

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

IN RE: A RULEMAKING)
PROCEEDING TO ESTABLISH)
RULES FOR COMMUNITY SOLAR) **DOCKET NO. UD-18-03**
PROJECTS)

MEMORANDUM and ORDER

Procedural History

The procedural history of this docket is somewhat convoluted, but provides important context. On June 21, 2018, the Council for the City of New Orleans (“Council”) issued Resolution R-18-223, establishing the instant docket for the purpose of proposing rules to facilitate third party owned-and-operated Community Solar Garden (“CSG”) facilities in New Orleans, and therein set a deadline of July 27, 2018, for the filing of petitions to intervene, and a schedule for submission of “Comments.” After the intervention and Comment period had expired,¹ on November 30, 2018, the Advisors submitted a comprehensive Report to the Council. By Resolution R-19-111, issued on March 28, 2019, the Council promulgated the forementioned CSG rules. On August 29, 2019, Entergy New Orleans, LLC (“ENO”) submitted an “Implementation Plan.” After submission of several additional iterations of the Implementation Plan, on January 28, 2021, the Council approved ENO’s “Supplemental Implementation Plan”

¹ In this docket, after the allowed period to file petitions to intervene had expired, numerous parties filed untimely petitions to intervene. In each instance, the Hearing Officer issued an order setting forth a deadline for the filing of objections by any party to each late petition. Because in each instance, no objection was filed, the Hearing Officer granted each intervention. See e.g., Order of June 24, 2019, Order of June 27, 2022, Order of August 18, 2022, and Order of December 15, 2022.

and on February 3, 2022, by Resolution R-22-76, the Council modified a definition set forth in the Rules.

About 4 years after the expiration of the deadline for filing petitions to intervene and to submit initial Comments, on July 13, 2022, Madison Energy Investments (“MEI”) filed a Motion to Amend the Community Solar Rules. Pursuant to Council Resolution R-22-370 issued on August 18, 2022, and pursuant to the Order of the Hearing Officer issued on September 12, 2022, a deadline of December 7, 2022, was established for the parties to submit Comments on the Motion to Amend the Community Solar Rules filed by MEI.

ENO was the sole *party* to timely submit the forementioned Comments on December 7, 2022. However, also on December 7, 2022, the deadline for submitting Comments, the Coalition for Community Solar Access (“CCSA”) filed an untimely (deadline was July 27, 2018) Petition to Intervene, and concomitantly filed Comments. By Order of December 8, 2022, the undersigned Hearing Officer provided until December 14, 2022, for filing of objections to the Petition to Intervene and/or to the submission of Comments by CCSA. Said Order further provided that in the event no timely objections were filed, the Petition to Intervene would be granted, and the Comments would be accepted as timely filed. Because no objections were filed, the Petition to Intervene was granted and the Comments filed by CCSA on December 7, 2022, were admitted into the evidentiary record along with the other timely-filed Comments. *See* n.1.

On January 6, 2023, MEI filed a pleading entitled “Madison Energy Investments Reply Comments to ENO’s Response to MEI’s Motion to Amend the Community Solar Rules (CNO Docket No. UD-18-03)”²

Discussion

As set forth *supra*, in accordance with Council Resolution R-22-370 and the Order of the Hearing Officer, on December 7, 2022, ENO filed Comments on the Motion to Amend the Community Solar Rules filed by Madison Energy Investments. Therein ENO stated as follows:

ENO recommends that the Council (i) deny the Motion and leave in place the current Rules, and (ii) before the Council takes any action to amend its Rules, the Council should grant an opportunity for parties to submit Reply Comments.

Comments of ENO in Response to MEI’s Motion (December 7, 2022) at 1-2.

Heretofore, the Council has *not* spoken to ENO’s recommendation. To be clear, no Council resolution (nor order of the Hearing Officer), provides for filing of “Reply Comments” to the Comments filed on December 7, 2022. Nonetheless, on January 6, 2023, MEI did exactly that.

Council Resolution R-22-370 issued on August 18, 2022, provides as follows:

The Honorable Jeffrey Gulin shall rule on procedural disputes, including motions and discovery if any, *and shall for good cause shown, have the authority to change or amend procedural dates.*

Resolution at Ordering paragraph 2.

In this Docket, the Hearing Officer has, after providing opportunity to object and no objections having being filed, granted numerous untimely petitions to intervene, and in one

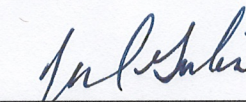
² The pleading was accompanied by a cover letter indicating the pleading had been “Amended” and presumably was intended to supersede an earlier version filed about an hour earlier.

instance, untimely Comments. *See* n.1. Such rulings were well within the delegated authority granted under the Resolution, to “change or amend (existing) procedural dates.” The authority to arguably “expand” existing procedures is a closer call. Nonetheless, in the interest of fact-finding efficiency, and particularly because ENO has already requested an opportunity to allow all parties to submit Reply Comments, the Hearing Officer shall provide such opportunity.

ORDER

All Parties shall have until January 17, 2023, to submit Reply Comments.

So ORDERED, this 10th day of January, 2023.



Jeffrey S. Gulin,
Hearing Officer