

1. Response letter re ENO Compliance Filing

March 26, 2023

**Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO ESTABLISH RULES FOR COMMUNITY SOLAR PROJECTS (Docket No. UD-18-03)**

Councilmembers,

In response to Resolution R-23-507, on January 12, 2024, Entergy New Orleans (“ENO”) submitted a compliance filing into docket UD-18-03 with a revised Form CSG-4—Standard Offer Power Purchase Agreement, and a revised Rate Schedule, CSGF—Community Solar Generating Facilities, consistent with the updated Community Solar Rules. In its compliance filing, ENO identified questions regarding the required revisions as well as possible changes to other Community Solar forms that may help improve the application and interconnection process for Subscriber Organizations.

Together New Orleans and The Alliance for Affordable Energy respectfully submit the following joint letter in response to ENO’s compliance filing, with related redlines in response to Entergy’s compliance filing schedules (titled “2. ENO Filing Forms”) and analysis from the National Renewable Energy Laboratory that supports the recommendations below (titled “3. NSCP TA Report”). Since ENO’s original redlines remain in the text, we have differentiated our comments by highlighting our own redlines in **yellow as shown here**.

**Feedback on ENO Compliance Filing**

**Scale of Projects**

Entergy’s redline occasionally continues to refer to the project size limit as two (2) megawatts, while the Council’s previous resolution, R-23-130, increased the project size to “not

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to exceed five (5) megawatts.” We have identified and corrected these in the attached rule and ENO document redlines.

### **Refusal of Changes to Subscription**

Section 3.3 of ENO’s Form CSG-4 allows ENO to “refuse to accept” additions, deletions or changes to the Monthly Subscription Information. Rather than allow the utility to hold all authority that could undermine the development or sustainability of a project, we suggest that the language be changed to allow ENO instead to *contest* such changes, with the Council Utility Regulatory Office or assigned Hearing Officer acting as arbiter. Language in Section 3.3 of CSG-4 would read as follows:

“ENO reserves the right to **contest** ~~refuse to accept~~ any additions, deletions or changes to the Monthly Subscription Information to the extent such addition, deletion or change results in non-compliance with any of such conditions, **and CURO or the assigned Hearing Officer shall be the arbiter of the dispute.**”

### **Renewal**

The lifespan of a photovoltaic generating system is longer than the 20 years of the Initial Term, and projects depend on revenue after the Initial Term, so renewals must be contemplated. We understand, however, that it is difficult to predict electricity rates 20 years in the future. We therefore propose the following language replace Entergy’s struck renewal language at section 4.2 of CSG-4:

**4.2 Renewal. If the Subscriber Organization is in compliance with the terms of this Agreement, it will have the option to renew for up to 10 years in two 5-year renewal periods (“Renewal Period”) under mutually agreeable terms. Company will send the Subscriber Organization a renewal notice three (3) months prior to the expiration of the Initial Term.**

### **Deposit**

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The Parties propose to amend language in Section 4.5 of CSG-4 such that the cost and terms of extensions are in line with best practices elsewhere.<sup>1</sup> A \$50/kW Deposit is twice as high as Massachusetts, and New York’s successful community solar program does not have a deposit at all. The parties do not believe that the cost to Subscriber Organizations for holding space in the interconnection queue should exceed ENO’s costs for the same, and therefore recommend that the deposit amount should equal the lower of either ENO’s costs, or \$25/kW. The parties also seek to clarify that the “clock” on development should start at the execution of the Interconnection Agreement, not when interconnection applications are approved. Further, the project benchmark for avoiding a deposit should be Mechanical Completion, not Commercial Operation, since Commercial Operation depends on factors outside the Subscriber Organization’s control. (A definition of “Mechanical Completion” has been added to the Definitions section, 1.16.) The rules, furthermore, should allow the Council to waive the assessment of the deposit fee, since there are situations that may be out of the control of a developer that should not cause it to incur such a large fine. The text of Section 4.5 would read as follows:

**4.5.4.4-Deposit.** If **Mechanical Completion** ~~Commercial Operation~~ is not achieved within **24 12 months** of an **executed interconnection agreement**, ~~any approved application~~, Subscriber Organization shall provide to ENO ~~an additional~~ deposit of **\$25 \$50** per kW AC **or the cost to ENO for holding space for interconnection, whichever is lower**, to continue under the Community Solar Program as required under Section VII(D)(11) of the Rules. ENO shall return the CSG Facility deposit **if Mechanical Completion is achieved within 12 months of the deposit due date** ~~commencement of Commercial Operation, unless the CSG Facility fails to begin operating within 18 months of an approved application, in which case the deposit shall be forfeited, and this Agreement terminated.~~ **Additional extensions may be secured on the same terms in one-year increments. The Council may waive the Deposit provision at its discretion.**

### **Maintenance and Repair of CSG Facility**

<sup>1</sup> New York’s successful community solar program doesn’t have a deposit at all, and Massachusetts charges \$25/kwAC. Here are their full rules (see section 6) <https://www.mass.gov/doc/sq-reservation-guideline-final-clean-060421-0/download>

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The Parties suggest that ENO should not have the sole discretion to terminate agreements based on extreme damage. As ENO is aware, New Orleans is vulnerable to extreme storms, and CSG facility owner/operators may experience challenges in repairing such damage that is outside the control of the operator. We recommend the following edits to section 4.6 of CSG-4.

4.6 Maintenance and Repair of CSG Facility. The Subscriber Organization shall **make best efforts to** maintain the CSG Facility and the individual components thereof in good working order at all times during the Term of this Agreement. If, during the Term of this Agreement the CSG Facility or any of the individual components of the system should be damaged or destroyed such that the extent of the damage affecting output exceeds twenty (20) percent of the CSG Facility's nameplate rating, the Subscriber Organization shall provide ENO written notice of such damage, a description of the equipment damaged, the corresponding reduction to the CSG Facility's output, and the anticipated duration of repairs to the facility to return the facility to its original nameplate rating. If, after such damage, the CSG Facility is not returned to its original nameplate rating within **twenty-four (24) months** ~~one hundred and eighty (180) days~~, ENO shall have the right, exercisable at its sole option, to terminate this Agreement upon not less than thirty (30) days written notice, with no further obligation of the Parties to perform hereunder following the effective date of such termination. In all other situations, if the CSG Facility is out of operation for more than **three hundred sixty-five (365)** ~~ninety (90)~~ consecutive days during the Term of this Agreement, ENO shall have the right to terminate this Agreement by providing written notice to Subscriber Organization anytime during the period following the expiration of such **three hundred sixty-five (365)** ~~ninety (90)~~ days and before the CSG Facility has been made fully operational again.

To maintain consistency with the Force Majeure section (6.3), we also have suggested extending the timeline for repairs from one to two years.

### **Certification for Low Income Qualification**

The Parties note that jurisdictions with successful Community Solar programs do not require recertification as described in CSG-4, which may be onerous to households struggling to maintain energy stability. We recommend striking this language in section 4.8 of CSG-4.

4.8 Certification of Low-Income Qualification. The Subscriber Organization shall certify to ENO 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 ENO. ~~By May 1 of each year, the Subscriber Organization shall re-certify in writing to the Company the Low-Income Subscriber status of all Subscribers to its CSG Facilities that are designated as such.~~

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Furthermore, Council Resolution R-23-507 suggests that by February 2, 2024 the Council will provide guidelines for Low-Income verification. In the attached rule redline, we have provided sample language for the Council to consider.

### **Recommended Schedule CSGF -1 [Option 2]**

ENO's compliance filing included two versions of revised Rate Schedule CSGF for the Council's consideration. The Parties recommend the Council approve CSGF-1 [Option 2], which will improve the likelihood of community solar participation among commercial customers. Analysis of Entergy's compliance filing, completed for this by the National Renewable Energy Laboratory and attached, shows that in order to more accurately approximate "full retail rate" for all customers, as the Council's resolution directs, Option 2 of Schedule CSGF-1 should be selected.

The analysis provided by NREL also provides a method of calculating credit rates. The method is calculated to directly approximate net energy metering. Again, in the interest of delivering on the Council's intended "full retail rate", the Parties recommend Entergy utilize the method below, which is more fully described in NREL's analysis.

$$CS \text{ Credit Rate } [$/kWh] = (Customer's \text{ Total Bill w/out CS subscription } [\$] - Customer's \text{ Total Bill with CS subscription } [\$]) / CS \text{ Subscription Energy Production } [kWh]$$

### **Non-Bypassable Rider**

Section III of ENO's CSGF-1 excludes what it refers to as "nonbypassable riders" from the credit customers will receive, whether Low-Income or not. Council Resolution R-23-507 states that "the value of the CSG per kWh... shall be revised to be the full retail rate, **including**

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**all applicable rider schedules that would be applicable to the Subscriber on a per kWh basis...<sup>2</sup>**” (emphasis added). The phrase “nonbypassable riders” does not appear in the community solar rules, or any existing riders, rate schedules, or any recent resolutions associated with Entergy New Orleans rates. In the absence of definition, the Parties recognize that the Customer Charge, currently \$8.06 per month, is in effect, non-bypassable. The Parties suggest striking language referring to “nonbypassable riders,” as there is no approved definition of such riders, and it appears counter to Council’s most recent resolution. Section III of CSGF-1 would read as below:

B. Credit for Residential Customers who do not qualify as Low-Income Subscribers: Monthly Subscriber Energy x the dollar per kWh value representative of the monthly retail rate based on the applicable retail energy-related revenue by rate schedule and the corresponding kWh as recorded on the Company’s financial records, ~~exclusive of amounts attributable to nonbypassable riders~~. Such value will be applied on a two month lag basis as shown on CSGF Attachment A.

C. Credit for Customers who qualify as Low-Income Subscribers: Monthly Low-Income Subscriber Credit = Monthly Subscriber Energy x the dollar per kWh value representative of the monthly retail rate based on the applicable retail energy-related revenue by rate schedule and the corresponding kWh as recorded on the Company’s financial records, ~~exclusive of amounts attributable to nonbypassable riders~~, plus 2.0 cents/kWh. Such value will be applied on a two month lag basis as shown on CSGF Attachment A.

D. Credit for Non-Residential Customers: Monthly Subscriber Energy x the dollar per kWh value representative of the monthly retail rate based on the applicable retail energy-related revenue by rate schedule and the corresponding kWh as recorded on the Company’s financial records, ~~exclusive of amounts attributable to nonbypassable riders~~. Such value will be applied on a two month lag basis as shown on CSGF Attachment A.

### Clear Rate Schedule Tables

The final page of ENO’s Schedule CSGF includes a table displaying very little information about the value of bill credits. The Parties recommend Entergy’s Schedule CSGF

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<sup>2</sup> Resolution R-23-507, November 2, 2023. Item 1, Page 9.

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provide more clear values for these credits. NREL’s analysis, attached, also points to the value of a model bill, to make it “obvious and clear” to a non-technical reader how their bills may look with the addition of CSGF schedule.<sup>3</sup> The Parties urge ENO to develop and include such a model bill for clarity.

**Proof of Site Control in CSG-RPAR form**

The Parties are aware that most developers don’t have site control during initial scoping a project. The purpose of a pre-application is determining basic site suitability. ENO’s new Form CSG-RPAR requires documentation of site control to initiate the pre-application phase. Requiring up-front site control will cause unnecessary expenditures even before information about the parcel’s suitability is available. ENO notes it has created this new form to “facilitate timely responses” to Subscriber Organization requests, but this provision does the opposite. The Parties suggest that the site-control requirement be struck from this new form.

**Conclusion**

The Parties appreciate the Council’s consideration of these concerns and recommendations, and we look forward to seeing the opportunity of Community Solar fully realized in Orleans Parish.

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Broderick Bagert, Jr., Together New Orleans

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<sup>3</sup> February, 2024. Community Solar Subscription Credit Considerations and Case Study. National Renewable Energy Laboratory. PDF pg 8.

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

**Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A  
RULEMAKING PROCEEDING TO ESTABLISH RULES FOR COMMUNITY SOLAR  
PROJECTS (Docket No. UD-18-03)**

**CERTIFICATE OF SERVICE**

I do hereby certify that I have, this 26 day of March 2024, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.

DocuSigned by:

*Broderick Bagert*

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Broderick Bagert, Jr.  
Together New Orleans