July 15, 2019

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

In Re: A Rulemaking Proceeding to Establish Renewable Portfolio Standards
(Docket No. UD-19-01)

Reply Comments of National Audubon Society/Audubon Louisiana

Dear Ms. Johnson:

Please find enclosed an original and three (3) copies of National Audubon Society/Audubon Louisiana's reply comments in the above-referenced docket.

Please file the attached communication and this letter in the record of the proceeding and return one time-stamped copy to our courier, in accordance with normal procedures. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention.

Sincerely,

Karen J. Prfta
Vice President/Executive Director
Audubon Louisiana

Protect the birds and we protect the earth.
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Protect the birds and we protect the earth.
BEFORE THE
COUNCIL OF THE CITY OF NEW ORLEANS

IN RE: A RULEMAKING PROCEEDING )
TO ESTABLISH RENEWABLE PORTFOLIO ) DOCKET NO. UD-19-01
STANDARDS ) July 15, 2019 )

REPLY COMMENTS OF NATIONAL AUDUBON SOCIETY/AUDUBON LOUISIANA

Introduction and Overview

National Audubon Society/Audubon Louisiana ("Audubon") submits these Reply Comments in the Council of the City of New Orleans ("Council") Docket No. UD-19-01 pursuant to Council Resolution No. R-19-109, dated March 28, 2019. The purpose of these Reply Comments is to address and rebut comments filed by Entergy New Orleans ("ENO") and Air Products on June 3, 2019.

The Council's groundbreaking decision to initiate this Renewable Portfolio Standards ("RPS") rulemaking docket is an important leadership step that Audubon strongly supports.

Audubon again thanks the Council for its leadership and vision. Audubon has previously submitted comments to the Council in this proceeding and continues to urge the Council's favorable consideration of the issues raised therein.

In addition to these Reply Comments, Audubon joins with other members of the Energy Future New Orleans coalition to urge the Council’s favorable consideration of the Proposed RPS Rule submitted in parallel with these comments as Joint Reply comments.

After considering the comments of other parties filed on Jun. 3, 2019, Audubon’s view remains that the Council’s establishing mandatory, workable, and strong renewable portfolio
standards remains a reasonable and necessary major step in achieving the Climate Action vision, and more importantly, in achieving a 100% renewable energy future for the City of New Orleans. Realizing a 100% renewable energy goal is completely aligned with Audubon’s mission of conserving and restoring natural ecosystems as well.

As we stated in our initial comments filed on Jun. 3, 2019:

Audubon urges the Council to set itself on a course to adopt and enforce a 100% decarbonization goal and supporting 100% renewable portfolio standards for services today provided through electricity and gas. These goals should apply to City functions, and all energy uses and services, public and private. The Council should set an aggressive timeline for achieving these goals that also takes full account of equity, affordability, and technological considerations. As a starting point, Audubon believes a 2040 goal meets these considerations.

Audubon continues to urge the Council to ground its work in implementing a vision of decarbonization through 100% renewable energy supply on five key principles as pillars for its work. These principles are equity, affordability, reliability, resilience, and technological innovation.

Audubon’s Reply Comments are organized in two parts to address comments from ENO and Air Products, which in turn generally track the questions put forth in Council’s Resolution No. R-19-109.

Replies to ENO Comments

1. Re: ENO Comments, p. 1 – Audubon agrees that Council should undertake the consideration and adoption of a “comprehensive clean energy policy focused on carbon reductions across all sectors of New Orleans, using all tools available, including increased
utilization of solar and other renewable resources, electrification of transportation and other
sectors, other measures that reduce the City’s carbon footprint, demand-side management
(“DSM”), and the incorporation of existing emission-free nuclear and hydro generation.”

However, such an effort should start with the adoption of an RPS rule as proposed by
Audubon and other aligned parties and should have an explicit goal of 100% renewable energy
for New Orleans. Audubon recognizes that fairly-priced energy from existing nuclear plants may
play a role in providing carbon-free energy over the coming years. However, renewables are
increasingly less expensive and promise to beat nuclear energy pricing even before the end of
existing generators’ useful lives. The same facts apply to gas generation. As such the use of
existing nuclear generation should only be considered as a bridge to a 100% renewable energy
future for New Orleans.

Further, Audubon disagrees that any RPS should stop short of an effort to ensure that
100% of New Orleans’ customers’ energy needs are met with zero carbon emitting resources by
2040. Audubon also disagrees with ENO’s “preferred path” proposals. The ENO path involves
only a 70% zero/low carbon voluntary goal, indefinite reliance on nuclear power, no increase in
planned levels of efficiency, almost-total utility ownership of generation, and a planning
approach that dictates policy.

Audubon takes the further position that the existing supply arrangements and pricing for
ENO affiliate generation must be fully reevaluated to eliminate any above-market pricing that
may currently exist, especially for nuclear generation. After such evaluation, Audubon
anticipates that true emissions-free renewable and efficiency alternatives to current nuclear
energy supply are likely to emerge as cost-effective options. That is, Audubon rejects ENO’s
contentions (p. 2) that utilizing such alternatives are likely to result in unacceptable increases in customer rates.

2. *Re: ENO Comments, p. 2* – Audubon rejects ENO’s summary assertion that the Council should adopt an RPS that is only voluntary. A voluntary goal would undermine the fundamental objective of timely and comprehensive decarbonization of energy resources used to meet New Orleans’ demand for energy services.

3. *Re: ENO Comments, p. 3* – Audubon asserts that a first step the Council should take is to reject and replace ENO’s 2001 voluntary goals as no longer sufficient to accomplish the Council’s goals for New Orleans. Further, Audubon urges the Council to refuse ENO’s assertion and recommendation that the appropriate benchmark for its climate performance should be the performance of “large generation companies in the U.S.” Likewise, the Council should not accept a measurement of New Orleans’ reductions performance against historical benchmarks such as year-2000 levels. The goal and requirement of the RPS should be 100% carbon-free energy by 2040.

4. *Re: ENO Comments, p. 4* – Audubon rejects the assertion by ENO that the outcomes it generates in its Integrated Resource Plans (“IRP”) should drive the setting of the RPS targets and goals. To the contrary, the goal and target of zero carbon emissions by 2040 should drive the IRP process. ENO should be explicitly required to initiate and propose a new IRP that meets the 100% carbon-free goals, including electrification of transportation, building heat, cooking, and other thermally-driven residential, commercial, and industrial processes.

5. *Re: ENO Comments, pp. 4-5, Fig. 1* – Audubon takes the position that ENO’s current carbon emissions rate should be seen as a good start, not an excuse for slower achievement of weaker carbon emissions goals.
6. **Re: ENO Comments, p. 5** – Audubon recognizes that ENO has taken several steps in a positive direction, as listed in ENO’s comments. However, Audubon urges the Council to categorically reject the implication that ENO has achieved any of its accomplishments without fully charging New Orleans’ customers for the cost of such projects.

   Audubon also calls out the glaring absence of any evidence that ENO has done all it should or is committed to supporting the emergence and growth of *non-utility* markets for clean energy solutions. The Council and New Orleans will not realize a clean energy future solely through utility resource development and construction. There is abundant evidence that ENO is not the least-cost provider of clean energy options for New Orleans. The comments of Southern Renewable Energy Association address this fact in great detail.

7. **Re: ENO Comments, p. 5** – Audubon categorically rejects ENO’s assertion that because it has not identified a “need” for additional resources beyond those already planned prior to 2040, that adding new resources and ceasing to rely on other would not be a least-cost path forward.

   The fundamental objective of IRP is to continuously update the utility’s resource assessment and to pursue reliance on new, cleaner, and more affordable resources for meeting the demands for energy services, regardless of historical or current presence of or plans for resources. To adopt ENO’s approach would effectively prevent a timely transition to carbon-free energy resources for New Orleans and allow the dead hand of past decisions to control New Orleans’ future.

8. **Re: ENO Comments, p. 6** – In summary, Audubon asserts that the obvious and essential consequence of the adoption of a 100% carbon-free resource plan requires four new planning elements:

   a. ENO’s accelerated and complete exit from reliance on coal as a source of electricity for New Orleans.
b. ENO’s development of an aggressive plan for an accelerated and complete exit from reliance on methane gas as a fuel for all purposes.

c. ENO’s continued reliance on nuclear generation should only be considered as a bridge technology to a 100% renewable energy future, and only if and for so long as nuclear generation is cost-competitive at market rates—even if that period is shorter than the currently expected retirement dates for such generation.

d. ENO’s development of a plan and agenda of action to create non-utility market opportunities to develop and rely upon carbon-free resources for energy services.

9. Re: ENO Comments, pp. 7-9 – Audubon urges the Council to reject the “all tools in the toolbox” approach to resource planning and utilization for New Orleans. All of the “tools” that ENO proposed are not carbon-free. Moreover, ENO has not offered a reasonable argument for rejecting the Council’s commitment in Resolution R-19-109 calling for meeting specified percentages of load with power from renewable energy resources. ENO’s proposed alternative Clean Energy Standard (“CES”) would maintain high costs and carbon emissions and was rejected by Council. In addition, ENO’s proposed CES disregards the important criteria of clean, local, and resilient—which should be core elements of New Orleans’ energy future.

Audubon finds unpersuasive and urges the Council reject ENO’s argument that the utility’s policy and energy planning for New Orleans should rely upon or track the arguments urged by the pro-nuclear study co-chaired by former Energy Secretary Moniz or any report by the pro-nuclear International Energy Agency. Those sources were not designed for and did not address the specific local concerns and needs of New Orleans. In particular, Audubon would call the Council’s attention to the factual and contextual disconnect between the argument cited by ENO (p. 8) that a decline in reliance on nuclear energy for New Orleans would result in
increased rates for New Orleans customers. Audubon rejects the misleading “cautionary tale” offered by ENO which mischaracterizes the energy policies implemented in Germany. Audubon further urges the Council to assign no weight to comments submitted by pro-nuclear trade associations, “AstroTurf” advocacy groups, and others who are specifically paid to have pro-nuclear positions by companies like ENO.

10. Re: ENO Comments, p. 7 – Regarding ENO’s specific proposals for its alternative CES, Audubon again urges the Council to reject ENO’s proposals that:

a. The targets should be consistent with the outcome of the IRP process. (p. 7, at B.1.1.) Rather the IRP process should assume and conform to the Council’s RPS targets.

b. The singular focus should be on resources developed by ENO (p. 7, at § B.1.2.). Rather, ENO should also be charged with developing a resource and market environment that supports development of clean energy resources and services by non-utility parties.

c. The implication that the RPS should be used to extend the reliance on nuclear resources (p. 7, at § B.1.3.). Rather, the Council’s RPS should be designed to accelerate the transition away from expensive and unsustainable nuclear generation and toward clean, local, and resilient renewable energy and efficiency resources.

11. Re: ENO Comments, pp. 11-13, § B.2. – Audubon rejects ENO’s scare tactic implying that a strong RPS built around clean, local, resilient, and non-utility energy resources could result in “unintended consequences” such as higher rates and impaired utility financial health. As Audubon has emphasized, the Council’s RPS goals must drive a robust IRP process and resource procurement decisions and will ensure that adverse consequences are avoided. The Council should reject ENO’s contention that hypothetical, potential, unintended consequences should
prevent it from doing what is right and necessary for New Orleans simply because the utility
lacks the vision and planning capacity to lead on a course to a carbon-free future for the City.

Audubon urges the Council to categorically reject ENO’s assertions about the costs of an
RPS based on a widely-discredited draft research report that has not been formally peer-
reviewed. In addition, the Council should reject ENO’s straw man argument that anyone is
urging a “renewables only” focused policy. Rather, Audubon and other advocates have stridently
urged solutions that include utility and non-utility energy storage, energy efficiency, and energy
management resources.

Audubon urges the Council to demand much more detailed and carefully vetted scenario
analysis than that offered by ENO in its comments. This is the heart of Audubon’s argument to
the Council that ENO must conduct a comprehensive and transparent IRP process built on the
Council’s RPS goals and targets, and that fully and fairly evaluates all resource options for
meeting the need for energy services. ENO’s list of “important assumptions and considerations”
(p. 13) is a good place to start for framing such IRP efforts.

12.  Re: ENO Comments, pp. 14-15, § B.3. – Audubon agrees with ENO that an Alternative
Compliance Payment (“ACP”) mechanism may not be ideal for a city-based RPS. Audubon
urges the Council to also evaluate and consider adoption of penalties to ENO return on equity
(“ROE”) for failure to meet goals and targets of a mandatory RPS.

13.  Re: ENO Comments, p. 15 – Audubon asserts that ENO’s comments about dormant
Commerce Clause issues are a red herring. The issue has been thoroughly explored and is largely
settled in U.S. law. ¹

¹ See Gavin Bade, “Supreme Court Won’t Hear Nuke Subsidy Cases, Clarifying State Energy
court-wont-hear-nuke-subsidy-cases-clarifying-state-energy-jurisd/552768/.
Re: ENO Comments, p. 16 – Audubon agrees that RECs from non-New Orleans renewable energy generation facilities offer benefits for achieving a carbon-free resource portfolio. However, Audubon cautions the Council over the financial and planning constraints associated with ownership by ENO of underlying generation resources. Unnecessarily long contracts for RECs can become stranded assets just like investments in coal and gas plants. Self-dealing with affiliates inflates costs. In addition, Audubon urges the Council to direct ENO to conduct a broad-based evaluation of a portfolio of REC procurements, especially including procurement of RECs from non-utility resources.

Re: ENO Comments, pp. 17-19 – Audubon again urges the Council to reject the ENO recommendation for a non-binding, voluntary CES in lieu of an RPS. Further, Audubon would point out that all of the selected examples from other jurisdictions are distinguishable. The Council should start from the proposition that a transition to a 100% carbon-free, clean, affordable, and resilient energy system is a requirement, not an option or mere aspiration.

Re: ENO Comments, pp. 20-21, § C.1. – Audubon again urges the Council to reject any “all of the above” framing for the RPS that puts ENO solely in the driver’s seat for resource planning, development, and acquisition. In particular, several resource options have no reasonable place in New Orleans’ energy future, including new or increased dependence on nuclear energy, new gas generation, continued operation of coal units, and increases in direct gas use for thermal energy demands.

Audubon urges the Council to require ENO to develop transparent and comprehensive Benefit-Cost Analysis (“BCA”) frameworks for use in evaluating alternative resource options as part of the IRP process. These BCA frameworks should evaluate all reasonable alternatives and...
fully evaluate all benefits and costs (including societal costs and benefits) over the full life cycle of each alternative resource. BCA frameworks are a best practice in resource planning.

17. *Re: ENO Comments, pp. 22-23* – Audubon urges the Council to require regular, detailed, and public reporting of ENO’s progress in meeting its RPS obligations. The reporting period should be at least annual for comprehensive reports. In addition, the Council should require ENO to establish and maintain public dashboards of key metrics updated on a nearly-continuous basis.

Audubon further urges Council to reject any suggestion that ENO should be immune from any procedural or substantive accountability relating to its RPS reporting.

Audubon is extremely skeptical of the need for or merits of Council pre-approvals for resource acquisitions.

Given the gravity and urgency of a transition to a carbon-free future for New Orleans, Audubon urges that the Council adopt mechanisms for review of ENO resource planning on a cycle shorter than triennial submission. At the very least, ENO should be required to update short-term action plans on an annual basis.

18. *Re: ENO Comments, pp. 23-24, § D* – Audubon urges considerable skepticism by Council of any assertions regarding a threat to ENO’s financial integrity associated with the RPS. ENO earnings are dependent on providing affordable, reliable, and resilient energy services to New Orleans; the impacts of runaway climate change are the threat; the transition to a clean energy future for New Orleans is the solution.

Audubon agrees with ENO that performance standards and mechanisms of performance-based regulation ("PBR") should be evaluated by the Council as a mechanism or supplement to conventional regulation for the utility. Unlike ENO, Audubon believes that incentives should include penalties, especially to authorized return on equity.
Several utility regulatory jurisdictions are designing and implementing performance-based regulatory ("PBR") mechanisms and systems to address fundamental problems inherent in the cost-of-service rate making model. Notable examples include Hawaii and Rhode Island. The well-understood utility bias toward excessive and expensive over-investment in capital assets, antipathy toward competitive and customer-owned generation, and inadequate focus on energy justice has led several regulatory bodies to explore PBR approaches to better align utility profitability with policy priorities. Audubon believes there is significant opportunity to reap benefits and progress toward energy sustainability through targeted application of PBR tools.

Audubon encourages to explore such mechanisms as it implements the RPS.

Audubon strongly encourages the Council to reject any current or future rate design proposals that are inimical to or would frustrate accomplishment of RPS goals and objectives.

ENO’s proposal for increased fixed customer charges is counterproductive to the adoption of clean energy resources such as distributed generation and energy efficiency and insulates ENO from the consequences of overbuilding distribution systems and unnecessarily increasing fixed costs. Such proposals also weaken regulatory incentives for ENO to meet clean energy objectives.

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Replies to Air Products Comments

Air Products, like ENO, does not support a mandatory RPS for New Orleans. Audubon urges the Council to reject this proposal as inadequate to meet the energy and security needs of New Orleans. Likewise, Audubon urges Council to reject Air Products’ position that no specific binding renewable energy targets be set or that no date certain for compliance should be established.

Audubon stresses that while, in the past, a failure to account for climate impacts associated with fossil energy use might have resulted in lower energy prices, the costs of climate emissions are all too real and too high. Air Products’ position would externalize those costs onto the people and businesses of New Orleans in order to preserve Air Products’ low energy prices. That approach can no longer be acceptable.

Audubon also disagrees with Air Products’ position that the Council should not adopt an RPS preference for clean, local, resilient, and truly renewable energy resources.

Conclusion

National Audubon Society/Audubon Louisiana appreciates the Council’s continued leadership in exploring the adoption of a strong set of renewable energy standards for New Orleans. We offer this comments in order to emphasize the significant gap between ENO’s policy positions and the kind of clean, renewable, and resilient energy future New Orlean’s needs and wants for its citizens. In addition, we are pleased to join with several other local, regional, and national clean energy leaders through the Energy Future New Orleans coalition to sponsor a carefully crafted, affordable, and doable plan for getting to a renewable and resilient New Orleans through our proposed “R-RPS.” We advance all these ideas because they present the
very best opportunity we have to create a pathway to turn away from an energy system that is too expensive, too brittle, and too polluting, and toward meeting the growing and recurring threats of climate catastrophe and transforming New Orleans' energy systems into engines of sustainability, reliability, and prosperity for all its citizens, today and tomorrow. We are committed to working with the Council and all parties in realizing this vision.
June 3, 2019

In Re: A Rulemaking Proceeding to Establish Renewable Portfolio Standards
(Docket No. UD-19-01)

I hereby certify that this 3rd day of June 2019, I have caused to be filed and served the required number of copies of Audubon Louisiana’s comments dated June 3, 2019 in this proceeding by hand-delivery to the Clerk of Council and by electronic mail to all known parties in this proceeding.

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Vice President, National Audubon Society
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[Continued on Next Page]
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