



January 6, 2022

**Via Electronic Mail**

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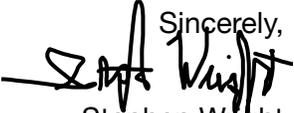
**Re: Rulemaking Proceeding to Establish Rules for Community Solar Projects CNO  
Docket No. UD-18-03**

Dear Ms. LaCoste:

Attached for your further handling is Madison Energy Investments (MEI) Amended Petition in Request of a Technical Conference in the above-referenced docket.

Should you have any questions or require additional information regarding the attached requests, please contact Stephen Wright at (318) 663-3810.

Thank you for your assistance with this matter.

Sincerely,  
  
Stephen Wright

Enclosures

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

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

<b>IN RE: A RULEMAKING</b>	)	
<b>PROCEEDING TO ESTABLISH</b>	)	<b>DOCKET NO. UD-18-03</b>
<b>RULES FOR COMMUNITY SOLAR</b>	)	
<b>PROJECTS</b>	)	

**MADISON ENERGY INVESTMENTS  
REPLY COMMENTS TO ENO’s RESPONSE TO MEI’s MOTION TO AMEND THE  
COMMUNITY SOLAR RULES (CNO Docket No. UD-18-03)**

**NOW COMES** Madison Energy Investments (“MEI”), through undersigned counsel, and hereby submits in the above-entitled and numbered proceeding its reply to ENO’s Request for Denial of Motion to Amend Community Solar Rules.

Please forward responses to:

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MEI urges that the Council (i) approve the Motion and move to amend the current Rules and (ii) allow parties to intervene for and participate in any action to amend its Rules. ENO’s current objections to revisiting the Rule clearly show an objection to doing the necessary work to have a functional program. MEI’s “late” engagement in this docket is due to observed lack of functionality of the rules promulgated by the Council and original stakeholder process. The moment it became apparent that the Rules were ineffective to facilitate a working Community Solar Program, MEI engaged this process which exists for this very purpose. Throughout this process up until this point, ENO has clearly presented that they cannot provide clarity or guidance on actual implementation of these rules and therefore highlights the necessity for taking action to exist the amending rules.

## COMMENTS

### **A. Procedural History**

On March 28, 2019, the Council adopted Resolution No. R-190-111, establishing a set of Community Solar Rules and on August 29, 2029, Entergy New Orleans (“the Utility”) filed its initial Implementation Plan and its Supplemental Implementation Plan on January 10, 2020. On January 28, 2021, the Council of the City of New Orleans (“the Council”) adopted Resolution R21-38, approving the Utility’s Supplemental Implementation Plan. On December 8, 2021, the Alliance for Affordable Energy filed its motion to Amend the Community Solar Rules requesting to amend Section II, changing the definition of “Low-Income Customers.” On February 3, 2022, the Council adopted R-22-76 Resolution and Order Amending the Community Solar Rules and approving the Alliance for Affordable Energy’s December 8, 2021, Motion to Amend the Community Solar Rules, modifying the definition of “Low Income Customers”. On June 27, 2022, the Council named Madison Energy Investments (“MEI”) to the official service list as an accepted intervenor for Docket No. UD-18-03. MEI now moves the Council to amend the following Community Solar Rules for reasons specified therein:

## **I. Increase the Tariff Rate for all Subscribers**

MEI first and foremost proposes that the Community Solar Program should increase the tariff rate for all subscribers.

MEI has run several financial models using the current Community Solar Rules bill credit formula outlined in “Section VIII. SUBSCRIPTION CREDITS.” It should be noted, and has been further proved by ENO’s bleak response to MEI’s data requests, that attempts to gain clarity from ENO regarding the formulation of bill credits have gone unanswered. MEI’s financial team has analyzed the formula to the best of our understanding, and it has been shown that the current formula does not offer any sort of substantial savings for a subscriber, especially when considering the Subscriber would be subject to separate bills from two parties, requiring the Subscriber to have a significant mathematical understanding to compare the bill credits they receive on their ENO bill against the second bill pertaining to the CSG subscription from the Subscriber Organization.

Furthermore, MEI proposes that an increased tariff rate, applicable to all Subscribers, simplifies the Community Solar program and ensures all Subscribers are getting a fair and reasonable bill credit based on utility rates. MEI believes that an increased rate used in the billing credit formula would have a positive effect on the Community Solar Program and only encourage more Subscribers to participate and reap the benefits that the various stakeholders have envisioned.

The program rules state that “WHEREAS, the Council believes that as the costs of installing solar come down over time relative to the Utility’s avoided costs, the Subscription Credit pricing

will become more advantageous to Subscribers over time, while continuing to protect ENO's non-participating customers; and WHEREAS, for these reasons, the Council approves the Advisors' proposed calculation of Subscription Credits, with the modification that low-income customers shall receive the full retail rate credit for power generated by their community solar Subscription." Due to current inflationary pressure, this statement is now not correct. The rates are too low vis-à-vis other programs around the country. A rate rethink would make the program more competitive and attract more investors and developers therefore benefitting subscribers and the City of New Orleans as a whole.

The Coalition for Community Solar Access (CCSA) is a national coalition of businesses and non-profits working to expand customer choice and access to solar to all American households and businesses through community solar. CCSA provides guidance on how Community Solar programs should be structured based on the guiding principle of serving their communities and customers most fairly. In regard to the retail-rate approach in determining bill credits for community solar programs, CCSA advises that "If the retail-rate approach is chosen, special attention should be paid to determining which retail rate to use, as this is a state-specific issue. For example, in restructured states, the credit rate should be based on standard offer service rates as opposed to competitive supplier rates. It is also advised that the credit rate be based on a non-demand rate schedule, as different utility rate schedules can result in very low /kWh charges as a result of customers paying high demand charges." <sup>1</sup>

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<sup>1</sup> <http://www.communitysolaraccess.org/wp-content/uploads/2019/04/2019CommunitySolarPolicyMatrix-2.pdf>

Additionally, the Low-Income Solar Policy Guide states that “In order to effectively serve low-income consumers, shared solar policies should go farther to address the additional financial and market barriers that these customer face. States should set strong targets for low-income participation and provide adequate support for achieving those targets through programs such as: Targeted incentives and credit support to facilitate direct low-income participation and maximize benefits for participants (e.g. subscriptions should be sized and structured to achieve meaningful savings, ideally monthly electricity bill reduction of 50 percent or more).”<sup>2</sup>

Additionally, MEI encourages Low-Income and Public Entity Benefits adders for the program as this would encourage developers to further seek out these subscribers who would potentially benefit the most from the program.

While MEI has provided references and recommendations for how bill credits should be calculated in our various responses to data requests—we more notably provide exemplary programs as guidance, and assert that there cannot be a specific “formula” or “calculation” to propose until all parties agree upon a variety of factors including billing mechanisms, adders, whether there should be different rates for different classes, and so forth. MEI’s key argument for bill credits is that they should be based upon the current utility rate plus considerations for the value of solar.

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<sup>2</sup> <https://www.lowincomesolar.org/toolbox/community-shared-solar/>

MEI observes the first step toward creating and enabling successful community solar programs is publicly committing to do just that. The second step is developing program rules and credits that at once deliver the intended benefits to customers and local stakeholders while also aptly stimulating the desired market response. It is this last component, especially, where MEI feels the existing New Orleans Community Solar rules fall short. MEI welcomes a more thorough discussion and analytical investigation of what the inherent “New Orleans Value of Solar” should be, taking into account the comprehensive direct benefits and avoided costs of the resource itself, and believes this discussion should take place through the requested technical conference.

## **II. Raise Maximum Allowed Solar Garden Size from 2MW to 5MW**

MEI proposes that the maximum allowed Community Solar Generating Facility size be raised from 2MW to 5MW due to the already limited space for larger Community Solar Generating Facilities in the city of New Orleans. MEI believes there is no plausible reason why a garden should be limited to 2MW in a region such as Orleans Parrish which is greatly limited in viable rooftop space and as such, if a rooftop or plot of land is capable of hosting more than 2MW, it should be eligible to do so. Creating a cap in an already geographically constrained area does not best serve the city of New Orleans or the overall goals of the Community Solar program, forfeiting the customer and economic benefits realized with larger project size and scale.

Additionally, MEI attests that such a rule should be future proof, as a site that may be 2MW now could be repowered in the future with more efficient panels. CCSA points out that “Some economies of scale can be achieved around the 5 MW mark but a number of factors, including

the availability of land, interconnection procedures and policy goals should be considered for each state in setting the project size. The project size limit should be set high enough to allow projects to achieve economies of scale, but low enough to still be considered a distribution-scale project.

### **III. Consolidated Utility Billing**

MEI proposes that under “Article XIII. Consumer Protection and Disclosure – section G. Subscriber Funds” be eliminated from the Community Solar Rules and replaced with language that requires the Utility (Entergy New Orleans) to manage consolidated utility billing for subscribers. Considering the Utility already has its customer’s personal information, it makes sense for the Utility to continue to be the only link between a subscribing customer and their utility bill. Furthermore, we don’t believe that any consumer would be willing to sign up for community solar if by doing so, they would then have two separate utility bills, and have to compare their Community Solar Generating Facility Subscriber bill along with their Utility bill credit to decipher if they are in fact saving money through the program. Consolidated utility billing would be easier for all parties involved.

There is extensive proof that the movement to Subscriber Consolidated Billing makes the most sense for community solar programs. In CCSA’s March 2019 Guidance for Designing Community Solar Programs, regarding who should administer bill credits, CCSA attests that the “Utility (should), though it may be appropriate to contract with a third-party to provide administrative support. There should be clear guidance in program rules to ensure that subscriber

credits are applied to utility bills within 30 days, there is monthly reporting from the utility to the subscriber organization and that subscriber organizations are allowed to update subscriber lists on at least a monthly basis. Billing is best facilitated through an automated billing process. The utility should administer bill credits to customers to simplify and enhance the customer experience and overall program administration. In competitive electricity markets where many customers purchase electricity from competitive suppliers, having the distribution utility apply the bill credits is important in order to simplify the calculation, administration, and cost recovery of the credits.”<sup>3</sup>

Reducing the billing process to one bill makes it easier to show customers how much they save with community solar, ultimately boosting customer satisfaction and retention. In addition, requiring developers to separately bill customers for the costs of these projects adds significant operating costs to community solar projects and can make them more difficult to finance, thereby reducing the likelihood of potential Subscriber Organizations participating in the community solar program. Lastly, receiving multiple bills can be overwhelming for the customer. Reducing the billing process to one bill can vastly improve the customer experience.<sup>4</sup>

#### **IV. Entergy New Orleans Should Be Obligated to Pay for the Power Purchased via their PPA**

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<sup>3</sup> <http://www.communitysolaraccess.org/wp-content/uploads/2019/04/2019CommunitySolarPolicyMatrix-2.pdf>

<sup>4</sup> <https://urjanet.com/blog/community-solar-billing-experience/>

MEI proposes an addition under “Article IV. Community Solar Generating Facility Eligibility section (6) The Subscriber Organization for the CSG Facility must enter into a Contract with the Utility to sell the Output from the facility to the Utility.” MEI moves to add that “The Utility (Entergy New Orleans) must purchase and pay for Output from the CSG Facility.”

The purpose of the PPA is to utilize the Standard Offer Power Purchase Agreement that is already set-forth in the Community Solar Rules but do so in a way that constructs the program as a third-party led archetype, which is defined as a program that “work(s) outside vertically integrated utility organizations at either the generation or distribution level.” This is the most common community solar archetype in the country, with over 2,050 MWac.<sup>5</sup>

Since there is already a PPA contract in place, it only makes sense for the Utility to purchase the electricity through this contract. If the Utility is offering their subscribers a credit to their bill and using less electricity from the grid due to a subscriber’s use of solar energy, they should be required to purchase said solar energy.

## **V. RECs**

MEI proposes to remove “Article XII. Renewable Energy Credit Ownership – section B. The ownership and title to all renewable energy attribute or Renewable Energy Credits associate with the CSG Facilities shall belong to the individual Subscribers.” If the Subscriber Organization can

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<sup>5</sup> <https://www.nrel.gov/docs/fy21osti/80246.pdf>

monetize the RECs, this serves as another revenue stream that can get passed along to the end user. This suggestion is simply for ease in the contracting process.

#### **VI. PPA Term Limit 20 Years Instead of Ten Years with Two Five-Year Renewals**

MEI proposes that the PPA term limit be increased from ten years to twenty years, as this would increase any potential Subscriber's Organization ability to secure funding for projects. Through a longer contract, Subscriber Organizations would gain more security in their investments, leading to more sites and a greater use of the program. 20-year PPAs are much more financeable than ten, and a project's viability is greatly enhanced by the ability to fund a portion of the construction with debt. Additionally, the standard length of power purchase agreements is typically between 20 and 25 years.

## **B. ENO's Objections Ensure Customers have no Access to Community Solar**

In urging rejection of MEI's Motion, ENO indicates that the success of the Community Solar program is not a responsibility of the utility. ENO has indicated that they have not had one application for a development since the promulgation of the current rules. When asked in discovery to clarify various components of the existing rules to help establish a path to implementation, ENO responded that all requests for clarification were "vague and ambiguous." If ENO lacks the fundamental understanding of the program to be able to field implementation questions, there is no way any developer will be able to operate a project in New Orleans.

## **C. ENO's Inference of Out of Market Requests in this Proposal are Unfounded**

ENO levies a harsh critique of MEI suggesting a lack of due diligence by itemizing discovery related to MEI's lack of development specific analysis, business plan or business system for the New Orleans market. None of the above could be offered during discovery due to the fact that the current rules lack enough specificity and workability to even develop such work product. The fact that these rules functionally stop development even before this level of diligence is only a more compelling reason to revisit and amend these Rules.

ENO goes further to suggest that the recommendations proposed by MEI are well above prevailing prices. The policies and procedures recommended within this Motion by MEI are based on existing Community Solar rules in other markets which have lead to feasible deployment in those jurisdictions. The cherry picking broadly of MISO and long-term PPA pricing is a clear apples and oranges comparison. ENO levying that these proposals can only end in a financial burden on the ratepayer and an administrative burden on the utility actively disregard savings and solar access success in many other markets throughout the country.

## **Conclusion**

As an active participant in the Community Solar market across North America, MEI believes that the industry, potential community solar program subscribers and New Orleans ratepayers at-large could benefit from examination of potential improvements in existing rules and clarification of areas without adequate guidance. MEI has highlighted a series of deficiencies existing within the current framework and policies that it believes make the current program unworkable for developers therefore providing no benefit to the City of New Orleans. As ENO clearly states in their filing, stakeholders and staff worked diligently to develop a Community Solar Rule for the City of New Orleans. MEI believe that leaving an ineffective and market chilling Rule in place disrespects the hard work of the initial rule-making docket and destroys the intention of the Council to give ratepayers of New Orleans access to this type of program.

**WHEREFORE**, MEI respectfully urges the Council to (i) approve the Motion and move to amend the current Rules, and (ii) allow parties to intervene for and participate in any action to amend its Rules.

CERTIFICATE OF SERVICE

Docket No. UD-18-03

I hereby certify that I have this 6<sup>th</sup> day of January, 2023, served the required number of copies of the foregoing pleading upon all other known parties of this proceeding individually and/or through their attorney of record or other duly designated individual, by:  electronic mail  facsimile  hand delivery, and/or by depositing same with  overnight mail carrier, or  the United States Postal Service, postage prepaid.

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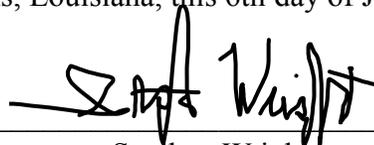
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New Orleans, Louisiana, this 6th day of January, 2023



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