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December 18, 2025

VIA ELECTRONIC MAIL
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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") Reply Memorandum in the above-referenced docket. 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,

Courtney R. Nicholson

Courtney R. Nicholson

CRN/jlc
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**

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

Entergy New Orleans, LLC ("ENO" or "Company") submits this Reply Memorandum regarding the December 9, 2025 letter submitted by certain intervenors in response to the Company's Motion and Incorporated Memorandum to Amend the Procedural Schedule and Request for an Evidentiary Hearing Regarding Consolidated Billing ("Motion").

INTRODUCTION

ENO filed the Motion to ensure that proper procedures are in place to allow stakeholders to present evidence on consolidated billing and for the Council of the City of New Orleans ("Council") to address the public interest and other threshold issues. These important issues must be resolved through an evidentiary hearing – not based on argument alone. The Council's careful and deliberate review of consolidated billing, as required by law, is particularly critical now that PosiGen, a residential solar installer and intervenor in this docket, has filed for bankruptcy.[1]

The intervenors' letter, however, consists of unsupported and inaccurate assertions and entirely fails to address the merits of the Motion. It fails to rebut any of the factual or legal bases for the Motion and cites no jurisprudential authorities in support of their claims. As the rulemaking

[1] https://pv-magazine-usa.com/2025/12/08/residential-solar-installer-posigen-files-for-bankruptcy/?utm_source=USA+%7C+Newsletter&utm_campaign=8eaadc2eae-dailynl_us&utm_medium=email&utm_term=0_80e0d17bb8-8eaadc2eae-160679148&ct=t(dailynl_us

proceeding currently stands, there is no evidence in the record on consolidated billing and certainly none supporting the intervenors' position. Accordingly, the intervenors do not – and cannot – point to any record evidence that would satisfy their burden of proof or to support a Council determination on consolidated billing that would withstand judicial scrutiny. The Motion should therefore be granted.

ARGUMENT

A. There Has Never Been an Evidentiary Hearing.

The intervenors' statement that an "additional evidentiary hearing is [not] warranted" is a misrepresentation. Throughout the entirety of this docket, there has never been an evidentiary hearing. That is the reason why ENO filed its Motion – so that the Council can hold an evidentiary hearing to determine the public interest and other threshold issues regarding consolidated billing.

An evidentiary hearing is a formal proceeding, typically held before a judge or an administrative body, where parties present ***evidence*** to establish facts relevant to a specific legal issue.[2] In *Gulf States*, a case that ENO cites in its Motion and is not questioned by the intervenors, the Louisiana Supreme Court stated an evidentiary hearing provides a party an opportunity to conduct discovery, to present witnesses, to introduce exhibits, and to cross-examine opposing witnesses.[3] That has not occurred in this docket. No party has presented to the Council or the hearing officer sworn written or live witness testimony, live cross-examination testimony, or

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[2] https://lsd.law/define/evidentiary-hearing (emphasis added).

[3] *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."). *See also Morgan v. United States*, 304 U.S. 1, 19-20 (1938) ("Congress, in requiring a 'full hearing,' had regard to judicial standards . . . with respect to those fundamental requirements of fairness which are of the essence of due process in a proceeding of a judicial nature. . . . The requirements of fairness are not exhausted in the taking or consideration of evidence, but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps.").

documentary or other types of exhibits for the Council's consideration. Instead, the docket is replete with arguments presented during comment periods and a technical conference, as the intervenors themselves discuss in their letter. But arguments and technical conference discussions do not satisfy the requirements for an evidentiary hearing and the due process concerns raised in the Motion. As a matter of law, ENO is entitled to an evidentiary hearing on the issue of consolidated billing.

B. <u>The Council Has Previously Rejected Consolidated Billing for Lack of Evidence.</u>

On two prior occasions, the Council has rejected consolidated billing due, in part, to the lack of evidence demonstrating the feasibility of ENO implementing consolidated billing.[4] These resolutions indicate that the consolidated billing issue remains unsettled – not only from ENO's perspective, but from the Council's own perspective as well. Despite this acknowledged lack of evidence, no procedural steps were taken to develop a record sufficient to determine whether consolidated billing is in the public interest. Instead, the Council issued Resolution No. R-24-310, in part, to solicit a consolidated billing proposal from ENO, and the Council admittedly did so based solely on an "argument" advanced by certain intervenors, rather than on any new evidence.[5]

In their letter, the intervenors claim, without support, that the Motion is "an attempt to obstruct the Council's implementation of consolidated billing," and that the Council already "formally adopted the program framework and billing mechanism [for consolidated billing] through Resolution No. R-24-310." These claims are factually wrong and reflect a broader pattern identified by the Advisors in which the intervenors "have misinterpreted...what the Council's own

[4] Resolution No. R-23-130, pp. 6-7; Resolution No. R-23-507, Ordering Par. 2.

[5] Resolution No. R-24-310, p. 6.

Resolutions have said."[6] Contrary to the intervenors' claims, Resolution No. R-24-310 did ***not*** require the implementation of consolidated billing, nor did it adopt a consolidated billing framework or billing mechanism. Resolution No. R-24-310 contains no such findings or directives. In fact, the Council could not have made those determinations in the absence of evidence in the record, an absence the Council itself cited when it previously declined to approve consolidated billing.

The intervenors further claim that "ENO's implementation efforts are already behind schedule due to [ENO's] repeated failure to meet procedural deadlines." This assertion is non-sensical. The Council has not ordered the implementation of consolidated billing, and therefore no implementation schedule exists. The Company cannot be behind schedule when no implementation obligation has been imposed. Moreover, it is notable that the intervenors advance this claim despite the Advisors' observation that the intervenors "have repeatedly ignored the Council's procedural rules and orders in the community solar proceeding."[7]

Against this backdrop, ENO filed the Motion to allow for an evidentiary hearing to ensure that, if the Council is now inclined to revisit the implementation of consolidated billing after twice rejecting it for lack of evidence, it does so through an evidentiary hearing and a procedurally sound process. To that end, the Company proposed a detailed schedule spanning approximately five (5) months from the date of issuance. By contrast, the intervenors proposed a period of three (3) months, without a detailed schedule. Should it assist the Hearing Officer and the Council, ENO is willing to engage with the intervenors to negotiate an appropriate schedule.

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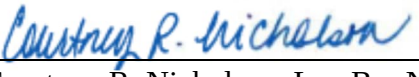
6 October 24, 2025 Advisors Report, pp. 3-4.

7 October 24, 2025 Advisors Report, pp. 3-4.

CONCLUSION

ENO filed the Motion to ensure proper procedures are put in place to allow stakeholders to present evidence on consolidated billing and for the Council to address the public interest and other threshold issues. These important issues must be decided based on evidence – not unsupported argument. That is what the law requires. ENO respectfully requests that its Motion be granted and a revised procedural schedule be issued that affords the parties a discovery period, an opportunity to present testimony, and an evidentiary hearing, consistent with the schedule proposed by the Company and as contemplated by the principles of due process.

Respectfully submitted,

By: 

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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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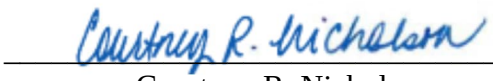

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