“EVCI”) have been addressed in Council Utility Docket No. UD-18-01 (Smart Cities and Grid Modernization), Council Docket UD-18-02 (Electric Vehicles – which merged with Council Docket UD-18-01 in Resolution R-18-536), and Council Docket UD-18-07 (“2018 Rate Case”).

Specifically, under the proposed project ENO would invest up to \$3 million to construct and own five (5) DCFC stations, locating one in each Council district and one in the parking lot of the Walmart Supercenter on Bullard Road in New Orleans East, which station might also be eligible for funding under the Infrastructure and Investment Jobs Act (“IIJA”). However, before the Council acted on the request, ENO filed a motion to delay consideration due to the withdrawal of interest by Walmart Supercenter on Bullard Avenue, which ENO called a “material change in circumstances.” ENO requested an “opportunity to rework its DCFC Station Request and to submit an amended DCFC Station Request when, and if, other suitable sites can be identified in the City.” However, no amended DCFC Project request was filed prior to the instant procedural schedule being instituted, nor since that time.

The withdrawal of ENO’s DCFC application, along with the fact, confirmed by ENO, that New Orleans has no publicly available DCFC chargers, prompted the instant procedural schedule and guidance by the Council. Specifically, in addition to “updates and detailed information” on the status of all ENO EV and EVCI matters, the Council stressed the following areas for “particular emphasis” by the parties:

1. To what extent should entities other than ENO be allowed/encouraged to invest in and operate EVCI within the city?
2. What obstacles to such private entity participation can be identified and how can they be removed or minimized?
3. Given the vast technological changes spawned by electric vehicles and electric vehicle charging infrastructure needs, what is the appropriate regulatory model, if any, to accomplish the Council’s oft-stated goal of facilitating and encouraging EVCI development and EV adoption?

Only the Alliance for Affordable Energy (“AAE”) and the CNO Office of Resilience and Sustainability (“CNO Resiliency Office”) intervened and participated in the instant procedural schedule.

II. Updates on Existing ENO EV and EVCI Programs

1. Docket No. UD-18-07 (“2018 Rate Case”)

The 2018 Rate Case Resolution approved \$500,000 for ENO to develop, own, and operate Level 2 chargers free to use by the public and located at sites developed with stakeholder input. The process identified twenty-five (25) sites to locate thirty-one (31) chargers with sixty-one (61) plugs. The first charger was located at NORDC Pontchartrain Park in August 2022. As of September 2023, all 25 sites are completed with the last being across from City Hall on Perdido Street.³

ENO has reported that utilization exceeded expectations with the first year seeing 17,500 charging sessions with as many as 100 unique drivers accessing the sites in a day. These ENO Level 2 stations are part of the Charge Point network, which allows for data collection and rapid modifications to make EV charging more user-friendly and efficient.

ENO has noted that the major user complaint is drivers leaving vehicles well past completion of charging session rendering many stations needlessly unavailable.⁴

³ ENO noted that permitting proved to be a challenge in completing the project with sixty-eight (68) separate permits being required. ENO filed suggestions to streamline the permitting process, which will be addressed below.

⁴ ENO notes, and the Advisors agree, that this problem is caused by the lack of idle fee charges, which eliminates the incentive to remove vehicles in a timely fashion. ENO has separately applied to institute idle fees, which will be addressed below.

2. ENO's eTech Incentive Program

Originally, eTech incentives were intended to encourage beneficial electrification projects by customers. More recently, ENO is adapting the program to focus more on EVCI and EV adoption as seen in the current incentive chart.

Revised residential and non-residential EV eTech incentives as of October 1, 2023⁵

Type of EV Charger	Cash Incentive
Residential Level 2	\$250
Residential Level 2 w/enrollment in behavioral charging program	\$350
Residential Level 2 Pre-Wire	\$150 per circuit
Level 2 (Workplace/Fleet/Public/MUD*)	\$1,000 per port
Level 2 in Disadvantaged Community (Workplace/MUD*/Public)	\$2,500 per port
Commercial Level 2 Pre-Wire	\$200 per circuit
Public & Fleet DCFC 150 kW and above	\$12,500 per port
Public & Fleet DCFC 51 kW to 149 kW	\$5,000 per port
Public & Fleet DCFC up to 50 kW	\$2,500 per port
Private Network DC chargers – all power levels	\$2,500 per port
Max \$25,000 per project for Level 2 chargers and \$50,000 for DC chargers	

* Multi-unit dwelling (e.g., apartments, condominiums).

The incentives are available to residential and commercial customers, although current use of the incentives is higher among residential customers, with eTech rebates increasing from five (5) in 2018 to eighty-eight (88) through June 2023 for a total of 316. Commercial rebates for the same period increased from zero (0) to ten (10) for a total of 18. The new incentive schedule has only been in place since October 1, 2023; however, ENO is relying heavily on the new

⁵ Figure 3 from ENO Comments, October 9, 2023, in response to Resolution R-23-396.

incentives, especially for DCFC chargers. ENO asserts that the new incentives “for DC fast charging projects reflects the Company’s current focus on spurring development of such projects in New Orleans to help meet an obvious need for fast charging infrastructure here.”

3. EVCI-2 Rider and EVCDA Rider Effects on EV Infrastructure and Adoption

Both Riders were proposed by ENO and approved by the Council as a means to adjust certain rate schedules to encourage the development of EV infrastructure, especially by commercial ratepayers for use by their customers. However, ENO reports that there have been no adoptions under either Rider. ENO still believes they will serve their original purpose over time.

4. DC Fast Charging Project Update

ENO is no longer pursuing its proposed DCFC Project to build five DCFC stations across the city. With limited explanation ENO reports that:

Recognizing that New Orleans still has a clear need for public, non-proprietary DC fast charging infrastructure, ENO has shifted its focus to incenting investments in EV fast charging infrastructure and equipment through eTech incentives and the EVCI-2 Rider. If ENO identifies additional interested host sites for the proposed DCFC Projects in the future, it will engage the Council and Advisors to discuss options for revisiting the original application.

5. Other ENO Offerings

ENO notes several EV-related initiatives all of which are publicly reported and known to the Council:

1. Bring Your own Charger EV Pilot. Conducted through the Energy Smart Program, and launched on July 18, 2023, the pilot creates

incentives for residential customers to charge vehicles overnight weekdays between 9 p.m. and 6 a.m., to shift EV charging to off-peak hours. The incentive is a \$ 7.00 per month bill credit paid quarterly. As of October 1, 2023, there are 100 participants. The program runs through December 31, 2024.

2. Vehicle-to-Grid (V2G). Done in partnership with First Student, the largest school transportation company in North America. ENO will provide new electric service to support installation of five (5) chargers with V2G capabilities. First Student will provide five (5) electric buses that will have the ability to transfer energy back to the grid when called for through Energy Smart’s Commercial Demand Response Program.

III. Summary of Parties’ Comments Pursuant to Resolution R-23-396

ENO, AAE, and CNO Resiliency Office all participated in the two technical conferences and submitted some level of comments.

ENO Comments

ENO indicated that it is shifting much of its EV-related focus to customer outreach especially for large fleet customers with a goal to develop a “...systematic campaign to share information and education with large fleet customers...” ENO says it also uses “daily interactions with customers to learn how ENO can support their transportation electrification needs...” ENO also reports that it is “tracking federal grant programs that may be available to...fleet customers.” ENO further states that it is “actively meeting with national public charging providers to develop strategic partnerships...to increase DC Fast Charging (“DCFC”) availability in and around Orleans

Parish.” ENO commits to “access the available data and develop an annual reporting framework to be included each year in the public Distributed Energy Resource Report compliance filing....”

ENO suggests that it has “make ready” charging options for third-party hosts through 1) the Extension of Electric Service Policy; 2) the ECVI-2 Rider; and 3) the revised eTech incentives.

ENO noted significant issues with the city’s permitting process for the Level 2 Public EV Infrastructure Project and made suggestions to ameliorate that will be discussed below.

ENO also refers to its eTech incentives and their modest, but forward, progress at increasing EV adoption, at least among residential customers.

ENO specifically rejects the propriety of the sale of on-site generation for EV charging as a violation of “ENO’s exclusive franchise rights.”

AAE Comments

AAE endorses the Council’s overall goals of increasing EV charging infrastructure and EV vehicle adoption in the city. However, AAE urges the Council to focus on infrastructure investments and incentives around public transportation and city fleets. Further, AAE suggests that ENO should work with the Regional Transit Authority “to leverage as much federal funding as possible to electrify and expand the public bus fleet.”

AAE also expresses concern about the costs of eTech incentives and “make ready” investments for private EVCI hosts, including interconnection and transformer costs. AAE urges that “the Council should require more detail in the amount and calculation of these costs, and how they are calculated.” AAE also supports ENO’s accounting of EV revenue as operating revenue “to meet ENO’s annual revenue requirements without increasing residential costs.”

CNO Resiliency Office Comments

CNO Resiliency Office commented that the city submitted an application to the Federal Highway Administration's 2022/2023 Charging Infrastructure Grant Program that, if awarded, would support the city's plans to install fifty (50) new EV chargers throughout the city with at least eight (8) Level 2 chargers and two (2) DCFCs per each Council district. The city is seeking a consultant firm to help craft a "Transportation Electrification Roadmap and Implementation Plan." The consultant was due to be selected in December 2023.

IV. ENO's Application to Implement a Public Charging Idle Fee

On December 19, 2023, ENO filed for approval to implement a "Public Charging Electric Vehicle Rate Schedule (Schedule PCEV-1)" in response to user complaints about EV drivers leaving vehicles connected to chargers well beyond completion of charging. The proposed schedule is widely known as an "idle fee" and is used to encourage owners to promptly move a vehicle after the completion of a charging cycle. Initially, ENO proposes to continue its current policy of not charging a kilowatt hour rate, but to charge an idle fee of \$0.30 per minute after a thirty (30) minute grace period that begins after the vehicle is charged. The idle fee would be capped at \$30.00. The fee would be managed by the network host, which would monitor the times and provide the driver a warning before the fee is imposed. Revenues from the PCEV-1 would be paid to ENO and included in operating revenue. ENO proposes a reporting plan that would include utilization of charging equipment, kWh usage, and revenues received.

Because the rate would not be cost based ENO requests that it not be subject to riders (such as the Electric Formula Rate Plan Rider Schedule and the Fuel Adjustment Clause) except Retail Rate Rider Schedule R-3, and that ENO be allowed to make periodically "reasonable changes" to the rate and idle fee, with "due notice to the Council."

Only AAE commented, saying that the proposal “seems reasonable and the Alliance does not object to its implementation.”

V. Advisors’ Recommendations

1. DC Fast Charging

The Advisors are disappointed and concerned that ENO has abandoned its DCFC proposal without adequate explanation while admitting there still are no public DC fast charging stations available in the city. In its original application ENO acknowledged that the lack of any public DCFCs is a “serious gap in New Orleans EV infrastructure that could, if left unaddressed, limit opportunities for ENO’s customers to benefit from the rapidly developing EV market.” ENO also previously stated that “DCFC stations should enhance economic development and tourism in New Orleans,” and “help alleviate range anxiety and reduce another barrier to adoption.”

It has become axiomatic that the absence of DC fast charging in a city is a major barrier to EV adoption. Accordingly, the Advisors recommend that the Council direct ENO to do the following:

- a) Provide a detailed explanation of why it has abandoned its proposed DCFC Project and why its current incentives to third-parties (e.g., eTech, Rider EVCI-2, etc.) would overcome whatever factors caused ENO to abandon the DCFC Project.
- b) Propose a detailed DCFC rate schedule that would apply to third-party DCFC hosts.
- c) Provide a detailed explanation of why it believes its current EV schedules (e.g., Rider EVCI-2) constitute an adequate DCFC “make ready” program

that provides sufficient incentive and predictability to encourage third-party development, including estimated interconnection and other costs, and their proposed accounting mechanism.

- d) Propose a periodic detailed reporting format for reporting on ENO's efforts to encourage DCFC development, including, but not limited to, public transit and fleet electrification, DCFC "make ready" programs, and federal funding pursued/received.

2. eTech Incentives

The Advisors believe that although the eTech incentives have merit they have not proved to be overly successful, especially with respect to DCFC infrastructure. The new cash incentives, especially for DCFC (\$12,500 for every port of 150 kW and above), could be helpful. However, the Council should be vigilant about the socialization of these costs, especially as they increase with any success of the program.

Accordingly, the Council should direct ENO do the following:

- a) Periodically, but no less than semi-annually, provide the Council with a report detailing the current eTech budget for EV incentives, status of eTech EV incentives paid, and detailing the impact on the ratepayers.
- b) Report annually on the number, if any, of adoptions under Riders EVCI-2 and EVCDA.

3. Idle Fees

ENO's proposed "Public Charging for Electric Vehicles Rate Schedule (Schedule PCEV)" providing for idle fees to discourage drivers from overstaying at public chargers is reasonable and should be adopted with one modification. ENO proposes

that it could “make reasonable changes to the rate...with due notice to the Council.” Because this is entirely new territory and there is a lack of accumulated data, any changes merit more careful review. Therefore, the Advisors recommend that Council approval should be required for a change in the rates.

4. Other ENO Offerings

ENO has reported on other EV-related matters that do not always fall within specific dockets or reporting requirements (e.g., Bring Your Own Charger, V2G, public outreach efforts, etc.). Accordingly, the Advisors recommend that the Council direct ENO to work with the Advisors and CURO to develop a single, comprehensive, but concise, EV report that will provide easy reference for the status of all EV matters.

5. CNO Permitting

ENO reported that the Level-2 Public Charger Program was hampered by the city’s permitting process that ultimately required sixty-eight (68) permits for completion. Based on this experience, ENO offered several suggestions on how the process might be improved to foster and expedite future EVCI projects. ENO’s suggestions are contained in a memo it submitted, which is attached to this report. The Advisors believe that the suggestions have merit, and that the Council should encourage the city to work with ENO to evaluate and implement the improvements accordingly.

6. Additional Evaluation

The Advisors believe that there are still numerous EV-related issues that need to be addressed by the Council to pursue the Council’s goal of fostering EV adoption. Recently, the Louisiana Public Service Commission (“LPSC”) in a rulemaking docket considered the issue of whether EV charging stations are public utilities subject to

LPSC regulation. *See LPSC Docket R-36131*. In LPSC General Order No. 05-24-2023, the Commission reached the same conclusion with respect to EV charging regulation as the Council did in Council Resolution R-18-100.

However, the Commission did not close the docket, opting instead to conduct a Phase II to consider “potential cyber-security issue arising from the proliferation of EV charging stations; volumetric versus time based EV charging pricing and whether there should be consistency between public utility pricing and EV charging pricing; issues regarding service complaints; how certain charging station on-site generating units should be treated for regulatory purposes; and the circumstances under which a regulated electric utility can own, lease, operate, or control an EV charging station.”

Since many of these and other issues are still under consideration by the Council, or deserve Council attention, the Advisors recommend that the Council direct ENO, CURO, and the Advisors, with stakeholder input, to continue to consider, analyze, and recommend on all relevant EV issues to assist the Council in achieving its goal of fostering EV adoption in the city.

Respectfully submitted,

DENTONS US LLP,

/s/ J. A. Beatmann, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Initial Advisors' Report* has been served upon "The Official Service List" via electronic mail and/or U.S. Mail, postage properly affixed, this 1st day of March 2024.

/s/ J. A. Beatmann, Jr.

J. A. Beatmann, Jr.