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March 31, 2025

VIA ELECTRONIC MAIL

Clerk of Council
Clerkofcouncil@la.gov
City Hall - Room 1E09
1300 Perdido Street
New Orleans, LA 70112

Re: Resolution (R-24-624) and Order Establishing A Docket and Procedural Schedule to Enhance Distributed Energy Resource Programs (CNO Docket No. UD-24-02)

Dear Clerk of Council:

Attached please find the Reply Comments of Entergy New Orleans, LLC (“ENO”) for filing in the above-referenced docket pursuant to Resolution No. 24-624. ENO submits this filing electronically and will submit the requisite original and number of hard copies once the Council resumes normal operations or as you direct.

Thank you for your assistance in this matter, and please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Leslie LaCoste', written in a cursive style.

Leslie M. LaCoste

LML/jlc
Enclosures
cc: Official Service List UD-24-02 (*via electronic mail*)

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

RESOLUTION AND ORDER R-24-624)	
ESTABLISHING A DOCKET AND)	
PROCEDURAL SCHEDULE TO)	DOCKET NO. UD-24-02
ENHANCE DISTRIBUTED ENERGY)	
RESOURCE PROGRAMS)	

REPLY COMMENTS OF ENTERGY NEW ORLEANS, LLC

Entergy New Orleans, LLC (“ENO” or “the Company”) submits these Reply Comments in compliance with the requirements of Resolution No. R-24-624 (“Resolution”) issued by the Council of the City of New Orleans (“Council”). ENO appreciates the opportunity to provide these Reply Comments regarding distributed energy resource (“DER”) programs, and looks forward to reviewing other stakeholders’ comments, submitting additional comments, and participating in continued discussions.

INTRODUCTION

Having reviewed the latest round of comments, ENO submits that several previously identified threshold issues remain unresolved, including issues regarding the legality of using the particular System Energy Resources, Inc. (“SERI”) credits at issue (“SERI Credits”) for the stakeholders’ programs; whether using the SERI Credits is contingent upon public funding being received for such programs; the appropriate cost and administrator(s) of such programs; the appropriate amount of customer incentives for such programs; the appropriate length of time customers would be required to participate after receiving incentives for such programs; and other aspects of how upfront incentives would be implemented. Another threshold issue involves consideration of the significant differences between ENO’s proposal and the proposal submitted

by Together New Orleans (“TNO”) and Alliance for Affordable Energy (“Alliance”). As discussed herein, ENO’s proposal supports more battery installations per year and in aggregate than the TNO/Alliance proposal at a third of the cost.

Moreover, as ENO has previously explained, to the extent the Council may be inclined to allow other stakeholders (like TNO and the Alliance) to use the SERI Credits for their own non-utility programs, that would be inconsistent with the terms of the SERI Agreement in Principle (“SERI AIP”) and Resolution No. R-24-194, may exceed the Council’s regulatory authority, and likely implicates the Council’s taxing authority and constitutes the taking of private property. The latest comments submitted by the Alliance do not require a different result. In fact, the single case that the Alliance cites actually supports ENO’s position. Should the Council be interested in implementing a program using the SERI Credits, ENO’s proposal to expand the existing Energy Smart Battery program would avoid the legal obstacles discussed herein and in its prior comments, and would provide benefits and protections to all customers in accordance with regulatory law and policy.

COMMENTS

A. Response to Intervenor Comments

As indicated above, further discussion among parties in this proceeding and ultimately guidance from the Council is needed to resolve key issues in this docket, including the parameters of any upfront battery incentive program that the Council may choose to authorize. To assist parties in comparing the key points of the proposals offered so far by ENO and TNO/Alliance, ENO has prepared Table 1, below:

Table 1

Significant Issues	ENO Proposal	TNO/Alliance (Phases 1A & 1B)
SERI Credits allocated to upfront battery incentives for qualifying customers ¹	Approx. \$9.2 million (~\$1.85 million/yr for 5 years)	Approx. \$32 million (~\$10 million/yr for 3 years)
Eligible Customers	Residential only	Residential, Small Commercial, and Institutional
Incentive Rate	\$75 - \$400 per installed kWh (varies based on retrofit or new installations and LMI vs non-LMI)	\$1,000 per kW of “deliverable capacity”
Incentive Cap for Residential Batteries	Max of 13.5 installed kWh (equivalent to ~\$1,000 to \$5,400 per qualifying system)	\$10,000 for non-LMI or \$12,000 for LMI customers
Incentive Cap for Small Commercial or Institutional Batteries	N/A	\$300,000 (CCNO can waive this cap for certain projects)
Duration of DR Participation Required by Recipients of Upfront Incentives	10-year minimum (subject to clawback)	3-year minimum (no clawback)
Annual cap of Battery dispatches via DR program	Up to 60 times per year	Unspecified
Expected battery installations over proposed period	4,250 installations	Approximately 1,550 installations ²
Expected battery installations per year	850 installations	Approximately 517 installations

Importantly, as noted in Table 1, ENO’s proposal supports more battery installations per year and in aggregate than the TNO/Alliance proposal. Further, ENO’s proposal outlines how this can be done at a third of the cost. As Enphase notes in its comments, the TNO/Alliance proposal includes upfront incentives that would be “among the strongest BTM battery incentives in the

¹ Administrative costs to manage and disburse upfront incentives to qualifying customers are not included in ENO’s figures.

² See Dec. 20, 2024 TNO/Alliance proposal, p. 30 and TNO’s response to ENO-1-5. TNO and the Alliance estimate 1,500 residential customers will participate over their three-year program period. ENO notes an error in the math regarding the maximum number of institutional customers per year that could participate under TNO/Alliance’s proposal. The correct amount is 50 commercial/institutional customers could participate over 3 years ($\$5,000,000 \text{ per year} \times 3 \text{ years} \div \$300,000 = 50$). Therefore, collectively TNO/Alliance’s proposal supports approximately 1,550 installations over three years as compared to ENO’s proposal supporting 4,250 installations over five years.

country.”³ This level of incentives is not necessary to spur program adoption, does not serve the public interest, and creates an excessive benefit for the few ENO customers that would be able to participate each year and for the battery manufacturers and installers. The ENO proposal also ensures participating customers receiving upfront incentives provide DR benefits to all ENO customers for a longer timeframe, spreading the benefits of the program more equitably.

With regard to the Office of Resilience and Sustainability (“ORS”) comments, ENO remains supportive of the implementation of microgrids on its system where they meet criteria laid out in the Company’s interconnection standard and policies, maintain safe and reliable operation of the distribution system, and control for identified risk factors. One example of an acceptable microgrid that does not impact other customers or line workers’ safety in an islanded situation would be at a university campus where the university has its own generation and distribution system behind a primary utility meter. This appears to be the concept behind the California Polytechnic-Humboldt project noted by ORS in its comments.⁴

There are numerous examples of microgrids in New Orleans where an individual customer site is able to island and operate with on-site generation, such as the TNO lighthouse locations and the microgrids planned under the Get Lit, Stay Lit program by Feed the Second Line. Also, the planned Sherwood Forest GRIP project will provide an example of an area microgrid owned, designed, and controlled by the utility that supports resilience on a specific feeder through line hardening and a battery storage system tied to the New Orleans Solar System generator. Additionally, ENO notes that the full scope of the changes to its distribution interconnection standards proposed by National Renewable Energy Laboratory (“NREL”) regarding unintentional

³ March 14, 2025 Enphase Comments, p. 2.

⁴ March 14, 2025 ORS Comments, p. 2.

and intentional islanding are unclear at this point.⁵ However, they presumably would represent significant modifications to existing engineering practice in New Orleans and raise numerous safety and technical issues to be considered.

B. SERI Credits

ENO will not repeat in full its prior comments regarding the SERI Credits. However, to the extent the Council may be inclined to allow other stakeholders to use the SERI Credits for their own non-utility programs, that would be inconsistent with the terms of the SERI AIP and Resolution No. R-24-194, may exceed the Council’s regulatory authority, and likely implicates the Council’s taxing authority and constitutes the taking of private property. Indeed, the surest way to protect ENO’s financial condition is for the Council to implement the SERI AIP as written and approved in Resolution R-24-194 and return the SERI Credits to customers in a manner that complies with the SERI AIP’s Paragraph 6(a). Nevertheless, as discussed herein and in prior comments, should the Council be inclined to use the SERI Credits in this way, ENO is open to using them to offset the cost to expand the Energy Smart Battery program provided that ENO’s financial condition is protected. Indeed, ENO has proposed its own expansion of the program.

With that said, the Alliance has not articulated a legitimate basis to compel the Council to revisit Resolution R-24-194 and the SERI AIP’s approval. As previously discussed, the Alliance’s effort to downplay ENO customers’ direct connection to the SERI Credits, is wrong and should be rejected. Resolution R-24-194 recognizes this connection by stating in its penultimate “WHEREAS” clause that “as part of the AIP, SERI agrees to a total refund of \$116 million to ENO to be returned to ratepayers as detailed therein.” This clause expressly states that the SERI refund is to be returned to ENO’s customers.

⁵ March 14, 2025 ORS Comments, p. 4.

The Council should ignore the Alliance’s repeated misstatements on this point. For example, the Alliance wrote that Resolution R-24-194 and the SERI AIP state “nothing as to how and to whom disbursements must be made.”⁶ The “WHEREAS” clause could not be written more clearly; again, it states “to be returned to ratepayers.” The SERI AIP’s Paragraph 6(a) states that “ENO will retain a \$32 million credit for customers.” As ENO has explained previously, Paragraph 6(a) establishes a process for returning the SERI Credits in a manner that protects ENO’s financial condition. Thus, despite the Alliance’s misstatements to the contrary, Resolution R-24-194 and the SERI AIP do address the “how” and the “whom” with respect to the SERI Credits.

In addition, and ironically, the Alliance cites *Michael v. City of Minden*,⁷ a case that illustrates how well-founded ENO’s concerns are over modifying Resolution R-24-194 and the SERI AIP. There, a municipal electric utility used a refund to pay for improvements to its distribution system instead of passing on the refund to the utility’s customers. The utility’s customers filed a class action against the utility seeking return of the refunds. The trial court ruled in favor of the utility based on “testimony at trial that an improved utility system would benefit city ratepayers through a more efficient and cost-effective delivery of electricity.”⁸ The appellate court affirmed the trial court decision and concluded that the “evidence in the record supports the trial court's finding that ratepayers benefited from the utility improvement and that the City's decision to apply the refund to a system upgrade was not arbitrary, capricious or an abuse of discretion.”⁹

⁶ March 14, 2025 Alliance Comments, p. 5.

⁷ 704 So. 2d 409 (La. App. 2d Cir. 1997).

⁸ *Id.* at 414.

⁹ *Id.* at 414-415.


The case demonstrates that utility customers may challenge a regulator’s decision that deprives them of a refund, and thus ENO’s request for indemnity is well-founded if Resolution R-24-194 and the SERI AIP are disturbed. More importantly, the case demonstrates that the regulator must base its decision to use a large refund to fund a utility service improvement on evidence that the improvement produces benefits to customers. While the Alliance claims that its proposals “will yield returns that exceed their costs in turn maximizing the benefits to current and future customers in a way that offsetting customer utility bills alone cannot,”¹⁰ the Alliance has not provided any evidence to support this claim.

CONCLUSION

ENO’s proposal supports more battery installations per year and in aggregate than the TNO/Alliance proposal, and ENO’s proposal outlines how this can be done at a third of the cost. Moreover, allowing other stakeholders to use SERI Credits for other non-utility programs would be inconsistent with the terms of the SERI AIP and Resolution No. R-24-194, may exceed the Council’s regulatory authority, and likely implicates the Council’s taxing authority and constitutes the taking of private property. In any event, further discussion among the stakeholders in this proceeding and guidance from the Council are needed to resolve several issues in this docket. ENO would welcome the opportunity to discuss those issues as well as its proposal at the upcoming technical conference, and looks forward to reviewing comments from other stakeholders and submitting additional comments for consideration.

¹⁰ March 14, 2025 Alliance Comments, p. 3.

Respectfully submitted,

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CERTIFICATE OF SERVICE

UD-24-02

I hereby certify that I have 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.

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