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August 14, 2026

VIA ELECTRONIC MAIL (clerkofcouncil@nola.gov)

Aisha R. Collier
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City Hall - Room 1E09
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In Re: *A Rulemaking Proceeding to Establish Rules for Community Solar Projects,* CNO Docket UD-18-03
KM File No. 7717.42

Dear Ms. Collier:

Enclosed please find for electronic filing, Air Products and Chemicals, Inc.'s Opposition to ENO/TNO/SunConnect Redlines to Council Resolution on Consolidated Billing, in the above captioned docket. We submit this filing electronically and will provide the original and requisite number of hard copies as you direct.

Should you have any questions regarding the above, please do not hesitate to contact me. Thank you for your assistance with this matter.

Very truly yours,

Carrie R. Tournillon

CRT:tp
Enclosure

cc: Official Service List UD-18-03 (via electronic mail)

BEFORE THE

NEW ORLEANS CITY COUNCIL

IN RE: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO ESTABLISH RULES FOR COMMUNITY SOLAR PROJECTS.	**DOCKET NO. UD-18-03** **August 14, 2026**

AIR PRODUCTS AND CHEMICALS, INC.
OPPOSITION TO PROPOSED CHANGES TO
COUNCIL RESOLUTION ADOPTING CONSOLIDATED BILLING

Air Products and Chemicals, Inc. ("Air Products") respectfully submits these comments pursuant to Resolution R-26-320, dated August 6, 2026, of the Council of the City of New Orleans ("Council") to oppose changes of Entergy New Orleans, LLC ("ENO"), Together New Orleans ("TNO"), and SunConnect to a Proposed Resolution adopting Consolidated Billing. Adoption of the changes ("Redlines") would eliminate customer protections already in place in the Community Solar Rules as well as eliminate additional customer protections proposed by the Advisors specific to Consolidated Billing. Further, the Redlines would foster discrimination against participating customers in non-low income classes, require non-participating customers to further subsize the Community Solar program by allowing Subscriber Organizations to receive payment when participating customers do not pay, and increase and prematurely shift the cost risk associated with implementation of Consolidated Billing from ENO to all customers.

Air Products urges the Council to reject the Redlines to the Proposed Resolution on Consolidated Billing.

Background on Air Products Position on Consolidated Billing

Air Products has participated in Docket UD-18-03 since its inception many years ago, including filing of comments, filing of the Direct Testimony of Maurice Brubaker, and filing of a post-testimony brief. Throughout its participation in the rulemaking proceeding, and despite expressing an interest in participating in the Community Solar program, Air Products has expressed concerns with customers who do not participate in the program subsidizing the cost of the program.

Most recently, Air Products opposed Consolidated Billing for similar reasons. In fact, Air Products was in agreement with ENO's (prior) opposition to proposed changes that would increase those costs to ENO customers who do not participate in the program.[1] However, Air Products indicated that if the Council were to revise the Community Solar Rules to adopt Consolidated Billing, it supported customer protections included in the revised rules proposed by the Advisors, which are included in the Proposed Resolution before the Council and which ENO/TNO/SunConnect now seek to eliminate.[2]

Opposition to ENO/TNO/SunConnect Changes to Proposed Resolution

Air Products opposes the Redlines proposed by ENO/TNO/SunConnect. The changes eliminate both existing customer protections in the current Rules as well as additional customer protections proposed by the Advisors with respect to

[1] ENO Post-Testimony Reply Brief – entirety and in particular FN 28 (May 18, 2026).
[2] Air Products Initial Brief at 2-5 (May 11, 2026).

Consolidated Billing. The Redlines also allow for discrimination against participating customers in non-low income classes, require non-participating customers to further subsize the Community Solar program by allowing Subscriber Organizations to receive payment when participating customers do not pay, and increase and prematurely shift the cost risk associated with implementation of Consolidated Billing from ENO to all customers.

Air Products' five main concerns are addressed below. Should the Council decide to revise the Community Solar Rules to adopt Consolidate Billing, Air Products urges the Council to reject all substantive Redlines of ENO/TNO/SunConnect to the Proposed Resolution adopting Consolidated Billing.

1. ***FAC Recovery of Consolidated Billing Implementation Costs from Customers if Unrecovered from Subscriber Organizations After 3 Years (Section VII.G.5).***

The ENO/TNO/SunConnect Redlines allow ENO to recover implementation costs of Consolidated Billing from all customers through ENO's Fuel Adjustment Clause if the costs have not been recovered from Subscriber Organizations ("SOs") within three years of Council approval of Consolidated Billing because insufficient Consumer Solar Generating facilities ("CSG Facilities") have been built. Such change is entirely inconsistent with ENO's previous concerns with further burdening non-participating customers with Community Solar costs, eliminates SOs obligation to pay for Consolidated Billing, eliminates ENO's obligation to pursue recovery of such costs from SOs, and prematurely puts that cost risk on ratepayers - - including both participating and non-participating customers.

First, the Redlines do not require ENO to pursue Consolidated Billing costs from SOs or exhaust legal remedies against the SOs prior to recovering the costs from all customers through the FAC. This change eliminates any incentive for the SOs to pursue CSG Facilities and/or Subscribers. Likewise, the change eliminates any incentive or obligation for ENO to pursue legal action against the SOs for the implementation costs.

SOs have pursued Consolidated Billing knowing that there is a significant cost associated with its implementation. And the Advisors position supporting implementation of Consolidated Billing has been based on SOs paying for the cost of implementation. The Redlines eliminate that obligation and make implementation of Consolidated Billing risk free for the SOs and ENO.

Second, the Redlines guarantee ENO dollar-for-dollar recovery of implementation costs, without any prudence review and outside of consideration of all other revenues and expenses. The implementation costs would be recovered through the FAC, without first undergoing a prudence review. Further, the timing of the FAC recovery is three years from Council approval of Consolidated Billing, even though ENO has previously stressed that there is not yet an operational CSG Facility and the program is not yet established.

Third, the Redlines proposal for FAC recovery is inappropriate and inconsistent with the purpose of the FAC, which is to allow timely recovery of fuel costs that fluctuate from month to month. The implementation costs proposed by ENO/TNO/SunConnect to be recovered through the FAC would include non-energy related expenses that would otherwise (and appropriately) be recovered from SOs on a non-fuel basis.

Further, use of the FAC disproportionately affects customers who use more energy, and thus, use of the FAC for non-energy costs is discriminatory against those higher energy use customers.

Moreover, ENO customers are already paying the cost of Subscriber credits, which ENO has estimated will results in tens of millions of dollars being charged to non-participating customers over the next ten to twenty years.[3] Customers' fuel costs should not also be burdened with Consolidated Billing costs that have no connection to energy usage and that should be paid for by SOs.

In addition, the Redlines are ambiguous as to what constitutes "insufficient CSG Facilities" for ENO to collect the Consolidated Billing implementation costs from customers through the FAC. This ambiguity is to the advantage of ENO and SOs and disadvantage of customers, as it allows ENO/SOs the ability to shift costs to customers without any real justification or collection efforts.

Air Products urges the Council not to adopt changes to the Community Solar Rules that would allow ENO to streamline its cost recovery of Consolidated Billing implementation costs at the expense of ratepayers, without any additional filing or demonstration of the prudence of the costs and efforts to collect the costs from SOs. ENO previously acknowledged that it would have to petition the Council for recovery of such costs if it could not recover such costs from SO. ENO witness Mr. Wimple testified:[4]

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[3] *See* ENO Comments on Consolidated Billing Implementation Pursuant to Resolution R-24-310 (October 30, 2024).

[4] Rebuttal Testimony of ENO witness, Mr. Stephen B. Wemple, at 13/7 – 14/3 (Aprile 2026).

> Q19. ON PAGE 12 OF HIS TESTIMONY, MR. PREP STATES THAT "IN THE VERY UNLIKELY EVENT THE COMMUNITY SOLAR PROGRAM FAILS ENTIRELY, ENO CAN SEEK COST RECOVERY FROM RATEPAYERS." HOW DO YOU RESPOND?
>
> A. As discussed by other Company witnesses and me, the proposal for ENO to provide consolidated billing would introduce significant implementation costs. There is no guarantee under the current or proposed community solar rules that Subscriber Organizations would bear all of the incremental costs of the community solar program, including implementation of consolidated billing. As Mr. Prep acknowledges, to the extent ENO cannot collect costs from Subscriber Organizations (whether due to insolvency or otherwise), ENO would have to separately petition the Council for recovery from customers. This means that all of ENO's customers are at risk for the incremental costs associated with the New Orleans community solar program, including the incremental cost for consolidated billing. In practical terms, this means that the backstop for financial risk of the program would not remain with Subscriber Organizations but would instead be borne by ENO's customers. Having said that, there is no guarantee that the Council ultimately would allow ENO to actually recover all of the program costs from customers in the event the Subscriber Organizations do not or cannot pay them, which would leave ENO itself bearing the costs.

Air Products has shared ENO's prior concerns about ratepayers being the backstop for Consolidated Billing. However, Air Products disagrees that the solution is to guarantee ENO dollar-for-dollar recovery of implementation costs, while at the same time imposing no requirement on SOs to pay such costs and imposing no requirement on ENO to pursue collection of such costs from SOs. If the Council entertains the possibility of ENO's recovering of Consolidated Billing implementation costs from *ratepayers*, ENO should be required to petition the Council for recovery of such costs, with the burden being on ENO to demonstrate, at a minimum, (i) the uncollected costs were prudently incurred, ENO exhausted all collection efforts against the SOs, and (ii) such cost recovery should not be limited to participating customers.

2. ***Elimination of Dual Billing; Consolidated Billing is Required Billing Structure for all SOs with Interim Billing/Crediting Procedures to be Determined (Sec. II.2 and carried forward throughout rules; Section VIII.N).***

ENO has previously testified that if Consolidated Billing is implemented, it should be implemented after the Community Solar program has had time to operate. For example, Mr. Wemple testified:[5]

> Considering that the New Orleans community solar program has not yet commenced operations, for reasons previously addressed and herein, dual billing is the appropriate billing methodology for the program at this stage. Requiring consolidated billing for a utility like ENO at this juncture would be unprecedented and would introduce additional complexity that could delay or disrupt program implementation.

In contrast with the evidentiary record created by ENO, the Redlines propose to eliminate Dual Billing altogether and would result in Consolidated Billing becoming the sole billing method - - potentially before ENO has implemented Consolidated Billing. This is inconsistent with concerns expressed by ENO in the evidentiary record and would likely require Interim billing/crediting methods to be created and approved by Council, as discussed in new Section VIII.N of the Redlines.

Further, Interim billing/crediting methods would not just be a matter of interest for the Council, but would be of concern to all stakeholders - - participating and non-participating customers alike - - as those billing/crediting procedures could have cost implication for ratepayers. Thus, the proposed changes would further extend proceedings, which would not be necessary if Dual Billing continues to be an option.

[5] Rebuttal Testimony of ENO witness, Mr. Stephen B. Wemple, at 3/3-7 (April 2026). *See also* Wemple Rebuttal Testimony at 11/17 – 12/5, regarding ENO's position that the Community Solar program is in its infancy.

Unless there is a demonstrated benefit (such as cost savings) to customers (and not just SOs) from Consolidated Billing being the sole billing structure, without the option for Dual Billing, the Council should not make such change at this stage of the proceeding. AP is not aware of any evidence in the record supporting this change or providing a basis for eliminating the option for Dual Billing.

3. Changes Initial Determination of Utility Administrative Fee for Implementation Costs from 3% of Allocated Credits to Upper End of ENO's Class 3 Estimate (+30%) (Sec. VII.G.5).

Air Products was unable to find a reference to ENO's Class 3 Estimate for implementation of Consolidated Billing in the evidentiary record. Rather Air Products found reference to a Class 5 estimate in ENO Direct Testimony.[6]

Air Products assumes the upper end of its Class 3 Estimate would allow a greater fee than 3% of Allocated Credits, as included in the Proposed Resolution, or the change would not have been proposed in the Redlines. This increase in the amount to be initially recovered from SOs would serve to increase the risk that SOs have "insufficient CSG Facilities" to pay such costs within three years of Council approval of Consolidated Billing, which would then put all customers on hook to pay the costs through FAC, as proposed by ENO/TNO/SunConnect. Air Products objects to increasing cost risk to customers from the program.

[6] Direct Testimony of ENO witness, Ms. Melissa LeJeune at 2-3 (paragraphs 12-13) (January 16, 2026). The Class 5 Estimate was stated to be $1.55M (+100% / -50%). *Id*.

4. ***Allows SOs to offer different Guaranteed Savings Rates to different Subscriber Groups (Low-income versus Non Low-income Customers) Based upon the Subscribers Allocated Credit (Ordering Para 4 of Resolution and Sec. II, Definitions).***

Low-Income Subscribers (as defined in the Community Solar Rules) already receive higher Subscriber Credits than other participating customers, so by allowing different Guaranteed Savings Rates based on that credit, Low-Income Customers would also be allowed a higher Guaranteed Savings Rate. This change conflicts with the provision in the current Community Solar Rules that SOs may not discriminate against any Customer for unfairly discriminatory reasons.[7] Further, Air Products is not aware of any evidence in the record to support this change.

5. ***Requires Utility (and in turn Ratepayers) to Pay SO Even When Subscriber Does Not Pay Bill (Sec. VIII.C.1 and 2 and XIII.L).***

The current Community Solar Rules have included the recovery of Community Solar incremental costs from Subscriber Organizations for several years prior to the consideration of consolidated billing. Adoption of Consolidated Billing should not depart from this customer protection. Yet, ENO/TNO/SunConnect are using the potential adoption of Consolidated Billing procedures to seek to eliminate this customer protection. ENO/TNO/SunConnect have proposed a very significant change to the Community Solar Rules that, if adopted by the Council, would allow SOs to be paid regardless of payments by Subscribers. Air Products objects to these changes that would result in non-participating customers further subsidizing the program.

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[7] Community Solar Rules at Sec. XIII.B.

Further, in their Post-Testimony Reply Brief, the Advisors considered and rejected this change, indicated it was not supported by the evidentiary record and would be harmful to ENO non-participating customers:[8]

> AAE, TNO and SunConnect in their brief oppose the Advisors' proposal to allow ENO to "claw back" payments to Subscriber Organizations if a Subscriber fails to pay their electric bill in full.[10] While they state that witness Arreola-Lennox strongly cautions against adopting the approach,[11] they do not cite to her testimony to support that assertion, nor have the Advisors found any discussion in her testimony of that topic. Witness Arreola-Lennox may oppose the approach, but no such evidence has been entered into the record, nor have the parties had any opportunity to seek discovery related to the basis of her opposition to the approach.
>
> The Advisors' proposal that ENO be required to adjust the remittances to Subscriber Organizations in the event a Subscriber fails to pay their electric utility bill in full is an essential measure to protect non-participating ENO customers from having to pay Subscriber Organizations when Subscribers fail to pay their bills. Consolidated billing with net crediting is a service offered by a utility to its customers, it is simply relaying the customer's Subscription Fee to the Subscriber Organization on the Subscriber's behalf. If the Subscriber fails to pay the Subscription Fee embedded in their bill, then the Subscriber Organization should not receive payment. If ENO were required to pay the Subscriber Organization whether or not the Subscriber pays their ENO bill, the funds to do so would have to come from ENO's other customers. Of particular note, in New Jersey, where the utility is required to pay the Subscriber Organization whether or not it receives payment from the Subscriber, it is specifically required *because* the utility, unlike the Subscriber Organizations, is entitled to recover its losses through rates[12] – in other words, *because* the utility can raise its rates to all customers to make up for the shortfall in payments from Subscribers. This would be an inappropriate result in New Orleans where many customers suffer from a high energy burden, and would be inconsistent with the Council's directive that the "rules should protect nonparticipating ratepayers from risks associated with the program."[13]

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[8] Advisors Post-Testimony Reply Brief at 4 (May 18, 2026) (internal footnotes omitted) (emphasis in original).

Thus, if a Subscriber is not paying Subscription Fees, then the SO should not be paid. Otherwise, payments would have to come from other customers, which results in further subsidization of the Community Solar program by non-participating customers and should not be allowed.

Conclusion

For the reasons discussed above and based on the evidentiary record established in this proceeding, Air Products urges the Council to reject the Redlines proposed by ENO/TNO/SunConnect. Should the Council adopt Consolidated Billing, Air Products urges the Council to revise the Community Solar Rules to include the customer protections proposed by the Advisors and not to eliminate any customer protections already existing in the Rules.

RESPECTFULLY SUBMITTED:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all known parties of record via electronic mail.

New Orleans, Louisiana this 14th day of August, 2026.

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Carrie R. Tournillon

August 10, 2026

A RULEMAKING PROCEEDING
TO ESTABLISH RULES FOR COMMUNITY SOLAR PROJECTS

UD-18-03

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