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December 20, 2018

Honorable Helena Moreno
Councilmember-At-Large
City of New Orleans
City Hall, Room 2W40
1300 Perdido Street
New Orleans, LA 70112

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

Councilmember Moreno,

I am writing on behalf of Entergy New Orleans, LLC (“ENO”) to provide a response to a letter sent on behalf of the Alliance for Affordable Energy (“AAE”) on December 17, 2018 related to the Community Solar Rulemaking initiated by the Council for the City of New Orleans (“Council”) in Docket No. UD-18-03. ENO supports the Council’s goals of bringing community solar to New Orleans and doing so in a way that benefits participants, including low-income participants, while protecting all non-participants from the harm that results when undue subsidies are given to community solar participants. Achieving these goals requires that parties present accurate, complete information to the Council. Regrettably, the AAE’s letter contains factual misrepresentations and contextual inaccuracies that necessitate ENO’s response.

Describing the ways in which a written communication mischaracterizes facts often requires presenting more details than the document perpetrating the false narratives at issue. This correspondence is lengthier than ENO would like – a circumstance necessitated by the AAE’s incessant use of hyperbole and half-truths in its advocacy before the Council. The essential points of this letter are (i) ENO did not “create” the bill credit formula in Resolution No. R-18-538 – the calculation methodology originated in the Advisors’ initial recommendations to the Council and is based on their research of best practices for community solar; (ii) adopting a net-energy-metering-style 1:1 retail rate credit for community solar, instead of a monetary, value-based credit, would jeopardize the Council’s goal of protecting non-participants from unfair rate increases due to reasons well-documented before the Council and in other jurisdictions; and (iii) the bill credit framework proposed in Resolution No. R-18-538 strikes the balance necessary to achieve the Council’s dual goals of incentivizing community solar developments and ensuring fairness and equity for all customers, regardless of whether they opt to participate in a community solar project.

Further, as discussed herein, the Proposed Community Solar Rules provide the Council with the opportunity to revisit the bill credit issue and consider raising the credit rate at any time. If the Council follows the AAE’s advice, rather than that of its Advisors, and adopts a 1:1 retail rate credit at the outset of the Community Solar Program, it may prove difficult for the Council to reduce the credit rate to a more appropriate, equitable level once projects have been built, and customers have signed up, based on the expectation of receiving a very rich, full retail rate credit.

Bill Credit Calculations and the Advisors' Formula

The bill credit framework contained in Resolution No. R-18-538 and recommended in the Advisors' November 30, 2018 Report on Community Solar Rules ("Advisors' Report" or the "Report"), is tied to the value of capacity and energy provided by community solar facilities. Specifically, the mechanism calculates a dollar-per-kilowatt-hour (\$/kWh) value of the costs of capacity and energy that ENO can avoid incurring due to a customer's participation in a community solar program. For reasons discussed more fully below, correlating bill credits to avoided capacity and energy costs, expressed in a \$/kWh metric, is vitally important to the Council's goal of ensuring that the Council's Community Solar Rules adequately protect non-participants from harm.

The bill credit formula was not, as the AAE's letter represents to you and the Council, "created by Entergy ... to ensure Entergy continues to make money even when the community solar participant offsets all energy usage." Rather, the concept of tying bill credit amounts to avoided capacity and energy costs was initially discussed in the Advisors' White Paper on Community Solar and the Proposed Community Solar Rules attached thereto.¹ The Advisors' White Paper and the Proposed Rules set forth a written description of how the calculations to derive a \$/kWh value for avoided capacity and energy costs should be performed, but did not contain a formulaic representation of the described calculation. In Reply Comments filed on October 31, 2018, ENO included a simple mathematical formula that ENO believed to be an accurate representation of what the Advisors described in the White Paper and Proposed Rules, along with three possible methods for setting the capacity value to be used in the formula.² The Advisors' Report confirmed that the simple formula provided in ENO's Reply Comments was generally "consistent with the intent of the Proposed Rules"³ and Resolution R-18-538 adopted a version of the formula that the Advisors had modified to better reflect their recommendations to the Council. ENO did not "create" the formula for some nefarious purpose; it sought to convey the Advisors' written description of a calculation in a very basic mathematical equation in order to contribute to the Council's process and vision for bringing community solar to New Orleans.

The Advisors ultimately opted against utilizing any of ENO's suggested capacity valuation methods as the basis for calculating bill credit amounts. Instead, the Advisors recommended, and Resolution No. R-18-538 incorporated, a capacity valuation that results in higher bill credit amounts than any of the methods suggested in ENO's Reply Comments.⁴ While the Advisors' recommended approach may over-value the capacity component of community solar bill credits, it does tie those bill credits to avoided capacity and energy costs expressed in a \$/kWh metric. This approach is consistent with the research of best practices across the country documented in the Advisors' White Paper and Report. Contrary to the AAE's representation to you and the

¹ See, White Paper of the Council's Utility Advisors Regarding Community Solar and Other Shared Distributed Energy Resources ("Advisor's White Paper"), at pgs. 14-15 ("The Advisors believe that bill credits for community solar projects should be considered separately from bill credits for NEM as the two different programs impose different costs and burdens on the distribution grid and offer different benefits. The Advisors propose that the bill credits for community solar be based on the avoided energy and capacity costs and calculated as follows..."); see, Proposed Community Solar Rules for the Council of the City of New Orleans ("Proposed Rules") at Section IX.

² See, ENO's October 31, 2018 Reply Comments Regarding Proposed Community Solar Rules, at pgs. 7-8.

³ See, Advisors' Report at pgs. 25-26.

⁴ The Advisors' Report recommended using the Midcontinent Independent System Operator, Inc.'s ("MISO") annual calculation of the Cost of New Entry ("CONE") value for the specific Local Resource Zone ("LRZ") in which ENO participates in MISO – Zone 9.

Council, monetary bill credits based on avoided capacity and energy costs are used in other community solar programs throughout the United States and the concept is not unique to Resolution No. R-18-538.⁵ These kinds of bill credit frameworks ensure that non-participants are not burdened with an unfair portion of costs of service from electric utilities.

Net Energy Metering and Cost Shifts to Non-Participants

The AAE's letter continues the organization's efforts to advocate for utilizing the "1:1 retail rate credit," currently allowed by the Council's existing Net Energy Metering ("NEM") program, as the bill credit mechanism for the proposed Community Solar Rules. As applied to community solar, the AAE describes the proposal as Virtual Net Energy Metering, or "VNEM." The Advisors' White Paper documented research indicating that VNEM would not be a best practice for community solar in New Orleans. Nonetheless, the AAE and 350 NOLA (another intervenor in the instant Docket) advocated for adoption of VNEM in comments filed on September 28, 2018 and Reply Comments filed on October 31, 2018.⁶ After careful consideration and thorough examination of the arguments from these Intervenor, the Advisors' Report recommended against the adoption of a VNEM policy and Resolution No. R-18-538 followed that recommendation. Although this outcome resulted from the transparent public process the Council adopted for this Community Solar Rulemaking, the AAE, along with other parties who opted against formally participating in the instant Docket, expressed displeasure with Resolution No. R-18-538 and advocated for a bill credit based on the VNEM concept.⁷ Unfortunately, statements made by the AAE's representatives at the December 13, 2018 UCTTC meeting, and reiterated in the AAE's letter, continue a pattern of mischaracterizing facts in an effort to convince the Council of the merits of the AAE's position.⁸

At the December 13, 2018 UCTTC meeting, Ms. Susan Stevens-Miller claimed that "every state or local jurisdiction that has had an independent study of whether rate payers subsidize net

⁵ Community solar legislation in North Carolina states that: "The offering utility shall credit the subscribers to its community solar energy facility for all subscribed shares of energy generated by the facility at the avoided cost rate." *See*, N.C. Gen. Stat. Ann. § 62-126.8(d) (West 2018). In addition, several retail-regulator-approved utility community solar programs include bill credit rates based on avoided capacity and energy costs. One example is Dominion Energy's Virginia-approved tariff, which states that: "The VCS Adjustment shall equal a credit of 4.403 [cents] per kWh. The VCS Adjustment shall be based upon the energy and capacity market value of power delivered to the electrical grid equal to the Net Electrical Output of the portfolio of community-based solar facilities supporting this Rider." *See* September 2018 order in Virginia State Corporation Commission Case No. PUR-2018-00009.

⁶ 350 NOLA did not file Reply Comments.

⁷ At the Council's December 13, 2018 Utility, Cable, Technology and Telecommunications Committee ("UCTTC") meeting, representatives of the Sierra Club and Justice and Beyond expressed displeasure with the outcome of Docket UD-18-03 as embodied in Resolution R-18-538, despite having chosen not to intervene and participate in the Docket.

⁸ The initial mischaracterization of facts and context by the AAE has already been documented in the record in this proceeding and ENO will not fully recount the incident in this correspondence. Briefly, in the AAE's September 28, 2018 Comments, the AAE represented to the Council that ENO has not requested a change to the Council's existing NEM policy. *See*, AAE Comments at pg. 5. That statement is not entirely accurate. ENO's October 31, 2018 Reply Comments summarize the efforts undertaken in Council Docket UD-13-02 in support of ENO's request that the Council change the existing NEM policy. That proceeding was suspended, by agreement of the parties, due to ENO's responsiveness to feedback from parties indicating that more data would be necessary to determine the appropriate changes to NEM policy and rates. Resolution R-18-538 notes "that ENO is correct in its explanation of the current status of Council's Docket No. UD-13-02." *See*, R-18-538 at pg. 40.

energy metering or community solar has found that the benefits actually outweigh the costs.”⁹ Ms. Stevens-Miller also represented to you and other Councilmembers that “the only studies that have shown that the general body of rate payers subsidize net energy metering or community solar have been done by utilities with their thumb on the scale with regard to costs and ignoring a number of benefits.” *Id.* These statements are **demonstrably false**. The subsidization, or “cost-shift,” effects of NEM have been documented in independent studies commissioned by retail regulators and other state agencies.¹⁰

Similarly, the AAE’s letter represented to you and the Council that ENO has asserted these subsidies exist “without any factual support.” Resolution No. R-18-538 and the administrative record in Council Docket UD-13-02 demonstrate otherwise. Resolution No. R-18-538 summarizes Docket UD-13-02 accurately by stating that “[i]n that proceeding, **ENO submitted evidence**, demonstrating to the Advisors’ satisfaction, that non-NEM customers were subsidizing NEM customers.”¹¹ It is regrettable the AAE has chosen to misrepresent facts to the Council and particularly regrettable that Ms. Stevens-Miller has done so in her capacity as an attorney representing the AAE. But these misrepresentations do not change the fact that extending the Council’s NEM policy to the contemplated Community Solar Program would harm non-participating customers by forcing them to subsidize the bills of participating customers.

The Council’s NEM policy currently applies to owned or leased solar panel installations located at customers’ homes and businesses and that are interconnected “behind the meter.” Much of the energy generated by these systems is consumed behind the customers’ meters and does not enter the distribution grid. However, energy generated in excess of what is consumed behind the meter is delivered back to the distribution grid. Further, NEM customers rely on the distribution grid to deliver energy to their homes each day when their solar panels are not generating electricity.

The Council-approved \$/kWh portion of the retail rate that ENO charges customers is designed to recover both fixed and variable costs of providing electric service to customers. Fixed costs include things like the cost of existing generating capacity, wires, poles, transformers, reclosers etc. Variable costs include fuel and operating costs. While on-site solar generation can

⁹ See, Video Transcript of the December 13, 2018 UCTTC meeting at, approximately, 17:30-19:00.

¹⁰ A study commissioned by the California Public Utilities Commission in 2013 estimated that because the current net-metering rates do not recover the costs of serving the net-metering customers from those customers, by 2020, approximately \$1.1 billion would be shifted annually from net-metering customers to non-net-metering customers if California’s current practices (and rate structures) remain unchanged. See, Energy + Environmental Economics, Inc., *California Net Energy Metering Ratepayer Impacts Evaluation*, October 28, 2013. In New York, the Power New York Act of 2011 directed the New York State Energy Research and Development Authority (“NYSERDA”) to conduct a study evaluating the costs and benefits of increasing the State’s solar generation capacity to 5,000 MW by 2025. The NYSERDA Study estimated the rate impact of displaced distribution cost and found that the net-metering program will create a direct cross-subsidy of participating net-metering customers by non-net-metering customers of nearly \$400 million by 2038. See, NYSERDA 2011 Study, pgs. 7-4 through 7-5. In Massachusetts, the Department of Energy Resources published a 2013 report addressing the economic benefits and costs of the state’s solar renewable portfolio standard set-aside that has implications for net-metering installations. That study estimated rate impacts of between \$500 and \$933 million over a 32-year period. See, Massachusetts Department of Energy Resources 2013 Study, pg. 17. Finally, a 2016 study commissioned by the Public Utilities Commission of Nevada determined that “[s]olar NEM causes a cost-shift of approximately \$36 million per year for the 265 MW of existing NEM installations, and an additional 265 MW of hypothetical future installations would increase this cost-shift by \$15 million per year.” See, Energy + Environmental Economics, Inc., *Nevada Net Energy Metering Impacts Evaluation 2016 Update*, August 2016, p. 12.

¹¹ See, R-18-538 at pg. 40 (emphasis added).

reduce a customer's consumption of energy from ENO, thereby reducing ENO's variable costs to serve the customer, it does nothing to reduce ENO's fixed costs and can, in some instances, increase those costs.

Presently, NEM customers are credited at the full retail rate for each excess kWh generated by their systems when, at the end of a billing cycle, the kWhs generated by their systems are offset, or "netted," against the total kWh usage for the billing cycle. Because of the current retail rate structure, when NEM customers are credited the full retail rate for solar energy generated by their systems, they avoid paying their fair share of the fixed costs embedded in the retail rate, thereby shifting those costs to other customers. Again, these facts have been well-documented in Council Docket UD-13-02 and other proceedings in jurisdictions around the country.

Extending the NEM 1:1 retail rate credit framework to community solar would further exacerbate this problem. Community solar participants will rely on the distribution grid to deliver electricity to their homes and businesses from remotely-located community solar facilities. Thus, even customers who choose to offset 100% of their consumption through a community solar subscription will rely on ENO's fixed-cost infrastructure for electric service. Like all other retail electric customers, including NEM customers, subscribers will rely on ENO's distribution grid, transmission infrastructure, and generation resources when those community solar facilities are not generating electricity (*e.g.*, at night, on cloudy days, etc.). Crediting community solar participants at the full retail rate as suggested by the AAE's VNEM proposal would exempt those customers from paying their fair share of the fixed costs embedded in the retail rate, although they would be using the facilities **every day of the year**. If that occurs, non-participating customers will be burdened with an increased, and disproportionate, share of ENO's fixed costs not just as a result of customer-sited NEM installations, but also as a result of any new community solar projects. Such an outcome would be inequitable.

Resolution R-18-538 Strikes an Appropriate Balance

Calculating monetary-based bill credits as a function of avoided capacity and energy costs (as Resolution No. R-18-538 currently contemplates) can help to avoid the inequitable cost shift associated with NEM, while incentivizing development of community solar projects. The Council's currently-proposed credit mechanism would credit community solar participants for the avoided energy and capacity costs that their reliance on community solar facilities helps to offset, while ensuring that they also contribute toward the fixed costs ENO is required to incur to serve them. Such a result is not a "perverse disincentive;" it is an equitable outcome.

The currently-proposed credit mechanism can also incentivize development of community solar facilities because it values capacity from community solar resources at a premium rate. As a representative of Air Products and Chemicals, Inc. explained at the December UCTTC meeting, for a variety of reasons, using MISO's CONE valuation as the basis of the capacity valuation for a community solar facility may overstate such a facility's capacity value relative to capacity that ENO can purchase from MISO's markets.¹² However, ENO recognizes that the Council wishes to incentivize the development of community solar facilities in New Orleans and understands that a

¹² To illustrate this differential, ENO attaches a chart to this letter that illustrates the \$/kWh value of community solar bill credits when calculated by using the capacity value from MISO's annual Planning Resource Auction ("PRA") and MISO's CONE value (which is what R-18-538 describes). The chart also includes an estimation of the average \$/kWh value of an ENO-legacy area residential 1:1 retail rate credit, applied as a monetary credit rate and not a "netted" one using kWh. The chart also delineates between the variable cost and fixed cost components of the estimated average retail rate. See, Exhibit A attached hereto.

premium credit rate using MISO's annual¹³ CONE estimates as the basis for capacity values may be necessary to offer adequate incentives to developers. Using a premium rate such as CONE for bill credits strikes a balance between spurring development and protecting non-participating customers from harm by ensuring community solar participants continue to pay the fixed costs of the system that makes participation possible.

At the December UCTTC meeting, several Councilmembers noted that the proposed Community Solar Rules and the Council's general regulatory authority provide the Council with the ability to revisit the credit rate and mechanism at any time. Should the Council be dissatisfied with the rate of development of community solar facilities after the current version of the Rules are implemented, it can always consider ways to increase the monetary value of the credit rate in an equitable manner. If, however, the Council chooses to implement a 1:1 retail credit rate at the outset of the Community Solar Program, the Council may be hard pressed to reduce that credit rate once facilities have already been built, and customers have signed up to participate, with the expectation that a 1:1 credit rate will apply. Due to the well-documented inequities associated with a 1:1 credit rate for NEM, the Council should exercise extreme caution in applying the same framework to its Community Solar Rules before determining through real-world testing whether the current framework proposed in Resolution No. R-18-538, and recommended by the Advisors based on their research and a complete administrative record, can accomplish the Council's goal of spurring development, while also protecting non-participating customers.

Conclusion

As noted above, ENO supports the Council's goal of bringing community solar to New Orleans and will continue to work with the Council, the Advisors, and all stakeholders as ENO seeks to fulfill the numerous obligations imposed on ENO by the Community Solar Rules. ENO also regrets that the misrepresentations made in the AAE's letter and at the December UCTTC meeting necessitated this lengthy correspondence. ENO believes the Council's procedural schedule adopted for UD-18-03 provided (and will continue to provide) an open and transparent avenue for parties to make their views on community solar known and have their input heard. All parties, not just ENO, have the responsibility to participate in the Council's dockets per the procedures set forth by the Council and should not use *ex parte* communications or misrepresentations of fact to undermine the Council's goals for transparency and a record based on actual evidence and analyses.

Sincerely,



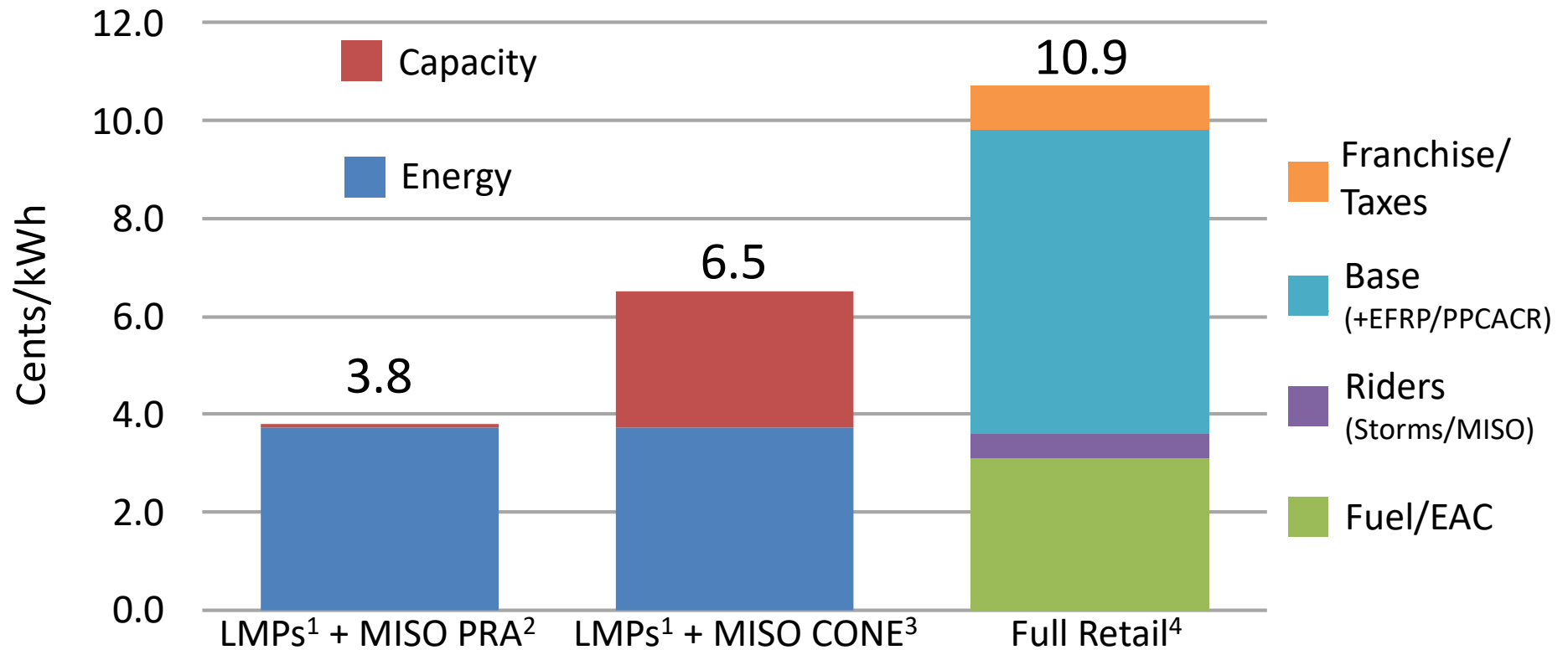
Harry M. Barton

HMB/hmb
Enclosure

cc: All Councilmembers
Official Service List Council Docket No. UD-18-03

¹³ At the December UCTTC meeting, several parties asserted that the proposed credit rate would be constantly fluctuating. Such statements are inaccurate based on the current form of the Proposed Community Solar Rules, which would see the bill credit amounts updated **no more than once per year**.

Considerations for Community Solar Bill Credit Rates



¹ Average 2017 LMPs based on solar production in New Orleans (NREL PVWatts)

² Average of MISO Planning Resource Auction (PRA) 2017/2018 value (\$1.50/MW-day) and 2018/2019 value (\$10.00 /MW-day)

³ MISO Cost of New Entry (CONE) for 2018/2019 at \$83.26 \$/kW-year; credit rate fixed annually (Advisors' Final Report and Recommendation)

⁴ Full Retail is ENO's average residential volumetric rate (cents/kWh) for 2018 per 1,000 kWh/month