



July 7, 2023

Via Electronic Mail

Ms. Lora Johnson, CMC
Clerk of Council
Room 1E09, City Hall
1300 Perdido Street
New Orleans, LA 70112

In Re: A RULEMAKING PROCEEDING TO ESTABLISH RULES FOR COMMUNITY SOLAR
PROJECTS (Docket No. UD-18-03)

Dear Ms. Johnson:

Please find the enclosed Reply Comments of the Alliance for Affordable Energy in the above mentioned docket. Please file the attached communication and this letter in the record of the proceeding. We will submit physical copies at your instruction. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse S. George", is written over the typed name and title. The signature is stylized with a large loop and a long horizontal stroke.

Jesse S. George
New Orleans Policy Director
Alliance for Affordable Energy

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

**IN RE: A RULEMAKING PROCEEDING
TO ESTABLISH RULES FOR
COMMUNITY SOLAR PROJECTS**

DOCKET NO. UD-18-03

JULY 7, 2023

REPLY COMMENTS OF THE ALLIANCE FOR AFFORDABLE ENERGY

I. INTRODUCTION

On April 6, 2023, the Council adopted resolution R-23-130 re-opening the instant docket for comment, with particular focus on 1) changes to the tariff rate, 2) whether the definition of “low-income customer” should be amended, 3) consolidated billing, 4) ownership and valuation of RECs, 5) increasing the minimum number of low-income subscribers per community solar generating (“CSG”) facility, and 6) power purchase agreements (“PPAs”). In accordance with the procedural schedule established therein, the parties filed comments on June 16, 2023. The Alliance for Affordable Energy (“AAE”) hereby submits the following reply comments:

**II. ENTERGY NEW ORLEANS, LLC’S RATE IMPACT ANALYSIS IGNORES
BENEFITS OF LOCAL COMMUNITY SOLAR**

AAE acknowledges that increasing the tariff rate paid to subscribers has the potential to affect non-subscribing ratepayers. However, Entergy New Orleans, LLC’s (“ENO”) analysis in its comments of June 16, 2023 ignore the numerous benefits associated with locally-produced solar energy, including decreasing dependence on fossil fuel generation, lowering greenhouse gas emissions and other air pollutants, increasing resilience and reliability, and spurring local economic and labor development.

In Resolution R-18-223 establishing the instant docket, the Council expressed an interest in the potential for solar to “improve the quality of life for our citizens and businesses.” In

Resolution R-18-538 adopting the community solar rules, the Council recognized the importance of balancing ratepayer protections with properly incentivizing community solar development through tariff rates. The current rules, however, have not resulted in a balance, but in a complete lack of community solar development in New Orleans, leaving renters and low-income residents without meaningful access to renewable energy and the associated benefits.

III. OWNERSHIP AND VALUATION OF RENEWABLE ENERGY CREDITS

Allowing subscriber organizations to retain renewable energy credits (“RECs”) associated with community solar energy generation creates potential risks of false and double claims, and may lead to legal liability. The Federal Trade Commission provides detailed and specific guidance on such claims in its “Green Guides.”⁴

RECs are tradable products that bear the attributes of renewable energy generation, including environmental attributes as well as others. When RECs are separated from the electricity that was generated in order to create the REC, the energy becomes “null power”—meaning that no claims can be made about the renewable energy aspects of the original energy generation.

If the subscriber organization does not transfer the RECs to the subscriber, or retire them permanently on behalf of the subscriber, the subscriber may not lawfully make any claims about the renewable energy nature of the generation at the community solar facility. That is because only the lawful owner of the RECs may make such claims. False claims and double claims about RECs could be the basis for legal liability under the FTC’s Green Guides and under Louisiana’s Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. 51:1401, et seq.

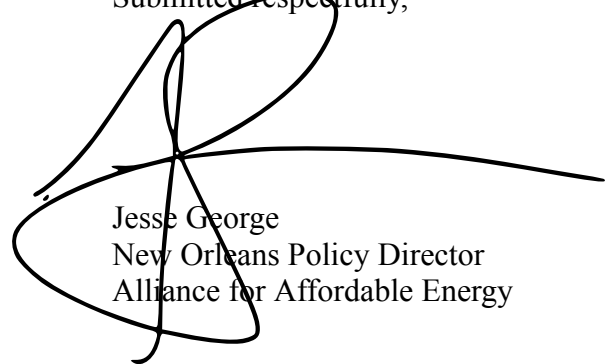
⁴<https://www.ftc.gov/legal-library/browse/federal-register-notices/guides-use-environmental-marketing-claims-green-guides>; See also: <https://www.epa.gov/green-power-markets/shared-renewables#three>; <https://guidehouseinsights.com/news-and-views/the-role-of-renewable-energy-certificates-in-community-solar>

This inability to claim the green power associated with subscribing to a community solar project could discourage potential subscribers, particularly commercial entities with internal renewable energy goals. The current rules offer the optimum flexibility for both developers and subscribers.

IV. CONCLUSION

As evidenced by the proposal put forth by the Sisters of the Holy Family and the letter submitted to the Council by Working Power, which is partnering with the Orleans Parish School Board to develop community solar projects on board-owned properties, there is substantial interest in community solar development in New Orleans, if the rules are amended to create an environment where these projects can thrive.

Submitted respectfully,



Jesse George
New Orleans Policy Director
Alliance for Affordable Energy

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

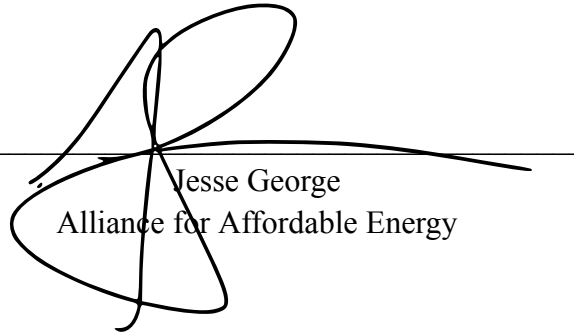
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CERTIFICATE OF SERVICE

I do hereby certify that I have, this 7th day of July 2023, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.


Jesse George
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