

Attachment B

**The Council
of the
City of New Orleans**

Utility Regulatory Manual

Version 01
Adopted by Resolution No. R-26- _____
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URM Division I. New Orleans City Council Utility Regulatory Manual (“URM”).

Section 1. Purpose.

This Utility Regulatory Manual (“URM”) was adopted by Council Resolution No. 25- ,as authorized by Chapter 158 of the Code of the City of New Orleans. The purpose of the URM is to provide a single common reference document to provide detailed rules, procedures, descriptions, and specifications for filing requirements, practice, and procedures related to Chapter 158. A copy of the URM shall be made available on the council’s website. The URM may be amended by resolution of the council. Further, Tto the extent a council-approved rate schedule, ~~and/or~~ resolution, and/or final order of the council in a utility proceeding issued subsequent to adoption of the URM conflicts with the URM, the council-approved rate schedule, resolution, and/or final order in the subsequent proceeding shall control.

Section 2. Applicability.

The URM contains procedural and technical requirements related to electricity and gas filings and regulatory proceedings governed in Chapter 158, including, but not limited to:

- 1- General filing procedures.
- 2- Council approved customer service regulations.
- 3- Rate change application technical requirements.
- 4- ~~Formula rate plan (“FRP”) rules.~~
- ~~5-4-~~ Integrated resource plan (“IRP”) rules.
- ~~6-5-~~ Renewable clean energy portfolio standards (“RCPS”) rules.
- ~~7-6-~~ Community solar rules and program (“CSR”) rules.
- ~~8-7-~~ Protective orders.
- ~~9-8-~~ Net Energy Metering Rules.
- ~~10-9-~~ RFP Rules for Generation Acquisitions

Section 3. Citation.

____ The provisions of this manual shall be cited in the following format:

CCNO Utility Resource Manual [Division #].[Section #].[subsection #](version date).

Section 4. Definitions.

The terms used in this URM have the same meanings ascribed to them in Section 158-45 of the Code of the City of New Orleans, except when a different meaning is expressly stated or clearly indicated by the context or as stated in a specific rule.

URM Division II. Customer service regulations (“Service Regulations”).

Section 1. General

- (a) Each electric or gas utility regulated by the council shall submit for approval a comprehensive set of customer service regulations that detail matters related to service installation and maintenance of service, customer rights and responsibilities, billing and payment matters, special medical/critical customer protections, customer deposits, disconnection procedures and protections and other matters related to the utility-customer relationship.
- (b) Each utility is required to post a copy of the Service Regulations on its website and/or other media platforms in an obvious and easy-to-access location for customers.
- (c) Service Regulations may be modified at the direction of, or with the approval of, the council. The utility is required to ensure ~~assure~~ that all modifications are reflected in the publicly available versions of the Service Regulations.

URM Division III. Regulatory procedures and filing requirements.

Section 1. General

- (a) In addition to the provisions of Chapter 158 of the Code of the City of New Orleans, and this URM, utility related matters are also governed by the Rules and Regulations of the Council of the City of New Orleans, as amended from time to time~~(Amended and Restated May 22, 2025)~~ (“Council Rules”). Parties should make themselves familiar with the Council Rules with particular attention to Rule 46: Electronic Submissions, Rule 47: Public Comment, Rule 48: Disturbances in Council Chambers, Rule 49: Candor to the Council, and Rule 52: Standards for Electronic Coverage.
- (b) Whenever a matter is not covered in Chapter 158 or this URM, or ordered by the council, council utility docket proceedings shall be governed by the Louisiana Code of Civil Procedure and the Louisiana Code of Evidence.
- (c) Computing time. Unless otherwise stated in Chapter 158, this URM, or ordered by the council, the Louisiana Code of Civil Procedure shall determine the amount of time allowed or prescribed.

Electronic submissions. In accordance with the Council Rules and Regulations (“Council Rules”) Rule 46.A, except as otherwise expressly provided by law or the Council Rules, any communication or other submission to the Clerk of Council may be made electronically by emailing the submission to the Clerk of Council at clerkofcouncil@nola.gov. In any docketed matter, electronic submissions shall be sent to other parties to the docket by emailing the document to the email address included on the updated service list for each~~that~~ party.

Section 2. Required content of filings.

- (a) All filings submitted to the council pursuant to Chapter 158 and this URM shall include the following:
 - (1) a cover letter to the clerk as provided in the Council Rules,

- (2) the docket number, if applicable,
 - (3) the name(s) of the filing party,
 - (4) a concise description of the ultimate facts relied upon by the filing party,
 - (5) a concise description of the type of relief, action, or order desired by the filing party, and
 - (6) a certificate of service on each party on the updated~~most recent~~ service list.
- (b) Every filing of a party represented by an attorney shall be signed by at least one attorney of record, whose physical address and email address for service of process shall be stated. A party who is not represented by an attorney shall sign the pleading and provide a physical address and email address, if the party has an email address, for service of process. If mail is not received at the physical address for service of process, a designated mailing address shall also be provided. A party or attorney may sign a pleading by electronic signature.
- (c) Interventions. Any party in interest may appear in any proceeding before the council under this division pursuant to and consistent with Chapter 158-29 (a)(2)~~article~~. All appearances shall be subject to a motion to strike upon a showing that the party has no justiciable or administratively cognizable interest in the proceeding. In addition to the requirements of paragraph (a), all motions to intervene must include:
- (1) A statement of the interest of the party in the proceeding.
 - (2) The name, address, email address and telephone number of the individuals to be placed on the service list as representatives of the party.
 - (3) Where the party is appearing through a representative the party must identify the representative and include a statement signed by the representative and the party or a registered agent of the party.

Section 3. Required format of filings.

Format. All filings in any proceeding shall, unless the council otherwise orders or permits, be double spaced, typed, and submitted electronically. Except as otherwise ordered or permitted by the council, all filings shall be formatted so as not to exceed a width of 8-1/2 inches and a length of 14 inches and shall have inside margins not less than one inch wide. Pages should be numbered. Whenever practical, all documentary exhibits shall conform to such requirements of size and margin. All filings shall contain the address and telephone number of the party submitting the document. If a party is represented by an attorney or other representative, the filing shall also include the name, business address and telephone number of such attorney or other representative. Attorneys shall also attach their state bar association number. A private or United States Post Office Box or drawer shall not constitute a sufficient address for the purposes of this section.

Section 4. Discovery instructions.

- (a) Parties to proceedings under this division are entitled to issue discovery requests as provided below:
1. Data requests, interrogatories, and requests for production of documents or any other discovery requests (collectively “Requests” or individually “Request”) call for all information, including information contained in documents, which is known or available to the responders(s) in the proceeding.
 2. Where a Request has a number of separate parts, subparts, or aspects, a complete response is required to each part or aspect. The response should separately address each part or subpart by its individual designation, e.g., CNO 3-1) (A), (CNO 3-1) (B), etc. Any objection to a part, subpart, or aspect of a Request should clearly indicate the part, subpart, or aspect to which it is directed.
 3. If a Request specifically seeks an answer in response that is not contained in a referenced document, an answer is required.
 4. The person who prepares and is responsible for providing the response on behalf of the responding party should be identified on the response (“Responder”).
 5. If a Request can be answered in whole or in part by reference to the response to another Request served in the proceeding, it is sufficient to so indicate by specifying the other response or part or aspect thereof which is responsive to the instant Request and by specifying whether the response to the other request is a full or partial response to the instant Request. If the response to the other Request constitutes a partial response, the balance of the instant Request must be answered.
 6. If a Request cannot be answered in full after exercise of due diligence to secure the information requested, Responder shall state the answer to the extent possible, state why the Request cannot be answered in full, and state what information or knowledge you is available concerning the unanswered portions.
 7. If, in answering any of these Requests, Responder maintains that a Request or instruction applicable thereto is ambiguous, Responder shall set forth the language that is considered ambiguous and the interpretation being used in responding to the Request.
 8. If a document requested is unavailable, Responder shall identify the document, describe in detail the reasons that the document is unavailable, state where the document can be obtained, and specify the number of pages it contains.
 9. If no existing document is responsive to a Request that calls for a document, Responder shall so state and the Request should be treated as an interrogatory.
 10. Responders have an ongoing obligation as to all responses to amend or supplement if any person answering the Requests obtains any information upon which: (a) the party making the response knows that it was incorrect when made; or (b) the party making the response knows that the response, though correct when made, is no longer true or is misleading.
 11. All Requests are ~~considered to be~~ continuing in nature and thereby Responders are required to produce by supplemental or amended responses any information or documents within the scope of the Request that Responder obtains, acquires, or discovers subsequent to the initial response to the Request.

Section 5. Order of presentation at hearing.

Unless otherwise stated in Chapter 158 or this URM, or ordered by the council, the order of hearing presentations shall be established by the hearing officer prior to commencement of the hearing. The order of hearing may be varied by the hearing officer when the circumstances so justify. The hearing officer may grant additional opportunities for the presentation of evidence and for argument only where good cause is shown for such additional evidence and argument.

URM Division IV. Rate change application technical requirements.

Section 1. Required content.

Each rate case applicant under this chapter shall provide the following, unless otherwise required by ~~to~~ a council-approved rate schedule, ~~or~~ final order, or resolution of the council. To the extent that the Council or its representative finds that specific data/requirements do not apply to a filing utility, functionally equivalent information shall be provided where available: :

1. General data:

- a. Charter. A copy of the public utility's charter or articles of incorporation, articles of organization, or other business formation documents, if not already on file with the council.
- b. Latest balance sheet. A balance sheet of the utility prepared as of the last day of the latest month in which data is readily available for Period I. For Period II, provide a balance sheet of the utility on an estimated basis.
- c. Utility property. If not already provided in earlier statements, a description of the utility's property, as of the last day of the latest month in which data is readily available by FERC ~~avvount~~account for the test period ended. For Period II, provide a description of the utility's property on an estimated basis as of the last day of Period II. Such a description shall be a dollar amount ~~of each functional category by FERC account~~.
- d. Retained earnings analysis. An analysis of retained earnings covering Period I. For Period II, an analysis from the close of the last calendar year for which an annual report has been filed with the council to the date of the balance sheet provided in the statement in subsection (1) b. of this section.
- e. Construction program statement. The utility shall file a statement that generally describes its capital expenditures program for providing reliable and economic services for the period beginning with the date of the filing and ending with the tenth year after the test period. The statement shall include the following.
 - i. An annual forecast, for the period, of customers' peak demand and energy requirements utilizing econometric forecasting models. These models should include price induced conservation, the conservation effects associated with improved efficiencies of gas, heat, electrical and power appliances and equipment, and any reduction in demand and

energy resulting from projected customer-owned resources, such as distributed energy resources (“DERs”), and all utility-managed demand side management (“DSM”) programs.

- ii. A capacity addition program setting forth the sources of utility-owned capacity and energy to serve the customers' forecasted peak demand and energy requirements.
- iii. A transmission/distribution program setting forth the additions and improvements in transmission and distribution facilities necessary to deliver the capacity and energy from the utility's sources to its customers in a reliable and economical manner.

2. Revenue-related data including the following:

- a. Summary of revenue requirements. If Period I is the test year period, a jurisdictional summary showing pro forma adjusted rate base and operating income under present rates; and actual earned rate of return, proposed rate of return, required operating income, operating income deficiency, gross revenue conversion factor, and resulting revenue requirement. If Period II is the test year period, provide a jurisdictional summary showing proforma adjusted rate base and operating income under present rates; actual earned rate of return, proposed rate of return, required operating income, operating income deficiency, gross revenue conversion factor, and resulting revenue requirements.
- b. Summary of impact of proposed rates. For Period I and Period II, provide a tabulation by jurisdiction showing the number of customers, monthly billing determinants, the base revenues, rider tariff revenues, and the total revenues by rate schedule under present and proposed rates and the dollar and percentage ~~increases~~changes. Also furnish supporting work papers setting forth the fuel adjustment clause and purchased gas adjustment monthly revenues.
- c. Proposed rate schedules. The proposed rate schedules for the jurisdiction and any other retail rate schedules proposed by the applicant or pending for any other jurisdiction and/or before any other regulatory body.
- d. Present rate schedules. The present rate schedules and any other rate schedules effective for the applicant for any other retail jurisdiction or an electronic link to same.
- e. Summary bill comparison. Schedules showing typical bill comparisons by rate schedule under present and proposed rates. The comparisons should provide adequate consumption information by block and season, and should set forth base revenue, rider tariff adjustments, if any, and total revenue for various levels of usage under all residential, commercial, industrial, and other rate schedules.

3. Rate base related data including the following:

- a. Summary of jurisdictional rate base. For Period I, a summary of total company and jurisdictional rate base for pro forma adjusted operations. For Period II, a total company and jurisdictional pro forma adjusted rate base for projected operations. The rate base shall be stated in adequate detail to identify each component set forth in this schedule. The utility may include items not specifically set forth which it believes are appropriate for inclusion.
- b. Plant in service. For Period I, a summary of total company plant in service by FERC account for actual operations, and, if applicable, a summary of pro forma adjustments by FERC account, including a description and the amount of each such adjustment and total company plant in service by FERC account for pro forma adjusted operations. For Period II, a summary of total company plant in service by FERC account for projected operations, and, if applicable, a summary of pro forma adjustments by FERC account, including a description and the amount of each such adjustment and total company plant in service by FERC account for pro forma adjusted operations. The total company plant in service shown on this schedule shall agree for the applicable periods with the amounts appearing on the statement referenced in subsection (1) b. and subsection (6) a. of this section.
- c. Accumulated depreciation. For Period I, a summary of total company accumulated depreciation by FERC account for actual operations, and if applicable, a summary of pro forma adjustments by FERC account, including a description and the amount of each adjustment and total company accumulated depreciation by FERC account for pro forma adjusted operations. For Period II, provide a summary of total company accumulated depreciation by FERC account for projected operations, And, if applicable, a summary of pro forma adjustments by FERC account, including a description and the amount of each adjustment and total company accumulated depreciation by FERC account. Also, as applicable, provide a list of retirements of electric utility generating plants, transmission lines or substations, and distribution lines or substations, and a list of retirements of gas plant in service, recorded during Period I and projected for Period II, provided each such retirement exceeds \$100,000.00. The total company accumulated depreciation shown on this schedule shall agree for the applicable periods with the amounts appearing on the statement in subsection (1) b. and subsection (6) a. of this section.
- d. Depreciation study. The utility's most recent depreciation study by FERC account. If the utility has previously filed the study with the council the same may be provided by reference.
- e. Summary of construction work in progress. For Period I and Period II, a schedule showing total company construction work in progress by FERC account.

- f. Listing of construction work in progress. For Period I, a schedule listing all construction work in progress at the end of the period by work order number, and for Period II, by FERC account. For each listed item, the estimated completion cost of all work that exceeds \$100,000.00 and is applicable to the city's jurisdictional area, provide a brief description, estimated completion cost and projected date of placement in service. For Period I and Period II, for construction applicable to the city's jurisdictional area provide a statement listing all construction work in progress closed, or to be closed, during the period, by FERC account, including a brief description, final completion cost, and date of placement in service, provided the estimated completion cost of each such item exceeds \$100,000.00.
- g. Allowance for funds used during construction (AFUDC). For Period I and Period II, show the computations of the maximum rates for the construction allowances. If the utility proposes to use a net-of-tax rate, the utility shall show the derivation for both the gross-of-tax and net-of-tax rates. If the booked amounts of AFUDC do not reflect the rates computed above, show the derivation for the actual rates utilized in computing AFUDC, including the derivation of any net-of-tax AFUDC rate utilized by the utility.
- h. Summary of property held for future use. For Period I and Period II, provide a schedule listing total company property held for future use, including, by item, the book cost, the projected date of placement in service, and the planned use for this property. The total company amount of property held for future use shown on this schedule shall agree for the applicable periods with the amounts, if any, appearing on the statement in subsection (1) b. and subsection (6) a. of this section.
- i. Calculation of working capital allowance. For Period I and Period II, provide a schedule showing the calculation of the total company working capital by component. The total company amount of working capital allowance shall agree for the applicable periods with the amounts appearing on the statement in subsection (1) b. and subsection (6) a. of this section.
- j. Prepayments. For Period I and Period II, provide a schedule showing the derivation of the total company prepayments component of the working capital allowance. Include a schedule of the monthly prepayment balances. The total company prepayment amount shall agree for the applicable periods with the amount appearing in the statement in subsection (1) b. and subsection (6) a. of this section.
- k. Materials and supplies and fuel stock. For Period I and Period II, provide a schedule showing the derivation of the total company materials and supplies and fuel stock components of the working capital allowance including a schedule of the monthly materials and supplies and fuel stock balance. The total company materials and

supplies and fuel stock amounts shall agree for the applicable periods with the amount appearing in the statement in subsection (1) b. and subsection (6) a. -of this section.

1. Calculations of cash working capital. For Period I and Period II, provide a schedule showing the detailed calculation of the cash working capital component of the working capital allowance. The utility shall compute cash working capital using a lead-lag study methodology for the test period. The use of a lead-lag study in the determination by the utility of its cash working capital requirements shall not preclude the council from making adjustments thereto, nor employing one-eighth or 12.5 percent of total annual operations and maintenance expense excluding amounts charged to operations and maintenance expense for fuel, deferred fuel, cost of gas, and purchased power, depreciation and taxes in its final determination of the appropriate amounts of cash working capital for ratemaking purposes. Should the utility request zero cash working capital in its filing, it shall be considered an alternative methodology, and no lead-lag study shall be required. The council's discretion in the treatment of non-investor supplied capital, other than non-investor supplied capital that would be included in a lead-lag study for ratemaking purposes, shall be unaffected. The amount shown here shall agree for the applicable periods with the amount appearing in the statement in subsection (1) b. and subsection (6) a. of this section.
 - m. Minimum bank balances. For Period I, provide a listing of all banks requiring the deposit of minimum bank balances by the company relating to services provided in customer bill-paying programs. Also provide the amount of such minimum bank balances on deposit with each bank at the end of Period I.
 - n. Summary of accumulated deferred income taxes and unamortized investment tax credits. For Period I and Period II, provide a schedule showing total company accumulated deferred income taxes and unamortized investment tax credit by FERC account . Unamortized investment tax credits should be separated into pre-1971 and post-1970 periods. The balance of deferred taxes and pre-1971 tax credits shall agree with the amounts shown on the statement in subsection (1) b. and subsection (6) a. of this section. Also state which option the utility has filed with the IRS for treatment of post-1970 investment tax credits.
4. Income Statement data including the following:
 - a. Jurisdictional income statement. For Period I, a total company and jurisdictional income statement for pro forma adjusted operations. For Period II, a total company and jurisdictional income statement for pro forma adjusted projected operations. The income statement should be in adequate detail to identify those components set forth

on this schedule. The utility may include items not specifically set forth which it believes are appropriate for inclusion.

- b. Revenues. For Period I, a schedule showing total company revenues by FERC account for actual operations, a summary of pro forma adjustments by FERC account, including a description and the amount of each adjustment and total company revenues by FERC account for pro forma adjusted operations. For Period II, provide a schedule showing total company revenues by FERC account for projected operations along with a description of the assumptions, methodologies, models and databases used in making such projections. The total company revenues shall agree for the applicable periods with the amounts appearing in the statement in subsection (1) d. and subsection (6) b. of this section.
- c. Operation and maintenance expenses. For Period I, a schedule showing total company operation and maintenance expenses by FERC account for actual operations, a summary of pro forma adjustments by FERC account, including a description and the amount of each adjustment and total company operation and maintenance expenses by FERC account for pro forma adjusted operations. For Period II, a schedule showing total company operation and maintenance expenses by FERC account for projected operations, and a summary of pro forma adjustments by FERC account, including a description and the amount of each adjustment and total company operation and maintenance expenses by FERC account for pro forma adjusted operations. The total company operation and maintenance expenses shall agree for the applicable periods with the amounts appearing in the statement in subsection (1) d. and subsection (6) b. of this section.
- d. Electric Utility Fuel and Gas Utility Purchased Gas adjustment data. For Period I and Period II, monthly expense data by accounts for electric utility fuel related costs in accounts 501, 557, and purchased power in account 555, and for gas utility in accounts 804 and 880. The total amount in these accounts shall agree for the applicable periods with the amounts shown in the statement in subsection (1) d. and subsection (6) b. of this section. For each type of purchased power transaction, such as firm power or economy interchange power, monthly expense data shall be subtotaled separately for interchange receipts and deliveries. For monthly fuel accounts 501, 518, 547, and for each type of purchased power transaction, and for gas accounts 804 and 880, the monthly data shall identify components to be claimed under the fuel adjustment clause and/or purchased gas adjustment of the utility.
- e. Miscellaneous operation and maintenance expense data. For Period I, furnish a schedule for each of the items listed below and state the account or accounts to which they were charged:

- i. Contributions for charitable, civic, and political and related activities, as defined in account 426.4 of the uniform system of accounts.
- ii. Membership fees and dues of civic and social organizations.
- iii. Advertising expenses with a description of the purpose (e.g., promotional, civic or political) for each expenditure.

For Period II, state the estimated amount of each item which is included in operation expense.

- f. Depreciation expense. For Period I, a schedule showing total company depreciation expense by ~~function~~FERC account for actual operations, a summary of pro forma adjustments by function, including a description and the amount of each adjustment and total company depreciation expense by ~~function~~FERC account for pro forma adjusted operations. For Period II, a schedule showing total company depreciation expense by ~~function~~FERC account for projected operations. Also provide a schedule for Period I and Period II showing the annual depreciation rate applicable ~~to each function~~by FERC account. The total company depreciation expense shown on the statement shall agree for the applicable periods with the amounts ~~appearing~~operating in the statement in subsection (1) d. and subsection (6) b. of this section.
- g. Taxes other than income. For Period I, for actual operations, a schedule showing total company taxes other than income by component, i.e., revenue taxes, real estate taxes, payroll taxes, and miscellaneous taxes. Also provide for pro forma adjusted operations a summary of pro forma adjustments, including a description and the amount of each adjustment and total company taxes other than income by component. For Period II, a schedule showing total company taxes other than income by component for projected operations. The total company taxes other than income shown on this schedule shall agree for the applicable periods with the amounts appearing in the statement in subsection (1) d. and subsection (6) b. of this section.
- h. Income taxes, state and federal. For Period I, a schedule showing the calculation of total company current and deferred state and federal income taxes for actual operations, a summary of pro forma adjustments, including a description and the amount of each adjustment and total company current and deferred state and federal incomes taxes for pro forma adjusted operations. Also furnish, for the most recent year available, a reconciliation of book income to taxable income in a format similar to that required in FERC Form No. 1. For Period II, provide a schedule showing the calculation of total company current and deferred state and federal income taxes for projected operations. The total company current and deferred state and federal income taxes shown on this schedule shall agree

for the applicable periods with the amounts appearing in the statement in subsection (1) d. and subsection (6) b. of this section.

- i. Gross revenue conversion factor. For Period I and Period II, a schedule showing the calculation of the gross revenue conversion factor.
- j. Tax expansion factor. For Period I and Period II, provide a schedule showing the calculation of the combined state, federal, and revenue tax effects that would arise from an additional dollar of net operating income.
- k. Other utility income and deductions. For Period I, provide a schedule showing for the total company other income and other income deductions for actual utility operations, a summary of pro forma adjustments, including calculations and assumptions, and total company other income and other income deductions for pro forma adjusted operations. For Period II, provide a schedule showing the total company other income and other income deductions for projected operations. The total company other income and other income deductions shown on this schedule shall agree for the applicable periods with the amounts appearing in the statement in subsection (1) d. and subsection (6) b. of this section.
- l. Interest coverages. For Period I and Period II, provide schedules showing the interest coverage using each of the five following methods to the extent applicable to the utility:
 - i. The Securities and Exchange Commission method;
 - ii. The bond indenture method;
 - iii. The bond indenture method including interest on short-term debt.
 - iv. Earnings Before Interest and Taxes ("EBIT");
 - v. Earnings Before Interest, Taxes, Depreciation, and Amortization ("EBITDA").

5. Cost of Capital.

Each applicant under this article shall provide the following:

- a. Cost of capital. For Period I and Period II, a summary of capitalization balances, capitalization ratios, the cost of debt capital and preferred stock capital, weighted cost of each element, the rate of return on the common equity of the utility and the resulting overall rate of return.
- b. Long-term debt capital. For Period I and Period II, a schedule showing the coupon rate, dates of issue and maturity, principal amount, issuance expense, debt discount or premium, net proceeds, amount outstanding, annual amortization, annual interest charges and annual cost by issue of all long-term debt outstanding as of the end of the period. Based on this information, compute the embedded cost of long-term debt. This embedded cost shall agree for the applicable periods with the cost of debt which appears in the statement in subsection (1) d. and subsection (6) d. of this section.

- c. Preferred stock. For Period I and Period II, a schedule showing the dividend rate, type, per value, date issued, shares issued and outstanding, amount outstanding, issuance expense, discount or premium and annual dividends for each issue of preferred stock at the end of the period. Based on this information, compute the embedded cost of preferred stock. This embedded cost shall agree for the applicable periods with the cost of preferred stock which appears in the statement in subsection (1) d. and subsection (6) d. of this section.
 - d. Common equity. For Period I and Period II, a schedule showing, by FERC account, the makeup of the common equity balance at the end of each period. Also show the rate of dividends being paid on the outstanding common stock, the rate of return on common equity actually earned during Period I, and the rate of return being requested for Period II. The equity rates actually earned for Period I and being requested for Period II shall agree for the applicable periods with the respective rates which appear in the statement in subsection (1) d. and subsection (6) d. of this section.
6. Financial statements and statistical data.
- If the following data is presently on file with the council a reference to such filing will be sufficient:
- a. Historical balance sheets. Provide historical company comparative balance sheets for the most recent five fiscal years, to the extent available.
 - b. Historical income statements. Provide historical company comparative income statements for the most recent five fiscal years, to the extent available.
 - c. Historical statement of retained earnings. Provide historical company comparative statements of retained earnings for the most recent five fiscal years to the extent available.
 - d. Historical capitalization. Provide historical company comparative capitalization of the utility for the most recent five fiscal years, to the extent available. This information should be similar to the information provided in section 158-53.
7. Cost of service.
- Each applicant under this article shall provide the following:
- a. For Period I and Period II, the applicant under this article shall provide a fully allocated cost of service study, including total utility revenues, total utility costs, and all customer classes served. The study should include a detailed summary of the income statement, rate base and rate of return under present and proposed rates by jurisdiction and by rate schedule. Also provide work papers sufficient in detail to support calculations, methodologies, allocation factors, and assumptions included in the study, including total company wages and salaries by FERC account for actual operations, a summary of pro forma adjustments by account, including a

description and the amount of each adjustment and total company wages and salaries by account for pro forma adjusted operations. If wages and salaries by FERC account is used as an allocator in the utility's cost of service study, then provide this information by FERC account, rather than by function. Also furnish the bases for and computation of all allocators used in the cost-of-service study.

8. Affiliate transactions.

The following procedures shall govern any transactions by, between, and among a utility and any of its affiliates:

- a. In any application the utility files that might affect a change in its revenue requirement and that contains an allocation of affiliate costs from an affiliated company of the utility, the utility shall provide:
 - i. Schedule detailing the summary of affiliate costs incurred for each account for those services rendered by the affiliate(s) exclusive of affiliate purchases related to joint account purchases and purchases from purchased power agreements and continue to provide such detail in the applicable fuel adjustment clause;
 - ii. The allocation method and basis of such costs; and
 - iii. A summary of the services provided for such costs.
- b. Except for years that represent test years, as Period I and Period II, which are included in an application for a change in rates of the utility, a utility must annually file a cost allocation manual that includes:
 - i. An organization or relationship chart(s) that illustrates the utility and all of its regulated and unregulated affiliate(s);
 - ii. Officers of the parent or holding company, the utility, and all of its affiliates, as applicable;
 - iii. A complete description of the types of all costs shared with affiliate(s);
 - iv. The methodology and procedure used to allocate costs; and a summary of the total costs incurred from affiliate(s) and how those affiliate(s) costs are allocated. The council shall have reasonable access to all public records of the utility's affiliated companies, including its parent company, regarding transactions or cost allocations among the utility and such affiliated companies, and such records necessary as same pertains to the inclusion of costs in the utility's revenue requirements and to ensure that a utility's ratepayers do not subsidize nonutility activities. Nothing in this paragraph shall limit the authority of the council to have access to accounts and records of, or to require reports and documents from, the utility, or to prescribe guidelines that the utility must follow in allocating costs to transactions with affiliate(s).

URM Division V. Electric utility integrated resource plan rules.

These IRP Rules are intended to inform and empower effective Council and utility decision-making, while augmenting utility resource planning and enhancing public awareness of and input into the utility's energy choices. It is the Council's desire that a comprehensive IRP conducted in accordance with these IRP Rules provide a full picture of all reasonably available resource options in light of current and expected market conditions and technology trends, and generate an informed understanding of the economic, reliability, and risk evaluation of utility resource planning as well as the associated social and environmental impacts. Further, the Council wishes to encourage and enforce a transparent process that allows all interested constituents and stakeholders to participate and that fosters the development of a complete administrative record upon which informed Council decision-making can occur.

Section 1. Overview

- A. These rules supersede the “Electric Utility Integrated Resource Plan Rules of the City of New Orleans” adopted by Council Resolution R-17-332. The purpose of these rules is to establish an open and transparent process by which all electric utilities, subject to the Council of the City of New Orleans (Council) regulatory jurisdiction, develop and file Integrated Resource Plans (IRP).
- B. Each IRP triennial planning cycle shall be commenced with an Initiating Resolution of the Council which outlines the IRP process and timeline, Intervenor and public participation, policy objectives for consideration in the IRP, and other matters as deemed necessary by the Council.
- C. Each Utility IRP shall include a matrix of these rules, the corresponding section of the IRP responsive to that rule, and a brief description of how the Utility complied with the rules.
- D. Each Utility IRP is intended to serve as a general resource planning tool to the Utility and the Council, rather than a forum for the approval of the acquisition, implementation, or deactivation of any supply-side or demand-side resource.
- E. To the extent there is non-compliance with these rules, after the showing of cause, consistent with the provisions of Chapter 158 Article II, Division 8, Sec. 158-512 of the Code of the City of New Orleans and all applicable due process requirements, the Council may impose penalties for non-compliance with these rules.

Section 2. Definitions

- A. In these rules, unless otherwise specified, the following terms shall have the meaning defined in this Section:
 - 1. “Advanced Metering Infrastructure” (AMI) - refers to meters and their underlying technology, including communication and data handling systems, that record customer usage for time intervals of one hour or less, and can transmit information

to the Utility without the need for a human meter reader. The meter allows for two-way flow of information and can notify the Utility of a power outage, and facilitate Demand Response programs.

2. “Advisors” – refers to the legal and technical consultants retained by the Council to assist it in its regulatory responsibilities.
3. “CURO” – refers to the Council Utilities Regulatory Office.
4. “Demand Side Management” (DSM) – refers to energy efficiency and Demand Response programs administered by the Utility.
5. “Demand Response” (DR) - refers to a program that seeks to modify customer loads to reduce or shift loads from hours with high electricity costs or reliability constraints to other hours. Demand Response programs include, but are not limited to: (a) those Demand Response programs that are dispatchable or controlled by the Utility, such as interruptible loads and direct load control of appliances, and(b) those Demand Response programs that are not controlled by the Utility, but rather involve a customer response during peak periods, such as critical peak pricing, time-of-use (TOU) rates, and any other rate design that sends market signals to customers to encourage efficient electricity consumption. Demand Response also includes any other programs that shift loads from higher- to lower-energy cost times that may become available through the deployment of AMI or other technologies.
6. “Distributed Energy Resources” (DERs) - refers to generation or energy storage facilities owned or leased by retail customers that are located on the customer side of the meter, that are primarily for the use and consumption of energy by the retail customer, and that are interconnected to and capable of delivering energy to the grid. Distributed Energy Resources may include renewable/non-renewable generators, combined heat and power, and storage technology including electric vehicles, and any other technology that may similarly serve or dispatch energy from the customer side of the meter.
7. “Initiating Resolution” – refers to a resolution of the Council which initiates the triennial IRP planning cycle and establishes the procedural schedule and such other matters as the Council deems appropriate; and process to be utilized by the Utility, stakeholders and Interested Parties throughout the IRP development process.
8. “Integrated Resource Planning” – is an open, transparent planning process through which all relevant supply-side and demand-side resources (including all DSM resources), and the factors influencing choice among them, are investigated for the optimal set of resources to meet current and future electric service needs at the lowest total cost to customers and the Utility, in a manner consistent with the long-run public interest, given the expected combination of costs, reliability, risks and uncertainty.
9. “Interested Person” – refers to an individual or entity who desires to receive information and notices of public meetings as part of the IRP process and who is not a party to the proceeding. CURO shall maintain a list of Interested Persons and

forward to them copies of all filings, issuances, and notices occurring in the proceeding. This may be accomplished through the Council's electronic docketing system once that docketing system develops the necessary capabilities.

10. “Intervenor” – refers to persons who have intervened in the case pursuant to the New Orleans, Louisiana Code of Ordinances, Chapter 158, Article III.
11. “Load Forecast” – refers to a forecast of electricity demand (MW) and energy (MWh) for the Utility that takes into account currently implemented demand-side resources, and customer-owned DERs, but does not include any anticipated or incremental demand-side resources.
12. “New Orleans Technical Reference Manual” (NOTRM) – refers to a common reference document for estimating energy and peak demand reduction ("deemed savings") resulting from the installation of DSM measures promoted by utility-administered programs in New Orleans. This document is a compilation of deemed savings values previously approved by the Council and the Advisors for use in estimating savings for DSM measures. The NOTRM is updated periodically as required by the Council through a collaborative process involving the Council, the Advisors, the Utility, the Third Party Administrator and the third party Evaluation, Measurement and Verification ("EM&V") contractor, and other parties as needed. The data and methodologies in this document are to be used by program planners, administrators, implementers and evaluators for forecasting, reporting and evaluating energy and demand savings, costs, and other metrics from DSM measures installed in New Orleans.
13. “Planning Period” – refers to the number of projected years over which the existing resources and various potential resource options are evaluated in the IRP process.
14. “Planning Scenario” – refers to a distinct definition of a market outlook for the IRP Planning Period consisting of key parameters which are not controlled by the Utility or the Council. Several Planning Scenarios are constructed to identify the plausible futures of the IRP Planning Period. Various Planning Strategies are then evaluated relative to each of the defined Planning Scenarios.
15. “Planning Strategy” – refers to the defining of distinct resource constraints, regulatory policies, or business decisions over which the Council, the Utility, or Intervenors have control. For example, a Planning Strategy can be traditional utility planning, Intervenors defining resource inputs, or a Planning Strategy reflecting Council policies. Each distinct Planning Strategy is evaluated relative to each Planning Scenario, resulting in an optimized Resource Portfolio for each Planning Scenario/Planning Strategy combination.
16. “Resource Portfolio” - refers to prescribed combinations of supply-side resources, demand-side resources, and transmission investment for comparative evaluation in IRP modeling and reporting. Modeling of the intersection of a Planning Scenario and a Planning Strategy results in an optimized Resource Portfolio with a defined cost

and associated risk. For example, if four Planning Scenarios and two separate Planning Strategies are defined, there would be eight Resource Portfolios.

17. “Regional Transmission Organization” (RTO) – refers to the Midcontinent Independent System Operator (MISO) or any successor RTO of which the Utility is a participating member.
18. "Stakeholder" -- refers to any person potentially impacted by the outcome of the IRP, whether that person formally intervenes in the proceeding or not.
19. “Stakeholder Process” – refers to the meaningful engagement of stakeholders throughout the IRP process, specifically addressed in the Initiating Resolution commencing an IRP cycle.
20. “Utility” – refers to any electric utility subject to the Council’s regulatory jurisdiction.

Section 3. Objectives

- A. The Utility shall state and support specific objectives to be accomplished in the IRP planning process, which include but are not limited to the following:
 1. optimize the integration of supply-side resources and demand-side resources, while taking into account transmission and distribution, to provide New Orleans ratepayers with reliable electricity at the lowest practicable cost given an acceptable level of risk;
 2. maintain the Utility's financial integrity;
 3. anticipate and mitigate risks associated with fuel and market prices, environmental compliance costs, and other economic factors;
 4. support the resiliency and sustainability of the Utility's systems in New Orleans;
 5. comply with local, state and federal regulatory requirements and regulatory requirements and known policies (including such policies identified in the Initiating Resolution) established by the Council;
 6. evaluate the appropriateness of incorporating advances in technology, including, but not limited to, renewable energy, storage, and DERs, among others;
 7. achieve a range of acceptable risk in the trade-off between cost and risk; and
 8. maintain transparency and engagement with stakeholders throughout the IRP process by conducting technical conferences and providing for stakeholder feedback regarding the Planning Scenarios, Planning Strategies, input parameters, and assumptions.
- B. In the IRP Report, the Utility shall discuss its efforts to achieve the objectives identified in Section 3A and any additional specific objectives identified in the Initiating Resolution.

Section 4. Load Forecast

- A. The Utility shall develop a reference case Load Forecast and at least two alternative Load Forecasts applicable to the Planning Period which are consistent with the Planning Scenarios identified in Section 7C. The following data shall be supplied in support of each Load Forecast:
1. The Utility's forecast of demand and energy usage by customer class for the Planning Period;
 2. A detailed discussion of the forecasting methodology and a list of independent variables and their reference sources that were utilized in the development of the Load Forecast, including assumptions and econometrically evaluated estimates. The details of the Load Forecast should identify the energy and demand impacts of customer-owned DERs and then existing Utility-sponsored DSM programs;
 3. Forecasts of the independent variables for the Planning Period, including their probability distributions and statistical significance;
 4. The expected value of the Load Forecast as well as the probability distributions (uncertainty ranges) around the expected value of the Load Forecast; and
 5. A discussion of the extent to which line losses have been incorporated in the Load Forecast.
- B. The Utility shall construct composite customer hourly load profiles based on the forecasted demand and energy usage by customer class and relevant load research data, including the factors which determine future load levels and shape.
- C. Concurrent with the presentation of the Load Forecasts to the Advisors, CURO, and stakeholders, the Utility shall provide historical demand and energy data for the five (5) years immediately preceding the Planning Period. At a minimum, the following data shall be provided:
1. monthly energy consumption for the Utility in total and for each customer class;
 2. monthly coincident peak¹ demand for the Utility and estimates of the monthly coincident peak demand for each customer class;² and
 3. estimates of the monthly peak demand for each customer class;³
- D. The data and discussions developed pursuant to Section 4A and Section 4B, and Section 4C shall be provided as an attachment to the IRP report and summarized in the IRP report.

¹ For the purposes of Section 4C, “monthly coincident peak” refers to the peak coincident with the RTO monthly peak.

² To the extent ENO has or attains the technical capability to collect load data on a customer class level, it shall collect and report the historic data in lieu of the customer class level estimates.

³ To the extent ENO has or attains the technical capability to collect load data on a customer class level, it shall collect and report the historic data in lieu of the customer class level estimates.

- E. The Utility shall also provide a list of any known co-generation resources and DERs larger than 300 kW existing on the Utility's system, including resources maintained by the City of New Orleans for city/parish purposes, (e.g. Sewerage and Water Board, Orleans Levee District, or by independent agencies or entities such as universities, etc.).

Section 5. Resource Options

- A. Identification of resource options. The Utility shall identify and evaluate all existing supply-side and demand-side resources and identify a variety of potential supply-side and demand-side resources which can be reasonably expected to meet the Utility's projected resource needs during the Planning Period.
 - 1. Existing supply-side resources. For existing supply-side resources, the Utility should incorporate all fixed and variable costs necessary to continue to utilize the resource as part of a Resource Portfolio. Costs shall include the costs of any anticipated renewal and replacement projects as well as the cost of regulatory mandated current and future emission controls.
 - a. The Utility shall identify important changes to the Utility's resource mix that occurred since the last IRP including large capital projects, resource procurements, changes in fuel types, and actual or expected operational changes regardless of cause.
 - b. Data supplied as part of the Utility's IRP filing should include a list of the Utility's existing supply-side resources including: the resource name, fuel type, capacity rating at time of summer and winter peak, and typical operating role (e.g. base, intermediate, peaking).
 - 2. For existing demand-side resources, the Utility should account for load reductions attributable to the then-existing demand-side resources in each year of the Planning Period. Each existing demand-side resource will be identified as either a specific energy efficiency program or DR program with an individual program lifetime and estimated energy and demand reductions applicable to the Planning Period, or as a then-existing Utility owned or Utility-managed distributed generation resource with energy and demand impacts that are estimated for applicable years of the Planning Period. Data supplied as part of the Utility's IRP filing should include:
 - a. Details of projected kWh/kW reductions from existing DSM programs based on quantifiable results and other credible support derived from Energy Smart New Orleans, or any successor program, using verified data available to the Utility from prior DSM program implementation years.
 - b. A list categorizing the Utility's existing demand-side resources including anticipated capacity at time of summer and winter peak.
 - 3. With respect to potential supply-side resources, the Utility shall consider: Utility-owned and purchased power resources; conventional and new generating technologies including

technologies expected to become commercially viable during the Planning Period; technologies utilizing renewable fuels; energy storage technologies; cogeneration resources; and Distributed Energy Resources, among others.

- a. The Utility should incorporate any known Council policy goals (including such policy goals identified in the Initiating Resolution) with respect to resource acquisition, including, but not limited to, renewable resources, energy storage technologies, and DERs.
 - b. Data supplied as part of the Utility's IRP filing should include: a description of each potential supply-side resource including a technology description, operating characteristics, capital cost or demand charge, fixed operation and maintenance costs, variable charges, variable operation and maintenance costs, earliest date available to provide supply, expected life or contractual term of resource, and fuel type with reference to fuel forecast.
4. Potential demand-side resources. With respect to potential demand-side resources, the Utility should consider and identify all cost-effective demand-side resources through the development of a DSM potential study. All DSM measures with a Total Resource Cost Test⁴ value of 1.0 or greater shall be considered cost effective for DSM measure screening purposes.
- a. The DSM potential study shall include, but not be limited to: identification of eligible measures, measure life expectancies, baseline standards, load reduction profiles, incremental capacity and energy savings, measure and program cost assumptions, participant adoption rates, market development, and avoided energy and capacity costs for DSM measure and program screening purposes.
 - b. The principal reference document for the DSM potential study shall be the New Orleans Technical Reference Manual.
 - c. In the development of the DSM potential study, all four California Standard Practice Tests⁵ (i.e. TRC, PACT, RIM and PCT) will be calculated for the DSM measures and programs considered.
 - d. The Utility should incorporate any known Council policy goals or targets (including such policy goals or targets identified in the Initiating Resolution) with respect to demand-side resources.
 - e. The cost-effective DR programs should include consideration of those programs enabled by the deployment of Advanced Meter Infrastructure, including both direct load control and DR pricing programs for both Residential and Commercial customer classes.

⁴ California Standard Practice Manual: Economic Analysis of Demand-Side Programs and Projects, State of California Governor's Office of Planning and Research, July 2002.

⁵ *Id.*

- f. Data supplied as part of the Utility's IRP filing should include: a description of each potential demand-side resource considered, including a description of the resource or program; expected penetration levels by planning year; hourly load reduction profiles for each DSM program utilized in the IRP process; and results of appropriate cost-benefit analyses and acceptance tests, as part of the planning assumptions utilized within the IRP planning process.
 - g. The Council will make a decision and announce it in the Initiating Resolution whether it will procure an independent consultant to perform a DSM Potential Study. In the event the Council does not procure an independent contractor, ENO shall provide a DSM potential study.⁶
- B. Through the Stakeholder Process, the Utility shall strive to develop a position agreed to by the Utility, the Advisors, and a majority of the Intervenor regarding the potential supply-side and potential demand-side resources and their associated defining characteristics (e.g., capital cost, operating and maintenance costs, emissions, DSM supply curve, etc.).
1. To the extent such a consensus can be achieved among the Utility, the Advisors, and a majority of the Intervenor,⁷ the resulting collection of potential supply-side and demand-side resources and their associated defining characteristics will be utilized in the reference Planning Strategy developed pursuant to Section 7D.
 2. To the extent such a consensus cannot be achieved, the Utility shall model, in coordination with the requirements in Section 7D, two distinct Planning Strategies: a reference Planning Strategy and a stakeholder Planning Strategy. The reference Planning Strategy will be based on the Utility's assessment of the collection of potential supply-side and demand-side resources and their associated defining characteristics. The stakeholder Planning Strategy will be determined by a majority of the Intervenor and modeled by the Utility based on inputs provided to the Utility describing the collection of potential supply-side and demand-side resources and their associated defining characteristics.⁸ To maintain consistency in the modeling process, the Advisors will work with the Intervenor and the Utility to ensure that input that is provided for the stakeholder Planning Strategy can be accommodated within the framework of the existing model and software.⁹

Section 6. Transmission and Distribution

- A. The Utility shall explain how the Utility's current transmission system, and any planned transmission system expansions (including regional transmission system expansion planned by the RTO in which the Utility participates) and the Utility's distribution system are integrated

⁶ This provision does not preclude any party from entering their own DSM potential study into the docket.

⁷ An Intervenor not consenting to the majority position and thus not joining in the consensus retains the ability to oppose the consensus position before the Council and assert its own position.

⁸ An Intervenor not consenting to the majority position retains the ability to oppose the consensus position before the Council and assert its own position.

⁹ The Utility shall have no obligation to incorporate element(s) of the stakeholder Planning Strategy that cannot be accommodated by the Utility's modeling capabilities.

into the overall resource planning process to optimize the Utility's resource portfolio and provide New Orleans ratepayers with reliable electricity at the lowest practicable cost.

- B. Models developed for the integrated resource planning process should incorporate the planned configuration of the Utility's transmission system and the interconnected RTO during the Planning Period.
- C. To the extent major changes in the operation or planning of the transmission system and/or distribution system (including changes to accommodate the expansion of DERs) are contemplated in the Planning Period, the Utility should describe the anticipated changes and provide an assessment of the cost and benefits to the Utility and its customers.
- D. To the extent that new resource additions are selected by the Utility for a Resource Portfolio based on reliability needs rather than as a result of the optimized development of a Resource Portfolio, the Utility shall identify reasonable transmission solutions that can be employed to either reduce the size, delay, or eliminate the need for the new reliability-driven resource additions and provide economic analyses demonstrating why the new reliability-driven resource addition was selected in lieu of the transmission solutions identified.
- E. It is the Council's intent that, as part of the IRP, the Utility shall evaluate the extent to which reliability of the distribution system can be improved through the strategic location of DERs or other resources identified as part of the IRP planning process. The Utility should provide an analysis, discussion, and quantification of the costs and benefits as part of the evaluation. To the extent the Utility does not currently have the capability to meet this requirement, the utility shall demonstrate progress toward accomplishing this requirement until such time as it acquires the capability.

Section 7. Integrated Resource Plan Analyses

- A. The integrated resource planning process should include modeling of specific parameters and their relationships consistent with market fundamentals, and as appropriate for long-term Portfolio planning. This overall modeling approach is an accepted analytic approach used in resource planning considering the range of both supply-side and demand-side options as well as uncertainty surrounding market pricing. To represent and account for the different characteristics of alternative types of resource options, mathematical methods such as a linear programming formulation should be used to optimize resource decisions.¹⁰
- B. The optimization process shall be constrained to mitigate the over-reliance on forecasted revenues from external capacity market sales and external energy market sales driving the selection of resources.
- C. The Utility shall develop three to four Planning Scenarios that incorporate different economic and environmental circumstances and national and regional regulatory and legislative policies.

¹⁰ Linear programming is a mathematical method or model of optimizing linear functions or relationships within constraints to achieve the lowest costs.

1. The Planning Scenarios should include a reference Planning Scenario that represents the Utility's point of view on the most likely future circumstances and policies, as well as two alternative Planning Scenarios that account for alternative circumstances and policies.
 2. In the development of the Planning Scenarios, the Utility should seek to develop a position agreed to by the Utility, Advisors, and a majority of Intervenors¹¹ regarding the assumptions surrounding each of the Planning Scenarios. To the extent such a consensus is not reasonably attainable regarding the Planning Scenarios, the Utility shall model a fourth Planning Scenario which is based upon input agreed to by a majority of the Intervenors.¹²
 3. For each IRP Planning Scenario, data supplied as part of the Utility's IRP filing should include:
 - a. a fuel price forecast for each fuel considered for utilization in any existing or potential supply-side resource;
 - b. an hourly market price forecast for energy (e.g. locational marginal prices);
 - c. an annual capacity price forecast for both a short-term capacity purchase (e.g. bilateral contract or Planning Resource Credit) and a long-term capacity purchase (e.g. long-run marginal cost of a new replacement gas combustion turbine); and
 - d. forecasts of price for any other price related components that are defined by the Planning Scenario (e.g. CO2 price forecast, etc.).
- D. Distinct from the Planning Scenarios, the Utility shall identify two to four Planning Strategies which constrain the optimization process to achieve particular goals, regulatory policies and/or business decisions over which the Council, the Utility, or stakeholders have control.
1. The Utility shall develop a Planning Strategy that allows the optimization process to identify the lowest cost option for meeting the needs identified in the IRP process.
 2. The Utility shall develop a reference Planning Strategy agreed to by the Utility, Advisors, and a majority of the Intervenors.¹³ To the extent such a consensus cannot be reasonably achieved, the reference Planning Strategy shall reflect the Utility's point of view on resource input parameters and constraints, and the Utility shall model a separate stakeholder Planning Strategy based upon input determined by a majority of the Intervenors.¹⁴

¹¹ An Intervenor not consenting to the majority position and thus not joining in the consensus retains the ability to oppose the consensus position before the Council and assert its own position.

¹² An Intervenor not consenting to the majority position and thus not joining in the consensus retains the ability to oppose the consensus position before the Council and assert its own position.

¹³ An Intervenor not consenting to the majority position and thus not joining in the consensus retains the ability to oppose the consensus position before the Council and assert its own position.

¹⁴ An Intervenor not consenting to the majority position and thus not joining in the consensus retains the ability to oppose the consensus position before the Council and assert its own position.

3. As necessary, the Utility shall develop alternate Planning Strategies to reflect known utility regulatory policy goals of the Council (including such policy goals or targets identified in the Initiating Resolution) as established no later than 30 days prior to the date the Planning Strategy inputs must be finalized.
- E. Prior to the development of optimized Resource Portfolios, the parameters developed for the Planning Scenarios and Planning Strategies shall be set, considered finalized, and not subject for alteration during the remainder of the IRP planning cycle. The IRP Report shall describe the parameters of each Planning Scenario and each Planning Strategy, including all artificial constraints utilized in the optimization modeling.
- F. Resource Portfolios shall be developed through optimization utilizing the Utility's modeling software. The Utility shall identify the least-cost Resource Portfolio for each Planning Scenario and Planning Strategy combination, based on total cost. Resource Portfolios shall consist of optimized combinations of supply-side and demand-side resources, while recognizing constraints including transmission and distribution.
- G. The Utility shall provide a discussion and presentation of results for each Planning Scenario/Planning Strategy combination, the annual total demand related costs, energy related costs, and total supply costs associated with each least-cost Resource Portfolio identified under each Planning Scenario/Planning Strategy combination, a load and capability table indicating the total load requirements and identifying all supply-side and demand-side resources included in the Resource Portfolio (including identifying the impacts of existing demand-side resources on the total load requirements), and a description of the supply-side and demand-side resources that are planned and, if applicable, their principal rationale for selection (i.e., supply peak demand, supply non-peak demand or operational constraints, achieve more economical production of energy, etc.).
 1. Data supplied as part of the Utility's IRP filing shall include a cumulative present worth summary of the results as well as the annual estimates of costs that result in the cumulative present worth to enable the Council to understand the timing of costs and savings of each least-cost Resource Portfolio.
- H. The IRP report's discussion and presentation of results for each Resource Portfolio should identify key characteristics of that Resource Portfolio and significant factors that drive the ultimate cost of that Resource Portfolio such that the Council may understand which factors could ultimately and significantly affect the preference of a Resource Portfolio by the Council.
- I. The Utility will develop and include a scorecard template or set of quantitative and qualitative metrics to assist the Council in assessing the IRP based on the Resource Portfolios. The scorecard should rank the resource portfolios by how well each portfolio achieves each metric. Such metrics should include but not necessarily be limited to: cost¹⁵; impact on the Utility's revenue requirements; risk; flexibility of resource options¹⁶; reasonably quantifiable environmental impacts (such as national average emissions for the technologies chosen,

¹⁵ The cost metric should include the cost of quantified externalities as well as Utility costs resulting from the IRP optimization.

¹⁶ The flexibility metric includes response to load swings and quick start.

amount of groundwater consumed, etc.); consistency with established, published city policies, such as the City's sustainability plan; and macroeconomic impacts in New Orleans.

Section 8. Risk Analyses

- A. The Utility shall develop a cost/risk analysis which balances quantifiable costs with quantifiable risks of the identified least-cost Resource Portfolios. The risk assessment must be presented in the IRP to allow the Council to comprehend the robustness of each Resource Portfolio across the cost/risk range of possible Resource Portfolios.
 - 1. In quantifying Resource Portfolio costs/risks, the IRP shall assess any social and environmental effects of the Resource Portfolios to the extent that: 1) those effects can be quantified and have been modeled for a Resource Portfolio, including the applicable Planning Period years and ranges of uncertainty surrounding each externality cost, and 2) each quantified cost must be clearly identified by the portion which relates to the Utility's revenue requirements or cost of providing service to the Utility's customers under the Resource Portfolio.
 - 2. It is the Council's intent that, as part of the IRP, a risk assessment be conducted to evaluate both the expected outcome of potential costs as well as the distribution and potential range and associated probabilities of outcomes. To the extent the Utility believes the risk assessment described herein is beyond the current modeling capabilities of the Utility or that the risk assessment cannot be accomplished within the procedural schedule set forth in the Initiating Resolution, the Utility shall so inform the Council and meet with the Intervenors and Advisors to agree upon an alternative form of risk analysis to recommend to the Council.
 - a. The risk assessment shall include the expected cost per MWh of the Resource Portfolios in selected future years, along with the range of annual average costs foreseen for the 10th and 90th percentiles of simulated possible outcomes.
 - b. The supporting methodology shall be included, such as the iterations or simulations performed for the selected years, in which the possible outcomes are drawn from distributions that describe market expectations and volatility as of the current filing date.

Section 9. IRP Process Requirements

- A. At a minimum, the IRP process shall include, but not be limited to, the following elements:
 - 1. The opportunity for Intervenors to participate in the concurrent development of inputs and assumptions for the major components of the IRP in collaboration with the Utility within the confines of the IRP timeline and procedural schedule.
 - 2. At least four technical meetings attended by the parties in the Docket focused on major IRP components that include the Utility, Intervenors, CURO, and the Advisors with structured comment deadlines so that meeting participants have the opportunity to present inputs and

assumptions and provide comments, and attempt to reach consensus while remaining mindful of the procedural schedule established in the Initiating Resolution.

3. At least 3 public engagement technical conferences advertised through multiple media channels at a minimum of 30 days prior to the public technical conference.
 - a. A public education and kickoff meeting that explains the following: the purpose of the IRP and the corresponding process; the IRP timeline as delineated in the Council's Initiating Resolution with respect to major process deadlines; the inputs and assumptions that are considered in the IRP process and summarized in the report; and ways in which public can remain informed throughout the IRP cycle (e.g., online information resources that provide status updates, portal through which customers can submit questions or concerns to the Utility);
 - b. A public presentation of the IRP; and
 - c. A public hearing opportunity after presentation of the IRP report to give the public the opportunity to provide comment on the record.
4. CURO shall schedule, provide notice of, and conduct the public technical conferences. In addition to a live presentation, all public technical conferences should also be broadcast via the Council's website and archived for later viewing.

Section 10. Submission and Public Presentation of IRP

- A. The Utility shall make its IRP available for public review subject to the provisions of the Council Resolution initiating the current IRP planning cycle and referenced in Section 1B.
- B. The Utility shall file its IRP with the Council consistent with and subject to the provisions of the Council Resolution initiating the current IRP planning cycle referenced in Section 1B.
- C. The IRP report should discuss the stakeholders' engagement throughout the IRP process; the access to data inputs and specific modeling results by all parties; the consensus reached regarding all demand-side and supply-side resource inputs and assumptions; specific descriptions of unresolved issues regarding inputs, assumptions, or methodology; the formulation of the stakeholder Planning Scenario and/or stakeholder Planning Strategy as needed; and recommendations to improve the transparency and efficiency of the IRP process for prospective IRP cycles.
- D. The IRP shall include an action plan and timeline discussing any steps or actions the Utility may propose to take as a result of the IRP, understanding that the Council's acceptance of the filing of the Utility's IRP would not operate as approval of any such proposed steps or actions.
- E. Provided the IRP fulfills the requirements contained herein and was developed in compliance with the procedural schedule established for the triennial IRP cycle, the Council shall accept the Utility's IRP as filed in compliance with the Council's substantive and procedural requirements. Failure of the utility to substantially comply with the provisions of these Rules may result in summary rejection of the Utility's IRP. Such rejection may be without prejudice

to the refiling of the IRP once the utility has corrected the deficiencies. Further, after consideration of all of the evidence entered into the record, the Council may approve the accepted Utility IRP, approve it subject to stated conditions, approve it with modifications, approve it in part and reject it in part, reject it in its entirety, or choose to terminate the proceeding without either approving or rejecting the accepted Utility IRP. Nothing in this provision limits the Council's ability to take any action with respect to the IRP that is within its authority, including the Council's ability to open a prudence investigation for noncompliance on the part of the Utility.

F. The Council's acceptance of the Utility's IRP as described herein shall have no precedential effect with respect to the Council's evaluation of any application for approval of the acquisition, implementation, or deactivation of any supply-side or demand-side resource or program.

URM Division VI. Renewable clean portfolio standard rules.

SECTION 1: OVERVIEW

- a) **Intent:** It is the intent of the Renewable and Clean Portfolio Standard (“RCPS”) to:
1. Aggressively pursue reductions to carbon emissions to improve the health and quality of life of the citizens of New Orleans and to reduce the City’s impact on climate change, which is an existential threat to the City’s security with a goal to eliminate carbon emissions in 2050 and reach “net-zero” emissions in 2040.
 2. Ensure that the City has a safe and reliable power supply at a reasonable cost and retain as much flexibility as possible to employ a wide range of currently known and yet to be developed zero carbon-emissions energy technologies.

This RCPS is intended to promote and foster these goals, and does not in any way limit the Council’s authority to pursue these intentions through additional measures. The Council may waive any provision of these rules in advance upon a showing of good cause under the circumstances and upon a demonstration that such waiver serves the intent of this RCPS and may deem the Utility to be in compliance. In particular, this RCPS does not prevent parties from proposing and the Council from considering and approving projects consistent with the intent of this RCPS that do not conform precisely to the interim goals, Customer Protection Cost Cap, or other requirements set forth herein if the party(ies) proposing the project are able to successfully demonstrate to the Council that the project is nevertheless consistent with the intent of the RCPS, would benefit the Utility’s customers, and meets any other Council standards or requirements applicable to that project (such as, for example, a project where interim goals and budget numbers are averaged and achieved over a block of years rather than strictly as provided in this RCPS). All proposals to modify or request to waive the goals or requirements of the RCPS shall be filed at the Council and served on parties to Docket No. UD-19-01, with opportunity for parties to issue discovery and provide comment.

- b) **Periodic Review:** In order to ensure that this RCPS continues to meet the Council’s intent as set forth in Section 1(a), it is the Council’s intention to conduct a review of this RCPS at least every five years. Such review shall consider a wide array of relevant factors, including, but not limited to: progress toward ultimate and interim goals, developments in climate science, impacts on customers, technological developments, market developments, and progress on actual emissions reductions of the Utility’s portfolio.¹⁷ At the end of such review, the Council will make a determination as to whether the RCPS remains appropriate for the City or whether it requires modification. Nothing in this provision prevents the Council from conducting a more immediate or frequent review of the RCPS than set forth

¹⁷ Because the most significant of the utility’s generation-related emissions is carbon dioxide, and the most urgent climate problems at the time of the adoption of this RCPS are being caused by carbon dioxide, this RCPS focuses specifically upon reductions in carbon dioxide emissions. The Council recognizes that other forms of air emissions and pollution can also be harmful to the environment and human health, and does expect that this RCPS will also result in reductions of air emissions and pollution beyond carbon dioxide. The Council may consider broadening the focus of this RCPS to other forms of air emissions and pollution in the future.

in this provision should the Council determine that circumstances warrant more frequent or immediate review. Projects undertaken prior to any change in the RCPS would be grandfathered, such that they continue to receive the RCPS Compliance Credit they were entitled to receive prior to the change in RCPS.

SECTION 2: DEFINITIONS

“Alternative Compliance Payment” or “ACP”: The ACP is a payment to be made by the utility when it is unable to comply with the RCPS through reasonable measures, but still has funding available to it under the cap set by the Customer Protection Cost Cap set forth in the rules. The ACPs (unit cost per MWh) shall be calculated in accordance with Section 5 of this RCPS, and will be placed in the CleanNOLA Fund established in Section 7 of this RCPS.

“Carbon Sequestration” means the fixation of atmospheric carbon dioxide in a carbon sink through biological or physical processes. A carbon sink is a reservoir that absorbs or takes up released carbon from another part of the carbon cycle.

“CCUS” means carbon capture, utilization and sequestration.

“Clean Energy Credit” or “CEC” one Clean Energy Credit results from (1) each MWh of electricity produced by a Zero Carbon Emissions Resource, (2) each MWh reduction in consumption resulting from DSM installed after January 1, 2021, (3) or each MWh associated with a Tier 3 Resource.

“Council” refers to the Council of the City of New Orleans.

“Community Solar Generation Facility” or “CSG Facility” means a solar energy facility that meets the definition of a Community Solar Generation Facility under the Council’s Community Solar Rules.

“Community Solar Rules” means the Community Solar Rules for the Council of the City of New Orleans adopted by Council Resolution No. R-19-111 (and as modified by any subsequent Council action).

“Conservation Program” means a program, often relying on encouraging customers to reduce energy use, in which a utility company provides energy-saving guidance or provides free or low cost devices for saving energy, such as energy efficient light bulbs, flow restrictors, weather stripping, and water heater insulation. To be applicable to RCPS compliance, the kWh reduction from a conservation program must be a deemed savings or prescriptive measure approved by the Council, such as with the Energy Smart program.

“Cost of Compliance” the cost of compliance with the RCPS shall be the incremental costs incurred by ENO over and above the costs to serve its load that are attributable solely to the compliance with the RCPS policy, as calculated in Section 4(d) of this RCPS.

“Customer” means a retail electric customer account holder of the Utility.

“CURO” means the Council Utilities Regulatory Office.

“Demand-Side Management” or **“DSM”** means an action, usually under a utility-managed program, that reduces or curtails the load associated with end-use equipment or processes, often used to reduce customer load during peak demand and/or in times of supply constraint. DSM is the management of customer loads through programs such as energy efficiency and conservation measures, which actively reduce energy use, or demand response, which shifts customer loads from peak periods.

“Distributed Energy Resource” or **“DER”** means a resource sited close to customers that:

- (i) is interconnected to or on the distribution system, or
- (ii) can provide all or some of the immediate electric and power needs of retail customers and/or can also be used by the system to either reduce demand (such as energy efficiency) or provide supply to satisfy the energy, capacity, or ancillary service needs of the grid. The resources, if providing electricity or thermal energy, are small in scale and close to load. Examples of different types of DER include solar photovoltaic, wind, combined heat and power, demand response, electric vehicles, microgrids, and energy efficiency.

“Energy Efficiency Programs” or **“EE”** means programs that are aimed at reducing the energy used by specific end-use devices and systems, typically without affecting the services provided. Examples include high-efficiency appliances, efficient lighting programs, high-efficiency heating, ventilating and air conditioning (HVAC) systems or control modifications, efficient building design, advanced electric motor drives, and heat recovery systems.

“Energy Storage Resource” means a resource that stores and manages energy and customer loads. Such resources may include chemical energy storage resources such as batteries, flow batteries, and fuel cells or mechanical energy storage resources such as pumped storage hydropower, flywheels, and pressurized gas storage systems.

“Green-e” means the formal certification of RECs provided by the Center for Resource Solutions' Green-e® certification program, distinct from the tracking of RECs.

“Incremental DSM” costs and corresponding kWh would include the Energy Smart program budgets and cumulative kWh in excess of the Council’s existing 2% goal.

“Low-Income Customer” means a Customer whose gross annual household income is at or below 50 percent of Area Median Income for the relevant period or who is certified as eligible for any federal, state, or local assistance program that limits participation to households whose income is at or below 50 percent of Area Median Income.

“M-RETS” means the Midwest Renewable Energy Tracking System, a web-based system used by power generators, utilities, marketers, and qualified reporting entities. M-RETS registers projects in all states and provinces across North America. M-RETS tracks Renewable Energy Certificates (“RECs”) and facilitates REC transactions by issuing a unique, traceable digital certificate for every megawatt-hour (“MWh”) of renewable energy generated by registered units or imported into its system.

“Microgrid” means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid. A microgrid can connect and disconnect from the grid to enable it to operate in both grid-connected or island mode.

“MISO” means the Midcontinent Independent System Operator, Inc., or its successor.

“MISO-Connected Renewable Energy Resource” means a renewable energy resource that is interconnected to transmission-level voltage within the MISO’s footprint.

“NEM Rules” means the New Orleans Net Energy Metering Rules adopted by Council Resolution No. R-07-132 (and as modified by any subsequent Council action).

“Net Zero Emissions” refers to the state in which the Utility has fully offset the carbon emissions associated with the resources serving its Retail Compliance Load through the acquisition of clean energy resources, as demonstrated by producing or purchasing enough RECs or CECs such that the resulting RCPS Compliance Credits offset 100% of the utility’s Retail Compliance Load. RECs utilized to reach Net Zero Emissions may be purchased by the utility without the purchase of the associated energy to the extent permitted in Section 3 of this RCPS.

“Qualified Measure” means a project, program or measure which produces a measurable net reduction in carbon emissions in Orleans Parish, is cost-effective from the utility perspective, and is approved by the Council for purposes of RCPS compliance.

“RCPS” means the Renewable and Clean Portfolio Standard.

“RCPS Compliance Credits” means the sum of RECs and CECs multiplied by the applicable tier multiplier.

“Renewable Energy Credit” or “REC” means a contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of electric energy generated from a renewable energy resource. One REC results from one MWh of electric energy generated from a renewable energy resource. To qualify for compliance purposes, RECs must meet the following conditions: (1) they were generated from a Renewable Energy Resource in MISO, the Electric Reliability Council of Texas, or elsewhere that are deliverable into the MISO region; (2) they are Green-e certified at the time of their creation and are subsequently tracked with M-RETS or an equivalent; and (3) they are retired

against the compliance requirements in the compliance year in which they were utilized for compliance.

“Renewable Energy Resource” means a facility that generates electricity using solar thermal, photovoltaic, wind, geothermal, fuel cell using renewable fuels, hydroelectric generation, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

“Retail Compliance Load” means the total jurisdictional retail sales, measured in kWh, for an electric utility during an annual period, as adjusted in Section 4(a) of this RCPS.

“Tier 1 Resource” means any Renewable Energy Resource, Zero Carbon Emissions Resource or DER, directly connected to the Utility’s transmission or distribution system. Tier 1 resources include the cumulative MWh savings of DSM programs installed after January 1, 2021.

“Tier 2 Resource” means any Renewable Energy Resource or Zero Carbon Emissions Resource not eligible for Tier 1, but that is in MISO or that is deliverable into the MISO region.

“Tier 3 Resource” means any Qualified Measure or electric vehicle charging infrastructure directly connected to the Utility’s transmission or distribution system. For Tier 3 Resources, the Utility must provide the Council with either a certified engineering calculation demonstrating the net reduction in carbon emissions or data demonstrating measured emissions reductions. The Utility must also propose the annual amount of CECs in MWh associated with each proposed Tier 3 Resource for Council consideration.

“Utility” refers to any utility providing electric service to customers in the City of New Orleans and regulated by the Council.

“Zero Carbon Emissions Resource” means any resource that generates electricity without producing carbon emissions and that does not qualify as a Renewable Energy Resource under this RCPS, including, but not limited to nuclear-fueled resources. The deployment of CCUS on a generating resource that produces energy from fossil fuels is excluded from eligibility as a Zero Carbon Emissions Resource.

SECTION 3: RENEWABLE AND CLEAN PORTFOLIO STANDARD

- a) The Utility must meet the specified percentages of Retail Compliance Load with a combination of Tier 1, 2 and 3 resources as follows:
 - 1. 2022: 64% of Retail Compliance Load, with not more than 25% compliance through RECs purchased without the associated energy.
 - 2. 2023: 66% of Retail Compliance Load, with not more than 25% compliance through RECs purchased without the associated energy.
 - 3. 2024: 68% of Retail Compliance Load, with not more than 25% compliance through RECs purchased without the associated energy.

4. 2025: 70% of Retail Compliance Load, with not more than 25% compliance through RECs purchased without the associated energy.
5. 2026: 72% of Retail Compliance Load, with not more than 24% compliance through RECs purchased without the associated energy.
6. 2027: 74% of Retail Compliance Load, with not more than 23% compliance through RECs purchased without the associated energy.
7. 2028: 76% of Retail Compliance Load, with not more than 22% compliance through RECs purchased without the associated energy.
8. 2029: 78% of Retail Compliance Load, with not more than 21% compliance through RECs purchased without the associated energy.
9. 2030: 80% of Retail Compliance Load, with not more than 20% compliance through RECs purchased without the associated energy.
10. 2031: 82% of Retail Compliance Load , with not more than 19% compliance through RECs purchased without the associated energy.
11. 2032: 84% of Retail Compliance Load, with not more than 18% compliance through RECs purchased without the associated energy.
12. 2033: 86% of Retail Compliance Load, with not more than 17% compliance through RECs purchased without the associated energy.
13. 2034: 88% of Retail Compliance Load, with not more than 16% compliance through RECs purchased without the associated energy.
14. 2035: 90% of Retail Compliance Load, with not more than 15% compliance through RECs purchased without the associated energy.
15. 2036: 92% of Retail Compliance Load, with not more than 14% compliance through RECs purchased without the associated energy.
16. 2037: 94% of Retail Compliance Load, with not more than 13% compliance through RECs purchased without the associated energy.
17. 2038: 96% of Retail Compliance Load, with not more than 12% compliance through RECs purchased without the associated energy.
18. 2039: 98% of Retail Compliance Load, with not more than 11% compliance through RECs purchased without the associated energy.
19. 2040: 100% of Retail Compliance Load, with not more than 10% compliance through RECs purchased without the associated energy.
20. 2041: 100% of Retail Compliance Load, with not more than 9% compliance through RECs purchased without the associated energy.
21. 2042: 100% of Retail Compliance Load, with not more than 8% compliance through RECs purchased without the associated energy.
22. 2043: 100% of Retail Compliance Load, with not more than 7% compliance through RECs purchased without the associated energy.

23. 2044: 100% of Retail Compliance Load, with not more than 6% compliance through RECs purchased without the associated energy.
 24. 2045: 100% of Retail Compliance Load, with not more than 5% compliance through RECs purchased without the associated energy.
 25. 2046: 100% of Retail Compliance Load, with not more than 4% compliance through RECs purchased without the associated energy.
 26. 2047: 100% of Retail Compliance Load, with not more than 3% compliance through RECs purchased without the associated energy.
 27. 2048: 100% of Retail Compliance Load, with not more than 2% compliance through RECs purchased without the associated energy.
 28. 2049: 100% of Retail Compliance Load, with not more than 1% compliance through RECs purchased without the associated energy.
 29. 2050: 100% of Retail Compliance Load, with 0% compliance through RECs purchased without the associated energy.
- b) **RCPS Tier Multipliers:** For years 2021 through 2040, RECs or CECs from Tier 1 Resources shall be credited at a multiplier of 1.25; Tier 2 Resources at a multiplier of 1.0; and Tier 3 Resources at a multiplier of 1.0 for compliance purposes. After 2040, the tier multiplier for all tiers shall be 1.0. These tier multipliers shall be applied as default multipliers for determining compliance RECs or CECs unless the Utility can provide workpapers that support a different multiplier for a specific measure that can be evaluated and accepted by the Council. A resource shall only receive RCPS compliance credits in one Tier; to the extent a resource is eligible to be included in more than one Tier, it should receive the highest tier multiplier for which it is eligible. The Council shall specifically evaluate the continued appropriateness of the Tiers and applicable tier multipliers, and the years in which tier multipliers should be applied in each Periodic Review of this RCPS.
- c) **Credit Related to Energy Storage Resource:** Depending upon the manner in which an Energy Storage Resource is utilized, it may or may not be eligible for RCPS Compliance Credits. Council approval of the RCPS Compliance Crediting mechanism applicable to any specific Energy Storage Resource will be required prior to the inclusion of any Energy Storage Resource in the Utility's RCPS Compliance and will be based upon the proposed application of the Energy Storage Resource. To the extent that the Utility intends to utilize an Energy Storage Resource for RCPS Compliance, it should propose the project to the Council for the Council's consideration, with an explanation as to how the project specifically serves the goals of the RCPS and what RCPS Compliance Credit the Utility proposes be earned by the project. Nothing in this provision alters any other requirement for Council approval for the Utility to acquire or construct a resource or to include the costs of a resource in rates.

SECTION 4: COMPLIANCE AND REPORTING

- a) Calculation of Retail Compliance Load
1. Retail Compliance Load is the reported annual MWh sales for each compliance year, increased by the cumulative MWh savings of DSM programs installed after January 1, 2021.

b) Calculation of RCPS Compliance Credits

1. RCPS Compliance Credits for each compliance year are calculated by adding: (i) the RECs and the CECs associated with the compliance year, multiplied by the applicable tier multiplier; (ii) RECs as allowed through the Banking and Compliance Reserve provision that are applied in that year.
2. CECs associated with Tier 3 Resources can be applied as RCPS Compliance Credits until 2040.

c) Calculation of Percentage of Retail Compliance Load

1. RCPS Compliance Credits (MWh) are divided by Retail Compliance Load (MWh), and expressed as a percentage.

d) Calculation of RCPS Compliance Costs

1. The RCPS Cost of Compliance is calculated as all incremental costs prudently incurred by the Utility in complying with RCPS Section 3, including, but not limited to, the incremental costs of new resources for compliance, the Incremental DSM costs, and other costs related to RCPS compliance. The cost of RECs as allowed through the Banking and Compliance Reserve provision that are applied in the compliance year shall be included in the RCPS Cost of Compliance for that year. The cost of RECs acquired for the Banking and Compliance Reserve provision but not applied in that year shall be treated as working capital and shall not be included in the RCPS Compliance Cost for the compliance year.
2. Incremental costs are the total electric utility revenue requirements associated with the Utility's operations in compliance with the RCPS, less the total electric utility revenue requirements associated with the optimized resource portfolio that may have been in place absent the requirements of the RCPS. The Utility's most recently filed Integrated Resource Plan shall inform the calculation of incremental costs as to the optimized resource portfolio that may have been in place absent the requirements of the RCPS.

e) Upon the Utility's submission of its final Integrated Resource Plan ("IRP") Report for each triennial IRP cycle, the utility shall develop a three-year prospective RCPS Compliance Plan, including a three-year Banking and Compliance Reserve provision for RECs, and the Utility's calculation of the ACP. The RCPS Compliance Plan shall be filed at the Council and served upon both the parties to the relevant IRP docket and the parties to Docket No. UD-19-01, with the opportunity for stakeholder comment prior to the Council's review and approval. Within 90 days of the adoption of this RCPS, the Utility shall file at the Council and serve on the parties to Docket No. UD-19-01, with opportunity for stakeholder comment, a proposed Initial RCPS Compliance Plan for the interim prior to the conclusion of the next triennial IRP cycle. Once the Council has approved an RCPS Compliance Plan for a particular time period, if the Utility wishes to add any resources for compliance that are not contemplated in the RCPS Compliance Plan, the Utility should file at the Council and serve upon the parties to the relevant IRP Docket and Docket No. UD-19-01, with opportunity for stakeholder comment, a request to include such resource for RCPS Compliance prior to executing plans to implement such resource.

f) By May 1 of each calendar year, the Utility shall file a Compliance Demonstration Report with the Council regarding its achievement of the RCPS goal for the prior calendar year and its plan for achieving the goal in the current calendar year as part of the three-year RCPS Compliance Plan. The report shall be served on parties to Docket No. UD-19-01, with an opportunity for comment prior to the Council's issuance of a determination as to whether the Utility has achieved the RCPS targets listed in Section 3 and remained within the Customer Protection Cost Cap of Section 6 for the prior calendar year. The Council's approval of the RCPS Compliance Demonstration Report would not eliminate the need for any other Council review and approval of resource costs otherwise required under the Council's Regulations. The report should include the following clear and concise information that:

1. Either (a) demonstrates that the Utility has complied with Section 3; or (b) explains the reason the Utility was unable to comply, the magnitude of the shortfall expressed in kWh, and the Utility's calculation of the applicable ACP.
 2. A calculation of the incremental cost (if any) of compliance with the RCPS over and above costs ENO would have otherwise incurred to serve its load in the preceding calendar year.
 3. An energy portfolio report for the preceding compliance year which shall identify the MWh hours produced by each supply and demand-side resource comprising the utility's total resource portfolio. RECs purchased and utilized by the utility and their associated MWh, including RECs that can be associated with net metering, and incremental MWh associated with DSM and other eligible resources should also be included in the energy portfolio report. For each resource in the portfolio, the utility shall identify the resource name, MWh, fuel type, the average per MWh energy-related cost associated with that resource, and the average per MWh energy-related revenue received from MISO for that resource.
 4. A carbon emissions report that details the carbon emissions resulting from the production of the electricity used by the Utility to serve its Retail Compliance Load, whether or not each generator is owned by the Utility.
 5. A draft bill insert to be included in customer bills with an easy-to-understand explanation of the Utility's compliance status for Council review and approval.
- g) The Utility shall maintain an easy-to-find web page with a user-friendly interface where it makes available to the public copies of all reports and documents related to the RCPS and the Utility's carbon emissions that it submits to the Council or any other relevant government agency or public body.

h) Banking and Compliance Reserve Provision

The utility may use RECs produced and Green-e certified in one compliance year for compliance in either of the two subsequent compliance years, subject to a review of the accounting for the banking and compliance reserve, and provided that the utility was in compliance for the compliance year in which the RECs were created. In addition, the utility shall demonstrate to the satisfaction of the Council that such Compliance Credits:

- 1) were in excess of the Compliance Credits needed for compliance in the compliance year in which they were generated;

- 2) do not exceed the REC limitation specified in Section 3 for compliance with the RCPS in the year they were used for compliance and retired; and
- 3) have not otherwise been, nor will be, sold, retired, claimed or represented as part of clean energy output or sales, or used to satisfy obligations in other jurisdictions.

SECTION 5: ENFORCEMENT

- a) In the event that the Utility is unable to comply with the RCPS standard using reasonable measures for the applicable calendar year, the Utility shall make an Alternative Compliance Payment (“ACP”) into a CleanNOLA Fund established by the Council for the purposes of fostering efforts to reduce carbon emissions within Orleans Parish. The ACP shall be structured as \$/MWh of shortfall.
 1. The ACP (\$ per MWh) will be determined by the Council in the Council’s Resolution approving the Utility’s RCPS Compliance Plan, and the ACP will be applicable for the prospective three calendar years.
 2. The ACP shall be based on the highest market value of RECs in MISO over the prior three years, multiplied by a 1.15 multiplier.
 3. The ACP, when combined with the RCPS compliance cost that is incurred in any calendar year, shall not exceed the Customer Protection Cost Cap set forth in Section 6.
- b) Nothing in this section limits the Council’s authority to impose penalties for the violation of the Council’s regulations.

SECTION 6: COST RECOVERY AND CUSTOMER PROTECTION COST CAP

- a) The Utility shall be allowed cost recovery for RCPS compliance as follows:
 1. The Utility shall be allowed the opportunity to recover prudently incurred costs in complying with a mandated renewable and clean portfolio standard.
 2. The Utility shall be allowed to recover the ACP unless it is demonstrated to the Council and the Council finds that the Utility’s failure to comply with the RCPS was unreasonable, in which case, ENO shall not recover the cost of the ACP from Customers.
- b) As a mechanism to provide customer protection from unreasonable rate increases, the Council hereby establishes an RCPS Customer Protection Cost Cap that the Utility shall not exceed to acquire RCPS Compliance Credits. The Customer Protection Cost Cap in any RCPS plan year is one percent (1%) of plan year total utility retail sales revenues, beginning in 2022.
 1. If the Utility can support its finding that, in any given year, the cost of RCPS compliance through all reasonable measures is projected to be greater than the Customer Protection Cost Cap as established by the Council’s RCPS, the Utility shall not be required to incur costs in excess of the Customer Protection Cost Cap, and will be deemed to have complied with that year’s target as set forth in Section 3, once it has expended up to the Customer Protection Cost Cap (including any ACP).

2. The existence of this condition excusing performance in any given year shall not operate to delay the annual increases in the RCPS in subsequent years. When the utility can generate or procure RCPS Compliance Credits at or below the Customer Protection Cost Cap in order to comply with the RCPS, it shall be required to add such resources.
3. For rate classes with fewer than 3 customers, the Council will review and adjust rates through the Utility's decoupling mechanism, or by other means, such that the increase in the allocated total cost of service related solely to RCPS Cost of Compliance for those rate classes is no greater than 1%.

SECTION 7: CLEANNOLA FUND

The Council shall establish a CleanNOLA Fund ("Fund") for the purposes of fostering the reduction of carbon emissions in Orleans Parish. The Fund shall prioritize projects designed to reduce carbon emissions from existing sources of such emissions in Orleans Parish. Grants made from any portion of CleanNOLA Fund funding received from ratepayers must go to projects that would meet the definition of one of the resources eligible for inclusion in the RCPS and all environmental attributes (RECs or CECs) generated by such projects must be transferred to ENO and used by ENO for RCPS Compliance. The Fund shall not at any time be transferred to, or lapse into, or be comingled with the General Fund of the City of New Orleans and it shall be administered in accordance with the Council's directives.

URM Division VII. Net energy metering rules.

I. DEFINITIONS

- A. As used in these Regulations, the following words and phrases shall have the following meaning, unless the context clearly indicates otherwise:

“Net Energy Billing” means a billing and metering practice under which a customer-generator is billed on the basis of net energy over the billing period.

“Avoided Costs” means the incremental costs to an Electric Utility of electric energy or capacity or both which, but for the purchase from the Net Energy Metering Facility, such utility would generate itself or purchase from another source.

“Billing Period” means same billing period applicable under the customer’s applicable standard rate schedule.

“Biomass” means:

- (1) Any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, wood and wood wastes and residues, aquatic plants, grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.
- (2) Biomass shall not include:
 - (a) Wood contaminated with plastic or metals; exceptions such as construction debris may be allowed by the Council only after a specific request is made of the Council, in writing, submitted to the Clerk of the Council, and only after the applicant has obtained any and all additional approvals from other state and/or federal regulatory agencies.
 - (b) Recyclable post-consumer waste paper; exceptions may be allowed on a case by case basis by the Council only after a specific request is made of the Council, in writing, submitted to the Clerk of the Council, and only after the applicant has obtained any and all additional approvals from other state and/or federal regulatory agencies.

“Biomass Facility” means a facility that may use one or more organic fuel sources that can either be processed into synthetic fuels or burned directly to produce steam or electricity, provided that the resources are renewable, environmentally sustainable in their production and use, and the process of conversion to electricity results in a net environmental benefit. This includes, but is not limited to, dedicated

energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, and other accepted organic, renewable waste materials.

“Commercial Customer” means a customer served under any of a utility’s rate schedules applicable to commercial service.

“Council” means the Council of the City of New Orleans.

“Electric Utility” means a public or investor-owned electric utility that engages in the business of supplying electric energy to the ultimate customer or any customer class within Orleans Parish. The electric utility must fall under the jurisdiction of the Council in order to be required to comply with the provisions set forth herein.

“Fuel Cell Facility” means a facility that converts the chemical energy of a fuel directly to direct current electricity without intermediate combustion or thermal cycles.

“Geothermal Facility” means an electric generating facility in which the prime mover is a steam turbine. The steam is generated in the earth by heat from the earth’s magma.

“Hydroelectric Facility” means a facility in which electricity is generated by the mechanical energy of naturally moving water transferred by a rotating device to a generator, where it is converted to electric energy.

“Interconnection Costs” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the Electric Utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a Net Energy Metering Facility, to the extent the costs are in excess of the corresponding costs which the Electric Utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

“Micro Turbine Facility” means a facility that uses a small combustion turbine to produce electricity.

“Net Energy Metering” means the measurement of the difference between electricity supplied by an Electric Utility and the electricity generated by a net metering customer and fed back to the Electric Utility over the applicable billing period.

“Net Energy Metering Facility” means a facility for the production of electrical energy that:

- (1) Uses solar, hydroelectric, wind, geothermal, or biomass resources to generate electricity including, but not limited to, fuel cells and micro turbines that generate electricity if the fuel source is entirely derived from renewable resources;
- (2) Has a generating capacity of not more than twenty five (25) kilowatts for Residential Customers or three hundred (300) kilowatts for Commercial Customers
- (3) Is located in New Orleans;
- (4) Can operate in parallel with an Electric Utility’s existing transmission and distribution facilities;
- (5) Is intended primarily to offset part or all of the net-metering customer requirements for electricity; and
- (6) Meets all applicable safety and performance standards.

“Parallel Operation” means the operation of on-site generation by a customer while the customer is connected to and synchronized with the utility’s distribution system.

“Residential Customer” means a customer served under a utility’s standard rate schedule applicable to residential service.

“Solar Facility” means a facility in which electricity is generated through the collection, transfer and/or storage of the sun’s heat or light.

“Wind Facility” means a facility in which an electric generator is powered by a wind-driven turbine.

II. GENERAL PROVISIONS; SCOPE AND APPLICABILITY

- A. The purpose of the New Orleans Net Energy Metering Rules (“Rules”) are to establish the City Council of New Orleans’ rules, policies and procedures for net energy metering and interconnection in Orleans Parish, including eligibility for participating in net energy metering, a bill crediting mechanism for participants, net metering-related equipment requirements, a standard contract requirement, and safety and performance standards. These rules shall be cited as the “New Orleans Net Energy Metering Rules.”
- B. These Rules shall apply to all electric utilities, as defined in these Rules that provide electric service in New Orleans.

- C. The Net Energy Metering Rules are not intended to, and do not affect or replace any Council-approved regulation, policy, procedure, rule or service application of any utility, which address items other than those covered in these Rules.

III. ELECTRIC UTILITY REQUIREMENTS

- A. An Electric Utility, subject to the jurisdiction of this Council, that offers residential or commercial electrical service, or both, shall allow any of its customers to establish Net Energy Metering Facilities to be interconnected with the Electric Utility using a standard meter capable of registering the flow of electricity in two (2) directions. A two-channel meter or other type meter(s) that is capable of determining the net energy can be utilized, as well.
- B. If the meter that is currently installed on the Net Energy Metering Facility is incapable of registering the flow of electricity in two directions, an additional meter or meters may be installed by the Electric Utility so long as collectively the meters are capable of registering the flow of electricity in two directions.
- C. The cost of the meter shall not be borne by the net metering customer, unless the additional meter(s) is not required by the Electric Utility, but instead requested by the net metering customer. A customer charge for any installations where the meter will not register in both directions may be assessed by the utility in conformity with Section IV(B) below.
- D. If an additional meter or meters are installed, as described in Section III(C) above, the net energy metering calculation shall yield the same result as when a single meter is used.

IV. METERING REQUIREMENTS

- A. The metering equipment installed for net energy metering shall be capable of accurately measuring the flow of electricity in two directions.
- B. Notwithstanding the provisions of Section VIII below, the cost of the meter is the responsibility of the Electric Utility, but the utility will be allowed to assess a one-time customer charge to cover the installation costs. The utility may also assess a customer charge for any additional meter installations if the additional installations are requested by the net metering customer. Metering equipment shall be installed to both accurately measure the electricity applied by the Electric Utility to each net-metering customer and also to accurately measure the electricity generated by each net-metering customer that is fed back to the Electric Utility over the applicable billing period.
- C. A meter or meters operating in both forward and reverse registration modes shall be considered to be accurate when a meter test discloses that its average registration is in the range of 98% to 102%, inclusive, of current average registration. A test to

determine compliance with this accuracy requirement shall be made by the Electric Utility either before or at the time the Net Energy Metering Facility is placed in operation in accordance with these Rules. The costs associated with the test may be included in the customer charge, as set out in Section IV(B) or it may be a separate customer charge, to be assessed to the net metering customer prior to the initiation of net energy metering service.

- D. The utility will regularly test its meters and maintain their accuracy of registration in accordance with good practice that shall be consistent with the use of service, elapsed time, nature of the load metered, and these rules. The utility also will make a special test of the customer's meter upon the written request of the customer. The first such test in any twelve-month period shall be performed at the expense of the utility. Any subsequent tests performed at the request of the customer in the same twelve-month period shall be performed at the expense of the customer, provided the meter is found to register within the range prescribed in Section IV(C) above. Tests that disclose meter registration to be outside such range shall be performed at the expense of the utility.
- E. To the extent that a faulty meter has resulted in a net metering customer receiving insufficient credits or payments, pursuant to Section VI(B) and Section VI(C) below, the Electric Utility shall make the appropriate credits or payments in the next billing cycle. If the faulty meter has resulted in the net metering customer receiving excess credits or payments, pursuant to Section VI(B) and Section VI(C) below, then the utility shall reduce any future credits or payments by the excess amount in the next billing cycle.

V. NEW OR ADDITIONAL CHARGES

- A. Any new or additional charge that would increase a net metering customer's costs beyond those of other customers in the rate class shall be filed by the Electric Utility with the Council for approval. The filing shall be supported by cost/benefit analyses.
- B. Following notice and opportunity for public comment, the Council may authorize an Electric Utility to assess a net metering customer a greater fee or customer charge, of any type, if the Electric Utility's direct costs of interconnection and administration of net-metering outweigh the distribution system, environmental and public policy benefits of allocating the costs among the Electric Utility's entire customer base.
- C. An Electric Utility shall be reimbursed by the net metering customer for interconnection costs at the time the costs are incurred. Upon petition by any party involved and for good cause shown, the Council may allow for reimbursement of the interconnection costs over a reasonable period of time and upon such conditions as the Council may determine; provided, however, that no other customers of the utility shall bear any of the costs of interconnection.

VI. BILLING FOR NET METERING

- A. On a monthly basis, the net metering customer shall be billed the charges applicable under the currently effective standard rate schedule and any appropriate rider schedules. Under net metering, only the kilowatt-hour (kWh) units of a customer's bill are affected.
- B. The kWh generated by a net metering customer and fed back to the Electric Utility shall be credited against the kWh supplied to the net metering customer by the Electric Utility during the billing period. The net metering customer shall be billed for the net kWh in accordance with the rates and charges under the customer's standard rate schedule if the amount of kWh supplied by the Electric Utility exceed the amount of kWh generated by the Net Energy Metering Facility and that are fed back to the Electric Utility.
- C. When the amount of kWh generated by a net metering customer and fed back to the Electric Utility exceeds the electricity supplied by the Electric Utility, the net excess generation shall be rolled-over and credited against a customer's future consumption continuously until the excess generation is erased by customer's future electric utility consumption or until the customer's electric service is terminated. For the final month in which the net metering customer takes service from the Electric Utility, the Electric Utility shall issue a check to the net metering customer for the balance of any credit due in excess of amounts owed by the customer to the Electric Utility. The payment for any remaining credits shall be at the Electric Utility's avoided cost as follows; however, at no time, shall a Net Metering Customer be paid capacity charges or demand charges:
 - 1. For Solar Facilities, the payment shall be based on the on-peak, seasonal avoided cost rate as provided for in the Electric Utility's tariff, as set out below in Section IX, below.
 - 2. For all Net Energy Metering Facilities other than Solar Facilities, the payment shall be based on the average of the on-peak and off-peak, seasonal avoided cost rate as provided for in the Electric Utility's tariff, as set out below in Section IX, below.

VII. INITIAL INTERCONNECTION OF NET ENERGY METERING FACILITY

- A. The Net Energy Metering Facility, at the net metering customer's expense, shall meet all safety and performance standards established by local and national electric codes including the National Electric Code (NEC), the Institute of Electrical and Electronics Engineers (IEEE), the National Electric Safety Code (NESC), and Underwriters Laboratories (UL) and any other relevant standards specified by the Council.

- B. The Net Energy Metering Facility, at the net metering customer's expense, shall meet all reasonable safety and performance standards that are necessary to assure safe and reliable operation of the Net Energy Metering Facility when connected to the Electric Utility's system and that have been adopted by the Electric Utility and approved by the Council pursuant to these rules.
- C. A Net Energy Metering Facility shall be capable of safely operating in parallel prior to commencing the delivery of power into the utility system at a single point of interconnection.
- D. At least 90 days prior to the date the net metering customer intends to interconnect with the Electric Utility, the customer shall notify the Electric Utility of its intentions ("Notification Date"), and provide engineering plans and drawings describing the Net Metering Facility for the utility's review, and showing it is capable of safely operating in parallel with the utility's local system at a single point of interconnection. The Electric Utility shall begin a review of the proposed Net Metering Facility at this time.
- E. At least 75 days prior to the date the net metering customer intends to interconnect with the Electric Utility (i.e., 15 days after the Notification Date) the Utility shall provide the customer with a Standard Interconnection Agreement pursuant to Section VIII, along with a copy of the Electric Utility's Council-approved its performance and safety standards applicable to the Net Energy Metering Facility.
- F. At least 60 days prior to the date the net metering customer intends to interconnect with the Electric Utility, the utility shall provide the customer with the written results of its review including detailed explanations of any items that may prevent safe parallel operation of the facility with the utility's local system. The Electric Utility will also provide the customer with proposed corrections to such items.
- G. At least 45 days prior to the date the net metering customer intends to interconnect with the Electric Utility the customer will return a signed Standard Interconnection Agreement to the utility and provide evidence that all utility-proposed corrections to the facility have been satisfactorily remedied.
- H. A Net Energy Metering Facility shall have a visibly open, lockable, manual disconnection switch that is accessible by the Electric Utility and clearly labeled, unless this requirement is waived by the Electric Utility.
- I. If the Electric Utility's existing facilities are not adequate to interconnect with the Net Energy Metering Facility, any changes will be performed in accordance with the Electric Utility's Extension of Facilities Tariff.

VIII. STANDARD INTERCONNECTION AGREEMENT

- A. Each Electric Utility shall develop a Standard Interconnection Agreement for Net Metering Facilities, which shall be subject to the review and approval of the Council. Each Electric Utility shall file a proposed Standard Interconnection Agreement for Net Metering Facilities within 90 days from the effective date of these rules. The proposed Standard Interconnection Agreement shall be consistent with the provisions of these rules and shall describe any and all interconnection expenses, and other customer charges in conformity with Sections IV and V above, for which the net metering customer shall be responsible.
- B. The Electric Utility shall provide a copy of the Council-approved Standard Interconnection Agreement to the customer as indicated in VII.E. above. The customer shall submit a Standard Interconnection Agreement to the Electric Utility at least forty-five (45) days prior to the date of the customer intends to interconnect the net metering facilities to the utility's facilities as indicated in VII.G. above.
- C. If the Standard Interconnection Agreement is mailed by customer, the date of notification shall be the third day following the mailing of the Standard Interconnection Agreement. The burden to prove the date upon which the notification was mailed to the Electric Utility shall be on the customer.

IX. NET METERING TARIFF

- A. Each Electric Utility shall file, for approval by the Council, a Net Metering Tariff in standard tariff format within 90 days from the effective date of these rules.

X. FILING AND REPORTING REQUIREMENTS

- A. Each Electric Utility shall file a report annually with the Council Utility Regulatory Office listing all existing Net Metering Facilities and the generator rating and, where applicable, the inverter power rating of each Net Energy Metering Facility as of the end of the previous calendar year.

XI. WAIVER

- A. Upon request of any person subject to these Rules or upon its own motion, the Council may, for good cause, waive any requirement of these Rules that is not required by the Act or inconsistent with the purposes of these Rules.

URM Division VIII. Community solar rules.

I. OVERVIEW

The purpose of the Community Solar Rules ("Rules") is to establish the City Council of New Orleans' rules, policies, and procedures for Community Solar Generating ("CSG") Facilities and the associated electric utility customer subscriptions in Orleans Parish, including: eligibility for participating in Community Solar Generating Facilities; developer, facility, and customer limits with respect to community solar; establishment of a bill crediting mechanism for participants; customer protection provisions; general interconnection requirements; safety and performance requirements; and contractual and reporting requirements. Further, these rules are intended to establish a clear and streamlined path to the development of Community Solar development in the City of New Orleans. The Council recognizes that these rules do not provide the only path to distributed generation development in the City of New Orleans. To the extent that the Utility or any other party has a proposed project or proposal that does not adhere to the requirements of these Rules, it may submit a proposal to the Council for review and approval. These Rules shall be cited as the "New Orleans Community Solar Rules." The Council may waive a provision of these Rules upon a showing of good cause.

II. DEFINITIONS

As used in these rules; the following words and phrases shall have the following meaning, unless the context clearly indicates otherwise:

"Agent" means a person who conducts business, including marketing or sales activities, or both, on behalf of a CSG Facility Subscriber Organization and includes an employee, a representative, an independent contractor, a subcontractor, a vendor and a representative not directly under contract with the Subscriber Organization that conducts business, including marketing or sales activities, on behalf of the Subscriber Organization.

"Application Queue" refers to the sequential list of CSG Facility projects for which a completed application has been accepted by the Utility.

"Baseline Annual Usage" refers to a Subscriber's accumulated electricity use in kilowatt-hours ("kWh") for the previous 12-month period at the time the subscription is entered into, as measured at the Utility's meter, net of any distributed generation provided by the Subscriber to the utility system at that meter. For a Subscriber that does not have a record of 12 months of electricity use at the time of the Subscriber's most recent Subscription, an estimate of the Subscriber's accumulated 12 months of electricity use in kWh, determined in a manner the Council approves.

"Consent" means an agreement with an action communicated by the following: a written document with Customer signature; or an electronic document with electronic signature.

"Construction Queue" refers to the sequential list of CSG Facility projects with a signed interconnection agreement.

“Contract Summary” means a summary of the material terms and conditions of a Community Solar Generating Facility Subscriber contract on a form provided by the Council.

“Council” refers to the Council of the City of New Orleans.

“Community Solar Generating Facility” or **“CSG Facility”** means a solar energy facility that:

- (i) converts solar energy to electricity;
- (ii) is owned by the Utility or any other for-profit or nonprofit entity or organization;
- (iii) has a generating capacity/nameplate rating that does not exceed five megawatts (“MW”) as measured by the alternating current rating of the system's inverter;
- (iv) can provide power to or is connected to the Utility's distribution system;
- (v) is located in the Utility's electric service territory;
- (vi) is individually metered;
- (vii) has at least three Subscribers;
- (vii) sells the Output from the facility to the Utility and which the purchase of the Output from the facility shall take the form of a credit against the Subscriber's electric bill; and
- (ix) the beneficial use and renewable attributes of the Output of the facility belongs to the Subscribers.

“Community Solar Program” means a program that encompasses the facilities, entities, functions and requirements implemented by these Rules.

“Customer” means a retail electric customer account holder of the Utility.

“CURO” means Council Utilities Regulatory Office.

“Low-Income Customer” means a Customer whose gross annual household income is at or below 60 percent of Area Median Income for the year of subscription or who is certified as eligible for any federal, state, or local assistance program that limits participation to households whose income is at or below 60 percent of Area Median Income.

“Low-Income Subscriber” means a Subscriber who is a Low-Income Customer.

“NEM Rules” means the New Orleans Net Energy Metering Rules adopted by Council Resolution No. R-07-132.

“Output” means the energy and power produced by a CSG Facility.

“Person” refers to any individual, firm, partnership, corporation, company, association, cooperative association, joint stock association, joint venture, governmental entity, or other legal entity.

“Personally Identifiable Information” means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or capable of being linked to a specific individual.

“Renewable Energy Credit” or **“REC”** means a contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of electric energy generated from a renewable energy resource. One REC results from one MWh of electric energy generated from a renewable energy resource.

“Rules” means the Community Solar Rules established herein or as modified by subsequent action.

“Security Deposit” means any payment of money given to a Subscriber Organization by a Subscriber in order to protect the Subscriber Organization against nonpayment of future subscription fees, but does not include escrowed prepaid subscription fees.

“Service Connection” is the location on the CSG Facility's premises/facilities at which a point of delivery of power between the Utility and the CSG Facility is established.

“Subscriber” means a Customer of the Utility that holds a Subscription to one or more CSG Facilities and has identified one or more individual meters or accounts related to electric service to which the Subscription(s) shall be attributed.

“Subscriber Organization” means a person or legal entity that owns and operates a CSG Facility, or operates a CSG Facility that is built and owned by a third party under contract with such Subscriber Organization. A Subscriber Organization may also be a Subscriber to the facility, subject to the Limitations on Subscriptions set forth herein.

“Subscription” refers to that portion or proportionate interest of Output of a CSG Facility that is allocated to a Subscriber, including the RECs associated with or attributable to the CSG Facility.

“Unsubscribed Energy” refers to any energy Output of a CSG Facility in kWh that is not allocated to a Subscriber.

“Utility” refers to the utility providing electric service to customers in the City of New Orleans and regulated by the Council.

“Waitlist” refers to the sequential list of CSG Facility projects that have submitted a completed application, but which cannot be placed in the Application Queue because either the Program Capacity Limits or the Category Limits have been exceeded.

III. CUSTOMER ELIGIBILITY

A. Customer Eligibility

- (1) All customer rate classes are eligible to subscribe to a CSG Facility.
- (2) A Customer may subscribe to a CSG Facility in the Utility's service territory, provided that the Customer has an account for electric service with the Utility.
- (3) A Customer may subscribe to CSG Facility regardless of the Customer's participation in other Utility-sponsored renewable programs, such as NEM, provided that the Customer's participation does not violate, individually or collectively, the eligibility limits of all applicable programs and these Rules.

B. Limitations on Subscriptions

- (1) A Customer may not hold Subscriptions representing a total amount of energy in the Community Solar Program that exceeds 100 percent of the value of the Subscriber's Baseline Annual Usage.
- (2) A Customer may purchase multiple Subscriptions from one or more CSG Facilities provided that the total of the Subscriptions does not exceed the requirements in III.B.(1) of the Rules.
- (3) No Customer may own more than a 40 percent interest in the beneficial use of the electricity generated by a CSG Facility, including without limitation, the renewable energy and RECs associated with or attributable to the CSG Facility.

IV. COMMUNITY SOLAR GENERATING FACILITY ELIGIBILITY

A. CSG Facility Eligibility

- (1) A CSG Facility can be owned by the Utility or any other for-profit or nonprofit entity or organization.
- (2) A Subscriber Organization that has registered with the Council, through CURO, that wishes to construct and operate a CSG Facility as part of the Community Solar Program shall submit an application to the Utility in accordance with the CSG Facility project application procedure established by the Utility as part of these Rules.
- (3) A Subscriber Organization shall be responsible for the operation and maintenance of the CSG Facility, the associated Subscription management, and any required reporting to the Utility.
- (4) A CSG Facility must be located in the Utility's service territory, must be individually metered, and must be connected to the Utility's distribution system.

- (5) A CSG Facility may be either new construction that commenced operation after the date of Council adoption of these Rules or a solar generating system that commenced operation prior to Council adoption of these Rules.
- (6) The Subscriber Organization for the CSG Facility must enter into a Contract with the Utility to sell the Output from the facility to the Utility. The purchase of the Output from the CSG Facility shall take the form of a credit against the Subscriber's electric bill.
- (7) The Council may establish additional conditions limiting the number of CSG Facilities for which any single Subscriber Organization or its affiliates may apply.

B. CSG Facility Limitations

- (1) The CSG Facility's generating capacity/nameplate rating must not exceed five MW as measured by the alternating current rating of the system's inverter.
- (2) The beneficial use and renewable attributes of the Output of the CSG Facility must remain with the Subscribers.
- (3) A CSG Facility must have at least three Subscribers.
- (4) The total number of accounts per CSG Facility may be determined by the Subscriber Organization; however, each Subscription shall be sized to represent at least one kW of the CSG Facility's nameplate rating. The minimum one kW sizing requirement herein shall not apply to Subscriptions owned by an eligible Low-Income Subscriber.
- (5) More than one CSG Facility may be located on the same or adjacent property as an existing or proposed CSG Facility owned by the same Subscriber Organization or affiliate, provided that the combined nameplate ratings of such CSG Facilities does not exceed 5000 kW.
- (6) One or more Subscriber Organizations may construct multiple CSG Facilities on a single parcel of property, providing that the total MW of the multiple projects on the single parcel does not exceed 5 MW.
- (7) To the extent that the analysis performed in the Utility's processing of the CSG Facility application as described in VII.D of these Rules reveals that a proposed CSG Facility would have a negative impact on the reliability of the Utility's system, either the CSG Facility must be reduced in size to mitigate such negative impact, or the CSG Facility developer may choose to incur the costs of necessary upgrades to the Utility's system to enable the CSG Facility to be interconnected without jeopardizing the reliability of the system.

V. CAPACITY LIMITS

A. Community Solar Program Capacity Limits

- (1) Subject to the CSG Facility category limits established in these Rules, the Utility shall accept CSG Facility applications as long as the total capacity of all CSG Facilities, as measured by the sum of the nameplate capacity of each CSG Facility's inverter, is less than or equal to five percent of the Utility's annual peak in MW for the first three years of the Community Solar Program. Subsequent to the first three years the Council will reconsider the total capacity limit.
- (2) The Utility shall not accept CSG Facility applications beyond the Community Solar Program Capacity Limits or the CSG Facility Category Limits into the Application Queue.
- (3) Once the Application Queue has reached the Community Solar Program Capacity Limit or the CSG Facility Category Limit, any further completed applications received by the Utility shall be put on the Waitlist. The Waitlist shall be administered as follows:
 - (a) Projects will be entered into the Waitlist in the order in which they are received;
 - (b) These applications shall not be processed immediately, but shall be held by the Utility;
 - (c) When a slot opens up in the Application Queue, either because a project has moved into the Construction Queue or because a project has dropped out, the Subscriber Organization with the first project in the Waitlist with a nameplate capacity (as measured by the alternating current rating of the system's inverter) that does not exceed the available slot will be given the option to move into the Application Queue. If the Subscriber Organization declines to move into the Application Queue, the project will be removed from the Waitlist.
 - (i) If the project at the top of the Waitlist has a capacity greater than the available slot, the Utility shall give the Subscriber Organization the opportunity to reduce the project capacity to fit within the available slot;
 - (ii) If it chooses to reduce the project's capacity to conform, the Subscriber Organization must notify the Utility within ten (10) business days of its intent, and must then submit an

updated Application with a conforming capacity total within thirty (30) days after providing notice of its intent;

- (iii) The Utility shall work sequentially through the Waitlist in this manner until a project is identified to fill the available slot in the Application Queue. If a project chooses not to reduce its capacity to conform to the available slot, the project shall retain its position in the Waitlist, and the Utility will offer the available slot to the next Project in the Waitlist.
- (d) Once a project has been moved from the Waitlist to the Application Queue, its application shall be processed in accordance with the Program Rules and processes.

B. CSG Facility Category Limits

- (1) CSG Facilities shall be classified into one of two categories:
 - (a) Open Category: CSG Facilities of any size up to two MW as measured by the alternating current rating of the system's inverter.
 - (b) Low-Income Category: CSG Facilities of any size up to five MW as measured by the alternating current rating of the system's inverter in which a minimum of 30 percent of the CSG Facility's Output is provided to Low-Income Subscribers.
- (2) The Utility shall accept CSG Facility applications in each of the following categories up to the Community Solar Program Capacity Limits and according to the following CSG Facility Category percentages:
 - (a) Open Category: up to 50 percent of the Community Solar Program Capacity Limits; and
 - (b) The remaining 50 percent of the Community Solar Program Capacity Limit shall be reserved for Low-Income Category CSG Facilities.

VI. SUBSCRIBER ORGANIZATION REGISTRATION AND RECORDS

A. Registration with the Council

- (1) A Subscriber Organization shall register with the Council, on forms authorized by the Council, prior to offering Subscriptions to a CSG Facility or operating a CSG Facility. CURO shall process the registrations and make a list of Subscriber Organizations with current, valid registrations available on the Council's website.
- (2) The Council shall assign each Subscriber Organization with an identification number.

- (3) A Subscriber Organization shall maintain the registration with the Council by notifying the Council whenever certain information supplied as part of the registration with the Council becomes inaccurate, and updating their registration with accurate information. Subscriber Organizations shall renew their registration with CURO annually. If any Subscriber Organization fails to renew their registration in a timely manner, or if CURO otherwise becomes aware that the information in a Subscriber Organization's registration is no longer accurate, CURO shall notify the Subscriber Organization of the lapse in its registration and the Subscriber Organization shall have 30 days to renew or update its registration. If the Subscriber Organization fails to renew its or update its registration within the 30-day period, its registration shall be revoked by CURO. When a Subscriber organization's registration is revoked, CURO shall notify the Utility and the Utility shall no longer be required to purchase energy or capacity from the Subscriber Organization's CSG Facility or to provide credits to the Subscribers of that CSG Facility.
- (4) By registering with the Council, a Subscriber Organization acknowledges and agrees it is bound by the Council's regulatory authority and jurisdiction to enforce the requirements contained in these Rules, including, but not limited to, the Council's authority to impose penalties on the Subscriber Organization as provided for in these Rules, or otherwise allowed by law.
- (5) CURO may charge a reasonable fee to Subscriber Organizations for initial registration with the Council and for annual renewal, as authorized by the Council.

B. Subscriber Organization Obligations and Records

- (1) A Subscriber Organization shall maintain on file with CURO the following information for the duration of the operation of each CSG Facility:
 - (a) Owner name and address.
 - (b) Business address.
 - (c) Name of registered agent in Orleans Parish.
 - (d) General information on the facility including: location, DC and AC nameplate capacity, major equipment list, interconnection requirements, and any other relevant design details.
 - (e) Proof of liability insurance in an amount reasonably adequate to protect the public and the Utility against damages caused by the operation of each CSG Facility. The Council, through CURO or other designated agency, will establish minimum levels of liability

insurance that shall be deemed reasonably adequate for CSG Facilities.

- (f) Proof of registration "In Good Standing" with the Louisiana Secretary of State.
 - (g) Proof of professional licenses from all applicable regulatory agencies, such as the Louisiana State Licensing Board for Contractors.
 - (h) A copy of the Subscriber Organization's Occupational or General Business License obtained from the City of New Orleans' Bureau of Revenue.
- (2) A Subscriber Organization shall maintain in its own files the following information for the duration of the operation of each CSG Facility:
 - (a) Subscriber information including: name, mailing address, address at which the Subscriber has an account for electric service with the Utility, and, where relevant, the data supporting a Subscriber's classification as a Low-Income Subscriber.
 - (b) Subscription information for each Subscriber including a copy of the contract, rates, fees, and terms and conditions.
- (3) A Subscriber Organization shall provide the information in Section VI.B(2) to the Council upon request.
- (4) A Subscriber Organization shall provide to the Council, within 10 business days, information requested by the Council concerning the operation of its CSG Facilities.
- (5) Contracts between the Subscriber Organization and the Utility shall be a matter of public record and shall be filed with the Clerk of Council by the Subscriber Organization.
- (6) A Subscriber Organization, and, where relevant, the third-party owner/developer, are responsible for ensuring that its CSG Facility is constructed, maintained, and operated in compliance with all relevant local, state, and federal laws, rules regulations and standards, including, but not limited to, reliability, safety, zoning, permitting, occupational safety and health, and environmental laws, rules, regulations and standards, as well as adherence to the Utility's interconnection policies and procedures and these Rules.
- (7) CURO shall maintain on the Council's website a list of Subscriber Organizations registered with the Council, the names of any Subscriber Organizations whose registrations have lapsed or been revoked by the Council,

a copy of these Rules, and an explanation of how consumers may submit a complaint related to these Rules to the Council.

VII. COMMUNITY SOLAR PROGRAM MANAGEMENT

A. Community Solar Program Plan

- (1) Within 90 days from the effective date of the Rules, the Utility shall develop a Community Solar Plan setting forth the Utility's plan for implementing these Rules including the Utility's program administration plan and relevant tariffs for compliance with these Rules.

B. CSG Facility Standard Interconnection Agreement

- (1) Within 90 days from the effective date of the Rules, the Utility shall develop a Standard Interconnection Agreement for CSG Facilities, which shall be subject to the review and approval of the Council.
- (2) The proposed Standard Interconnection Agreement for CSG Facilities shall be consistent with the provisions of Entergy's Distribution Design Basis/Standards DR7-01 and DR7-02.
- (3) The proposed Standard Interconnection Agreement for CSG Facilities shall be consistent with the provisions of these Rules and shall describe any and all interconnection expenses, and other charges in conformity with the Rules.

C. CSG Facility Project Application Procedure

- (1) Within 90 days from the effective date of the Rules, the Utility shall establish a CSG Facility application procedure in compliance with these Rules and applicable Council orders, and consistent with the CSG Facility Standard Interconnection Agreement.
- (2) The Utility shall develop its CSG Facility application procedure in a manner designed to encourage achievement of the Council's community solar guiding principles, timely project development, and equitable allocation of the Community Solar Program Capacity Limits and the CSG Facility Category Limits. In addition CSG Facility details necessary for the application, the application procedure shall require:
 - (a) Proof of Subscriber Organization registration with the Council;
 - (b) Proof of application for all applicable permits to construct and Operate the CSG Facility; and
 - (c) Proof of site control. The Utility shall accept as proof of site control: evidence of property ownership; an executed lease

agreement; a signed option to purchase a lease; or an email from the property owner expressing interest in the project.

- (3) A Subscriber Organization shall notify the Utility of the location, capacity and expected energy production of its proposed CSG Facility at the time it submits an interconnection request, or prior to soliciting subscriptions from potential Subscribers, whichever occurs first.

D. Processing of CSG Facility Applications

- (1) The Utility shall process applications from Subscriber Organizations filed in accordance with the CSG Facility application procedure in the order in which the utility receives the application.
- (2) Within 10 business days of receipt, the Utility shall notify the Subscriber Organization whether the application is complete. If the application is incomplete, the Utility shall provide a written list detailing all information that must be provided to complete the application.
- (3) A Subscriber Organization receiving notice of an incomplete application shall revise and submit the required information within 10 business days after receipt of the list of incomplete information. Failure to submit the required information within 10 business days shall result in the application being rejected, but shall not otherwise prejudice the Subscriber Organization's ability to file a new, complete application in the future.
- (4) The Utility shall notify a Subscriber Organization within 10 business days of receipt of a revised application whether the application is complete or incomplete.
- (5) The Utility shall grant an extension of time of an additional 10 days to provide such information upon request from the Subscriber Organization.
- (6) The Utility shall reject an application that is not submitted in accordance with CSG Facility application procedure.
- (7) The Utility shall assign a unique identification number to each complete application and the application shall be deemed accepted into either the Application Queue or the Waitlist, as appropriate, as of the date the identification number is assigned.
- (8) Application Queue—The Utility shall establish an Application Queue based on application acceptance date. An initial engineering review will be conducted by the Utility for each complete application.
 - (a) The Subscriber Organization shall have 45 days from the date of receipt of the initial review response to agree in writing to

commence the required interconnection studies before the project is removed from the Application Queue.

- (b) If the Subscriber Organization intends to pursue a group initial study for multiple projects, this intention shall be stated during the application process. The Subscriber Organization shall have 45 days to agree in writing to move forward with the required interconnection studies before the projects involved in the group are removed from the Application Queue.
 - (c) Failure to submit an executed study agreement within 45 days following receipt of the initial review shall result in the Subscriber Organization losing its place in the Application Queue for the affected project(s), but shall not otherwise prejudice the Subscriber Organization's ability to file a new, complete application in the future for the same project(s).
 - (d) Upon completion of required interconnection studies, the Subscriber Organization has 90 days to execute an interconnection agreement or be removed from the Application Queue. Following execution by the Subscriber Organization, the Utility will execute the interconnection agreement as well. Execution by the Utility at this point does not waive any further obligations of the Subscriber Organization to complete construction or testing as required by the Utility to grant permission to operate or render Notice of Satisfaction.
- (9) Construction Queue—Upon execution of an interconnection agreement, the CSG Facility project will be added to the Construction Queue.
- (a) If, within 18 months following execution of an interconnection agreement, a CSG Facility fails to begin operating, the Subscriber Organization shall provide to the Utility an initial deposit of \$25 per kW for the project to remain in the Construction Queue.
 - (b) The Utility shall return the CSG Facility deposit upon commencement of operation, unless the CSG Facility fails to begin operating within 24 months of executing an interconnection agreement.
 - (c) If a CSG Facility fails to begin operating within 24 months of executing an interconnection agreement, the Subscriber Organization shall provide to the Utility an additional deposit of \$25 per kW for the project to remain in the Construction Queue.

- (d) The Utility shall return the CSG Facility deposit upon commencement of operation, unless the CSG Facility fails to begin operating within 36 months of executing an interconnection agreement, in which case the full deposit shall be forfeited by the Subscriber Organization.
 - (e) Deposit deadlines shall be tolled during periods in which the Subscriber Organization is not in control, such as during study timelines, interconnection upgrade construction, or waiting periods.
- (10) Any forfeited deposits shall be credited back to Utility customers via the Fuel Adjustment Clause.
 - (11) The Utility's interconnection process shall include an analysis of any potential reliability impacts, positive or negative, of the interconnection of the CSG Facility at the requested location.
 - (12) If the Utility participates as a Subscriber Organization, it will have the same rules applied to it as any other Subscriber Organization.
 - (13) If the Utility or any of its affiliates participate as a Subscriber Organization, the Utility may not recover any portion of its CSG Facility costs through its base rates. If a Utility or any of its affiliates participate as a Subscriber Organization, it must not offer its own CSG Facility, or that of its affiliate any preferential treatment or benefit not available to other Subscriber Organizations.

E. Utility Data and Project Information

- (1) The Utility shall designate a contact person, and provide contact information on its website for submission of all project application requests, and from whom information on the project application request process and the Utility's electric distribution system can be obtained.
- (2) The Utility shall provide information, updated at least quarterly, on its website about the current status of the Community Solar Program and CSG Facility applications, including: name; address; date of application; interconnection status; expected date of operation; percent of the project that is subscribed, and remaining available capacity by year in each program category. The Utility shall also include on its website a link to the Council's Community Solar web page.
- (3) The Utility shall make reasonable attempts to assist all applicants with identifying means to locate and operate CSG Facilities in a manner that minimizes adverse effects or maximizes distribution system benefits at locations identified by applicants. If the Utility or any of its affiliates choose to

participate as an owner/developer of a CSG Facility and/or a Subscriber Organization, the Utility must offer other owner/developer and Subscriber Organizations equal access to the information available to the Utility and its affiliates for locating and operating CSG Facilities in a manner that minimizes adverse effects or maximizes distribution system benefits so that neither the Utility's nor its affiliate's CSG Facility has preferential access to information inaccessible to other Subscriber Organizations.

- (4) The information provided by the Utility on its website shall include studies and other materials useful to understanding the feasibility of interconnecting a CSG Facility on the Utility's electric distribution system, except to the extent providing the materials would violate security requirements, confidentiality agreements, or be contrary to law.
- (5) The Utility may require an applicant to execute an appropriate confidentiality agreement prior to release or access to confidential or restricted information.
- (6) The Utility shall monitor and review its distribution system to determine any adverse or beneficial effects resulting from each installed CSG Facility.
- (7) The Utility shall maintain for the longer of ten years or the duration of the community solar program, the following information for each CSG Facility: recorded monthly peak output, monthly energy output, aggregate annual energy credited to Subscribers by rate class; aggregate annual amount of subscription credits provided to Subscribers by rate class; annual amount of unsubscribed energy output provided to the Utility; and annual amount paid by the Utility for unsubscribed energy. Subscriber monthly billing information should be maintained by the Utility consistent with the Utility's customer billing records retention policy.

F. Utility Reporting

- (1) The Utility shall provide the Council with complete data, information, and supporting documentation necessary to monitor the Community Solar Program status, impact on operations, Subscriber and ratepayer impact, and other information upon request.
- (2) By May 1 of each year, the Utility shall file an annual report with the Council on the Status of the Community Solar Program Including: (1) monthly energy (MWh) and capacity (MW) produced by the Community Solar Program, including each CSG Facility; (2) total cost of energy and capacity ENO purchases through the Community Solar Program, identifying bill credits separate from unsubscribed energy; (2) \$/MW and \$/MWh of the capacity and energy purchased, (3) Utility costs associated with administering the Community Solar Program; (4) tons of emissions avoided through utilization of the energy

and capacity produced by the Community Solar Program; (5) any positive and negative impacts on the operation of the Utility's distribution system; (6) any benefits provided to the Utility's system by the Community Solar Program related to mitigating or recovering from storm events or other outages.

- (3) The electric Utility shall maintain a list of projects and total program capacity, and shall provide the list to the Council by June 30 and December 31 of each year.
- (4) The Utility shall publish on its website a rolling 24-month report of what the per-kWh and per-kW credit for energy and capacity was in order to assist customers seeking to evaluate whether to enter into or renew a contract with a CSG Facility.

G. Utility Cost Recovery and Charges

- (1) Once the Utility's Community Solar Plan has been reviewed and approved by the Council, the Utility shall have a fair opportunity to receive full and timely cost recovery of costs incurred to administer the Community Solar Program, and any non-reimbursed portion of program bill credit costs and unsubscribed energy costs.
- (2) The Utility may not establish a separate surcharge fee or rate for recovery of any Community Solar program costs identified in Section VII.G.1. The specific mechanisms for Community Solar program cost recovery will be approved by a Council resolution based on the Council's review of the community solar tariffs proposed in the Community Solar Plan required under Section VILA.1.
- (3) The Utility may assess a Council-approved charge to the Subscriber Organization to cover the Utility's incremental costs associated with integrating the generation from the CSG Facility into the Utility's system, administering the contracts with Subscriber Organizations, and administering the CSG Facility's Subscriber billing credits. This charge shall not reflect costs that are already recovered by the Utility from Customers through other charges. The Utility may seek a revision of this charge no more frequently than once per year.
- (4) The Utility's revenue and expenses associated with the Subscriber Organizations and the Community Solar Program Plan shall be identified separately in general ledger records and maintained in separate revenue and expense sub accounts.

VIII. SUBSCRIPTION CREDITS

- A. Subscriber Organizations are required to provide real time reporting of production as specified by the Utility. For CSG Facilities greater than 250 kW, the Subscriber Organization shall provide real time electronic access to production data. The Utility may require different real time reporting for CSG Facilities 250 kW and smaller.
- B. The Subscriber Organization for each CSG Facility will provide a monthly report to the Utility listing all Subscribers and the proportion of the CSG Facility Output that shall be applied to each Subscriber's monthly electric bill. The monthly report shall follow a standard format specified by the Utility in order to integrate data into the Utility's billing system. The monthly report shall also include the amount of the CSG Facility's capacity that remains unsubscribed.
- C. The Utility shall apply credits to each Subscriber's monthly bill using the most recently updated monthly Subscriber list and Output data on a two-month lag where actual operational results and the associated bill credit will show up two months following the Utility's receipt of Output data for the CSG Facility.
- D. The Utility shall determine the amount of CSG Facility monthly kWh Output to be credited to each Subscriber by multiplying the Subscriber's most recent generation proportion of the CSG Facility by the Utility metered Output of the CSG Facility.
- E. The CSG per kWh credit for all Subscribers that do not qualify as Low Income Subscriber will be the full retail rate, including all rider schedules that would be applicable to the Subscriber on a per kWh basis. The CSG per kWh credit rate for Low-Income Subscribers shall be the full retail rate, including all applicable rider schedules that would be applicable to the Low-Income Subscriber on a per kWh basis, plus 2.0 cents/kWh.
- F. The appropriate CSG credit will be applied to the bill of each Subscriber on a kWh basis..
- G. The Subscription monthly bill credit so determined will apply to each Subscriber irrespective of the customer class tariff under which the Subscriber receives service from the Utility, and will apply to all Subscribers in a CSG Facility.
- H. If, in a monthly billing period, the billing credit associated with the Subscription of a Subscriber exceeds the Subscriber's bill from the Utility, the excess billing credit will be rolled over as a dollar amount bill credit from month to month indefinitely until the Subscriber terminates service with the Utility at which time no payment shall be from the Utility for any remaining bill credits associated with the Subscriber's Subscription.

- I. The Utility shall retain a record of CSG Facility kWh applied to each Subscriber's account for a period of three years.

IX. UNSUBSCRIBED ENERGY

- A. The Utility will pay a Subscriber Organization for up to 20 percent of the monthly energy produced by a CSG Facility and delivered to the Utility if such energy is not allocated to a Subscriber of the CSG Facility.
- B. The rate per kWh to be paid for net deliveries to the Utility, pursuant to Section IX.A, shall be the Utility's estimated avoided energy costs for the appropriate time period from the Utility's most recent biennial filing with the Clerk of Council of the City of New Orleans pursuant to the Public Utilities Regulatory Policies Act of 1978, Section 210.

X. LOW-INCOME CUSTOMER VERIFICATION

- A. The operator of a low-income multi-family dwelling unit may apply to the Council to qualify as a Low-Income Subscriber for the purposes of the Community Solar Program. The operator should demonstrate to the Council that the Subscription Credits will be credited to the tenants of the low-income multifamily dwelling.
- B. A Subscriber Organization shall certify to the Utility in writing that the Subscriber Organization has verified the eligibility of all Low-Income Subscribers needed to qualify for the program prior to receiving permission to operate from the Utility.
- C. A Subscriber Organization shall accept as proof of income to verify Low-Income Customer status (1) a W-2 form or tax return for the previous calendar year demonstrating income at or below 60% of median family income for the New Orleans-Metairie area according to the most recent guidelines available through the United States Department of Housing and Urban Development, or at or below 60% of the estimated median income for the state according to the most recent guidelines available through the Louisiana Housing Corporation, or (2) enrollment in either an assisted housing program or the Low Income Home Energy Assistance Program.

XI. SUBSCRIPTION TRANSFERS AND PORTABILITY

- A. A Subscriber may release all or part of their Subscription back to the Subscriber Organization for transfer to any person or entity who qualifies to be a Subscriber in the CSG Facility.
- B. A Subscriber who desires to transfer all or part of his or her Subscription to another eligible Customer desiring to purchase a Subscription may do so only through the Subscription Organization and in compliance with the terms and conditions of the Subscription contract and the transfer will be effective in accordance therewith.

- C. If the CSG Facility is fully subscribed, the Subscriber Organization shall maintain a waiting list of eligible Customers who desire to purchase Subscriptions. The Subscriber Organization shall offer the Subscription of the Subscriber desiring to transfer their interest, or a portion thereof, on a first-come, first-serve basis to Customers on the waiting list.
- D. A Subscriber that moves to a different premise located within the Utility service territory may change the premises to which the Subscription is attributed, however, the Subscriber must adjust their Subscription so that it does not exceed 100 percent the Baseline Annual Usage at the new location and release any portion of their Subscription beyond that level back to the Subscriber Organization. A Subscriber Organization may not charge an unreasonable transfer fee to such a Customer.
- E. The Subscriber Organization and the Utility shall jointly verify that each Subscriber is eligible to be a Subscriber in the CSG Facility. The CSG Facility Subscriber enrollment records shall include, at a minimum, the Subscriber's name and Utility Account number, the percentage share owned by the Subscriber, the effective date of the ownership of that Subscription, and the premises to which the Subscription is attributed for the purpose of applying billing credits. Changes in the Subscriber enrollment records shall be communicated by the Subscriber Organization to the Utility, in written or electronic form, as soon as practicable, but on no less than a monthly basis.
- F. Prices paid for Subscriptions in a CSG Facility shall not be subject to regulation by the Council. However, to ensure that Subscriber Organizations are acting fairly and transparently, the Subscriber Organizations must provide materials to the potential Subscriber clearly showing the Subscription cost.
- G. To ensure fairness and transparency regarding the transfer of subscriptions and Subscription Credits, the Utility, in consultation with the Council and its Advisors will develop a process and requirements therefor. The Subscriber Organization will be responsible for any costs associated with the transfer of subscriptions and/or Subscription Credits.

XII. RENEWABLE ENERGY CREDIT OWNERSHIP

- A. Subscribers are not customer generators.
- B. The ownership and title to all renewable energy attributes or Renewable Energy Credits associated with the CSG Facilities shall belong to the individual Subscribers.
- C. The Subscriber Organization may enter into an agreement with Subscribers to transfer ownership of RECs from the Subscriber to the Subscriber Organization. Any such agreement to transfer ownership of the RECs must be included in the subscription

agreement in terms that can be easily understood, and must be highlighted, clearly stated, and initialed by the Subscriber.

XIII. CONSUMER PROTECTION & DISCLOSURE

A. Unauthorized Subscriptions.

- (1) No person shall subscribe a Customer to a community solar energy generation system without the Customer's express written consent.
- (2) A Subscriber Organization may not add a new charge for a new service, existing service, or service option not described in the Subscriber's contract with the Subscriber Organization without first providing written notice to the Subscriber and providing them an opportunity to terminate their Subscription without penalty if the new charge is unacceptable to the Subscriber.

B. Discrimination Prohibited.

- (1) A Subscriber Organization may not discriminate against any Customer, based wholly or partly on race, color, creed, national origin, or gender of an applicant for service or for any arbitrary, capricious, or unfairly discriminatory reason.
- (2) A Subscriber Organization may not refuse to provide service to a Customer except by the application of standards that are reasonably related to the Subscriber Organization's economic and business purpose.

C. Prohibition of Unfair, Deceptive, or Abusive Acts or Practices.

- (1) Each Subscriber Organization shall conduct all aspects of its business that touch on Consumers or their interests without any unfair, deceptive, or abusive acts or practices.
- (2) Each Subscriber Organization shall regularly examine and consider the possibility of unfair, deceptive, or abusive acts or practices violations in all aspects of its business that touch on consumers or their interests, including, but not limited to, marketing, sales, origination, contract terms, contract options, installation, servicing, and loss mitigation.
- (3) Subscriber Organizations shall not harass or threaten consumers and should avoid high-pressure sales techniques. Subscriber Organizations should not take advantage of a consumer's lack of knowledge, and if they become aware that a consumer clearly misunderstands a material issue in a community solar transaction, they should correct that misunderstanding. Consumer questions must be answered honestly, Subscriber Organizations may not make any statements to consumers that are false or without a reasonable basis in fact.

D. Limitation of Liability

- (1) In the event of the failure, termination, or disqualification of a CSG Facility or Subscriber Organization, Subscribers' liability will be limited only to loss of the funds that they commit to invest in a community solar project.

E. Advertising, Marketing, and Solicitations.

- (1) Advertising Permitted.
 - (a) A Subscriber Organization may advertise its services.
 - (b) A Subscriber Organization may not engage in an advertising, marketing or trade practice that is unfair, false, misleading, or deceptive.
 - (c) All advertising claims must be supported by factual, verifiable sources. Advertising claims should avoid underestimating costs, overestimating performance and overvaluing financial and incentive benefits.
 - (d) Subscriber Organizations should be familiar with all advertising laws, rules, regulations, and guidance, including federal, state, and local guidance on advertising and marketing.
 - (e) Prices quoted must be accurate and complete, including, but not limited to disclosure as to any initial pricing incentives, such as "teaser rates" that include future price increases, and whether the quoted price includes any price incentives, such as government tax incentives or utility program incentives, and the terms of eligibility for such incentives.
 - (f) Any projections of future utility prices presented by a Subscriber Organization or its Agents to consumers must be based on accepted sources and methods. They must be clearly identified, verifiable, and be based on one or more of the following sources:
 - (i) Energy Information Agency ("EIA") data from the Annual Energy Review, Annual Energy Forecast, Monthly Energy Forecast, or similar EIA publications for the state in which the system is located;
 - (ii) Council resolutions, orders, publications, or filings with the Council by the Utility;
 - (iii) Industry experts or other qualified consultants; or
 - (iv) Other similar reliable sources qualified by the Council or CURO office.

- (g) Accepted methods for Utility electricity price projections include:
 - (i) If based on historical data for the utility servicing the installation site, combined average growth rate using no less than five years of data ending with the most recent year for which data is publicly available;
 - (ii) If based on projections of third-party sources, then it must be an accurate representation of any data within the timeframe of the source of the data, and when projecting beyond the timeframe of the source data, a combined average growth rate projection using a time period that is the greater of source data timeframe or five years.
- (h) Any endorsements of the Subscriber Organization or its products or services by individuals used in any media format either owned by the Subscriber Organization or initiated or sponsored by the Subscriber Organization through media owned by a third party must be authorized by the endorser, accurate, genuine, in proper context, and without misrepresentation, whether the misrepresentation is affirmative or by omission. It must be clear as to whether the endorser is providing an opinion as a consumer with true firsthand experience, as an expert, or as a spokesperson, and transparent as to whether any connections exist between the endorser and the Subscriber Organization beyond that which a consumer would ordinarily expect.

(2) Marketing.

- (a) A Subscriber Organization's marketing or solicitation information shall include the name under which the Subscriber Organization is registered with CURO.
- (b) A Subscriber Organization may use an Agent to conduct marketing or sales activities. A Subscriber Organization is responsible for any fraudulent, deceptive, or other unlawful marketing performed by its Agent while marketing or selling Subscriptions on behalf of the Subscriber Organization.
- (c) Subscriber Organizations and their Agents must follow all applicable marketing laws, such as the National Do Not Call Registry, the CAN-SPAM Act of 2003, etc.
- (d) Door-to-door marketing and sales: A Subscriber Organization may not permit a person to conduct door-to-door marketing on its behalf

until it has obtained and reviewed a criminal history record. Subscriber Organizations shall be solely responsible for carefully screening individuals used for door-to-door marketing purposes to include only those individuals having no history of fraudulent conduct or violent behavior.

- (e) A Subscriber Organization must issue an identification badge to any persons conducting door-to-door sales on its behalf to be worn and prominently displayed when conducting door-to-door activities or appearing at public events on behalf of the Subscriber Organization. The badge must accurately identify the Subscriber Organization and display the employee or Agent's full name and photograph. When conducting door-to-door activities or appearing at a public event, the Subscriber Organization's employees and Agents may not wear apparel or accessories or carry equipment that contains branding elements, including a logo, that suggests a relationship that does not exist with a utility, government agency, or another Subscriber Organization.
- (f) A Subscriber Organization shall ensure the training of its employees and Agents on the following subjects:
 - (i) Local, state and federal laws and regulations that govern marketing, telemarketing, consumer protection, and door-to-door sales as applicable to the relevant types of marketing and jurisdictions;
 - (ii) The consumer protections set forth in these Rules, including the prohibition on unfair, deceptive, or abusive acts or practices; and
 - (iii) The Subscriber Organization's products, services, and contracts.
- (g) Geographic marketing permitted.
 - (i) A Subscriber Organization may market services on a geographic basis.
 - (ii) A Subscriber Organization is not required to offer services throughout an electric company's entire service territory.
 - (iii) A Subscriber Organization may not refuse to provide service to a Customer based on the economic character of a geographic area or the collective credit reputation of the area.

F. Creditworthiness.

- (1) A Subscriber Organization shall apply uniform income, security deposit, and credit standards for the purpose of making a decision as to whether to offer a Subscription to Customers within a given class, provided that the Subscriber Organization may apply separate sets of uniform standards for the purpose of promoting participation by low-income retail electric Customer.

G. Subscriber Funds

- (1) Subscriber funds, including deposits, collected by the Subscriber Organization in advance of commercial operation of a CSG Facility, shall be held in escrow. The escrow shall be maintained by its terms until such time as the CSG Facility commences commercial operation as certified by Utility acceptance of energy from the CSG Facility.

H. CSG Facility Reporting

- (1) Production from the CSG Facility shall be reported by the Subscriber Organization to its Subscribers at least monthly. To facilitate the tracking of production data by Subscribers, Subscriber Organizations are encouraged to provide website access to Subscribers showing real time Output from the CSG Facility, if practicable, as well as historical production data.

I. Required Disclosures

- (1) Contract Summary.
 - (a) Prior to the time that a contract for a Subscription to a community solar project is executed, a Subscriber Organization shall present the Customer with a completed Contract Summary Disclosure using the form that is approved by the Council. A Customer shall be allowed no less than three days to review the Contract Summary Disclosure prior to execution of the contract and the terms of the contract offered to the Customer may not be changed during that three-day period. At a minimum, the Contract Summary must include:
 - (i) Start and end date of the contract.
 - (ii) Renewal provisions, if any. If renewal provisions are automatic, explanation of when Customer may cancel renewal without penalty.
 - (iii) Ability of Customer to terminate early, early termination penalty, if any.
 - (iv) Ability of developer to terminate contract early, and any remedy provided to Customer.

- (v) Ability of Customer to transfer Subscription to another consumer. Ability of Customer to transfer bill credit to new address in ENO service territory.
- (vi) All one-time payments or charges, including any deposit.
- (vii) All recurring payments or charges.
- (viii) All penalties or fees to which the Customer may be subject.
- (ix) Total amount to be paid by Customer under contract.
- (x) Billing and payment procedure.
- (xi) Whether Customer owns or leases the solar panel or capacity;
- (xii) A statement regarding the disposition of all Renewable Energy Credits generated by the Subscriber's portion of the project including whether (a) the Subscriber is retaining ownership of the Renewable Energy Credits; (b) whether the Renewable Energy Credits are being retired on behalf of the Subscriber by the Subscriber Organization or (c) whether the Subscriber is transferring the Renewable Energy Credits back to the Subscriber Organization. The REC statement must include a statement that if the Subscriber transfers the RECs back to the Subscriber Organization or sells them to a third party rather than retiring them, the Subscriber may not lawfully make any claims about the renewable energy nature of the generation at the community solar facility or any claim that its participation in the Community Solar facility satisfies any renewable energy target or goal to which it is subject.
- (xiii) Contact information of developer where Customer may call with questions. Must include physical address, telephone number and email address.
- (xiv) Address, phone number and email contact information for the CURO, as well as the address of the Council's community solar webpage.
- (xv) Statement that any bill credits are dependent upon the performance of the solar panels and the prevailing electric rates, which may change over time.
- (xvi) Notice that contract does not include Utility charges.

- (xvii) Notice that developer makes no representations or warranties concerning the tax implications of the contract and Customer should consult a tax professional for such information and advice.
 - (b) The Customer shall initial a copy of the Contract Summary Disclosure to acknowledge receipt of the Contract Summary.
- (2) Notice of Subscription.
 - (a) A Subscriber Organization shall provide notice of Subscription of a Customer to the utility in a format consistent with Council orders.
 - (b) A Customer entering into an agreement with a Subscriber Organization shall receive written notice of enrollment from the Subscriber Organization and the Utility.
 - (c) Notice of enrollment shall include the following:
 - (i) Customer name;
 - (ii) Customer service address;
 - (iii) Billing name;
 - (iv) Billing service address;
 - (v) Utility name;
 - (vi) Utility account number;
 - (vii) Subscriber Organization name;
 - (viii) Subscriber Organization account number; and effective date of the enrollment.

J. Contracts for Customer Subscription in a Community Solar Project

- (1) Minimum Contract Requirements: A Subscriber Organization's Subscription contract shall contain all material terms and conditions, stated in plain language, including the following:
 - (a) A description of the transaction, including:
 - (i) Whether the Subscriber will own or lease a portion of the community solar project;
 - (ii) A statement regarding the disposition of all Renewable Energy Credits generated by the Subscriber's portion of the project including whether (a) the Subscriber is retaining ownership of the Renewable Energy Credits; (b) whether the Renewable Energy Credits are being retired on behalf of

the Subscriber by the Subscriber Organization or (c) whether the Subscriber is transferring the Renewable Energy Credits back to the Subscriber Organization. The REC statement must include a statement that if the Subscriber transfers the RECs back to the Subscriber Organization or sells them to a third party rather than retiring them, it may not lawfully make any claims about the renewable energy nature of the generation at the Community Solar facility or any claim that its participation in the Community Solar facility satisfies any renewable energy target or goal to which it is subject. The statement regarding the disposition of all Renewable Energy Credits generated by the Subscriber's portion of the project shall be clearly stated, highlighted and initialed by the Subscriber.

- (iii) A statement that any bill credits are dependent upon the performance of the solar panels and the prevailing electric rates, which may change over time; and
 - (iv) Notice that the contract does not include utility charges.
- (b) The Subscriber Organization's obligation to maintain its registration with the Council for the duration of the contract.
- (c) Term of the contract, including:
 - (i) Start and end date of the contract;
 - (ii) Renewal provisions, if any. If renewal provisions are automatic, explanation of procedure for consumer to cancel renewal without penalty;
 - (iii) Ability of consumer to terminate early and the corresponding early termination penalty, if any;
 - (iv) Ability of developer to terminate contract early, and any corresponding remedy to be provided to the consumer, if any.
- (d) Transferability and portability.
 - (i) The ability of the consumer to transfer Subscription to another consumer.
 - (ii) The ability of the consumer to transfer the bill credit to a new address within the same Utility service territory.

- (e) The ability of the consumer to reduce the size of their commitment and any fees or penalties related thereto.
- (f) The total amount to be paid by the consumer under the contract, including:
 - (i) A clear statement of the total amount;
 - (ii) A listing of all one-time payments or charges, including any deposit, and whether the deposit is refundable;
 - (iii) A listing of all recurring payments or charges (monthly, annually, etc.);
 - (iv) A listing of any penalties or fees to which the consumer may be subject and the conditions under which such penalties or fees would be applied.
- (g) Billing and payment procedure.
- (h) The data privacy policy of the Subscriber Organization, including what data will be collected, for what purpose and to whom the developer may disclose the data.
- (i) Evidence of insurance.
- (j) A long-term maintenance plan for the project.
- (k) The current production projections for the project and a description of the methodology used to develop production projections.
- (l) Contact info of Subscriber Organization where consumer may call with questions, including the physical address, telephone number and email address of the Subscriber Organization.
- (m) Notice that the Subscriber Organization makes no representations or warranties concerning the tax implications of the contract and consumers should consult their tax professional.
- (n) Any other terms and conditions of service.

K. Disclosure of Subscriber Information.

- (1) Except as provided under these Rules, or otherwise ordered by the Council, a Subscriber Organization may not disclose energy usage or personally identifiable information about a Subscriber, or a Subscriber's billing, payment, and credit information, without the Subscriber's written consent.

- (2) A Subscriber Organization may disclose a Subscriber's billing, payment, and credit information for the sole purpose of facilitating billing, bill collection, and credit reporting.
- (3) A Subscriber Organization shall provide a Customer with a copy of the Subscriber Organization's Customer information privacy policy.
- (4) A Subscriber Organization shall treat information received from prospective Customers, including those who do not subscribe, in accordance with provisions (a) and (c) of this section.

XIV. ENFORCEMENT OF THESE RULES

- (1) CURO, with the assistance of a Hearing Officer, as necessary, may impose a penalty on the Council's behalf for any violation of these rules of up to \$1000 per violation and may, if appropriate in light of the particular violation, void a Subscriber's contract with a Subscriber Organization and require the Subscriber Organization to refund any monies paid by the Subscriber as a remedy for a violation of these provisions.
- (2) Any person who believes that a Subscriber Organization (including the Utility acting as a Subscriber Organization) has violated the provisions contained herein in a manner that aggrieves that person may send a written description of the alleged violation to the Council, through its CURO. The written description shall include the name of the Utility or Subscriber Organization ("Respondent"), a concise description of the alleged violation, and the complaining person's ("Complainant") name and contact information.
- (3) CURO may, request and obtain additional information regarding the alleged violation from the Complainant and the Respondent. CURO shall also notify the Respondent formally of the complaint, assess whether the Complainant has informed the Respondent of his or her complaint and whether the Respondent has had an opportunity to resolve the issue to the Complainant's satisfaction without CURO or Council intervention.
- (4) If, based on the information obtained by CURO, the CURO finds there is cause to believe a violation of the Council's regulations may have occurred, the Complainant and Respondent have not been able to resolve the issue without Council intervention and the Respondent wishes to challenge the complaint, CURO shall refer the matter to a Hearing Officer who shall conduct a process to allow both parties a fair opportunity to present their evidence and arguments and the Hearing Officer will render a decision as to whether a violation occurred and what the penalty should be. If the Respondent admits to the complaint, CURO may impose the authorized penalty on the Council's behalf.

- (5) Either the Complainant or the Respondent may appeal the decision of CURO and/or the Hearing Officer to the Council.
- (6) Should CURO and/or the Hearing Officer determine that the behavior complained of cannot be adequately remedied by a penalty of up to \$1000 and/or voiding the contract between Subscriber and Subscription Organization and requiring refund of any monies paid by the Subscriber, either CURO or the Hearing Officer may refer the matter up to the Council for further proceedings. The Council will then set an appropriate procedural schedule, consider the matter and exercise its penalty authority as appropriate in light of the circumstances.
- (7) Should CURO and/or the Hearing Officer observe a pattern of continued violations of these rules by a Subscriber Organization (including the Utility acting as a Subscriber Organization) that is undeterred by the application of the remedies the Council has authorized CURO and the Hearing Officer to impose, either CURO or the Hearing Officer may refer the matter up to the Council for further proceedings. The Council will then set an appropriate procedural schedule, consider the matter, and exercise its penalty authority as appropriate in light of the circumstances.
- (8) All other contract or legal disputes that arise between a Subscriber and the Subscriber Organization not pertaining to a violation of these provisions shall be brought in the appropriate city or district court in the City of New Orleans. CURO shall provide the Council with annual reports on consumer complaints related to the program.

URM Division IX. Request for proposals rules.

I. Scope of Rules

The rules provided herein shall govern the process for how any future Requests for Proposals (“RFP”) issued by Entergy New Orleans, LLC (“ENO” or “Company”) for electric generating resources or purchase power agreements (“PPA”), regardless of the technology sought, shall be conducted. In the absence of an express exemption from the Council, ENO shall be required to comply with these rules for RFPs seeking to acquire generating resources or PPAs with a capacity of twenty (20) megawatts (“MWs”) or greater.

II. Purpose of Rules

The purpose of these rules is to increase transparency, efficiency, and public confidence in the manner in which ENO conducts RFPs for generating resources and purchase power agreements. These rules also seek to ensure that RFPs are designed to continue to allow ENO to meet the needs of its customers for reliable electric service at the lowest reasonable cost.

III. Pre-Draft RFP Process and Documents

A. Notice of Intent to Issue RFP

Upon determining that the acquisition of an additional generating resource(s) or purchase power agreement(s) is necessary for the Company to fulfill its obligation to provide reliable, safe electric service to its customers at the lowest reasonable cost, ENO shall inform the New Orleans City Council (“Council”), its utility Advisors, and the Council’s Utilities Regulatory Office (“CURO”) in writing of its intent to develop and issue an RFP for a new resource(s) or PPA(s). A public version of ENO’s Notice of Intent to Issue an RFP (“NOI”) shall be posted on the Company’s website and CURO shall cause the NOI to be posted on the Council’s website. ENO shall also circulate the public version of the NOI to the Official Service List in Council Docket No. UD-18-05.

B. Content of NOI

ENO’s NOI shall include the following:

1. A clear and thorough explanation of the Company’s stated resource needs and specific goals to be outlined in the draft RFP. The proposed scope of the RFP shall be clearly described and an explanation supporting the RFP’s scope shall also be provided. This explanation shall include all specifically defined generating characteristics required (i.e., peak, baseload, geographic location, etc.) for resource proposals and should also specifically identify the interconnection and/or delivery points, if applicable, and the geographic

area that would most benefit the transmission system in terms of reliability. ENO shall also identify a reasonable range of capacity (in megawatts) that it intends to include as the range sought in the RFP.

The Company shall also explain whether the RFP will contain sufficient flexibility in the eligibility of resources to meet the capacity and energy need and whether the capacity and energy need could be met through one or more resources without pre-determined limitations on locations, fuel source, technologies, project structures or other constraints, in order to attract competitive options that allow the lowest reasonable cost resource(s) to be selected. If it is anticipated that the RFP will not contain sufficient flexibility to meet ENO's identified need, then the Company shall explain, in detail, why the RFP should be drafted more narrowly to attract resources that would meet ENO's need.

An all-source RFP should be utilized if there is a general need for additional capacity and there are no specific resource characteristics identified by ENO that would prohibit the use of an all-source solicitation. The Company shall state in the NOI whether an all-source solicitation may be made in the proposed RFP. If an all-source solicitation cannot or should not be made, then ENO shall provide a detailed explanation in the NOI as to why certain resources will not meet ENO's needs for new generating capacity.

2. A clear and thorough explanation as to how ENO intends to achieve wide participation by potential respondents, including a description of the specific methods to be used for publicizing and distributing the RFP notice and draft RFP documents.
3. A detailed proposed schedule of milestone events and dates including a reasonable time period for the Company to conduct the RFP process and for ENO to perform its due diligence and negotiations with the selected bidder(s). This proposed schedule, beginning upon ENO's receipt of any bids in response to the RFP and ending upon the filing of an application by ENO seeking Council approval of the selected resource(s), shall not exceed a period of twelve (12) months except for extraordinary or unforeseen circumstances. If the Company is unable to make a filing at the Council seeking approval of a selected resource(s) within this 12-month period as a result of extraordinary or unforeseen circumstances, ENO shall notify the Council, in writing, immediately upon learning that a filing within the 12-month period cannot be made and provide a detailed explanation to the Council and its Advisors, subject to any material designated by the Company as Highly Sensitive Protected Material ("HSPM"). The public

version of the written notice and explanation shall be posted on ENO's RFP website and shall be circulated to the Official Service List in Council Docket No. UD-18-05. The confidential version of the notice and explanation shall be provided to the Council's Advisors and to those individuals included on the Official Service List in Council Docket UD-18-05 that have executed the appropriate non-disclosure certificate.

C. Compliance with the New Orleans' DBE Goals

Future RFPs for new resources shall contain a provision that requires a comprehensive narrative from all respondents detailing the respondent's plan to have the addressable spend associated with their proposals comply with of the goals articulated in Article IV of Chapter 70 of the Code of the City of New Orleans pertaining to local and disadvantaged business enterprises ("DBE") and the City of New Orleans. A copy of this Code provision shall be included in the RFP. ENO shall consider each bidder's response as part of the overall evaluation criteria in its selection of the winning bid(s).

D. Independent Monitor

1. After the Council adopts these rules and prior to the issuance of ENO's next RFP for either a generating resource or PPA, the Council shall issue a Request for Qualifications ("RFQ") for the purpose of determining one or more qualified respondents who could perform the duties of an Independent Monitor ("IM") consistent with the criteria outlined in the RFQ. Once the qualified respondent(s) have been identified by the Council, through its RFQ process, the Council, or its designee, shall create a list of qualified potential IMs from whom ENO shall request bids through its RFP process for the selection of an IM. The IM list shall be posted on the Council's website. The Council retains the discretion to disqualify any person from inclusion on, or to remove any person from the IM list, upon determining that circumstances warrant the disqualification or removal.

The Council may, in its discretion, conduct subsequent RFQs every five (5) years to update the list of qualified respondents who could perform the duties of the IM. Once bids are received by the Company, ENO shall select and engage the services the IM. ENO shall also inform the Council, in writing, within seven (7) days of its selection of the IM.

In a subsequent RFP conducted pursuant to these rules, ENO shall solicit bids from the list of qualified respondents (IMs) which will have already been determined by the Council through the above RFQ process and any updates thereto.

ENO shall be exempted from the requirement to use a Council-pre-qualified IM if the Council does not have a current list of pre-qualified IMs, or none of the IMs from the Council's pre-qualified list are available to work during the anticipated timeline of an RFP. If ENO anticipates that this exemption will apply to an RFP, ENO shall notify the Council of its intent to proceed under the exemption and include an explanation of why ENO believes operating under this exemption is necessary. This exemption shall not eliminate the requirement that ENO employ an IM to perform the duties outlined in these rules.

2. The IM shall be responsible for performing duties such as oversight, review, monitoring and reporting throughout several phases of the RFP (for future resources) process as specifically defined in the scope of work for IM services, including but not necessarily limited to the following phases and activities:
 - (a) RFP Development
 - (b) Proposal Solicitation (RFP Issuance, Bidder Registration and Proposal Submission)
 - (c) Receipt of Proposals
 - (d) Proposal Evaluation and Selection
 - (e) Due Diligence and Contract Negotiations
3. The IM and the Council's Advisors may communicate with each other on matters relating to the RFP process without restriction. Such communications may be confidential as needed and do not require the participation of Entergy Services, LLC ("ESL") or ENO. The IM shall make public, periodic written reports to ENO and the Council, subject to any confidentiality agreements between ESL or ENO and the IM, as part of and at the conclusion of each phase of the RFP process. The IM will also provide a public final report to the Council subject to any confidentiality agreements between ESL or ENO and the IM, stating the IM's analysis of and conclusions regarding the RFP process, including any suggestions for improvement. The public versions of the periodic reports and the final report shall be posted on ENO's RFP website and served on the Official Service List in Council Docket UD-18-05. Contemporaneously, the confidential versions of the periodic reports and the final report shall be provided to the Councils' Advisors and individuals in Docket UD-18-05 that have executed the appropriate non-disclosure certificates.

E. Periodic Status Reporting by ENO

Subsequent to ENO's issuance of the NOI, the Company shall provide a written update to the Council's Advisors and all other parties to Docket No. UD-18-05 that have properly executed ENO's Non-Disclosure Certificate (pursuant to the Council's approved Protective Order) every sixty (60) days regarding the status of the RFP process. These periodic status reports shall be held confidential in accordance with the Council's approved Protective Order for utility regulatory proceedings and shall be subject to the conditions identified in section V(B), below. The status reports shall be submitted throughout the entire RFP process and shall provide the current status of the process, including a detailed explanation of any meaningful developments in the process within the prior 60-day period. The status reports shall also include an explanation of any delays or events that could cause a delay in the overall RFP process. The obligation to issue periodic reports shall terminate upon the filing of an application with the Council for approval of a selection from the RFP at issue.

IV. Development of Final RFP Documents

A. Draft RFP Comment Process

ENO shall post all draft RFP documents to a public website for the purpose of allowing the Council, the Council's Advisors, potential bidders, and other members of the public the opportunity to comment on the documents. Contemporaneously, ENO shall provide written notice of the availability of the RFP documents to the Council, its Advisors and the parties included on the Official Service List in Docket UD-18-05.

1. Draft RFP documents posted to the public website shall include:

- (a) a description of the need to be met;
- (b) a general description of the criteria used to evaluate bids, including "non-price" factors;
- (c) a link to the most recent Integrated Resource Plan ("IRP") documents;
- (d) a description of any requirements or preferences for transmission arrangements and deliverability, including a description of how transmission issues will be incorporated into bid evaluations;
- (e) information about the requirements of resources sought, including dispatchability requirements;

(f) draft model contracts, term sheets, and scope books outlining the technical requirements resources must meet, to inform potential contract negotiations; and

(g) a draft confidentiality agreement to be used for the process.

2. A period of thirty (30) days after the draft documents have been posted to the public website shall be established for the Council, the Council's Advisors, potential bidders, and other members of the public to submit written questions to ENO regarding the draft documents. Answers shall be posted on a rolling basis but not later than 15 days after the conclusion of the 30-day period for submission of written questions. Questions may be submitted related to a variety of topics, including ENO's proposed timeline, the RFP's scope, technical aspects of the RFP, proposal requirements and evaluation criteria. Other inquiries regarding non-price factors such as locational value, reliability, transmission/distribution impacts, and resource diversity may also be submitted.

B. Public Meeting and Technical Conference

ENO shall host a minimum of one public meeting and may host one or more technical conferences for the purpose of allowing the Company to further explain the draft documents and receive additional questions, concerns and feedback from the Council, the Council's Advisors, stakeholders and members of the public. ENO shall provide the Council with written notice of each public meeting and technical conference on its website at least thirty (30) days prior to the date of the public meeting and technical conference, respectively. Contemporaneously, ENO shall post the written notice on its website and provide a copy to the parties listed on the Official Service List in Docket UD-18-05.

V. Issuance and Post Issuance of the RFP

A. Safeguard Provisions

1. Safeguard provisions are necessary in the RFP process to assure a fair and competitive solicitation. ENO has participated as a self-bidder in prior RFP processes and may participate as a bidder in future RFPs. When ENO or an affiliated entity does participate in RFPs as a self-bidder, the following safeguards shall be implemented and maintained throughout the solicitation, selection and negotiation processes:

- (a) separation of the self-build team from the evaluation team;
- (b) application of a Code of Conduct and Affiliate Rules;
- (c) designation of an RFP Administrator as a single point of contact with bidders;
- (d) submission and lock-down of the self-build several days before other proposals are submitted;
- (e) requirement that all bidders, including the self-build, submit the same proposal information to ensure each proposal was consistently evaluated;
- (f) use of bidder, proposal, and project ID numbers to eliminate any potential bias in the evaluation;
- (g) blinding of bid information and redaction of bidder names, by the IM, of other non-pertinent information when distributing information to the bid evaluation teams;
- (h) protection of the confidentiality of non-public information received from bidders in connection with the RFP;
- (i) inclusion of an active role for the IM, as specified in section III.D.2.

B. Periodic Reporting by the IM

At the conclusion of each phase in the RFP process, as listed in section III, D, 2 above, the IM will prepare one or more interim reports and a final report (including confidential and public versions) at the conclusion of the RFP process stating the IM's analysis of and conclusions regarding each phase of the RFP process, including any expected delays in the schedule, reasons for the delays and any suggestions for improvement. These reports shall be subject to the Council's approved protective order and any other confidentiality agreements that may be executed by the negotiating parties. The confidential versions of the reports shall be provided to ENO, the Council's Advisors and any stakeholder that has affirmatively demonstrated no affiliation with any (i) for-profit companies that either compete with bidders or are themselves bidders in RFPs for generating resources, (ii) trade organizations that are composed of and represent the interests of such for-profit entities, and/or (iii) non-profit organizations that accept direct financial contributions from and, at times, directly advocate for the interest of such entities. The public versions of these interim reports and the public final report shall be provided to the Council, the Council's Advisors and the Official Service List in Docket No. UD-18-05. The public reports shall also be posted on ENO's public RFP website and the Council's website upon release by the IM.

VI. Effectuation of Rules

ENO shall include any and all contractual provisions in its agreements or contracts with bidders, counterparties, or IMs to effectuate compliance with these rules.

URM Division X. Protective order governing confidential and sensitive information.

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

OFFICIAL PROTECTIVE ORDER

DOCKET NO. UD-_____

This Protective Order shall govern the provision and use of all information deemed confidential by a party responding to discovery requests or other requests for information in proceedings before the City Council. This Official Protective Order is a device to facilitate and expedite the handling of discovery and subsequent procedures in all dockets of the City Council, and in all other matters requiring the exchange of "Protected Materials" as the term is defined herein. This Protective Order is not intended to constitute a final resolution of the merits concerning the confidentiality of any of the Protected Material nor of any objection to the propriety or scope of a discovery request. This Protective Order does not change any burden of proof under applicable law in determining whether any of the Protected Materials or information derived therefrom are entitled to confidential treatment. Notwithstanding anything herein to the contrary, nothing herein shall prevent the Reviewing Representatives of the technical and legal advisors to the City Council from sharing with City Council Members, acting in their capacity as utility regulators, information that may have been obtained or derived from Protective Materials provided that the appropriate protections of this Order are employed to insure that the Protective Materials do not enter the public domain.

1. Any party or person producing or filing a document, including but not limited to records stored or encoded on a computer disk or other similar electronic storage medium, in these proceedings may designate that document or any portion of it as confidential pursuant to this Protective Order by typing or stamping on every page the party desires to designate as Protected Materials of the document "PROTECTED MATERIALS PURSUANT TO THE OFFICIAL PROTECTIVE ORDER OF THE COUNCIL OF THE CITY OF NEW ORLEANS IN DOCKET NO. "UD-_____ " or words of similar import (hereinafter referred to as "Protected Materials").
2. Protected Materials shall not include any information or document contained in the public files of the City Council or any other local, state or federal agency, or any federal or state court (if not subject to a protective order or confidentiality agreement), or any information or document presently in the possession of a reviewing party which has not previously been identified as protected or which becomes public knowledge as a result of publication or disclosure by the party furnishing the information, other than through disclosure in violation of this Protective Order, or information which is in the public domain. Nothing in this Protective Order shall be construed as precluding any participant from objecting to the use of Protected Materials on any legal grounds.
3. A "Reviewing Party" is a party to an applicable Council Docket to the extent that such party receives or is provided access to material pursuant to this Official Protective Order.

4. (a) Except as otherwise provided in this paragraph, a Reviewing Party shall be permitted access to Protected Materials only through its authorized "Reviewing Representatives." "Reviewing Representatives" of a Reviewing Party may include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, engineers, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in these proceedings.
- (b) The term "Highly Sensitive Protected Materials" is a subset of Protected Materials and refers to material that a responding party claims is of such a highly sensitive nature that making copies of such material or providing access to such material to a party or the employees of the Reviewing Party would expose the responding party, or a person or entity to which the responding party owes a duty to protect the confidentiality of such materials, to an unreasonable risk of harm. Documents, and every page thereof, so classified by a producing party shall bear the designation "HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO THE OFFICIAL PROTECTIVE ORDER IN DOCKET NO. "UD-_____."
4. (c) Except as provided for in Paragraph 4 (d) below, no copies shall be made of any "Highly Sensitive Protected Materials" and they shall be made available only for inspection by the Reviewing Representatives of the Reviewing Parties. Reviewing Representatives for the purposes of access to "Highly Sensitive Protected Materials" must be persons who are either (a) counsel for the Reviewing Party or (b) outside consultants for the Reviewing Party working under the direction of the Reviewing Party's consultants, and who are unaffiliated experts (or employees thereof), not directly involved in, or having direct or supervisory responsibilities over, the purchase, sale, or marketing of electricity (including transmission service) at retail or wholesale, the negotiation or development of participation or cost-sharing arrangements for transmission or generation facilities, or other activities or transactions of a type with respect to which the disclosure of Highly Sensitive Protected Materials may present an unreasonable risk of harm.

If the party asserting confidentiality believes that further protections should be afforded with respect to the manner in which, or the Reviewing Representatives to which, such materials are disclosed, such materials shall be made available for inspection by counsel for the Reviewing Party only, pending a determination of the manner in which, and the Reviewing Representatives to which, such materials will be disclosed pursuant to this Protective Order, which determination shall be made on a case by case basis, depending on the level of protection that may be necessary to protect the responding party, and any other person or entity to which the responding party owes a duty to protect the confidentiality of such materials, from any unreasonable risk of harm that may result from disclosure of such information. In the event that the parties are unable to agree on the manner in which, and the Reviewing Representatives to which, such materials will be disclosed, the party asserting confidentiality reserves its right to seek from the City Council, and from the courts as may be necessary, an order providing the level of protection for the Highly Sensitive Protected Materials that the party asserting confidentiality believes is required.

(d) Notwithstanding the provisions of Paragraph 4 (c), 6, 7 and 15 of this Protective Order, a copy of Highly Sensitive Protected Materials and voluminous materials will be provided,

upon request, to the Reviewing Representatives of the technical and legal advisors of the City Council who may retain Protected Materials, including Highly Sensitive Protected Materials, and analyses derived therefrom, in their files for a reasonable period of time (not to exceed five years) following the termination of the applicable docket, or such other matter, of the City Council for the purpose of meeting their professional obligations and responsibilities, with respect to such proceeding(s) and any appeals therefrom, provided that such materials shall not be disclosed to anyone other than in accordance with terms of this Protective Order, and shall be subject to all protections and requirements set forth in this Official Protective Order.

5. Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification, and shall provide a copy of a signed certification in the form of that attached to this Official Protective Order (the "Non-Disclosure Certificate") to counsel for the party asserting confidentiality:

"I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Official Protective Order of the City Council in Council Docket No. UD-_____, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, and any notes, memoranda, or any other form of information regarding or derived from the Protected Materials, shall not be disclosed to anyone other than in accordance with the Protective Order and shall be used only for the purpose of the proceedings in Council Docket No. UD-_____. Provided, however, if the information contained in the Protected Materials is publicly available, or is obtained from independent sources, the understanding stated herein shall not apply."

Provided, however, with respect to Protective Materials of any utility providing services in the City of New Orleans, the Reviewing Representatives of the technical and legal advisors of the City Council shall only be required to execute one Official Protective Order Non-Disclosure Certificate in favor of said utility, as follows:

"I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Official Protective Order of the City Council in proceedings before it, and that I have been given a copy of it and have read the Official Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, and any notes, memoranda, or any other form of information regarding or derived from the Protected Materials, shall not be disclosed to anyone other than in accordance with the Official Protective Order. Provided, however, if the information contained in the Protected Materials is publicly available, or is obtained from independent sources, the understanding stated herein shall not apply."

Thereafter, the said representatives of the Council's legal and technical advisors shall be bound by the provisions of the Council's Official Protective Order in all matters or proceedings involving said utility before the City Council.

Any Reviewing Representative may disclose materials to any other person who is qualified to be a Reviewing Representative, provided that, if the person to whom disclosure is to be made has not executed a Non-Disclosure Certificate and provided the signed certification to counsel for the party asserting confidentiality, that certification shall be executed and provided prior to any disclosure. In the event that any Reviewing Representative to whom such Protected Materials are disclosed ceases to be engaged in this proceeding, access to such materials by such person shall be terminated. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Official Protective Order, even if no longer so engaged. And Reviewing Representatives, other than representatives of the Council's legal and technical advisors, shall not use Protected Materials in a proceeding other than the proceeding in which the Protected Materials were produced.

6. Except for Highly Sensitive Protected Materials that cannot be copied and Protected Materials that are voluminous, the party asserting confidentiality shall provide a Reviewing Party one copy of the Protected Materials. The parties agree to make a good faith effort to limit the number of copies of Protected Materials and agree to distribute copies of Protected Materials only to Reviewing Representatives.
7. (a) Materials that are deemed "voluminous," which may include materials in excess of five hundred (500) pages in length, and Highly Sensitive Protected Materials shall be made available for inspection by Reviewing Representatives at a location in New Orleans, Louisiana specified by the party declaring such materials to be voluminous between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays). The Protected Materials may be reviewed only during the "reviewing period," which period shall commence upon the execution of the appropriate Non-Disclosure Certificate, and continue until conclusion of the proceeding(s) in the applicable Council Docket. As used in this paragraph, "conclusion of these proceedings" refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law.

(b) Reviewing Representatives may take handwritten notes regarding the information contained in voluminous Protected Materials made available for inspection pursuant to paragraph 7(a), and, after such inspection, may designate materials to be copied. Only one copy of the materials designated shall be reproduced by the party making such materials available for inspection. Reviewing Parties shall make a diligent, good-faith effort to limit the amount of photographic or mechanical copying requested to only that which is essential for purposes of these proceedings. The parties agree to make a good faith effort to limit the number of copies of Protected Materials and agree to distribute copies of Protected Materials only to Reviewing Representatives. Reviewing Representatives may take minimal handwritten notes regarding the information contained in Highly Sensitive Protected Materials, although no copies shall be made of Highly Sensitive Protected

Materials and handwritten notes shall not be used to circumvent this protection against duplication of Highly Sensitive Protected Materials.

8. The Protected Materials, as well as the Reviewing Party's notes, memoranda, or other information regarding, or derived from the Protected Materials, are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall not be placed in the public or general files of the Reviewing Party except in accordance with provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to ensure that Protected Materials, including handwritten notes and analyses made from Protected Materials, are not viewed or taken by any person other than a Reviewing Representative of the party.
9.
 - (a) If a party tenders for filing any written testimony, exhibit, brief, or other submission that quotes the Protected Materials or discloses the confidential content of Protected Materials, the confidential portion of such testimony, exhibit, brief or other submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PROTECTED MATERIALS PURSUANT TO OFFICIAL PROTECTIVE ORDER IN COUNCIL DOCKET NO. "UD-_____ " and shall be filed under seal with the Council's designated Hearing Officer and served under seal to the counsel of record for the Reviewing Parties. If testimony that quotes from Protected Materials or discloses the confidential content of Protected Materials is offered by a Reviewing Representative on behalf of a Reviewing Party in this proceeding, the Reviewing Party shall advise the City Council's designated Hearing Officer of such fact. The City Council may subsequently, on its own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation, or reference to Protected Materials is such that the written testimony, exhibit, brief, or other submission, or transcript of testimony, should remain under seal.
 - (b) Any party or person giving testimony in a proceeding(s) before the City Council may designate as Protected Materials that portion of his/her testimony deemed to be confidential materials in accordance with paragraph 1 of the City Council's Official Protective Order by advising the City Council's designated Hearing Officer of such fact.
 - (c) All Protected Materials filed with the City Council, or any other judicial or administrative body in support of or as part of a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers.
 - (d) Each party shall have the right to seek changes in the City Council's Official Protective Order, as appropriate, from the City Council, or the courts.
10. A Reviewing Party may release confidential information pursuant to a final order of a local, state, or federal government agency or authority or judicial body requiring the Reviewing Party to produce such confidential information; provided, however, the Reviewing Party agrees that prior to such release it shall promptly notify the party asserting confidentiality,

or its counsel of record, of the order and of the intention to comply with the order and allow such party reasonable time, as is practicable and under the disclosing party's control given the facts and circumstances of the release, to contest any release of the confidential information. In addition, should an attempt be made to require the Reviewing Party to disclose such confidential information in a proceeding other than an applicable Docket of the City Council (where a party asserting confidentiality may not be a party), then the Reviewing Party shall promptly inform the party asserting confidentiality of such attempt to require the Reviewing Party to produce confidential information.

11. In the event the City Council, on its own motion or the motion or request of a person not a party to this docket, considers: 1) the disclosure of Protected Material to any person to whom disclosure is not authorized by this Official Protective Order, or 2) a change in the designation of certain information or material, then the parties to the applicable docket of the City Council shall request that the City Council enter an order that the same procedures and time limits set forth in Section 12 below shall control such motion or request, and in any City Council proceeding and order resulting therefrom.
12. During the pendency of the applicable docket at the City Council, in the event that a Reviewing Party wishes to disclose Protected Material to any person to whom disclosure may not be authorized by this Protective Order, or wishes to have changed the designation of certain information or material as protected by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of the Protected Materials with respect to which such a disclosure or change in designation is proposed, the nature of such proposed disclosure or change in designation, and the basis therefor. In the event that the party asserting confidentiality wishes to contest such proposed disclosure or request for change in designation, that party shall file with the Hearing Examiner its objection to such proposal, with supporting sworn affidavits, if any, and a request for a hearing within five working days after receiving such notice of proposed disclosure or request for change in designation. Responses to such an objection, with supporting affidavits, if any, shall be filed by the Reviewing Party within five working days after receipt of the objection. (Either the party seeking disclosure or the party seeking to prevent disclosure may request that the materials in question be inspected in camera, provided, however, such request shall be made not later than five working days after the filing of an objection to the proposed disclosure or change in designation.) The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the Hearing Officer determines that such proposed disclosure or change in designation should be made, the parties shall not disclose any materials affected by the determination until after the expiration of 10 days from the date the Hearing Officer's decision, during which delay a party may file an appeal of the Hearing Officer's decision with the City Council. In the event of a timely filed appeal to the City Council, the proposed disclosure or change in designation shall not then become effective until the City Council's determination is made. No party waives any right to seek additional administrative or judicial remedies concerning such finding of the City Council.

Any party electing to challenge, in courts of this State, a City Council determination allowing disclosure or a change in designation, or denying same, shall have a period of ten (10) days from the date of the City Council's determination in which to file a petition seeking a favorable ruling in the appropriate Louisiana District Court. The effect of an order requiring disclosure or a change in designation shall be stayed pending a decision on a request for a preliminary injunction. Any party challenging a State District Court determination allowing disclosure or a change in designation, or a denial of same, shall have a period of fifteen (15) days from the date of the District Court's ruling to file a petition seeking a favorable ruling from the appropriate appellate court.

13. Nothing in this Official Protective Order shall be construed as precluding a party asserting confidentiality from objecting to the use of Protected Materials on grounds other than confidentiality. Nothing in this Official Protective Order shall be construed as an agreement by any party or the City Council that materials designated as Protected Materials are entitled to confidential treatment.
14. All notices, applications, responses or other correspondence shall be made in a manner that protects the Protected Materials at issue from unauthorized disclosure.
15. Following the conclusion of the applicable City Council proceedings, Reviewing Parties and their Reviewing Representatives, upon request by a party asserting confidentiality, shall return or destroy all copies of the Protected Materials made available by such party. Further, all notes or other documents derived from or revealing the confidential content of such Protected Materials shall, upon request, be redacted to remove permanently any confidential information, including information from which confidential information can be derived. As used in this paragraph, "conclusion of these proceedings" refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law.
16. In the event of a breach of the provisions of this Official Protective Order, the party asserting confidentiality will not have an adequate remedy in money or damages, and accordingly, shall, in addition to any other available legal or equitable remedies, be entitled to an injunction against such breach without any requirement to post bond as a condition of such relief.

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

DOCKET NO. UD-_____

NON-DISCLOSURE CERTIFICATE

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in Council Docket No. UD-_____, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, and any notes, memoranda, or any other form of information regarding or derived from the Protected Materials, shall not be disclosed to anyone other than in accordance with the Official Protective Order of the City Council and shall be used only for the purpose of the proceedings in City Council Docket No. UD-_____. Provided, however, if the information contained in the Protected Materials is publicly available or is obtained from independent sources, the understanding stated herein shall not apply.

Date: _____

By: _____

Company: _____

Representing: _____