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November 25, 2025

**VIA ELECTRONIC MAIL**

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

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

Dear Clerk of Council:

Attached please find Entergy Orleans, LLC's ("ENO") *Motion and Incorporated Memorandum to Amend the Procedural Schedule and Request an Evidentiary Hearing Regarding Consolidated Billing* which is being filed in the above-referenced docket. ENO submits this filing electronically and will submit the requisite original and number of hard copies if and when directed to do so.

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 that reads 'Courtney R. Nicholson'.

Courtney R. Nicholson

CRN/hhs  
Enclosures  
cc: Official Service List UD-18-03 (*via electronic mail*)

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

**IN RE: A RULEMAKING )**  
**PROCEEDING TO ESTABLISH RULES )**  
**FOR COMMUNITY SOLAR PROJECTS )**  
**)**

**DOCKET NO. UD-18-03**

**MOTION AND INCORPORATED MEMORANDUM TO AMEND THE PROCEDURAL  
SCHEDULE AND REQUEST AN EVIDENTIARY HEARING REGARDING  
CONSOLIDATED BILLING ON BEHALF OF ENTERGY NEW ORLEANS, LLC**

**NOW BEFORE THIS COUNCIL**, through its undersigned counsel, comes Entergy New Orleans, LLC (“ENO” or “Company”), and hereby requests through this Motion that the Council of the City of New Orleans (“the Council”) amend the procedural schedule set forth in Resolution No. 25-352. As discussed herein, in the context of the New Orleans community solar program, should the Council now be inclined to order ENO to implement consolidated billing – after twice previously rejecting it – ENO requests that ENO and all stakeholders be provided an evidentiary hearing,<sup>1</sup> such that the Council can resolve the public interest and other threshold issues affecting ENO. For the following reasons, the Motion should be granted.

**INTRODUCTION**

1.

Several intervenors, once again, seek to have the Council direct ENO to alter its billing system by requiring ENO to implement consolidated billing for the New Orleans community solar program – and they want the Company and its customers to pay for it.

2.

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<sup>1</sup> *Gulf States Utils. Co. v. Louisiana Pub. Serv. Comm’n*, 578 So. 2d 71, 81 (La. 1991) (“In this case, Gulf States clearly was provided an evidentiary hearing in which it had a full opportunity to learn the extent of the case against it and the basis for that case, to present witnesses and introduce documents in support of its position, and to cross-examine Commission witnesses.”).

These intervenors seek to have the Company implement consolidated billing in order to effectuate their own investment proposals and business plans – proposals and plans that the intervenors have failed and refused to produce, in discovery, in this docket. The intervenors, however, have clearly stated their intention to market and sell generation services directly to ENO’s existing customers.

3.

Thus, the intervenors essentially want the Company and its customers to pay for consolidated billing so that the intervenors themselves (who do not have franchise rights in New Orleans) can compete with the Company’s electric service in New Orleans – which puts ENO’s franchise and other rights at risk and ultimately could result in a “taking.”

4.

Given the extraordinary relief requested, for the past several years, in multiple submissions to the Council, ENO has expressed a myriad of concerns regarding the implementation of consolidated billing. These concerns include that ENO’s billing system would require significant modifications to accommodate consolidated billing; the lack of clarity regarding the cost recovery mechanism and allocation arrangement for consolidated billing; the business risks that consolidated billing presents to ENO and the unreasonable costs to its customers; and there are no safeguards to avoid these risks.

5.

Moreover, over the course of this docket, ENO has raised numerous questions and sought guidance and parameters from the Council regarding consolidated billing, including proposed modifications to the community solar rules to accommodate consolidated billing. To that end,

the Company has also suggested modifications to the existing community solar rules that may reduce the costs and other concerns that ENO has raised regarding consolidated billing.

6.

The issues raised by the Company, among others, strike at the heart of whether consolidated billing is in the public interest. However, the public interest issue, among other threshold issues, remains unresolved.

7.

Any decision made by the Council regarding consolidated billing must be based on actual evidence in the record. A decision cannot be based simply on unsupported argument and conjecture. That would be contrary to law.

8.

On two prior occasions, the Council properly rejected consolidated billing.<sup>2</sup> As the record currently stands, there is no evidence to support a different decision now. In fact, there is no evidence in the record at all.

9.

That is because the current procedures in this docket do not contemplate an evidentiary record being prepared and submitted to the Council. Thus, the Council is not positioned to determine whether consolidated billing is in the public interest or other threshold issues.

10.

Should the Council now be inclined to implement consolidated billing, ENO requests that ENO and other stakeholders be allowed an opportunity to conduct meaningful discovery and

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<sup>2</sup> Resolution No. R-23-130, pp. 6-7; Resolution No. R-23-507, Ordering Par. 2.

present evidence through an evidentiary hearing, such that the Council can resolve the public interest and other threshold issues.

11.

In its September 5, 2025 comments, the Company proposed a path forward for stakeholders to present evidence and for the Council to address the public interest and other threshold issues. The path forward would ensure that this docket and the Council proceed in a deliberate manner, and as required by Louisiana law

12.

Given that most community solar projects are only in the application phase and only one project is in the construction phase, the Council has time to consider evidence and carefully sort through the details and implications of consolidated billing before projects come online.

13.

The Council's careful review of the implications of consolidated billing is all the more important and necessary given the news reports about PosiGen, a residential solar installer and intervenor in this docket.

14.

PosiGen recently announced that it is laying off hundreds of employees in Louisiana and ceasing most of its operations throughout the United States due to significant financial difficulties, macroeconomic challenges, and falling demand. PosiGen is not alone in experiencing hardship. The news reports state that "[r]esidential solar installations declined 31%

in 2024. Over the last year, industry titans like SunPower, Sunnova, and Mosaic Solar have all filed for bankruptcy.”<sup>3</sup>

15.

The wave of bankruptcies among residential solar installers and financiers, driven largely by macroeconomic strain and policy shifts, signals instability in the distributed solar marketplace. The Council plays a critical role in safeguarding the future of community solar by strengthening program design, transparency, and protections for participants.

16.

As discussed herein, ENO respectfully requests that the Motion be granted, with an amended procedural schedule issued that provides stakeholders an opportunity to present evidence (including pre-filed testimony), and also establishes an evidentiary hearing, such that the Council can resolve the public interest and other threshold issues regarding consolidated billing.

### **PROCEDURAL BACKGROUND**

17.

On July 13, 2022, Madison Energy Investments (“MEI”) asked the Council, among other things, to require ENO to implement consolidated billing in the context of the New Orleans community solar program, stating without evidence that “[c]onsolidated utility billing would be

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<sup>3</sup> *Louisiana-based solar company Posigen lays off hundreds, shuts most operations. Here’s why.* [https://www.nola.com/news/business/posigen-solar-layoffs-louisiana-trump-tax-credits/article\\_6cc1a144-9efa-41e7-86f0-e5867e4c5d0b.html#tncms-source=dontmiss-1](https://www.nola.com/news/business/posigen-solar-layoffs-louisiana-trump-tax-credits/article_6cc1a144-9efa-41e7-86f0-e5867e4c5d0b.html#tncms-source=dontmiss-1) (Aug. 27, 2025); *Residential solar installer PosiGen ceases most of its operations.* <https://pv-magazine-usa.com/2025/08/26/residential-solar-installer-posigen-ceases-most-of-its-operations/> (Aug. 26, 2025).

easier for all parties involved.”<sup>4</sup> Thereafter, on September 19, 2022, the Alliance for Affordable Energy (“AAE”) filed comments, without evidence, generally supporting MEI’s position.<sup>5</sup>

18.

On December 7, 2022, ENO filed comments in opposition to MEI’s request, stating that “ENO should not bear the responsibility (and its customers should not bear the cost) to scope out an ill-defined bill credit model change and develop scope of work and cost estimates for changes to ENO’s billing system.”<sup>6</sup>

19.

On April 6, 2023, considering the parties’ comments, the Council issued Resolution No. R-23-130, and specifically stated “*there is not sufficient information in the present proceeding . . . to determine whether it is feasible for the Company to implement consolidated billing.*”<sup>7</sup> After the resolution, various parties continued to file comments on consolidated billing and other issues.<sup>8</sup>

20.

On July 7, 2023, Air Products and Chemicals, Inc. (“Air Products”) filed comments opposing consolidated billing, stating it “appears to put the financial risk of a Subscriber defaulting on its Subscription payments on ENO, and therefore potentially ENO’s customers, and should be rejected.”<sup>9</sup>

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<sup>4</sup> Motion of MEI to Amend Community Solar Rules (July 13, 2022), p. 5.

<sup>5</sup> Comments of the AAE (September 19, 2022), pp. 2-6.

<sup>6</sup> Comments of Entergy New Orleans, LLC in Response to MEI’s Motion to Amend the Community Solar Rules (December 7, 2022), p. 8.

<sup>7</sup> Resolution No. R-23-130, p. 4 (emphasis added).

<sup>8</sup> *E.g.*, Comments of AAE (June 16, 2023), p. 4; Comments of Working Power (June 16, 2023), p. 2.

<sup>9</sup> Air Products Reply Comments on Proposed Changes to Community Solar Rules (July 7, 2023), p. 4.

21.

On November 2, 2023, considering the parties' comments, the Council issued Resolution No. R-23-507, stating that "*parties have raised valid concerns regarding the utilization of consolidated billing that have not been sufficiently addressed.*"<sup>10</sup> At this point, consolidated billing appeared to be formally rejected.

22.

Six months later, however, on April 8, 2024, Together New Orleans ("TNO") and the AAE again raised the issue of consolidated billing in a joint motion to amend the community solar rules, generally arguing, without any evidence whatsoever, that consolidated billing will "reduce barriers to participation, eliminate confusion, and streamline the experience of community solar for customers," and consolidated billing "can be implemented with limited changes to the physical bill and requires only limited communications and data sharing between Subscription Organizations and Utilities."<sup>11</sup>

23.

In response to the joint motion, on July 25, 2024, the Council issued Resolution No. R-24-310, which required, among other things, that ENO submit a proposal to implement consolidated billing by July 1, 2025. The sole justification for the Council's requirement that ENO submit a proposal for implementation was that "TNO and AAE again raised the *argument* in favor of consolidated billing."<sup>12</sup> The Council solicited this proposal without amending the community solar rules, citing any record evidence, defining what it meant by "consolidated

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<sup>10</sup> Resolution No. R-23-507, p. 8 (emphasis added).

<sup>11</sup> Joint Motion of TNO and the AAE to Amend Community Solar Rules (April 8, 2024), pp. 2-4.

<sup>12</sup> Resolution No. R-24-310, p. 6 (emphasis added).



billing program,” or discussing ENO’s or Air Products’ stated reasons for opposing consolidated billing.

24.

On October 30, 2024, ENO filed comments discussing the significant hurdles and costs associated with implementing consolidated billing for the community solar program. In particular, ENO expressed concerns about cost shifts to non-participating customers as a result of implementing consolidated billing. As the Company showed in its analysis, the subscriber credit rates set by the Council in November 2023 (which pay low income subscribers \$0.02/kWh above retail rates, non-low income subscribers retail rates, and non-residential subscribers credits that exceed the energy component of their commercial rate by including demand charge components in the subscriber credit), will result in an estimated \$212 million net cost to customers over the next 20 years under a 60 MW community solar program.

25.

ENO also explained that its business and customer base in New Orleans is significantly different than the few other jurisdictions (*e.g.*, New York) that have implemented consolidated billing and experienced difficulties in doing so. ENO also addressed certain legal concerns surrounding consolidated billing, including that endeavoring to force ENO to implement consolidated billing would infringe on ENO’s right to determine how to properly manage and operate its business.<sup>13</sup>

26.

On December 13, 2024, ENO submitted a letter to the Clerk of Council supplementing its October 30, 2024 comments, which provided additional information regarding the hurdles and

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<sup>13</sup> ENO Comments (October 30, 2024), pp. 2-5, 11-14.

costs of consolidated billing, as well as the Company's concerns about cost shifts to non-participating customers. Moreover, ENO emphasized that any effort to implement consolidated billing would come at a cost of, among other things, employing additional personnel and upgrading the Company's current billing system. The Company also stated that the community solar rules would need to be modified by the Council to accommodate consolidated billing, and/or that consolidated billing could result in costs among all customers of approximately \$2 per month for a typical residential customer.<sup>14</sup>

27.

Further, considering the costs to customers, the Company requested guidance from the Council on a variety of questions pertaining to proposals that may alleviate some of the potential customer inequities, including:

1. In the event the Council elects not to change the bill credit calculation approved in Resolution No. R-23-507, as modified by Resolution Nos. R-24-310 and R-24-571, will the Council consider setting the percentage split of total subscriber credits between subscriber organizations and subscribers in any further amendment of the Rules that adopts consolidated billing?
2. Will the Council consider modifying the credit rate for subscribers and subscriber organizations to a set rate?
3. Will the Council consider limiting the community solar program to low-income customers?
4. Will the Council consider limiting or phasing in the capacity of the community solar program?
5. If the Council further amends its Rules to require consolidated billing, would it limit the participation of anchor customers and the availability of alternative billing structures besides consolidated billing?<sup>15</sup>

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<sup>14</sup> December 13, 2024 ENO Letter to Clerk of Council.

<sup>15</sup> December 13, 2024 ENO Letter to Clerk of Council.

28.

In its December 13, 2024 letter, the Company proposed two modifications for the Council to consider: (a) reducing the program capacity limit (*e.g.* from 60 MW to 20-30 MW) and limiting participation to low-income customers, and (b) reducing payments to subscriber organizations, either by changing the credit rate methodology in the rules or by incorporating a competitive process to select projects that can be built at the lowest cost to all customers. While this proposal requires changes to the existing community solar rules, the Company believes this proposal merits serious consideration as these solutions can mitigate the cost shift to customers and minimize some of the policy concerns. These proposals are intended to achieve a fairer outcome for all customers and potentially reduce the implementation costs associated with consolidated billing, but the Council itself heretofore has not opined on them.<sup>16</sup>

29.

On April 2, 2025, TNO made a filing containing a statement that the “net crediting method of consolidated billing is a nationwide best practice integral to the success of New Orleans’ community solar program.”<sup>17</sup> In response to the unsupported and factually inaccurate statement, on May 27, 2025, ENO filed comments that reasserted its opposition to consolidated billing as expressed in prior submissions.<sup>18</sup>

30.

On June 11, 2025, the Company submitted a letter to the Clerk of Council that, in the absence of Council-approved community solar rules that contemplate consolidated billing, proposed for consideration and discussion certain redlined rules on consolidated billing as ENO

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<sup>16</sup> December 13, 2024 ENO Letter to Clerk of Council.

<sup>17</sup> TNO Comments (April 2, 2025), p. 6.

<sup>18</sup> ENO Comments (May 27, 2025), pp. 2-3.

understands it. As part of the letter, ENO provided an initial estimate of certain costs to implement consolidated billing, and it emphasized that any final estimate could fluctuate depending on the rules and requirements that the Council establishes. The Company also supplemented its prior submissions regarding the hurdles, costs, and concerns associated with consolidated billing.<sup>19</sup>

31.

Days later, on June 26, 2025, the Council issued Resolution No. R-25-352, referring to ENO's June 11, 2025 letter as a "proposal" for consolidated billing and establishing a procedural schedule regarding ENO's so-called "proposal." In particular, the procedural schedule included intervenor comments on September 5, 2025, reply comments on September 26, 2025, and an Advisors Report on October 24, 2025. Resolution No. R-25-352 notably does not reference or solicit commentary on any of the more-detailed proposals made by ENO in its December 13, 2024 letter.

32.

On July 15, 2025, to ensure an accurate record of the proceedings, the Company sent a letter to the members of the Council's Climate & Sustainability Committee stating, among other things, that its June 11, 2025 letter was not a "proposal" for consolidated billing. The letter was also shared with parties. Therein, ENO reiterated its concerns regarding consolidated billing, and it stressed there are many outstanding issues as to how, whether, and when a consolidated billing arrangement could be implemented – and no Council findings as to why such an arrangement *should* be implemented.<sup>20</sup>

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<sup>19</sup> June 11, 2025 ENO Letter to Clerk of Council.

<sup>20</sup> July 15, 2025 ENO Letter to Climate Committee.

33.

To that end, ENO pointed out that, to date, the regulatory procedures related to consolidated billing have not produced evidence that would afford the Council an opportunity to consider whether consolidated billing is in the public interest. All parties have not briefed the public interest issue, presented evidence (in the form of pre-filed testimony and/or cost benefit analyses) on consolidated billing in the context of the community solar program in New Orleans, or even reached a common understanding of “consolidated billing.” Further, as discussed in prior submissions, ENO requested additional guidance in order to define the parameters of a consolidated billing framework before the Company (and other parties) could develop appropriate estimates of costs and updated processes to administer consolidated billing.<sup>21</sup>

34.

On July 31, 2025, the technical conference was convened, during which ENO again noted that the Council has not yet considered or decided whether consolidated billing in the context of the community solar program in New Orleans is in the public interest. In addition, ENO continued to, among other things, express concerns that its billing system would require significant modifications to accommodate consolidated billing; the cost recovery mechanism and allocation arrangement for consolidated billing remain unclear; consolidated billing presents business risks to ENO and its customers; and there are no defined safeguards to protect ENO and its customers.

35.

Moreover, during the technical conference, various intervenors who do not have franchises in New Orleans stated their intentions to market and sell generation services directly

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<sup>21</sup> July 15, 2025 ENO Letter to Climate Committee.

to ENO's existing customers in competition with ENO's electric service. One intervenor stated that the seller of the generation services, a subscriber organization, wanted the option to offer ENO's customers up to 5 different price levels to encourage them to subscribe and not use ENO's electric service. Another intervenor stated that ENO's customers would be able to switch from one subscriber organization to another if customers learned that another subscriber organization was offering lower prices. That same intervenor also stated that customers would be queuing (*i.e.*, lining up) to secure the limited generation services offered by the subscriber organization as opposed to ENO's electric service.

36.

Following the technical conference, in August 2025, certain intervenors submitted responses to the Company's RFIs issued on July 28, 2025, seeking information on various aspects of consolidated billing. On the whole, the responses to the RFIs are general in nature and largely non-responsive; in fact, several intervenors refused to provide any substantive responses to many of the RFIs.<sup>22</sup> By way of example, TNO and SunConnect refused to provide any information regarding their investment proposals or business plans in connection with community solar participation.<sup>23</sup> In addition, SunConnect refused to respond to almost half of the RFIs, and it directed ENO – in response to the Company's effort to gain an improved understanding about consolidated billing in other states, which parties have repeatedly cited as a model of success – to use “a Google search and/or AI [that] can provide more insight onto the

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<sup>22</sup> Perch Energy, Solstice Power Technologies, Greater New Orleans Housing Alliance, Gulf States Renewable Energy Industries Association, and Solar Alternatives have not submitted any responses.

<sup>23</sup> TNO Response to ENO 1-19, attached hereto as Exhibit A; SunConnect Response to ENO 1-19, attached hereto as Exhibit B.

consolidated billing programs in Illinois, New York, Oregon, and Virginia.”<sup>24</sup> The Company held discovery conferences with various intervenors to discuss their deficient responses; however, no meaningful information was ever provided by the intervenors.

37.

On September 5, 2025, the Company filed comments requesting, among other things, that the Council resolve the public interest and other threshold issues regarding consolidated billing and consider necessary safeguards to protect the Company and its customers as part of any effort to require consolidated billing. The Company offered a path forward for the Council to address the threshold issues and necessary safeguards, certain of which ENO identified and discussed therein. Other parties also filed comments on that date.<sup>25</sup>

38.

On September 9, 2025, the Advisors submitted responses to the Company’s RFIs that were issued in August 2025, seeking information on various aspects of consolidated billing, the threshold issues in this docket, as well as the Council’s resolutions, among other things. The Advisors objected to every RFI, and failed and refused to provide any substantive response.<sup>26</sup>

39.

On September 26, 2025, ENO filed comments requesting that the Council again decline to modify its community solar rules to require implementation of consolidated billing. ENO noted, among other things, that the intervenors, like the Company, have raised significant policy and legal issues, and no clear path toward resolution of the issues has been identified. That is because the current rulemaking does not contemplate an evidentiary record being developed and

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<sup>24</sup> SunConnect Response to ENO 1-26, attached hereto as Exhibit B.

<sup>25</sup> September 5, 2025 ENO Comments.

<sup>26</sup> Advisors Responses to ENO RFIs, attached as Exhibit C.

submitted to allow parties to fully probe, or for the Council to fully consider, the issues. At minimum, the Company requested that any Council decision of whether to modify the rules to require implementation of consolidated billing should be stayed to provide for the issues to be addressed through an evidentiary hearing, consistent with the path proposed by the Company in its prior comments. Other parties also filed comments on that date.<sup>27</sup>

40.

On October 24, 2025, as provided in the procedural schedule in Resolution No. R-25-352, the Advisors submitted their report.<sup>28</sup> As an initial matter, the Advisors rightly observed that the intervenors “have repeatedly ignored the Council’s procedural rules and orders in the community solar proceeding and have misinterpreted to the Council the extent to which consolidated billing has been adopted in other jurisdictions as well as what the Council’s own Resolutions have said and what the Advisors have said.”<sup>29</sup>

41.

The Advisors concluded their report as follows: “The public interest does not require the adoption of Net Crediting Consolidated Billing, but if the Council finds that the potential benefits of Net Crediting Consolidated Billing are desirable for New Orleans, it can adopt Net Crediting Consolidated Billing in a manner that is consistent with the public interest. If the Council wishes to adopt Net Crediting Consolidated Billing, the Advisors recommend,” among other things, that the Council require ENO to file detailed cost estimates regarding consolidated

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<sup>27</sup> September 26, 2025 ENO Comments.

<sup>28</sup> October 24, 2025 Advisors Report.

<sup>29</sup> October 24, 2025 Advisors Report, pp. 3-4.



billing and a timeline to implement consolidated billing, as well as monthly reports regarding the Company's progress in implementing consolidated billing.<sup>30</sup>

## **ARGUMENT**

42.

As the Council knows, the public interest is a threshold issue in deciding a particular course of action. Whether a course of action is in the public interest will depend upon relevant factors that are potentially quantifiable on an estimated basis, such as likely changes in costs, as well as other factors that are not quantifiable, such as the effect of that course of action on the robustness of a competitive market.

43.

Witnesses provide evidence, facts and opinions that bear on the public interest issue, and the Council ultimately weighs all of the evidence and determines whether the particular proposed course of action is in the public interest. For the past eighty or more years, regulatory decision-making has been tested in the courts by a balancing-of-interests standard. In these cases, beginning with *Federal Power Commission v. Hope Natural Gas Company*,<sup>31</sup> the courts have found that if the regulatory body's decision reflected a reasonable balancing of customer and investor interests, the decision was to be affirmed as just and reasonable.<sup>32</sup>

44.

Courts, however, have reversed regulatory decisions that are not grounded in factual evidence. The courts review the Council's regulatory orders under the same standard that the

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<sup>30</sup> October 24, 2025 Advisors Report, p. 57.

<sup>31</sup> 320 U.S. 591, 603 (1944).

<sup>32</sup> See also Resolution No. R-18-65 at 107 (A public interest determination often requires "a subjective balancing of interests by the regulator . . .").

Louisiana Supreme Court has developed for orders of the Louisiana Public Service Commission (“LPSC”), which regulates the investor-owned public utilities that provide service in Louisiana outside of New Orleans.<sup>33</sup> As such, the orders of the Council are subject to judicial review on both the facts and the law.<sup>34</sup> A reviewing court should overturn an order if it is shown to be “arbitrary, capricious, abusive of its authority, clearly erroneous, or unsupported by the evidence.”<sup>35</sup> An order is arbitrary and capricious when it is not reasonably based upon the evidence presented.<sup>36</sup> Similarly, a court on judicial review must ensure that the Council engaged in reasoned decision-making by weighing the competing arguments and evidence presented to it and intelligibly explaining the reasons for its choices.<sup>37</sup> Furthermore, a regulatory body “is not entitled to deference in its interpretation of statutes and judicial decisions.”<sup>38</sup>

45.

When a utility’s significant property interest, one significant to the utility and its investors, is at stake in a regulatory proceeding, the utility is entitled to an evidentiary hearing before that interest can be adversely affected.<sup>39</sup> An evidentiary hearing is a set of procedures through which the utility has the “full opportunity to learn the extent of the case against it and the basis for that case, to present witnesses and introduce documents in support of its position, and to

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<sup>33</sup> *Gordon v. Council of City of New Orleans*, 9 So. 3d 63, 72 (La. 2009).

<sup>34</sup> *LP&L v. Louisiana Pub. Serv. Comm’n*, 237 So. 2d 673, 675 (La. 1970); *United Gas Pipe Line Co. v. Louisiana Pub. Serv. Comm’n*, 130 So. 2d 652, 657 (La. 1961).

<sup>35</sup> *Central La. Elec. Co. v. Louisiana Pub. Serv. Comm’n*, 508 So. 2d 1361, 1364 (La. 1987).

<sup>36</sup> *Natural Gas Co. of Louisiana v. Louisiana Pub. Serv. Comm’n*, 634 So. 2d 358 (La. 1994); *Radiofone, Inc. v. Louisiana Pub. Serv. Comm’n*, 573 So. 2d 460 (La. 1991).

<sup>37</sup> *FERC v. Electric Power Supply Ass’n*, 136 S. Ct. 760, 784 (2016); *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 167-168 (1962); *accord Central La. Elec. Co. v. Louisiana Pub. Serv. Comm’n*, 437 So. 2d 278, 279 (La. 1983).

<sup>38</sup> *Washington St. Tammany Elec. Coop., Inc. v. Louisiana Pub. Serv. Comm’n*, 671 So. 2d 908, 912 (La. 1996).

<sup>39</sup> *Gulf States Utils. Co. v. Louisiana Pub. Serv. Comm’n*, 578 So. 2d 71, 80-81 (La. 1991).

cross-examine [other parties'] witnesses.”<sup>40</sup> Submitting arguments and objections in writing to a regulator is not sufficient when a regulator is making a significant determination to the utility or the utility’s property interest is at stake.<sup>41</sup>

46.

Here, the intervenors once again have asked the Council to open up the Company’s internal billing system and require consolidated billing for the New Orleans community solar program – and they want the Company and its customers to pay for it. The intervenors – who do not have franchise rights in New Orleans – seek this result in furtherance of their stated plans to compete with the Company’s electric service. Thus, in addition to the cost of implementation, ENO’s property interest in its franchise is at stake, and the intervenors’ actions (if implemented) could result in a “taking.”

47.

On two prior occasions, the Council properly rejected the intervenors’ request for consolidated billing.<sup>42</sup> Should the Council now be inclined to reach a different result, a procedural defect exists that must be fixed to comply with due process requirements.

48.

The procedural schedule provided in Resolution No. R-25-352 regards ENO’s so-called “proposal” for consolidated billing – *not* the public interest or other threshold issues. There is no comment period for those issues, or for the submission of pre-filed testimony or verified

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<sup>40</sup> *Id.* at 81.

<sup>41</sup> *Londoner v. Denver*, 210 U.S. 373, 386 (1908) (“If it is enough that, under the circumstances, an opportunity is given to submit in writing all objections to and complaints of the tax to the board, then there was a hearing afforded in the case at bar. But we think that something more than that, even in proceedings for taxation, is required by due process.”).

<sup>42</sup> Resolution No. R-23-130, pp. 6-7; Resolution No. R-23-507, Ordering Par. 2.

cost/benefit analyses, or for a full evidentiary hearing. In the same way, the Advisors Report does not provide a procedural path for the parties to present evidence on consolidated billing.

49.

Put simply, the current procedures do not contemplate an evidentiary record being submitted, which would allow the Council to fully consider whether consolidated billing is in the public interest or other important policy considerations affecting ENO. This is contrary to law.

50.

Thus, as it currently stands, the record is replete with argument – *not evidence*. To date, no stakeholders have presented evidence (in the form of pre-filed testimony or otherwise) that it is in the public interest to implement consolidated billing. Moreover, there has been no opportunity for the Company (or the Advisors) to cross-examine witnesses, in an effort to obtain evidence and assist the Council in making a determination on consolidated billing.

51.

Nonetheless, and while glossing over the lack of record evidence (including the intervenors’ and the Advisors’ own refusal to cooperate in discovery),<sup>43</sup> the Advisors opine in their report that the Council can determine whether “the potential benefits of Net Crediting Consolidated Billing are desirable for New Orleans.”<sup>44</sup>

52.

Without evidence in the record, however, the Council cannot make a public interest determination or otherwise resolve the other threshold issues in a manner that will survive

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<sup>43</sup> See Exhibits A, B, and C.

<sup>44</sup> October 24, 2025 Advisors Report, p. 57.

judicial review. Indeed, any decision made by the Council regarding consolidated billing must be based on record evidence – not on unsupported argument and conjecture.

53.

As required by law, a full evidentiary hearing is necessary to determine the public interest, to satisfy the due process requirements, and resolve other threshold issues regarding consolidated billing, as well as necessary safeguards for the Company and its customers.

54.

Accordingly, the Company, through this Motion, requests that the Council amend the procedural schedule to allow stakeholders an opportunity to present evidence (including pre-filed testimony) and conduct additional discovery, and also to establish an evidentiary hearing, such that the Council can consider and resolve the public interest and other threshold issues regarding consolidated billing.

55.

The Council's consideration of the public interest is critical. Only a few states actually utilize consolidated billing for their community solar programs. Of the 44 states with community solar programs,<sup>45</sup> just 9 states have implemented consolidated billing. Intervenors recently acknowledged this,<sup>46</sup> after disingenuously telling the Council that consolidated billing is a "nationwide best practice."<sup>47</sup> Thus, the majority of states with community solar programs do

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<sup>45</sup> As of December 2024, community solar projects are located in 44 states. *See* <https://www.nrel.gov/state-local-tribal/community-solar> (Market Status section).

<sup>46</sup> *E.g.*, TNO Response to ENO 1-26, attached hereto as Exhibit A.

<sup>47</sup> TNO Comments (April 2, 2025), p. 6 ("net crediting method of consolidated billing is a nationwide best practice integral to the success of New Orleans' community solar program"); Comments of People's Solar Energy Fund (August 16, 2024), p. 1 ("Net crediting on utility bills is the national best practice for billing."); Comments of Office of Resilience and Sustainability (May 10, 2024), p. 1 ("Net crediting on utility bills is the national best practice for billing, and we believe that New Orleans' community solar program would benefit from a clear and consolidated outline of charges and savings."); Comments of Algier Solar (August 15, 2024), p. 1 ("Net crediting on

*not* utilize consolidated billing. Moreover, as noted above, the intervenors have not cooperated in discovery, refusing to provide, among other things, their investment proposals and business plans for community solar.<sup>48</sup>

56.

In addition, various states have experienced difficulties implementing consolidated billing in the context of community solar programs. The experiences of other states run directly counter to MEI’s unsupported claim that consolidated billing “would be easier for all parties involved.”<sup>49</sup> For example, while intervenors point to New York as a model for New Orleans – even though the program stretches across 6 public utilities that together serve millions of customers – New York has had “numerous ongoing billing issues related to utility billing of [community distributed generation] impacting thousands of customers and generating confusion surrounding energy costs and [community distributed generation] program benefits.”<sup>50</sup> Moreover, the Minnesota Court of Appeals recently held that a utility could reduce the credit rate

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utility bills is the national best practice for billing....”); Comments of Solar Alternatives (August 14, 2024), p. 1 (same); Comments of Green Coast Enterprises (August 7, 2024 and November 27, 2024), p. 1 (same); Comments of 127 Energy (August 13, 2024), p. 1 (same); Comments of Gulf States Renewable Energy Industries Association (August 12, 2024), p. 1 (same); Comments of Solar Access for All Coalition (August 19, 2024), p. 1 (same); Comments of South Coast Solar (August 6, 2024), p. 1 (same); *see also* Joint Motion of TNO and the AAE to Amend Community Solar Rules (April 8, 2024), pp. 2 (consolidated billing “was pioneered in New York and has been increasingly adopted in other states nationwide”).

<sup>48</sup> SunConnect Response to ENO 1-26, attached hereto as Exhibit B.

<sup>49</sup> Motion of MEI to Amend Community Solar Rules (July 13, 2022), p. 5.

<sup>50</sup> New York Public Service Commission, Case 19-M-0463, Order, September 15, 2022, p. 3. While it is not immediately clear what steps utilities took to address the billing issues with consolidated billing, a “Solar for All” program has been adopted recently which seems to limit participation to low-income customers and include different consolidated billing and crediting processes. New York Public Service Commission, Case 21-E-0629, Order, May 16, 2024.

to most subscribers because the community solar program unfairly shifted costs onto non-participating customers.<sup>51</sup>

57.

The Council's consideration of the public interest issue – based on evidence – is all the more important and necessary given the demographic of customers that ENO serves and the relative size of its footprint. Complications with implementation of consolidated billing could be significantly impactful for the Company's customers. Indeed, New Orleans customers, many of whom are low income, would face the same problem of cost shifts that led to litigation in Minnesota. The Company previously submitted an analysis showing that the subscriber credit rates set by the Council in November 2023, will result in an estimated \$212 million net cost to customers over the next 20 years under a 60 MW community solar program.<sup>52</sup> If these cost shifts are realized, there are no net benefits expected to be achieved with the community solar program.

58.

Further, as noted above, PosiGen recently laid off hundreds of employees in Louisiana and is ceasing most of its operations in the United States due to significant financial difficulties, macroeconomic challenges, and falling demand. Other solar companies are also facing hardships and bankruptcies.<sup>53</sup> The implications of these issues, among others, bear on the public interest and need to be considered by the Council in more depth. Surely the Council will want and need

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<sup>51</sup> *In the Matter of Petition of the Northern States Power Company, d/b/a Xcel Energy, for Approval of its Proposed Community Solar Garden Program*, A24-1450 et seq., 2025 WL 2205795 (Minn. Ct. App. Aug. 4, 2025) (discussed in <https://minnesotareformer.com/2025/08/05/xcel-can-pay-lower-rate-to-community-solar-subscribers-minnesota-appeals-court-rules/>).

<sup>52</sup> ENO Comments (October 30, 2024), pp. 2-5.

<sup>53</sup> *Louisiana-based solar company Posigen lays off hundreds, shuts most operations. Here's why.* [https://www.nola.com/news/business/posigen-solar-layoffs-louisiana-trump-tax-credits/article\\_6cc1a144-9efa-41e7-86f0-e5867e4c5d0b.html#tncms-source=dontmiss-1](https://www.nola.com/news/business/posigen-solar-layoffs-louisiana-trump-tax-credits/article_6cc1a144-9efa-41e7-86f0-e5867e4c5d0b.html#tncms-source=dontmiss-1) (Aug. 27, 2025); *Residential solar installer PosiGen ceases most of its operations.* <https://pv-magazine-usa.com/2025/08/26/residential-solar-installer-posigen-ceases-most-of-its-operations/> (Aug. 26, 2025).

to consider evidence of the intervenors' historical business practices in the solar market and understand their financial stability and ability to sustain their business operations, before deciding to require the Company (and New Orleans residents) to make investments in consolidated billing for their programs.

59.

There is sufficient time for the Council to allow for the presentation of evidence and to sort through the details and implications of consolidated billing for the New Orleans community solar program. Most projects are in the application phase, and only one project is in the construction phase. Thus, the Council has time to proceed methodically and carefully to consider the threshold issues and necessary safeguards for the Company and its customers. Indeed, before considering any specific proposal to implement consolidating billing, the Council should require the parties to submit evidence and decide the public interest and other threshold issues that remain outstanding in this docket. The Council should make its determinations through an evidentiary hearing, as required by law.

60.

A noteworthy consideration that bears on the public interest standard involves ENO's franchise rights in New Orleans. In Ordinance No. 7068 C.C.S., as amended, New Orleans granted ENO a non-exclusive indeterminate permit, a type of franchise, authorizing ENO to operate as an electric utility and sell electric service to New Orleans residents.<sup>54</sup>

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<sup>54</sup> In consideration of this grant, ENO pays to New Orleans a franchise fee in the amount of five percent (5%) of its gross receipts from the sale of electric service pursuant to its indeterminate permit. *See* Ordinance No. 17962 M.C.S. ENO further has the obligation to sell electric service to New Orleans and its inhabitants that desire such service and are willing to pay the electric rates determined by the Council to be just and reasonable. To date, New Orleans has not granted any other entity the authority to operate as an electric utility in New Orleans. Consolidated billing has the potential to reduce the City's franchise-fee collections at a time when the City is facing challenges to meeting its financial commitments.



61.

The United States Supreme Court has held that the right to sell utility services and operate a utility business are not a matter of common right, but a privilege, the exercise of which, in the absence of a franchise, would be in derogation of the power of the state.<sup>55</sup> In accord with this statement of law, Louisiana courts have held that a competitor without a franchise from a municipality has no right or authority to provide utility service to the inhabitants of the municipality.<sup>56</sup>

62.

The statements at the July 31, 2025 technical conference demonstrate that the intervenors – who do not have franchise rights in New Orleans – intend to compete with ENO. Thus, the Company’s property interest in its franchise is at stake, and the intervenors’ actions (if implemented) could result in a “taking.”

63.

This, in addition to the unaddressed issues and concerns outlined in detail above and in other submittals by the Company in this docket, should be considered and weighed by the Council in an evidentiary hearing against any benefit that may exist with implementation of consolidated billing.

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<sup>55</sup> *Frost v. Corp. Comm’n*, 278 U.S. 515, 521 (1929) (“[T]he right to supply gas or water to a municipality and its inhabitants, . . . to operate a railroad, a street railway, city waterworks or gasworks, . . . are franchises. And, . . . the operation [of such a business] is precluded without a permit from the state governmental agency. Under these conditions, to engage in the business is not a matter of common right, but a privilege, the exercise of which, except in virtue of a public grant, would be in derogation of the state’s power. Such a privilege, by every legitimate test, is a franchise.”).

<sup>56</sup> *New Orleans Pub. Serv. Inc. v. Citizens Utils. Co.*, 726 So. 2d 1012, 1014-1016 (La. App. 4th Cir. 1999) (whether a competitor is a utility is irrelevant); *Town of Coushatta v. Valley Elec. Membership Corp.*, 139 So. 2d 822, 828 (La. App. 2nd Cir. 1961).

64.

As part of the evidentiary hearing, the Council can consider the myriad substantive obstacles that exist to potentially implementing consolidated billing, and that, to address such obstacles, any proposal to implement consolidated billing would need to include rigorous safeguards approved by the Council to protect customers.

65.

ENO is unwilling to absorb any financial risk or hardship because of consolidated billing. The recent news reports that PosiGen is scaling back its business nationwide, coupled with the ongoing hardships and bankruptcies of other solar companies (mentioned above), make the kind of safeguards being proposed by the Company all the more important and necessary. Indeed, implementing and making investments in furtherance of a consolidated billing arrangement (for which ENO receives no benefit) with unaddressed cost recovery and other business exposure is unacceptable to ENO.

66.

In its September 5, 2025 comments and other submissions, ENO provided examples of the kinds of safeguards and guidance that the Company would need from the Council with regard to consolidated billing. Necessary safeguards and guidance are included in the proposed amended procedural schedule, below.

**AMENDED PROCEDURAL SCHEDULE**

67.

The procedural schedule should be amended to allow the parties to create an evidentiary record and have a full evidentiary hearing such that the Council can determine the public interest and other threshold issues.

To that end, the Company offers the following proposed amendments to the procedural schedule:

1. The Council would set a procedural schedule allowing for a full evidentiary hearing on the public interest and other threshold issues, including those raised in the Company's December 13, 2024 letter and its September 5, 2025 and September 26, 2025 comments.
2. From the date of the procedural schedule, the following deadlines would be set:
  - a. ENO Direct Testimony filed on the 30th day
  - b. Intervenor Direct Testimony filed on the 60th day
  - c. Advisors Direct Testimony filed on the 90th day
  - d. ENO Rebuttal Testimony filed on the 120th day
  - e. Discovery cutoff 15 days after ENO Rebuttal Testimony
  - f. Evidentiary Hearing held no earlier than 20 days after the discovery cutoff
3. Upon issuance of a final, non-appealable Council order finding that consolidated billing is in the public interest, and once other parameters are established and the community solar rules are updated to account for consolidated billing, ENO would be allowed 14 months from the Council's ordering resolution to finalize implementation requirements and costs through a request for proposals and perform implementation.
4. During the 14 month period, ENO would timely submit an updated cost estimate to implement consolidated billing as directed by the Council. Intervenor comments on the updated cost estimate would be due within 30 days, with reply comments due 30 days later, and a report from the Advisors due 30 days after reply comments.

5. In any resolution approving consolidated billing in the community solar program, the following provisions, at minimum, would be included as safeguards to address the risks of consolidated billing to ENO and its customers:
- a. All subscriber organizations must participate in the Council-approved consolidated billing arrangement.
  - b. The guaranteed savings rates for subscribers and the percentage splits of subscription credits between subscribers and subscriber organizations would be prescribed and fixed in the rules, and can only be changed by Council authorization or by mutual agreement of the developers and ENO.
  - c. ENO would be entitled to receive an administrative fee for costs to administer the Council's community solar program, and implement and maintain systems and processes supporting consolidated billing.
  - d. The agreements between the subscriber organization and the Company must address the following provisions:
    - i. Hold harmless and indemnity clauses
    - ii. Dispute resolution procedures
    - iii. Termination for proper cause
    - iv. Confidentiality obligations with respect to customers' information
    - v. Warranties
    - vi. Recourse for nonpayment
  - e. The Council must modify the community solar rules to clearly define how ENO would allocate subscription credits under certain scenarios, including but not limited to: (1) a subscriber closes their ENO account, (2) a subscriber has

been disconnected for non-payment, (3) a subscriber is in arrears, (4) a subscriber organization files for bankruptcy, or (5) a subscriber organization ceases commercial operations.

- f. A community solar tariff would be developed such that the costs to implement and maintain consolidated billing are reflected as a line item on each customer's monthly bill. This tariff would be applied exclusively to customers who subscribe to the community solar program.
- g. Given the risks to ENO's indeterminate permit, consideration would be given to just compensation provided to ENO by the developers, and/or the assessment of a fee against the subscriber organizations, as further directed by the Council.

### **CONCLUSION**

69.

Here, several intervenors once again have asked the Council to direct ENO to alter its billing system by requiring consolidated billing for the New Orleans community solar program – and they want the Company and its customers to pay for it. The intervenors – who do not have franchise rights in New Orleans – seek this result in furtherance of their stated plans to compete with the Company's electric service. Thus, in addition to the cost of implementation, ENO's property interest in its franchise is at stake, and the intervenors' actions (if implemented) could result in a "taking."

70.

The intervenors' request is extraordinary. As currently postured, this docket presents significant policy and legal issues, as well as significant risks to customers. Indeed, the current

community solar rules potentially combined with consolidated billing create significant cost shift and legal issues, as discussed in prior comments and further articulated herein.

71.

These important threshold issues, in particular the public interest issue, must be decided by the Council based on evidence. The record in this docket, however, is replete with argument – none of which amounts to evidence.

72.

For the reasons discussed herein, the Company respectfully requests that the Motion be granted, with an amended procedural schedule issued that provides for an evidentiary hearing consistent with the schedule proposed herein, in order to resolve the public interest and other threshold issues regarding consolidated billing.

73.

Over the course of the amended procedural schedule, ENO reserves its rights to raise other issues based on ongoing research and discovery or other evidence.

Respectfully submitted,



By:

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**ATTORNEYS FOR  
ENTERGY NEW ORLEANS, LLC**

Billing costs for Subscriber Organizations vary widely based on business model, technology choices, and project scale. Having each subscriber organization mount its own billing operation is an inefficient way to run a citywide program.

**Question 1.16: Please provide any analyses or estimates in your possession concerning the costs for ENO to implement consolidated billing for the community solar program in New Orleans.**

We do not possess proprietary estimates for ENO's internal costs, but public estimates from states like New York and Minnesota show that utility consolidated billing is cost-effective compared to duplicative third-party billing systems.

**Question 1.17: Please provide any analyses or estimates in your possession concerning the bill impacts to ENO's customers resulting from ENO's implementing consolidated billing for the community solar program in New Orleans.**

We do not possess this proprietary information, and without knowing how much the implementation of consolidated billing will cost, it's impossible to tell. But under net crediting, utilities recover administrative costs relating to billing and benefit from avoided procurement. Further, net crediting reduces program attrition and bad debt, lowering systemic cost exposure.

**Question 1.18: Please identify your expected annual revenues and expenses resulting from your participation in a community solar program in New Orleans.**

We respectfully decline to provide the requested financial data. The requested data is competitively sensitive and proprietary.

**Question 1.19: Please produce copies of any investment proposals or business plans that you have prepared in connection with your planned participation in a community solar program in New Orleans.**

We respectfully decline to provide the requested financial data. The requested data is competitively sensitive and proprietary.

**Question 1.20: What protections should the Council provide ENO (and its customers) to address any losses or damage to its existing systems that result from implementation or attempted implementation of a consolidated billing program?**

Reasonable indemnification clauses and utility input into billing design can mitigate risks to utility systems. These are standard in other markets.

**Question 1.21: What protections should the Council provide to ensure that utility consolidated billing does not increase delayed or partial payments by subscribing customers?**

Delays or non-payments are reduced with consolidated billing. Utilities can apply existing collections protocols and set clear rules for partial payments.



**Question 1.22: What protections should the Council provide to protect ENO (and its customers) from claims against it by Subscriber Organizations (and Affiliates)?**

Dispute resolution procedures and standardized contracts can insulate ENO from undue risk while ensuring fair treatment of Subscriber Organizations.

**Question 1.23: What protections should the Council provide to keep ENO customer data secure under a consolidated billing program?**

Data security can be addressed through nondisclosure agreements and cybersecurity standards, following best practices from utilities nationwide.

**Question 1.24: If you contend that non-participating customers should bear any costs of a community solar program (including for consolidated billing), please explain the basis or rationale for your contention, and state how much non-participating customers should pay.**

Community solar delivers broad public benefits, expanding access to clean energy, supporting grid resilience, and advancing equity by including renters and low-income households who are otherwise excluded from renewable options. These outcomes serve the public interest and align with Council policy goals.

Utility cost structures are, by necessity, shared. All customers routinely support system costs for infrastructure, programs, and services from which they may not individually benefit to the same extent, such as electric vehicle infrastructure, energy efficiency programs, demand response pilots, or transmission upgrades driven by regional reliability needs. The electric utility is a shared platform, and cost distribution is not, and cannot be, perfectly individualized. This is a feature of a modern, integrated utility system, not an exception.

Community solar's system-wide benefits, such as reduced peak load, deferred capacity investment, avoided procurement of marginal energy, and potential locational benefits on the distribution grid, accrue broadly. In that light, modest administrative costs, if any, borne by the wider customer base are not categorically unfair, particularly when weighed against the program's role in creating a more inclusive and sustainable energy system.

We do not propose a specific amount that non-participating customers should pay. That determination belongs in a broader policy discussion that weighs costs against system-wide and societal benefits.

**Question 1.25: Do you support a competitive procurement process among Subscriber Organizations (and Affiliates) seeking to participate in the community solar program. If not, please explain why.**

Competitive procurement is not appropriate for subscriber-driven community solar. Open enrollment supports innovation and access.

**Question 1.26: Concerning your March 26, 2024 comments in this docket, please identify the states that have adopted the net crediting model of utility-consolidated billing.**

According to NREL's [data set](#), states with utility-consolidated billing either implemented or mandated include Alaska, Colorado, Illinois, Maryland, Minnesota, New Jersey, New York, Oregon, Virginia. States having implemented or that are working on implementing the net crediting model are New York, New Jersey, Maryland and Minnesota.

**Question 1.27: Concerning your March 26, 2024 comments in this docket, please identify and quantify the "billing and collection costs that Subscription Organizations (and Affiliates) would incur in the absence of utility consolidated billing."**

Billing costs for Subscriber Organizations vary widely based on business model, technology choices, and project scale. Having each subscriber organization mount its own billing operation is an inefficient way to run a citywide program.

**Question 1.28: Concerning your March 26, 2024 comments in this docket, please share all documents in your possession that estimate the costs of executing the billing.**

See answer to 1-27.

**Question 1.29: Concerning your March 26, 2024 comments in this docket, please identify all successful community solar programs that have implemented net crediting.**

See 1-26.

**Question 1.30: Please explain your September 13, 2024 comments in this docket that "net crediting is an essential linchpin to this program."**

Net crediting simplifies the customer experience and removes barriers that disproportionately affect low-income residents. Under dual billing, customers must navigate two separate bills—one from the utility and one from the subscriber organization—making it difficult to determine whether they are receiving a benefit. Net crediting consolidates these into a single utility bill, where solar credits appear directly and automatically reduce the customer's electric bill.

This clarity and ease of participation are especially critical for low-income households, many of whom may be unbanked or enrolled in assistance programs like LIHEAP. Net crediting ensures that savings are guaranteed and visible, making participation possible for residents who could not otherwise take on the financial and administrative risk of dual billing. It also helps subscriber organizations reduce risk, enabling more financing for LMI-targeted projects.

In short, we believe net crediting is a prerequisite for accessibility, transparency, and scalability of the program—not just a billing preference, but a structural requirement for success.

### **ENO 1-17**

Please provide any analyses or estimates in your possession concerning the bill impacts to ENO's customers resulting from ENO's implementing consolidated billing for the community solar program in New Orleans.

We do not possess this proprietary information, and without knowing how much the implementation of consolidated billing will cost, it's impossible to tell. But under net crediting, utilities recover administrative costs relating to billing and benefit from avoided procurement. Further, net crediting reduces program attrition and bad debt, lowering systemic cost exposure.

### **ENO 1-18**

Please identify your expected annual revenues and expenses resulting from your participation in a community solar program in New Orleans.

We decline this request to provide financial data. This is commercially sensitive and proprietary information.

### **ENO 1-19**

Please produce copies of any investment proposals or business plans that you have prepared in connection with your planned participation in a community solar program in New Orleans.

We decline this request to provide financial data. This is commercially sensitive and proprietary information.

### **ENO 1-20**

What protections should the Council provide ENO (and its customers) to address any losses or damage to its existing systems that result from implementation or attempted implementation of a consolidated billing program?

Reasonable indemnification clauses and utility input into billing design can mitigate risks to utility systems. These are standard in other markets.

### **ENO 1-21**

What protections should the Council provide to ensure that utility consolidated billing does not increase delayed or partial payments by subscribing customers?

Delays or non-payments are reduced with consolidated billing. Utilities can apply existing collections protocols and set clear rules for partial payments. We suggest that credits stay on a customer's bill for 30-60 days then are transferred to other subscribers on a waitlist if the bill is left unpaid. This should motivate timely payments, as customers who pay their bills on time reap the benefits.

distribution grid, accrue broadly. In that light, modest administrative costs, if any, borne by the wider customer base are not categorically unfair, particularly when weighed against the program’s role in creating a more inclusive and sustainable energy system.

We do not propose a specific amount that non-participating customers should pay. That determination belongs in a broader policy discussion that weighs costs against system-wide and societal benefits.

#### **ENO 1-25**

Do you support a competitive procurement process among Subscriber Organizations (and Affiliates) seeking to participate in the community solar program. If not, please explain why.

Council’s directive is around Consolidated Billing. Competitive procurement would be an entirely different program and is therefore outside the scope. That said, competitive procurement is not appropriate for subscriber-driven community solar. Open enrollment supports innovation and access.

#### **ENO 1-26**

Concerning your November 21, 2024 comments in this docket, please provide copies of statutes or regulatory orders from the “four states” that “require utility-consolidated billing.”

Our research is proprietary; however, a Google search and/or AI can provide more insight onto the consolidated billing programs in Illinois, New York, Oregon, and Virginia.

State	Authority / Program	Requirement Summary
Maryland	COMAR 20.62.06.03–.04; Public Utilities § 7-306.2	Mandates utility-consolidated billing; subscriber organizations may opt-in; LMI savings floor required
New York	PSC Case 19-M-0463	Orders utilities to adopt consolidated billing for CDG (community solar); includes implementation deadlines

Oregon	Oregon PUC Community Solar Program Oversight	Requires utility-consolidated billing to ensure consumer protections; supersedes developer-only billing
Virginia	HB 629 (2020); SCC shared solar implementation	Requires Dominion to implement a shared solar program with utility coordination and single billing
New Jersey	BPU Community Solar Rules via BGS / POR framework	Community solar uses utility-consolidated billing through utility-led crediting and payment mechanisms

### **ENO 1-27**

Concerning your November 21, 2024 comments in this docket, please identify the “3<sup>rd</sup>-party companies that specialize in this kind of platform management.”

Given the programs implemented by ENO, there are probably already platforms in place that can be used (or slightly modified) for consolidated billing. We were referring to companies in the community solar space or direct billing space as utility consolidated billing is becoming more common in deregulated markets. Some third-party platform providers that support billing, customer management and data integration include Solstice, Arcadia, Perch, EnergySage NeighborhoodSun, and SunShare. Perhaps Entergy Texas has some systems they can share as well since they are operating in a deregulated market.

**BEFORE THE**

**COUNCIL OF THE CITY OF NEW ORLEANS**

**IN RE: A RULEMAKING PROCEEDING )  
TO ESTABLISH RULES FOR )  
COMMUNITY SOLAR PROJECTS )**

**DOCKET NO. UD-18-03**

**ADVISORS TO THE COUNCIL OF THE CITY OF NEW ORLEANS' RESPONSES TO  
ENTERGY NEW ORLEANS, LLC'S FIRST SET OF REQUESTS FOR INFORMATION**

The Advisors to the Council of the City of New Orleans hereby submit the following responses to Entergy New Orleans, LLC's First Set of Requests for Information in the above captioned proceeding as follows:

**ENO 1-1**

What procedural process should the Council institute to determine whether utility consolidated billing serves the public interest?

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion. The Advisors further object to this request as hypothetical and assumes legal positions asserted by ENO in this proceeding. Subject to and without waiving these objections, please see Council Resolution No. R-25-352 for the Council's procedure to consider ENO's consolidated billing proposal.

**ENO 1-2**

What factors should the Council consider when determining whether utility consolidated billing serves the public interest?

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion and seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. The Advisors further object to this request as hypothetical and assumes legal positions asserted by ENO in this proceeding. Subject to and without waiving these objections, please see Council Resolution No. R-25-352 for the Council's procedure to consider ENO's consolidated billing proposal.

**ENO 1-3**

What factual evidence must the Council assemble in order to evaluate whether utility consolidated billing serves the public interest?

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion and seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. The Advisors further object to this request as hypothetical and assumes legal positions asserted by ENO in this proceeding. Subject to and without waiving these objections, please see Council Resolution No. R-25-352 for the Council's procedure to consider ENO's consolidated billing proposal.

**ENO-1-4**

Please state whether the Council has made a formal determination that consolidated billing in the New Orleans community solar program is in the public interest.

- a. If the answer is "yes," provide the Council resolution number and specific language in the resolution reflecting that determination.
- b. For that resolution, identify each specific item of evidence in the administrative record that the Council relied upon in making this determination.

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion. Further, the Council's resolutions, orders and ordinances are publicly available, speak for themselves and are the best evidence of their contents.

**ENO 1-5**

Please explain whether solar developers and/or Subscriber Organizations that seek to participate in the community solar program in New Orleans are “public utilities” subject to Council regulation.

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion and seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine.

**ENO 1-6**

What recommendations are you making to the Council concerning franchise rights and fees for services provided by solar developers and/or Subscriber Organizations?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO’s consolidated billing proposal in the Advisors’ Report pursuant to Council Resolution No. R-25-352.

**ENO 1-7**

With reference to Council Resolution No. R-19-111, at 3, what specific protections would you propose to the Council for utility consolidated billing to protect non-participating ratepayers and to make sure that all appropriate risks are borne by developers?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO’s consolidated billing proposal in the Advisors’ Report pursuant to Council Resolution No. R-25-352. Subject to and without waiving these objections, the Council’s Community Solar Rules reflect the Council’s determinations as to the appropriate levels of cost and risk to be borne by various parties, including but not limited to, Sections V. Capacity Limits; VII.G. Utility Cost Recovery and Charges; VIII. Subscription Credits, IX. Unsubscribed Energy; and XIII. Consumer Protection & Disclosure.



**ENO 1-8**

Should the Council consider provider consolidated billing (*i.e.*, consolidated billing administered by the community solar Subscriber Organization) as an alternative to utility consolidated billing?

If not, please explain why.

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-9**

Please identify and explain alternatives to utility consolidated billing that can achieve similar benefits to those claimed by intervenors in this docket.

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-10**

Please identify any regulator that has imposed utility consolidated billing in connection with a community solar program and provide the regulatory orders.

**Response**

The Advisors object to this request as vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Advisors also object that the request seeks publicly available information that is as accessible to ENO as it is to the Advisors. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-11**

What rules should the Council impose if a participating customer disputes the community solar portion of a bill?

**Response**

The Advisors object to this request as vague, ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence. Further, the Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352. Subject to and without waiving these objections, the Council's Community Solar Rules reflect the Council's determination as to the manner in which the Community Solar Rules shall be enforced, including, but not limited to Section XIV. Enforcement of These Rules.

**ENO 1-12**

With a consolidated billing program, how do you propose to address nonpayment or partial payment by a subscribing customer?

**Response**

The Advisors object to this request as vague, ambiguous, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence. Further, the Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-13**

Please provide any estimated costs that you have obtained for a solar developer to conduct its own billing to program participants in a dual-billing model.

**Response**

The Advisors are not in possession of any such estimates.

**ENO 1-14**

Please provide any analyses or estimates in your possession concerning the costs for ENO to implement consolidated billing for the community solar program in New Orleans.

**Response**

The Advisors object to this request because it seeks information in the possession of, known to, or otherwise available to ENO. Subject to and without waiving the foregoing objection, the Advisors are not in possession of any analyses or estimates concerning the costs specifically for ENO to implement consolidated billing for the community solar program in New Orleans other than those already submitted to the Council in this docket.

**ENO 1-15**

Please provide any analyses or estimates in your possession concerning the bill impacts to ENO's customers resulting from ENO's implementing a consolidated billing for the community solar program in New Orleans.

**Response**

The Advisors object to this request because it seeks information in the possession of, known to, or otherwise available to ENO. Subject to and without waiving the foregoing objection, the Advisors are not in possession of any such analyses or estimates.

**ENO 1-16**

What protections should the Council provide to ENO to address any losses or damage to its existing systems that result from implementation or attempted implementation of a consolidated billing program?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352. Subject to and without waiving these objections, the Council's Community Solar Rules reflect the Council's determinations as to the treatment of utility costs including but not limited to, in Section VII.G. Utility Cost Recovery and Charges.

**ENO 1-17**

What protections should the Council provide to ensure that utility consolidated billing does not increase delayed or partial payments by subscribing customers?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-18**

What protections should the Council provide to protect ENO from claims against it by solar developers and/or Subscriber Organizations?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-19**

What protections should the Council provide to keep ENO customer data secure under a consolidated billing program?

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

**ENO 1-20**

If you contend that non-participating customers should bear any costs of a community solar program, please explain the basis or rationale for your contention.

**Response**

The Advisors object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352. Subject to and without waiving these objections, the Council's Community Solar Rules reflect the Council's determinations as to the appropriate levels of cost to be borne by various parties, including but not limited to, VII.G. Utility Cost Recovery and Charges; VIII. Subscription Credits, IX. Unsubscribed Energy; and XIII. Consumer Protection & Disclosure.

**ENO 1-21**

In the early 2000s, did the Advisors recommend to the Council not to implement retail open access? If not, what was the Advisors' recommendation? Provide all documents relied upon for this response.

**Response**

The Advisors object to this request as vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Advisors also object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Subject to and without waiving the foregoing objections, the Advisors' public recommendations to the Council, including those from the 2000s are publicly available, speak for themselves and are the best evidence of their contents.

**ENO 1-22**

In the early 2000s, did the Advisors recommend that the Council authorize a non-bypassable charge to recover stranded costs if the Council did implement retail open access? If not, what was the Advisors' recommendation? Provide all documents relied upon for this response.

**Response**

The Advisors object to this request as vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Advisors also object to this request to the extent that it seeks information that is protected by the Attorney-Client Privilege and the Attorney Work Product Doctrine. Subject to and without waiving the foregoing objections, the Advisors' public recommendations to the Council, including those from the 2000s are publicly available, speak for themselves and are the best evidence of their contents.

**ENO 1-23**

Provide the Council's final decision from the early 2000s rejecting retail open access.

**Response**

The Advisors object to this request to the extent that the Council's resolutions, orders and ordinances are publicly available, speak for themselves and are the best evidence of their contents.

**ENO 1-24**

Is allowing Subscriber Organizations to market and sell to ENO's customers a service competing with ENO's electric service a form of retail open access? If not, why not?

**Response**

The Advisors object to this request to the extent that it calls for a legal conclusion. The Advisors further object to this request as hypothetical and assumes legal positions asserted by ENO in this proceeding. Additionally, the Advisors object to this request as premature in as much as the Advisors intend to include all relevant information related to ENO's consolidated billing proposal in the Advisors' Report pursuant to Council Resolution No. R-25-352.

Respectfully submitted,

DENTONS US LLP,

*/s/ J. A. Beatmann, Jr.*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Advisors to the Council of the City of New Orleans' Responses to Entergy New Orleans, LLC's First Set of Requests for Information has been served upon "The Official Service List" via electronic mail and/or U.S. Mail, postage properly affixed, this 9<sup>th</sup> day of September, 2025.

*/s/ J. A. Beatmann, Jr.*

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J. A. Beatmann, Jr.

## **CERTIFICATE OF SERVICE**

**Docket No. UD-18-03**

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, 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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New Orleans, Louisiana, this 25<sup>th</sup> day of November 2025.



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