

**RESOLUTION  
R-18-223**

**CITY HALL: June 21, 2018**

**BY: COUNCILMEMBERS MORENO, WILLIAMS, GIARRUSSO, BANKS,  
AND BROSSETT**

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

**DOCKET NO. UD-18-\_\_**

**WHEREAS**, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans (“Charter”), the Council of the City of New Orleans (“Council”) is the governmental body with the power of supervision, regulation, and control over public utilities providing service within the City of New Orleans; and

**WHEREAS**, pursuant to its powers of supervision, regulation, and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities and making all necessary rules and regulations to govern applications for the fixing and changing of rates and charges of public utilities; and

**WHEREAS**, Entergy New Orleans, LLC (“ENO”) is a public utility providing electric and natural gas service to all of New Orleans; and

**WHEREAS**, the Council has repeatedly expressed support for the efficient use of clean sustainable technology to improve the quality of life for our citizens and businesses; and

**WHEREAS**, on March 15, 2007, the Council adopted Resolution No. R-07-132, adopting for the first time Net Energy Metering (“NEM”) Rules for the City of New Orleans; and

**WHEREAS**, the NEM program has proven to be popular in New Orleans and has resulted in over 37 MW of rooftop solar being installed in New Orleans;<sup>1</sup> and

**WHEREAS**, the Council believes there are many New Orleans residents who are interested in renewable resources but unable to participate in the NEM program for various reasons, including but not limited to, because their roof is not a viable location for rooftop solar, they rent and do not own the building in which they live, they are unable to afford the cost of a rooftop solar system, or they are unable to make a long-term commitment to a solar unit; and

**WHEREAS**, the Council wishes to expand the renewable options available to New Orleans residents, particularly those who are unable to participate in the NEM program; and

**WHEREAS**, the Council believes that any rules established for community solar programs should adhere to the following principles:

- The rules should provide new renewable options to New Orleanians, with a particular focus on providing renewable options to those who are not eligible for rooftop solar on their own residences/business and to low-income customers. While the Council has no objection at this time to allowing those already participating in the NEM program to participate in community solar, the driving purpose of the rules should be to create options for those who are unable to participate in NEM.
- The rules should be designed to allow customers to offset their own electric consumption, they should not be designed to allow customers to generate electricity for profit at the expense of their fellow ratepayers. The Council understands that most state rules regarding community solar contain this restriction, and that this restriction also assists in avoiding negative federal income tax and securities implications, as is discussed more fully in the Advisors' White Paper.
- The rules should leave as much flexibility as possible for developers to design community solar programs that they believe will be attractive to New Orleans citizens, consistent with the Council's responsibility to protect New Orleans

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<sup>1</sup> City of New Orleans, *Climate Action Plan for a Resilient New Orleans*, at 27 (July 7, 2017), <https://www.nola.gov/nola/media/Climate-Action/Climate-Action-for-a-Resilient-New-Orleans.pdf>.

citizens and to ensure the continued provision of safe, reliable, electric power to New Orleans at just and reasonable rates. To that end the Council establishes the following parameters:

- The rules should protect non-participating ratepayers from risks associated with the program. The risks borne by ratepayers participating in community solar projects should be limited to loss of the funds that they commit to invest in a community solar project. All other risks (such as liability for accidental damage, risk of undersubscription, etc.) should be borne by the developers.
- In order to ensure a level playing field, to the extent that ENO chooses to become a community solar developer, it must offer the same privileges it allows itself to all other developers. ENO may not give itself preferential treatment as a developer of a community solar project, and may not use ratepayer funding for its community solar projects in any manner not available to other developers.
- Developers of community solar projects shall be required to meet all applicable safety and reliability protocols to ensure that the community solar projects do not pose a danger to human health and safety and the reliability of the electric grid in New Orleans.
- Because of the expectation of the citizens of New Orleans that the Council oversees the provision of electric service to them, particularly anything that may appear on their Entergy bill, consumer protection standards must be adopted to ensure that consumers are treated fairly by developers and that their dealings with developers are transparent; and

**WHEREAS**, the Council's Utility Advisors have presented the Council with a White Paper discussing the many issues and questions associated with the creation of community solar rules as well as a set of proposed rules and have suggested that the Council seek input and comment from the public and ENO regarding the questions and issues raised in the White Paper and on the proposed rules for community solar and other shared distributed generation programs; and

**WHEREAS**, the Council is very interested in receiving such input from ENO and from the public on this topic; now, therefore:

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:**

1. The Council establishes Docket No. UD-18-\_\_\_ to consider *A Rulemaking Proceeding to Establish Rules for Community Solar Projects*.
2. The Honorable Jeffrey Gulin is hereby appointed as Hearing Office in this docket to preside over the proceedings and rule on procedural disputes, including motions and discovery, and shall, for good cause shown and as required by the circumstances of the proceeding, have the authority to change or amend the procedural dates set forth herein.
3. To the extent that the City Clerk's office closes before 5:00 pm on the date of any deadline contained herein or otherwise set by the Hearing Officer, the deadline shall be extended to the next business day.

4. The Council adopts the following procedural schedule:

- a. Interested parties shall intervene in the case by July 27, 2018. Persons desiring to intervene shall do so by filing a motion to intervene with the Clerk of Council and paying the applicable filing fee, unless such fee is waived pursuant to Council Resolution No. R-16-365, with a copy submitted to Director, Council Utility Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New Orleans, LA 70112. The Council's requirements for motions to intervene may be found in the City Code (which is available on the Council's website) at sections 158-236, 158-240, 158-286, 158-287, 158-322, and 158-324. Objections to intervention requests shall be filed within five days of such requests. Timely-filed intervention requests not objected to within that time period shall be deemed GRANTED.
- b. Comments from all parties on the Advisors' White Paper, the questions and issues raised therein, and the proposed rules shall be filed no later than September 28, 2018.
- c. Reply comments shall be filed no later than October 31, 2018.
- d. An Advisors' Report responding to the comments and reply comments and providing the Advisors' revised recommendations to the Council in response to the comments and reply comments shall be filed no later than November 30, 2018.

**THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:**

**YEAS:**

**NAYS:**

**ABSENT:**

**AND THE RESOLUTION WAS ADOPTED.**