

**Before the
Council of the City of New Orleans**

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

**(Docket No. UD-18-03)
August 19, 2024**

**JOINT MOTION OF TOGETHER NEW ORLEANS AND THE ALLIANCE FOR
AFFORDABLE ENERGY TO AMEND COMMUNITY SOLAR RULES**

As directed by the procedural schedule established by Resolution No. R-24-310 (Docket No. UD-18-03) to address certain issues regarding community solar program implementation, Together New Orleans and the Alliance for Affordable Energy (“the Parties”) respectfully file this motion to amend Community Solar rules, initially approved on March 28, 2019, by Resolution No. R-19-111, and amended November 2, 2023, by Resolution R-23-507, and Entergy New Orleans’ (“ENO”) Community Solar Generation Forms (“CSG-4” and “CSGF”).

The numbers headlining the points below correspond to sections of Entergy New Orleans’ (“ENO”) Community Solar Generation (“CSG”) forms (“CSG-4” and “CSGF”) in their compliance filing submitted on January 12, 2024, by Entergy New Orleans (“ENO”) in response to Resolution R-23-507. As directed, our joint motion includes proposed changes to Sections 4.6, 4.8, and 6.3 of Form CSG-4. We have also attached red-lines of the documents we are moving to amend.

Form CSG-4, Section 3.3: Subscriber Lists

A clause in Form CSG-4 allows ENO to “refuse to accept” additions, deletions or changes to subscriber lists. The utility should not have unilateral authority to undermine the development or sustainability of a project. Rather, the Parties move that the language in Form

CSG-4 be changed to allow ENO to *contest* such changes, with the Council Utility Regulatory Office or assigned Hearing Officer acting as arbiter.

Suggested revised language: “*ENO reserves the right to **contest** ~~refuse to accept~~ any additions, deletions or changes to the Monthly Subscription Information to the extent such addition, deletion or change results in non- compliance with any of such conditions, **and CURO or the assigned Hearing Officer shall be the arbiter of the dispute.**”*

Form CSG-4, Section 4.2: Renewal

Resolution R-24-310 correctly impels ENO to reinsert renewal language in CSG-4 where it had been omitted. However, renewal language based on “mutual agreement” is undependable ground for community solar subscribers and project developers to stand on. The costs to build a lasting system in New Orleans that will be insurable and bankable are higher than in many other parts of the country. The Parties move that the Council direct Entergy to amend Form CSG-4 to include a mechanism that enables operating projects to continue rather than shut down before they reach their expected life in the case that an agreement is not reached. A recently released [policy guidebook by](#) Coalition for Community Solar Access¹ notes the following:

A community solar installation will continue to provide electricity to the grid as long as the installation remains interconnected. The costs of developing a solar installation are largely up front costs and require certainty over long term compensation in order to secure financing. As such, bill credits should be provided indefinitely until a project informs the utility that credits should stop accruing. By ensuring this structure, states can minimize the costs and maximize the life and value of these generating assets by ensuring providers receive a predictable and stable value stream for the full operational life of the project. Regulators may want to consider a set term length (e.g. 25 years) for projects to access a specific credit rate but projects should be able to continue to access the future credit rate from the end of that term until the community solar project owner elects to stop providing credits.

¹ 2024, Policy Guidebook: Expanding Solar Access through Informed Policy Decisions. Page 16.

Suggested additional language for CSG-4 Section 4.2: “*Subscriber Organizations shall be allowed to continue to operate and Subscribers shall continue to receive bill credits during negotiation and after the end of the initial term without interruption until the Subscriber Organization elects to stop providing credits*”

Form CSG-4, Section 4.5: Deposits

The Parties do not believe it is reasonable or appropriate to charge any kind of deposit to hold space in the interconnection queue. One example of a successful community solar program in New York doesn’t require any kind of deposit. If the Council allows a deposit to be applied, the Council should also reserve the right to waive it.

If a deposit is deemed necessary, the Parties move that the Section D (11) in the Council’s Community Solar Rules and Entergy’s CSG-4 section 4.5 be amended to reduce the deposit amount from \$50 per kW AC to \$25 per kW AC, which is more in line with industry standards.

More importantly, however, if a deposit is deemed necessary, the clock for it should only start **once the Interconnection Agreement (CSG-3) and Power Purchase Agreement (CSG-4) (“PPA”) is signed, which should be after the completion of all studies (whose timeline ENO controls), but before construction.** Projects without signed interconnection agreements and PPAs will have severe difficulty getting financed, as funders and developers have no certainty that projects can interconnect or will receive offtake agreement after having been built. On the other hand, it is unreasonable for the deposit clock to begin while the studies are being conducted, since the timeline for completing those lies entirely within the Utility’s hands. The on-the-ground experience of the developers already in the interconnection queue demonstrates that it currently would be impossible for anyone to successfully avoid losing their deposit; the existing timeframe between Application Approval and required Commercial Operation is simply too short.

Proceeding as proposed above would give the Utility certainty that no one is unnecessarily monopolizing space in the interconnection queue (their stated concern), while not punishing developers for delays on the utility side. The Parties strongly believe that making this

adjustment is crucial to the success of the program. The Parties move that the Council direct ENO to amend the application process to align the Application Approval with the Power Purchase Agreement, such that Subscriber Organizations have certainty in advance of construction.

Form CSG-4, Section 4.6: Repair timelines under sunny-day circumstances

The Parties recommend that ENO does not have the sole discretion to terminate agreements based on circumstances outside of a CSG facility owner/operator's control, such as supply shortages or holdups in port. We move that the Council direct ENO to make the following edits to Form CSG-4 Section 4.6:

Suggested revised language: *The Subscriber Organization shall **make best efforts to** maintain the CSG Facility and the individual components thereof in good working order at all times during the Term of this Agreement. If, during the Term of this Agreement the CSG Facility or any of the individual components of the system should be damaged or destroyed such that the extent of the damage affecting output exceeds twenty (20) percent of the CSG Facility's nameplate rating, the Subscriber Organization shall provide ENO written notice of such damage, a description of the equipment damaged, the corresponding reduction to the CSG Facility's output, and the anticipated duration of repairs to the facility to return the facility to its original nameplate rating. If, after such damage, the CSG Facility is not returned to its original nameplate rating within **twenty-four (24) months** ~~one hundred and eighty (180) days~~, **and cannot prove that they are exercising due diligence to repair the issues**, ENO shall have the right, exercisable at its sole option, to terminate this Agreement upon not less than thirty (30) days written notice, with no further obligation of the Parties to perform hereunder following the effective date of such termination. In all other situations, if the CSG Facility is out of operation for more than **three hundred sixty-five (365)** ~~ninety (90)~~ consecutive days during the Term of this Agreement, ENO shall have the right to terminate this Agreement by providing written notice to Subscriber Organization anytime during the period*

following the expiration of such ~~three hundred sixty-five (365)~~ ~~ninety (90)~~ days and before the CSG Facility has been made fully operational again.

Form CSG-4, Section 4.8: Annual recertification of low-income subscribers

Annually re-certifying low-income subscribers is overly onerous and unnecessary, and not required in jurisdictions with successful community solar programs. The Parties move to strike this requirement.

Suggested revised language: *~~“By May 1 of each year, the Subscriber Organization shall re-certify in writing to the Company the Low Income Subscriber status of all Subscribers to its CSG Facilities that are designated as such.”~~*

Form CSG-4, Section 6.3: Repair timelines after Force Majeure events.

To maintain consistency with the above Form CSG-4, Section 4.6, the timeline for repairs in force majeure situations should be extended from one to two years. As all parties are aware, New Orleans is susceptible to major natural disasters like hurricanes, after which rebuilding quickly may be impossible. Canceling the contracts of CSG facilities that are not fully operational one year after a hurricane is an easy way to shut the program down entirely. The Parties move to make the following edits to Form CSG-4, Section 6.3.

Suggested revised language: *In the event that any delay or failure of performance caused by conditions or events of Force Majeure continues for an uninterrupted period of ~~three hundred sixty-five (365)~~ ~~seven hundred thirty (730)~~ days from its occurrence or inception, as noticed pursuant to Section 6.2(a)(i) above, the Party not claiming Force Majeure may, at any time following the end of such ~~three hundred sixty-five (365)~~ ~~seven hundred thirty (730)~~ day period terminate this agreement upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure may, but shall not be obligated to, extend such ~~three hundred sixty-five (365)~~ ~~seven hundred thirty (730)~~ day period, for such additional*

time as it, at its sole discretion deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure.

Form CSG-RPAR: Site Control

The purpose of a pre-application to the CSG program is to determine basic site suitability, however the site control requirement in ENO's Form CSG-RPAR will cause unnecessary expenditures even before basic information about the parcel's suitability is available. The Parties move that the "proof of site control," identified as required documentation on page 1 of ENO's Form CSG-RPAR be struck from Form CSG-RPAR and from Council's Community Solar Rule, Section C (2)c.

Form CSG- RPAR: Application process

Potential Subscriber Organizations would benefit from greater transparency regarding barriers and costs to interconnection. This is especially important in the initial phases of developing a project, which may hinge on a piece of available property that, unbeknownst to the Organization, may require significant updates to the distribution grid. We encourage the Council to recommend such data to be readily available, such that potential Subscriber Organizations may identify or decline to pursue sites earlier in the process. Examples of useful data include:

- A hosting capacity map (like [New York's](#)² or [Massachusetts'](#)³) that shows line voltages and how much capacity each line has for solar interconnection, or
- Estimate sheets for common upgrades that generators of less than 5 MW might experience. For example, New York's Joint Utilities Cost Matrix spreadsheet can be seen at the New York State's Department of Public Service Website.⁴

² <https://systemdataportal.nationalgrid.com/NY/>

³ <https://eversource.maps.arcgis.com/apps/webappviewer/index.html?id=7b13d31f908243e49406f198b359aa71>

⁴ <https://dps.ny.gov/statewide-interconnection-technical-documents>.

Additionally, ENO has full control of the interconnection application timeline, which may be a challenge for development. For example, ENO currently has no requirement to provide feasibility or facilities studies in a timely manner. The Parties move that the Council direct Entergy to meet the following timelines for studies, and that these timelines be included within both Form CSG-RPAR instructions and the Application Process Flow Chart.

- Pre-application: 15 days
- Initial screening review / feasibility study: 30 days
- System Impact and Facilities Study: 90 days each

Schedule CSGF: Clarity in the rate calculation

The final page of ENO's Schedule CSGF includes a table displaying scant information about the value of customer bill credits. NREL (the National Renewable Energy Laboratories) analyzed ENO's tariffs to provide a sample calculation and model bill⁵. Even tiny variations in bill crediting can effect huge swings in revenues and thus feasibility and savings to subscribers, so a successful community solar program requires full transparency on methodology in order for developers to properly prepare their business models. The Parties move that the Council compel ENO to confirm this calculation and model bill, or alternatively provide details of any discrepancies so they can be discussed and understood and provide a model bill that is clear in plain language how a bill with a Community Solar subscription may look.

Community Solar Rules, Section XIII: Customer Protections

In order to further ensure safe program implementation and strengthen confidence in the Community Solar market in New Orleans, the Parties move adoption of several additional nationwide best practices for customer financial and marketing protections to Section XIII of the Council's Community Solar Rule

Clauses to be added to Section XIII of the Community Solar Rules:

⁵ See calculation completed by National Renewable Energy Laboratories, attached as Exhibit 2

- *Subscriber Organizations and marketers will not employ flat fees beyond the monthly cost for the solar energy credited to the electric bill, such as termination fees, sign-up fees, and security deposits.*
- *Contract summary disclosure should be maximum 2 pages in minimum 12-point typeface, in a language understood by the customer. It should allow the customer to terminate early without penalty and clearly state how to cancel the contract. It should explain how the subscription can be moved to another address or transferred to a different subscriber. It should also clearly show the expected bill savings percentage rate.*
- *Marketers must ascertain the primary language of their potential or actual subscribers and offer documents in a language they understand.*
- *Contracts, contract summaries and disclosures shall be available both electronically and on paper.*
- *Marketers must consider methods for reaching out to and enrolling households that are unbanked, lack credit cards and / or have low credit scores, and/or have no internet access.*

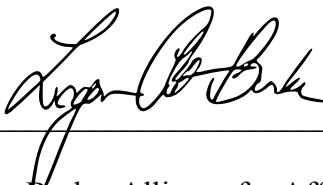
Conclusion

The Parties appreciate the Council's consideration of this motion and we look forward to seeing the opportunity of community solar fully realized in Orleans Parish.

RESPECTFULLY SUBMITTED:



Broderick Bagert, Jr., Together New Orleans



Logan Atkinson Burke, Alliance for Affordable Energy

Before
The Council of the City of New Orleans

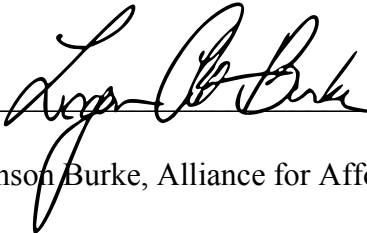
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CERTIFICATE OF SERVICE

I do hereby certify that I have, this, August 19, 2024 served the foregoing correspondence upon
all other known parties of this proceeding by electronic mail.



Broderick Bagert, Jr., Together New Orleans



Logan Atkinson Burke, Alliance for Affordable Energy