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Harry M. Barton
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November 19, 2019

Via Hand Delivery

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

Re: *Resolution & Order Establishing a Docket and Opening Rulemaking Proceeding to Establish Renewable Portfolio Standard*
Council Docket No. UD-19-01

Dear Ms. Johnson:

Enclosed please find an original and three copies of Entergy New Orleans, LLC's ("ENO") Reply Comments Concerning the October 15, 2019 Filings of Various Parties, in the above referenced docket. Please file an original and two copies into the record in the above referenced matter and return a date-stamped copy to our courier.

Should you have any questions regarding the above, I may be reached at (504) 576-2984. Thank you for your assistance with this matter.


Sincerely,


Harry M. Barton

HMB/bkd

Enclosures

cc: Official Service List (*via electronic mail*)

RECEIVED
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BY: 

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

RESOLUTION AND ORDER)	
ESTABLISHING A DOCKET AND)	
OPENING RULEMAKING)	
PROCEEDING TO ESTABLISH)	DOCKET NO. UD-19-01
RENEWABLE PORTFOLIO)	
STANDARD)	

**ENTERGY NEW ORLEANS, LLC’S REPLY COMMENTS
CONCERNING THE OCTOBER 15, 2019 FILINGS OF VARIOUS PARTIES**

NOW BEFORE THE COUNCIL OF THE CITY OF NEW ORLEANS (the “Council”), comes Entergy New Orleans, LLC (“ENO” or the “Company”), which respectfully submits its Reply Comments concerning filings submitted by several parties on October 15, 2019, in response to the Advisors’ Report on Renewable Portfolio Standards, which was filed on September 3, 2019 (“Advisors’ Report”). The October 15, 2019 filings included comments from 350 New Orleans (“350”), Air Products and Chemicals, Inc. (“APC”), the Alliance for Affordable Energy (“AAE”), the Energy Future New Orleans (“EFNO”) coalition, PosiGen Solar (“PosiGen”),¹ and the Southern Renewable Energy Association (“SREA”).² Apart from APC, all of the entities that filed comments on October 15, 2019 are also members of the EFNO coalition. Additionally, PosiGen is a “MegaWatt Member” of the AAE³ and the author of 350’s comments is a PosiGen employee,⁴ a fact which, to ENO’s knowledge, has not been disclosed to the Council.

Given the connections described above, it is not surprising that similar themes emerge from the EFNO, AAE, PosiGen, and 350 filings. Their comments place more emphasis on mandating the selection of their preferred technologies than on reducing carbon emissions through all cost-conscious means available. Proposals from these entities all seek to narrow New Orleans’

¹ PosiGen, LLC is a solar sales and leasing company domiciled outside of New Orleans, in Jefferson Parish. “PosiGen Solar” is a trade name registered to a company named PosiGen, Inc., which lists a Metairie, LA address, but does not seem to be registered with the Louisiana Secretary of State. None of the various PosiGen entities appear to maintain offices in Orleans Parish, despite making frequent representations to the contrary to the Council.

² SREA is an industry trade group that exists to promote the development of solar, wind, and energy storage resources. See, <https://www.southernrenewable.org/>.

³ This membership designation means that PosiGen donates at least \$5,000 annually to the AAE. In the past, PosiGen has been a “Transformer Member,” a designation which requires at least \$10,000 in annual donations. See, <https://www.all4energy.org/support.html>.

⁴ See, Transcript of the Louisiana Public Service Commission (“LPSC”) Business and Executive Session, September 11, 2019, at pg. 23, lns. 5-11 (“Andy Kowalczyk ... I am with PosiGen Solar. I have not been with the company a very long time. But in my time with this company, I’ve learned that it’s – there’s competition, you know? There’s competition from other solar companies and there’s competition from Entergy...”). This individual’s public LinkedIn profile also indicates he began working for PosiGen over a year ago, in October 2018, as a Marketing Coordinator, meaning that he filed all of 350’s comments in this proceeding, and made many appearances before the Council, while employed by PosiGen and failing to disclose this affiliation to the Council.

available options for addressing climate change and mandate adoption of some of the least cost-effective emissions reduction options for the purpose of creating additional business opportunities for PosiGen, and any similarly situated companies that install distributed-generation-scale (“DG”) solar photovoltaic (“PV”) systems, at the expense of New Orleans residents and to the detriment of cost-conscious climate policy. Although numerous scientific and academic studies have utilized complex modeling and analyses to demonstrate the flaws of a technology-limiting, renewables-only approach to climate policy, the problem with these kinds of proposals is also intuitive and relatively easy to understand. Climate change is caused by carbon emissions, not by technologies. Adopting policies that focus primarily on technologies, rather than on reducing emissions, will not effectively address climate change and will only make reducing emissions more difficult and unnecessarily expensive. This simple concept is something that the EFNO members’ proposal fails, or refuses, to acknowledge.

Somewhat shockingly, comments from these parties also urge the Council to delay taking meaningful action on climate change in this proceeding so that “more modeling, analysis, and vetting” of their proposals can occur.⁵ Perhaps acknowledging that their initial proposal, the Resilient Renewable Portfolio Standard (“R-RPS”), could not work under the laws governing utility regulation in New Orleans and Louisiana,⁶ the AAE and EFNO comments also propose fundamentally redefining the scope of this proceeding to now include consideration of (i) eliminating cost-of-service (“COS”) utility regulation, (ii) the dissolution of ENO as a vertically-integrated utility, (iii) effectively terminating ENO’s franchise agreement with the City of New Orleans, and (iv) introducing a retail open access (“ROA”) model to New Orleans that would lead to a very costly and lengthy restructuring in order to introduce “customer choice” with respect to electricity supply. These proposals not only far exceed the scope noticed in Resolution No. R-19-109, they would mire ENO and the Council in years of regulatory and legal proceedings, indefinitely delaying adoption and implementation of increased investment in clean energy and progress on achieving emissions reductions goals outlined by the Council. These parties attempt to entice the Council down this path with unsubstantiated and vague promises of economic growth and “energy justice,” when the reality is that their proposal will lead to significantly higher rates for residents and businesses in New Orleans – limiting growth and exacerbating energy burdens.

The Council opened this Docket, at the request of many EFNO members, to receive evidence and analyses demonstrating what emissions reductions goals and policies (*e.g.*, Renewable Portfolio Standard (“RPS”), Clean Energy Standard (“CES”), etc.) would be appropriate for New Orleans. Resolution No. R-19-109 set forth an extensive procedural schedule for this purpose. These parties have, to date, declined to provide any analyses or quantifications to the Council to support the claims or proposals made in their various filings. Now these parties seek more time to allegedly develop analyses to support their ill-founded ideas. More time will not result in the development of such analyses because no credible, regulatory-grade analyses will

⁵ See, EFNO Comments at pg. 15.

⁶ To be clear, and as has been thoroughly documented in this proceeding, judicial precedent and regulatory requirements are just two of many factors contributing to the R-RPS being an unworkable proposal.

show that 100% of New Orleans’ future electricity needs can be met with the five technologies defined as compliant in their R-RPS.⁷

In stark contrast, ENO has risen to the Council’s call to propose meaningful, well-founded actions to combat climate change and further reduce emissions, while keeping rates low and preserving system reliability. ENO’s extensive analyses show that its proposed CES of 70% by 2030 is a viable near-term target that will optimize the amount of clean energy serving New Orleans and achieve a 40% reduction in carbon emissions from today’s already-low levels, with only a forecasted 1% increase to total system average rates. Adoption of these proposed targets is fully-supported by the evidentiary record in this proceeding. The sooner the Council takes that important first step, and definitively states that its policy objectives are lowering emissions – while keeping rates low and preserving reliability and using all zero-emissions technologies available (or that may become available), the sooner ENO, the Council, its Advisors, and other stakeholders can begin working to actualize this vision.

The Council could also act at that time to direct ENO to utilize future Integrated Resource Plan (“IRP”) proceedings to evaluate various long-term planning paths to achieve net-zero carbon emissions by 2050. Evidence in this proceeding, including evidence provided in the Advisors’ Report, establishes that currently-viable technologies **cannot support** 100% carbon-free electricity or net-zero carbon emissions by 2050. While that evidence should give the Council pause about enacting any compliance mandates for a presently-impossible goal, ENO and the Council can begin diligently and proactively charting a course toward net-zero emissions. ENO stands ready to work with the Council toward furthering progress on reducing carbon emissions. The Council should not let EFNO’s and its members’ refusal to take the Council’s process and deadlines seriously, or their apparent insistence on an “anyone-but-ENO” policy on emissions reductions solutions, delay action necessary to address climate change for New Orleans.

I. Carve Outs or Mandates for Residential-Scale Solar will Needlessly Increase the Cost of Decarbonization for New Orleans.

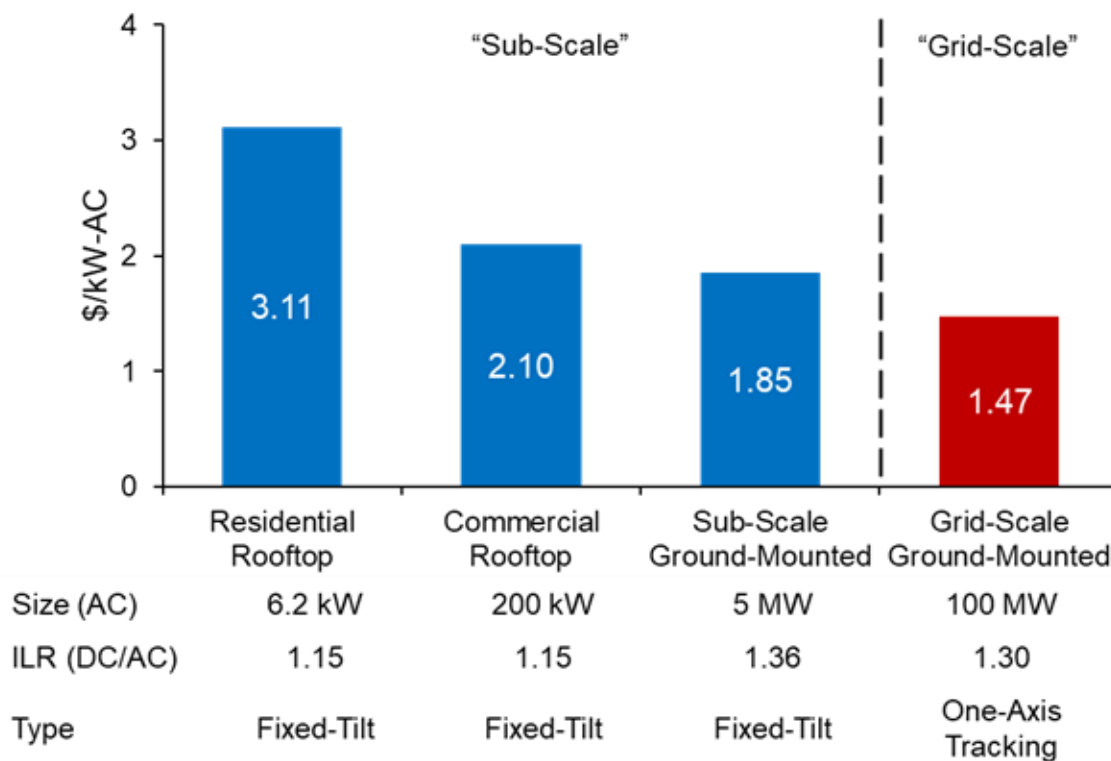
AAE, 350, PosiGen, and other EFNO members appear to view this proceeding as a vehicle for enacting a complex combination of penalties, incentives, and mandates designed to improve the economic viability of residential-scale rooftop solar generation, no matter the cost to ENO’s customers. As is discussed below, the various regulatory schemes and “resilience” metrics advanced by these entities all appear designed to facilitate this singular outcome. Similarly, the misleading attempts to discredit what industry, academic, and scientific experts tell us about feasible and cost-conscious solutions to climate change (also discussed below) seem intended to distract the Council from the consensus that a technology-neutral, “all tools in the toolbox” approach is the best chance we have of meaningfully responding to climate change. These efforts seek to sidestep an undeniable fact – the cost of residential rooftop solar and the energy that such installations produce is much higher than the cost of many other zero-emitting technologies, including larger, grid-scale solar installations.

⁷ The only five compliant technologies eligible under the proposed R-RPS are solar, wind, geothermal, run-of-river hydro, and tidal generation facilities.

a. Economies of Scale and Operational Performance Mean that Grid-Scale Solar is Cheaper than Rooftop Solar.

Residential-scale rooftop solar is more expensive than other options for a simple and intuitive reason; the installed cost per unit of solar generating capacity (\$/kW) decreases as a function of increased size. This relationship is well-documented in numerous studies, including regularly-issued solar industry reports.⁸ For example, the National Renewable Energy Laboratory (“NREL”) publishes a report that includes bottom-up engineering cost estimates of residential and commercial rooftop solar systems, as well as ground-mounted systems. Figure 1 below presents benchmark cost estimates included in the most recent version of this report. The data clearly show that large ground-mounted systems have significantly lower installed costs (\$/kW) than rooftop systems and smaller ground-mounted systems.

Figure 1: NREL Benchmark Cost Estimates (\$/kW-AC)⁹



NREL attributes economies of scale in installed costs of grid-scale solar primarily to lower per-watt structural and electrical component costs due to bulk purchasing, lower per-watt labor installation costs, and lower per-watt engineering, procurement, and construction (“EPC”) and developer overhead costs. Beyond these advantages, grid-scale solar also has higher capacity factors than rooftop solar. Larger solar systems tend to have higher DC/AC ratios which increase

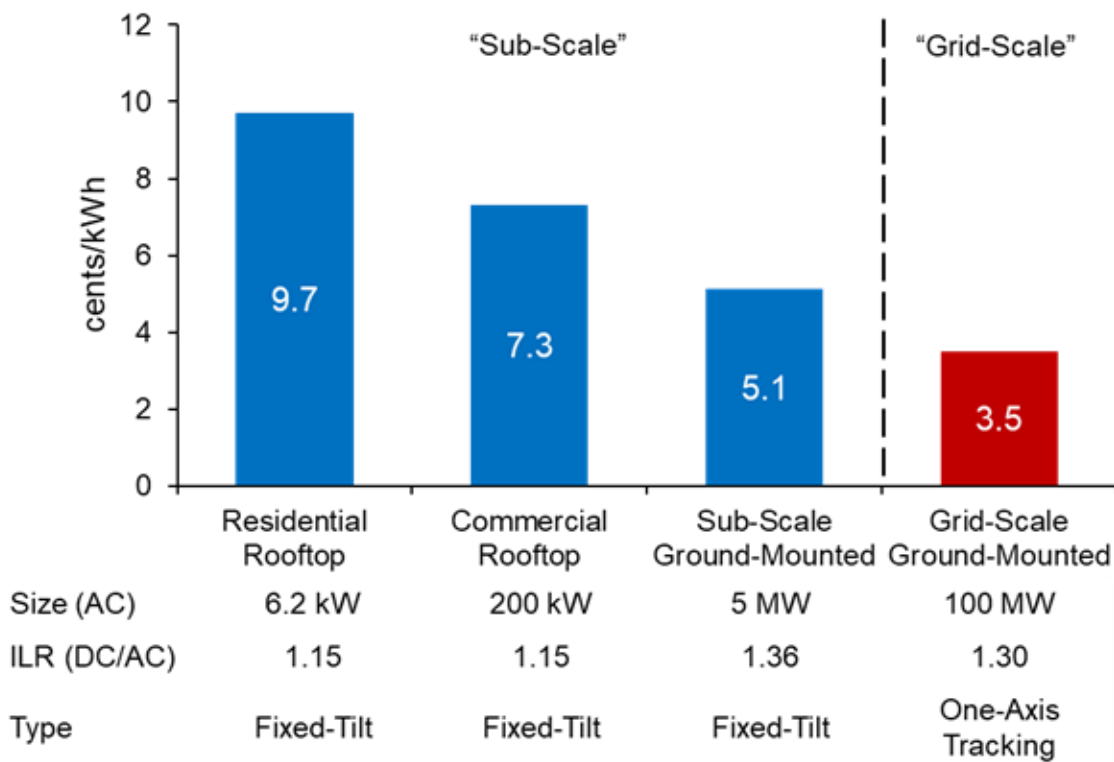
⁸ See, <https://www.seia.org/research-resources/solar-market-insight-report-2019-q3>

⁹ Fu, Ran, David Feldman, and Robert Margolis. 2018. *U.S. Solar Photovoltaic System Cost Benchmark: Q1 2018*. Golden, CO: National Renewable Energy Laboratory. ENO uses the term “sub-scale” to refer to other categories of solar resources that are less economically feasible than grid-scale solar.

inverter utilization and capacity factor. Additionally, grid-scale solar is more likely to incorporate single-axis trackers which allow the angle of the panel to change during the day to follow the sun, increasing the energy generated from the same installed capacity. Rooftop facilities may also be subject to space and angle limitations and therefore be sub-optimally oriented towards the sun (e.g., not facing due South in New Orleans), resulting in a lower capacity factor. Available online models like NREL’s PVWatts can be used to confirm that sub-scale solar facilities have lower capacity factors than grid-scale solar projects that feature single-axis tracking.

The combined effects of lower per-watt installed costs and a higher capacity factor translate to a much lower per-kilowatt-hour (“kWh”) levelized cost of energy from grid-scale facilities. Figure 2 includes NREL’s benchmark estimates of the levelized cost of solar.

Figure 2: NREL Benchmark Cost Estimates (cents / kWh)¹⁰

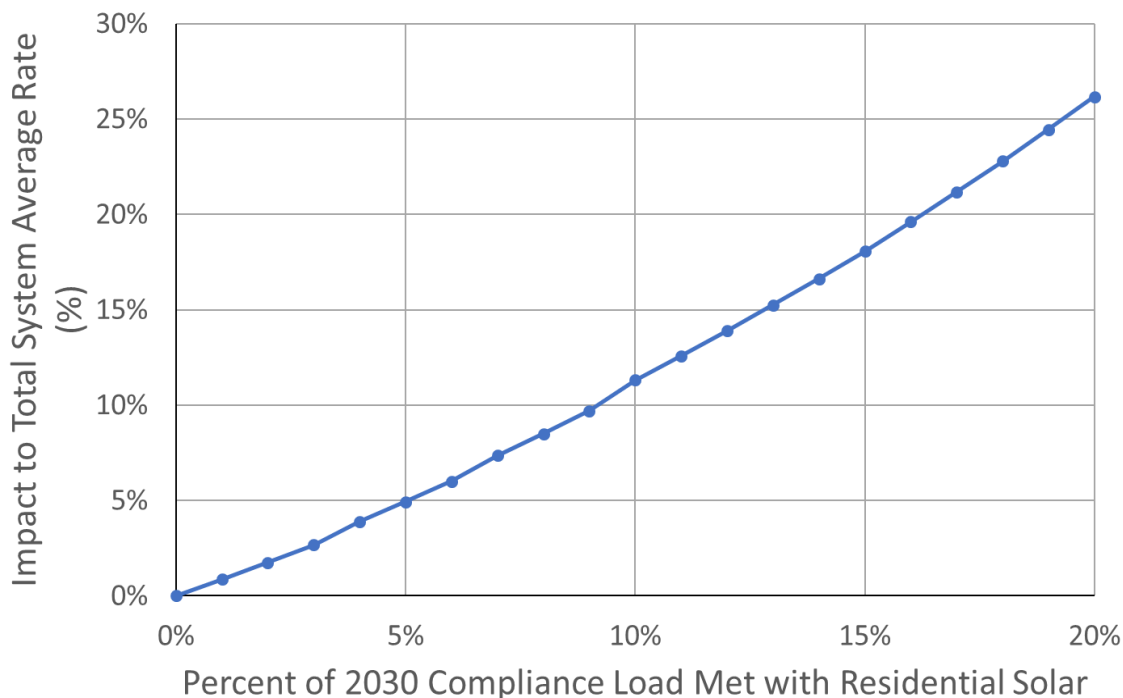


Because of these cost and operational performance differences, residential-scale rooftop solar is significantly more expensive when compared to grid-scale solar. ENO’s analyses, which have been submitted and discussed in great detail in this proceeding, show that for every 1% of compliant annual energy (kWh) sales that must be sourced from residential-scale rooftop solar by

¹⁰ *Id.* The NREL report includes levelized cost estimates for six different locations in the United States. The estimates are as-reported by NREL, except for the 5 MW fixed-tilt facility. The levelized cost estimate for the 5 MW fixed-tilt facility is calculated as the levelized cost estimate reported by NREL for a 100 MW fixed-tilt facility, scaled by the ratio of the installed cost of a 100 MW fixed-tilt facility to the installed cost of a 5 MW fixed-tilt facility. The NREL calculations of levelized cost account for the value of the currently available 30% Investment Tax Credit.

2030, total system average rates (“TSAR”) would increase by 1% or more, as Figure 3 demonstrates.

Figure 3: Impact of Residential-Scale Solar Mandates on Average Rates



If the Council’s goal is to reduce carbon emissions while keeping costs low for customers, keeping rates low, and, thereby, maintaining the City’s ability to attract economic development, it should not adopt a rule that includes any mandated carve-out for more expensive residential-scale rooftop solar. Such mandates, and the customer-funded subsidies necessary to comply with them, will needlessly increase the cost of decarbonization for New Orleans and New Orleanians.

b. The “Resiliency” Rhetoric Advanced by EFNO does not Change the Reality of Costs.

EFNO members¹¹ persist in a refusal to acknowledge the fact that any mandate for residential-scale rooftop solar would needlessly increase costs for decarbonizing electric service in New Orleans. Instead, these entities have continually sought to add issues to the scope of this proceeding (*e.g.*, income inequality, micro-grid deployment, and now, electric utility deregulation) in an attempt to manufacture a case that the solution to the ever-growing list of issues should be their preferred technologies. The “resilience” characteristic that EFNO and its members attach to

¹¹ Although SREA has stated that it supports “some small level of localized solar power generation as a carve-out,” SREA also acknowledges that “utility-scale solar energy and wind energy resources are the lowest cost new energy options available to New Orleans.” SREA July 15, 2019 Comments at pg. 4. SREA estimated that the cost of PosiGen’s recommended \$0.50/kWh price for local solar installations “is approximately 20 times more expensive than utility-scale renewable energy resources.” *Id.*

rooftop solar is an unsubstantiated attempt to distract from the reality of its high costs, and the only document cited in support of this concept seems to admit as much.

The AAE's comments cite to a document entitled "*Resilient Southeast: Exploring Opportunities for Solar + Storage in New Orleans, LA*," as support for the AAE and EFNO's resiliency construct – identifying "Clean Energy Group and Greenlink" as the authors of the document.¹² However, in what appears to be a material omission, the AAE fails to disclose to the Council that its Executive Director is also an author of the document.¹³ Additionally, the "Clean Energy Group" is itself a "Foundation" member of the AAE.¹⁴ Thus, the **only** document purporting to substantiate the "resilience" construct, which is the foundation of the AAE's and EFNO's R-RPS proposal, was authored by AAE staff and an AAE member – a fact which the AAE and EFNO apparently want to hide from the Council. The document also contains a lengthy disavowal of its findings, including a broad disclaimer about its accuracy.¹⁵ Even setting aside these irregularities, the document itself does not erase the economically disastrous consequences that adopting the EFNO R-RPS proposal would create. Instead, a careful reading of the document appears to fully support the notion that residential-scale solutions (whether solar PV alone or with the addition of energy storage) are not economically cost-effective.

The document claims to be based on two analyses of various use cases for investments in "resilient power," which were limited to solar + battery systems. The use cases were evaluated in an "economic" scenario and a "resilient" scenario – the latter of which did "not include any additional costs that may be associated with allowing the system to operate independent of the grid during an outage," *i.e.*, the analysis did not consider costs necessary to achieve grid-level "resilience" that the R-RPS promises.¹⁶ The difference between these scenarios is that the "resilient" scenario included a benefit calculated for avoided outages, despite the fact that, as noted above, costs of a micro-grid configuration were not included in this calculation. Regarding the "economic" scenario, the AAE's document states that "overall, the analysis resulted in poor economic outcomes for solar+storage [sic] to support critical community facilities in New Orleans."¹⁷

¹² See, AAE October 15, 2019 Comments at pg. 23 of 35. The AAE Comments do not contain page numbers, so ENO's citations reference the pages of the PDF file containing the AAE Comments.

¹³ See, <https://www.cleangroup.org/wp-content/uploads/Resilient-Southeast-New-Orleans.pdf> at pg. 3.

¹⁴ See, <https://www.all4energy.org/support.html>

¹⁵ See, <https://www.cleangroup.org/wp-content/uploads/Resilient-Southeast-New-Orleans.pdf> at pg. 2. ("This document is for informational purposes only. **The authors make no warranties, expressed [sic] or implied, and assume no legal liability or responsibility for the accuracy, completeness, or usefulness of any information provided within this document.** The views and opinions expressed herein do not necessarily state or reflect those of funders or any of the organizations and individuals that have offered comments as this document was being drafted. The authors alone are responsible for the contents of this report. Before acting on any information you should consider the appropriateness of the information to your specific situation. The information contained within is subject to change. **It is intended to serve as guidance and should not be used as a substitute for a thorough analysis of facts and the law. The document is not intended to provide legal or technical advice.**") (Emphasis added).

¹⁶ *Id.* at pg. 13.

¹⁷ *Id.* at pg. 15.

Only when the AAE's estimates of "avoided outage costs" were added to the analyses did the solar + battery systems appear to be economically justified. However, for the reasons noted in SREA's July 15, 2019 Comments and ENO's October 15, 2019 Comments, the idea that a solar + battery storage system can mitigate outages for more than a few hours has **never** been substantiated. Moreover, the AAE's document admits that the costs of attempting to use these systems in a microgrid configuration, and thus provide grid-level "resilience," were not analyzed. Thus, the only support provided for the AAE and EFNO proposal is a document authored by the AAE that falls far short of substantiating the claims underpinning the R-RPS proposal.

The AAE's own example of a private market scenario in New Orleans also casts doubt on the ability or willingness of "private companies" to utilize or rely on the solar + battery systems that the AAE and EFNO are proposing be the focus of their R-RPS proposal. The AAE notes that the Council recently passed an ordinance requiring that nursing home facilities must have back-up power capability. The AAE also states that no such entities have adopted a solar + battery system to provide the required back-up power capability. The fact that, according to the AAE, entities who are required to maintain 100% reliable power at all times have looked to natural gas and diesel-fueled generators, rather than solar + battery systems, provides empirical, real-world evidence that the "resilience" of solar + battery systems is very much unproven and that the price of making such systems workable is extremely cost-prohibitive with current economics.

Per the AAE's own publication, residential solar + battery configurations are not economic. The AAE's document essentially admits that the "resilience" construct is a way to make these uneconomic systems appear economically viable. Yet, the AAE and EFNO have done nothing to substantiate the notions that (i) these systems can add "resilience" to individual facilities, let alone the grid, or (ii) that all utility customers should participate in paying for even a portion of the costs of such expensive and unproven solutions. The Council should decline to adopt any mandates for any specific technologies, much less admittedly uneconomic energy solutions, when much cheaper, more effective decarbonization solutions exist. Moreover, if the various EFNO members' unsubstantiated claims about the "plummeting" price of residential solar + storage systems prove true, mandates would not be necessary as those systems would emerge as the lowest cost solution and be implemented under the technology-neutral standard that ENO and the majority of scientific, academic, and industry experts are advocating for as sound climate policy.

II. The Council Should Decline the Invitation to Indefinitely Delay Adopting Policies to Address Climate Change.

As was noted above, comments from EFNO and several of its members call for delays to Council action in this proceeding so that various additional analyses can be created and submitted to the Council to inform its decision. To date, none of these entities have submitted any credible, regulatory-grade analyses to the Council in this, or any other, proceeding to substantiate the claims

made in their filings or to demonstrate the viability of their proposals.¹⁸ Instead, these entities have confined their comments to misleading attacks on the analyses that have been submitted in this proceeding by ENO and the Advisors, while continuing to throw out new assertions, promises, and proposals that are wholly unsubstantiated. These parties' failure to submit any analyses in support of their unworkable proposals, at least some of which have been around for several years, does not entitle them to further delay this proceeding by seeking more time; the Council should decline to indulge this request.

The AAE first began to advance the notion of “resilience-based” resource planning in 2016, when it sought to circumvent, and succeeded in prolonging, the 2015 IRP cycle by proposing an Integrated Resilience Plan, or “IResP,” for the Council’s consideration.¹⁹ The “IResP,” which was 154 pages in length, advanced many of the same ideas underpinning the R-RPS, including the development of microgrids, reliance on distributed energy resources (“DERs”), and spurring economic development through investment in renewable generation. Ultimately, the Council found that “the IResP set forth by the AAE is not sufficiently developed or supported by expert witness testimony and analytics to be considered at this time.”²⁰ Since the Council issued these findings, the AAE has not provided any expert testimony or analytics as sought by the Council to substantiate the “resilience” concepts advanced in the IResP, which concepts also form the basis of the latest R-RPS proposal.

As early as March 2018, representatives of the AAE began publicly calling upon the Council to open a docket to consider increased adoption of renewable resources through a renewable portfolio standard. Apparently, in mid-2018 “thirty-six organizations signed on to a petition for New Orleans to adopt a RPS” and submitted this petition to the Council.²¹ On March 28, 2019, the Council created the instant Docket via Council Resolution No. R-19-109. That Resolution set forth a lengthy procedural schedule and invited parties to contribute analyses and other evidence relevant for the Council’s consideration in establishing a policy in this proceeding. Yet, in all this time, EFNO and its members have failed to submit any credible analyses demonstrating the viability, costs, or reliability impacts of their R-RPS proposal for New Orleans.

¹⁸ As ENO has mentioned several times now, the National Academy of Sciences provides an outline of what credible analyses of a viable proposal should include. “In our view, to show that a proposed energy system is technically and economically feasible, a study must, at a minimum, show, through transparent inputs, outputs, analysis, and validated modeling, that the **required technologies have been commercially proven at scale at a cost comparable with alternatives; that the technologies can, at scale, provide adequate and reliable energy; that the deployment rate required of such technologies and their associated infrastructure is plausible and commensurate with other historical examples in the energy sector**; and that the deployment and operation of the technologies do not violate environmental regulations.” See, e.g. Clack, Christopher, T.M., *et al.*, “Evaluation of a Proposal for Reliable Low-Cost Grid Power with 100% Wind, Water, and Solar,” *Proceedings of the National Academy of Sciences of the United States of America*, Vol. 114, No. 26., June 27, 2017, available at <https://www.pnas.org/content/pnas/114/26/6722.full.pdf> at pg. 6723, emphasis added. To date, these criteria have been ignored by EFNO members.

¹⁹ See, *An Integrated Resilience Plan for New Orleans City Council*, filed August 8, 2016 in Council Docket UD-08-02.

²⁰ See, Council Resolution No. R-17-100 at pg. 85.

²¹ See, <https://www.cleaneenergy.org/wp-content/uploads/Resilient-Southeast-New-Orleans.pdf> at pg. 21.

Moreover, disregarding the directives of Resolution R-19-109, these parties have even declined to provide timely comments on the details of the Advisors' proposed Alternative Rules, claiming that more time is necessary for them to do so.²²

EFNO's request for more time to perform analyses to substantiate their proposal and understand its cost and reliability impacts amounts to seeking an open-ended delay to this proceeding. This request for indefinite delay is made despite, (i) the fact that the AAE has been suggesting its "resilience" concepts since at least 2016 and was directly told by the Council, in early 2017, that expert testimony and analytics would be needed to support consideration of such concepts, (ii) the lengthy procedural schedule established in this Docket specifically for the development of proposals and supporting analyses, and (iii) an order from Judge Gulin that extended the deadline for responding to the Advisors' proposals.

These parties have had ample opportunity to provide analyses that demonstrate the viability of the R-RPS or any of their other various proposals. That they have failed to do so after so long strongly suggests it is not possible for them to produce any such credible analyses. The Council should not delay adoption of near-term emissions reductions targets and other climate change mitigation policies due to certain parties' inability, or unwillingness, to substantiate propositions with regulatory-grade analyses. Of equal importance, the Council should not force ENO's customers to pay for the cost of analyses requested by these entities by requiring that ENO perform the analyses that they request.

III. Retail Open Access is Far Beyond the Scope of this Proceeding and Would not Benefit New Orleans.

After years of pursuing policies that seek to hamper ENO's ability to make necessary infrastructure investments, fairly recover its costs, and maintain its financial health, the AAE and other EFNO members have finally plainly and publicly identified the overarching goal of their various lobbying efforts before the Council – the dismantling of ENO as the public electric utility that serves New Orleans. Specifically, these entities are calling upon the Council to end COS regulation in New Orleans and transition to an ROA model. While the AAE dresses up their proposal in innocuous-sounding terms like an "open access model for the distribution system," this proposal amounts to a regulatory unwinding of ENO's business model, the same business model that underpins Entergy Corporation, New Orleans' only remaining Fortune 500 Company. This reckless, feckless proposal would not benefit New Orleans' electric customers, nor would dismantling ENO to introduce retail electricity competition benefit the City as a whole.

Yet, the AAE and various EFNO members will likely continue to champion this destructive and costly course of action until the Council firmly rejects it. Indeed, the AAE and others describe deregulation and ROA as the fix-all solution to everything from climate change to income inequality, without providing the first hint of a plan for what would actually occur as part of the

²² See, EFNO Comments at pg. 15. ("More modeling, analysis, and vetting is absolutely necessary for something as big and important as the RPS for New Orleans. For this reason, we do not offer detailed critiques of the optional RPS approaches offered by the Advisors.").

restructuring process if ENO was dismantled pursuant to their proposal. The Council would be wise not to follow them down this path and should take a firm stance against it.

a. EFNO Members Are Proposing Deregulation Through Retail Access.

While EFNO members do not use the word “deregulation,” that is what their proposal entails. Indeed, the AAE describes the proposal as “RPS rules that replace cost-of-service regulation with an open-access distribution network incorporating (1) unbundled interconnection and distribution costs, (2) equal access to the distribution network, and, (3) open markets mechanisms for competitive clean energy supply and grid services.”²³ Replacing COS regulation with open access and competitive supply is deregulation, no matter how EFNO and its members attempt to disguise this fact or dress up this decades-old policy proposal as something new or novel.²⁴ As is discussed more extensively below, this path would be detrimental to the objectives of this proceeding, in addition to many other regulatory priorities of the Council.

Adopting the EFNO open access/deregulation proposal would significantly diminish the Council’s jurisdiction over electric service in New Orleans. Under this model, because competitive retail suppliers would buy energy from non-utility generators, those transactions would be regulated by the Federal Energy Regulatory Commission (“FERC”) who would have jurisdiction over pricing, not the Council. While this is a policy choice that some jurisdictions elsewhere in the country have made, many states that took that step have found that one of the many unintended consequences of deregulation is loss of state and local jurisdiction over generation planning. This is because when generation planning is left to unregulated “free market” entities under deregulation or ROA frameworks, IRP proceedings for regulated utilities are eliminated. As such, deregulated jurisdictions are limited to subsidies and mandates as policy options for pursuing clean energy goals. Moreover, FERC and several deregulated states (for example, Illinois, Maryland and New Jersey) are currently engaged in a dispute about whether those state actions are interfering with FERC jurisdictional wholesale markets.²⁵ Thus, one of the many potential negative consequences of following EFNO’s siren song on deregulation could be the Council inadvertently diminishing its own authority over clean energy policy goals.

b. The Council Should Not Let the AAE and EFNO Continue to Redefine and Derail this Proceeding.

The cessation of COS regulation, and by extension, the termination of ENO’s franchise agreement with the City of New Orleans, is well beyond what Resolution R-19-109 noticed as the scope of this proceeding. Thus, establishing an ROA jurisdiction in New Orleans cannot be an outcome of this proceeding. The Council would need to establish a separate docket for the consideration of the myriad of complex issues implicated by the AAE and EFNO proposal. Based

²³ See, AAE October 15, 2019 Comments at pg. 29 of 35.

²⁴ In other places, EFNO members call for a more limited form of open access, through an expansion of NEM to include supply from a distributed energy resource to a load that is not co-located with the DER. The Advisors have correctly noted that changing the NEM rules is beyond the scope noticed in Resolution R-19-109, but this too is effectively a form of partial retail wheeling and deregulation.

²⁵ See, e.g., *Calpine Corporation, et al. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236 (2018), at PP 81.

on prior experience, discussed below, that proceeding would take years to complete before any restructuring could be initiated. Under the AAE and EFNO's latest proposal, those years would be spent frittering away a critical opportunity for the Council to take effective action on reducing carbon emissions and combatting climate change.

The fact that the AAE and EFNO are seeking to use a Council proceeding that was intended to address actions that can be taken to mitigate climate change to instead attempt to initiate a years-long process for the purpose of dismantling ENO demonstrates their true priorities. These entities do not wish to pursue the most viable and cost-effective path for addressing climate change, *i.e.*, a path that uses all existing zero-emissions technologies and builds on the Council's and ENO's excellent past progress in lowering carbon emissions and keeping rates low for consumers. Instead, they simply wish to destroy Entergy New Orleans and the role that it has played for more than a century providing electric and gas service to the City and are willing to use the climate crisis as a pretext for pursuing this end. While basic principles of due process prevent this proceeding from resulting in deregulation of electric service in New Orleans, ENO hopes that the Council will not further indulge the destructive and misguided designs of the AAE, EFNO, and its members to the detriment of taking effective action on climate change. Moreover, now that the AAE and EFNO membership have made their desire to dismantle ENO and implement ROA a matter of public record, ENO hopes the Council will view other policy proposals from these entities with a greater degree of skepticism and with an eye towards these groups' true intentions.

c. A Deregulated, Retail Open Access Framework Would be Extremely Detrimental to New Orleans and its Residents.

As noted above, deregulation of electric utility services cannot legally result from this proceeding. As such, ENO will not undertake the effort of comprehensively detailing the myriad reasons, or voluminous amounts of evidence, that demonstrate why deregulation as proposed by the AAE and EFNO would be disastrous for New Orleans and New Orleanians. However, given the claims made by these organizations that paint deregulation as some kind of magic bullet solution for a variety of issues affecting New Orleans, ENO feels the need to point to actual facts, as documented in other jurisdictions that have gone before it down the deregulation path, that provide the Council with a realistic view of the risks, complexity, and immense costs associated with deregulation.

In the late 1990's, prior to the implosion of the California deregulation experiment, many jurisdictions considered the merits of the kind of deregulation the AAE and EFNO are now proposing to foist upon New Orleans.²⁶ Louisiana was among them. Beginning in 1995, the LPSC opened Docket U-21453 to consider "whether electric utility restructuring is in the public interest."²⁷ After a multi-year proceeding, which involved numerous sub-dockets, thousands of pages of commentary, and extensive expert witness testimony, the LPSC answered this question

²⁶ It is worth noting that the "magic bullet" idea being advanced by the AAE and EFNO is not new or novel, it is a repackaging of an idea that many regulators rejected 20 years ago.

²⁷ See, LPSC Staff Report and Recommendations, issued February 19, 1999, Docket U-21453, at pg. 15.

in the negative and agreed that “retail access is not in the public interest for any customer class.”²⁸ The LPSC and its Staff have periodically revisited the issue, but continue to enforce the LPSC’s original determination.²⁹

The LPSC Staff’s Report and Recommendations from the original proceeding presented several findings that are important for the Council to consider despite the passage of many years since it was issued. LPSC Staff noted that experience with deregulation in other jurisdictions shows that some classes of customers benefit from deregulation, while others suffer. Specifically, “industrial customers would clearly benefit ... from being able to shop around for the best deal [while] residential and commercial market sector cannot clearly be shown to gain from restructuring.”³⁰ This is because in jurisdictions where deregulation has been enacted, experience shows that suppliers compete aggressively for industrial customers, while residential and smaller commercial customers are underserved.³¹ Staff also found that deregulation could provide benefits to residential customers in jurisdictions where rates for electricity are above the regional or national average, but that in jurisdictions with rates already below the national average (as is the case in New Orleans) the benefits to residential customers would not be as clear.³² Staff also cautioned that if not enough suppliers are willing to enter a service territory to compete for residential customers’ business, the result of deregulation “would make Louisiana utilities nothing more than unregulated monopolies, and would thus create an environment where the Commission would be powerless to protect the residents of Louisiana.”³³ Staff also noted the potential for, and documented instances of, the exposure of residential customers to abusive and deceptive business practices in deregulated markets, along with a decline in service quality.³⁴ These, and many other factors, contributed to the LPSC Staff’s statement that “it is our strong belief that restructuring of the electric industry is not in the public interest.”³⁵

It is quite telling that almost two decades have passed since the Louisiana PSC Staff made such predictions and all of them have essentially come to fruition in states that moved forward with ROA. The following is excerpted from a recent article authored by the State of Connecticut’s Consumer Counsel:³⁶

²⁸ See, General Order, December 4, 2001, Dockets Nos. U-21453, U-20925 (C), U-22092 (Subdocket A), Louisiana Public Service Commission, ex parte, *In re: Analysis of Competitive Implications*, at pg. 4.

²⁹ See, e.g., Notice of Staff Recommendation on Final Proposed Rule, May 9, 2019, *In re: Proceeding to Establish Rules Regarding Electric Utility Tariff Filings Related Review, Including Site Specific Rate Filings*, at pg. 3.; Notice of Staff’s Recommendation of Proposed Rule and Request for Comments, January 8, 2019, *In re: Rules Applicable to Electric Service Providers’ Provision of Service to Load Outside its Historical Footprint that May be Offered for Industrial Load*, at pg. 29.

³⁰ See, LPSC Staff Report and Recommendations, issued February 19, 1999, Docket U-21453, at pg. 97.

³¹ *Id.* at pg. 94.

³² *Id.* at pg. 95.

³³ *Id.*

³⁴ *Id.* at pg. 98.

³⁵ *Id.* at pg. 95.

³⁶ *Energy innovation of the future cannot rely on retail choice as its delivery vehicle*; UtilityDive, authored by Elin Swanson Katz & Andrew W. Minikowski; June 10, 2019. See, <https://www.utilitydive.com/news/energy-innovation-of-the-future-cannot-rely-on-retail-choice-as-its-deliver/556493/>

“When many states made the decision to deregulate their electricity markets, two primary arguments were advanced in favor of the idea that increased competition would benefit end-use consumers. First, competitive electric suppliers would be able to deliver retail rates to consumers that were lower than those provided by the then-vertically integrated public utility companies. Second, that increased market competition among suppliers would foster greater innovation across the industry, leading to breakthrough product offerings in renewable energy, energy efficiency and rate structures.

Over 20 years later, both of those prophecies remain unfulfilled.”

The article goes on to say that “Between 2015 and 2018, Connecticut ratepayers on competitive supply paid approximately \$200 million more for electricity than they would have on the standard offer over the same time period,” “Unfortunately, these higher rates disproportionately impact low-income consumers, as well as minority groups and households where English is not the primary language,” and “Compounding the problem of consumers' monetary losses on competitive supply is the practice of many suppliers of engaging in deceptive and flagrantly illegal marketing and sales practices.” The authors note that these issues are not confined to Connecticut, but instead “have proved persistently problematic in other deregulated states, including Massachusetts, New York, Illinois, Maryland and others.” And most ironically relative to the unfounded assertions of AAE and EFNO, the two authors go on to argue that deregulation has not actually introduced the kinds of innovative products and improved services that were once part of its promise. For example, “Many consumers are now interested in renewable energy, yet in Connecticut we have frequently experienced suppliers failing to meet their state-mandated renewable energy requirements and deceptively marketing their green product offerings.” They end by arguing that deregulation has been a failure for Connecticut consumers:

“We believe that deregulated competitive suppliers are not the right candidates to spur energy markets into a new stage of innovation. In Connecticut, they've had nearly a quarter-century to do so and have produced nothing other than higher bills and confusion for ratepayers. Rather, the traditional utility standard offer has the potential to serve as a launching pad for new supply offerings and energy efficiency initiatives that would be both reliable and publicly transparent.”

And as the LPSC noted, and common-sense dictates, the success of a retail open access model would be significantly affected by the willingness of a large number of service providers to make investments necessary to enter the market for electric customers. In this regard, many of the challenges documented in the LPSC proceeding would apply with equal, if not greater, force to ENO's service territory. ENO serves very few industrial customers. The overwhelming majority of ENO's customers are residential and small commercial customers, and ENO provides service to a single parish service area with approximately 200,000 of these customers. ENO also has electric rates that are consistently below the national average. These facts, coupled with the reality that New Orleans is a geographically-isolated place, which is prone to hurricanes and flooding, and is surrounded on all sides by jurisdictions that operate under a regulated-monopoly, cost-of-service model with vertically-integrated utilities makes it extremely unlikely that the deregulation experiment proposed by the AAE and EFNO would produce any kind of favorable outcome.

Empirical evidence demonstrates that retail competition raises the prices paid by residential electric customers and disproportionately burdens low-income customers. Last year, in March 2018, the Massachusetts Attorney General’s Office published the first ever comprehensive analysis of the competitive residential electric market in the state, which report was just updated in August 2019.³⁷ The report sought to determine whether retail competition in the state was benefiting residential electric customers from a cost perspective; it did not analyze commercial and industrial customers. The August 2019 update found that, from July 2015 to June 2018, residential customers in the competitive market “paid \$253 million more than they would have paid if they had received electric supply from their electric company during the three-year period.”³⁸ The report also found that low-income customers participated in competitive markets “at approximately twice the rate of non-low-income households,”³⁹ and that low-income customers in these markets paid 25% more for electricity than non-low-income participants in the same markets.⁴⁰ The analyses conducted also showed that “competitive suppliers *charged higher prices* to residents in communities with ... low median incomes; and communities with high percentages of minority households.”⁴¹ These findings should provide sufficient warning of the risks associated with ROA markets that would be particularly harmful to New Orleans residents.

For additional evidence of the risks associated with ROA regulatory structures, the Council need look no further than the neighboring state of Texas. A recently-published investigative report by the Houston Chronicle has found that “consumers living within the competitive power markets of Texas – which cover about 85 percent of the state – have consistently paid higher prices for electricity.”⁴² The report found that, for electric customers in Houston “that has translated to an extra cost of nearly \$400 a year in each of the past 15 years.”⁴³ This cost increase has resulted from, among other things, sophisticated commercial and industrial customers utilizing market constructs that shift costs such as for regulated transmission service to residential and small business customers. The report also found that unscrupulous business practices on the part of retail providers, such as the use of complex plans and unclear terms and conditions, also increases prices that consumers pay. Mirroring the statements of Connecticut’s Consumer Counsel, these conditions exacerbate problems for customers who can least afford to pay for the premium that retail access entails:

“Too many Texans are still overpaying for power,” said Fred Anders, founder of Texas Power Guide in Houston, a website that helps consumers find the lowest cost plans. “And very likely a disproportionate share of them are people who can least afford to overpay

³⁷ See, Massachusetts Attorney General’s Office Commonwealth of Massachusetts, *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts*, August 2019, available at: <https://www.mass.gov/doc/2019-ago-competitive-electric-supply-report>.

³⁸ *Id.* at pg. vii.

³⁹ *Id.*

⁴⁰ *Id.* at pg. viii.

⁴¹ *Id.* at pg. ix, emphasis in original.

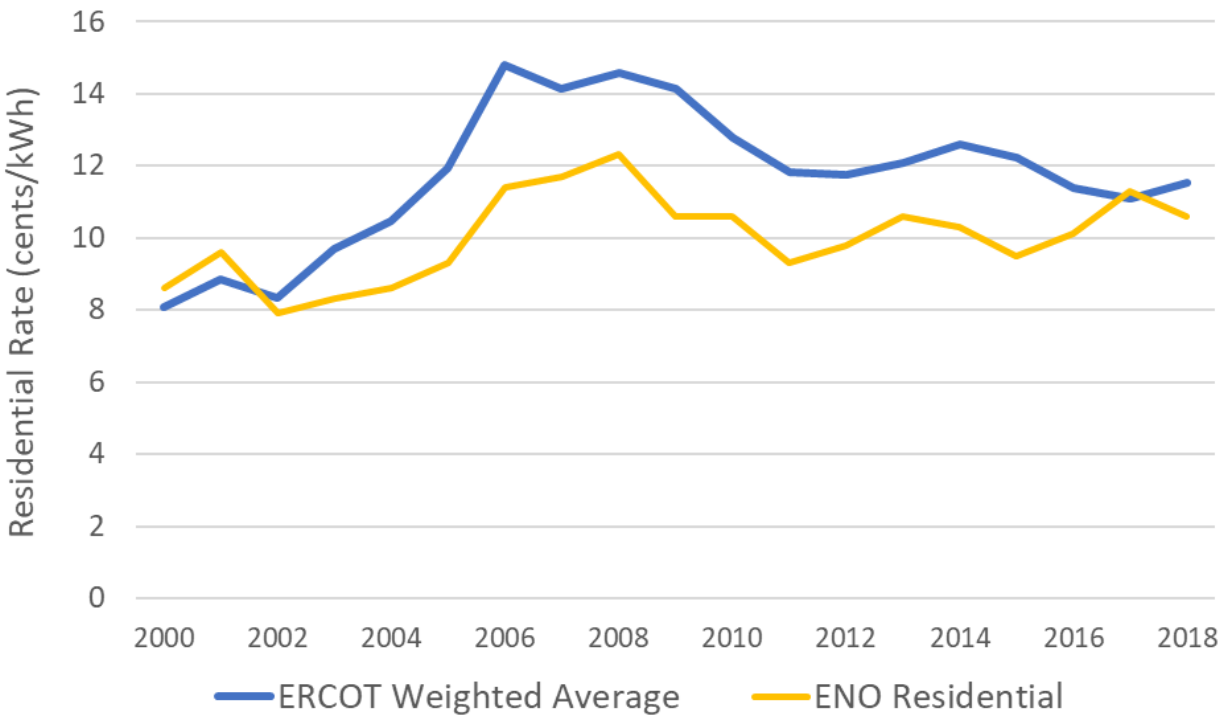
⁴² See, Sixel, L.M., *Analysis: The murky and confusing Texas electricity market*, available at: <https://www.houstonchronicle.com/business/energy/article/Analysis-The-murky-and-confusing-Texas-14707148.php>

⁴³ *Id.*

and have less time and awareness to navigate the minefield of gimmicks in the electricity market.” *Id.*

This point is made abundantly clear by an analysis of average residential electric rates comparing ENO to the competitive portion of Texas going back to before the market opened in 2002. The following chart illustrates that ENO’s average residential electric rate has been consistently well below the weighted average of all competitive retail electric providers (“REPs”) in Texas since ROA began in 2002. For a typical ENO residential customer that uses 12,000 kWh per year on average, the total difference in cost since ROA began in 2002 between ENO’s residential rates and the average REP residential rate is \$3,965. Put another way, a similarly situated residential customer in Texas with customer choice using the exact same amount of energy and paying the average price charged by REPs paid almost \$4,000 *more* over the last 17 years relative to an identical residential customer in New Orleans.

Figure 4: Comparison of ENO’s Average Residential Rate to Texas Competitive Retail Electric Provider (REP) Residential Rates (2000 – 2018)



Adopting an ROA model in New Orleans is not the progressive cure-all that EFNO and the AAE are attempting to sell to the Council, and it is not something the Council should consider given the history thus far. These organizations’ tacit admission that their proposed R-RPS can only work in an ROA model speaks volumes to its lack of viability as a feasible climate policy for New Orleans.

d. EFNO Members Draw a False Distinction Between “Ratepayer Funded” Investments and “Private Market” Investments.

In attempting to prop up the far-reaching deregulation and R-RPS schemes set forth in their filings, the AAE, PosiGen, and other EFNO members make misleading and falsely-premised arguments attempting to draw a distinction between “ratepayer dollars” and other sources of

funding for investment in New Orleans infrastructure. The false premise that underlies this argument is the notion that ENO invests “ratepayer dollars.” This notion is absolutely untrue. ENO does not invest “ratepayer dollars.” In keeping with the basic tenets of the long-standing regulatory compact, ENO invests its own capital in the projects and improvements necessary to provide safe, reliable, and affordable service to New Orleans. ENO raises this capital through a combination of debt and equity financing. Louisiana and Federal law require that ENO is afforded a reasonable and fair opportunity to recover these investments through fair and just retail rates, set by the Council based on cost of service ratemaking principles. Rates set by the Council do not guarantee ENO’s ability to recoup its investments, nor do rates provide ENO with an endless, free supply of capital (*i.e.*, “ratepayer dollars”) to invest. These basic tenets of cost-of-service retail regulation demonstrate the misleading nature of the distinction EFNO members are attempting to draw; but this is not the only flaw in the arguments they advance.

Like ENO, any for-profit entity from the “private market” also needs to raise, and recoup, capital in order to make investments. PosiGen does not install solar panels free-of-charge; it recovers its investment, plus whatever profit margin it sees fit, through money it collects from its customers pursuant to long-term lease agreements that the Council does not regulate. Any other “private market” firm would do the same. Thus, the implication that New Orleans residents are not incurring costs when PosiGen or any other unregulated entity installs solar panels, or provides any other service, in New Orleans is false.

PosiGen recovers the capital investments it deploys in New Orleans from New Orleanians, just like ENO. The false distinction between “ratepayer dollars” and “private market” dollars referenced in the various EFNO members’ filings is meaningless. A more meaningful distinction to consider is that, because ENO is a regulated public electric utility and PosiGen is not, the Council has no ability to regulate, for example, PosiGen’s return on equity, the terms on which PosiGen contracts with its customers, the prices it charges them, the interest rates it applies to long-term debt incurred by customers, the liens it may place on customers’ homes to secure such debt or long-term leases, whether it bundles such security interests and sells them, the representations its sales associates make to potential customers, or a myriad of other business practices that may occur unbeknownst to the Council. In contrast, the Council maintains comprehensive oversight of ENO’s business. The Council can also take actions to ensure that the costs and benefits of ENO’s investments in New Orleans are equitably distributed in a manner that benefits all customers. It cannot exercise such control over unregulated entities like PosiGen and the other unnamed “private market” investors that EFNO’s plans seek to enrich. As noted above, the inability to regulate retail power providers in numerous jurisdictions has led to consumer protection issues, deceptive business practices, and overall higher prices for electricity customers.

The Council should not be persuaded by sophistry and misleading rhetoric from the AAE, EFNO, and PosiGen. If enacted, their proposals would come at a very real cost to all New Orleanians, both in the form of higher electric rates and a resulting loss of economic opportunities.

IV. The Fact that All Zero-Emitting Technologies Must be Utilized to Fight Climate Change Remains True, Despite EFNO’s Attempts at Obfuscation.

Rather than focus on what industry and scientific consensus demonstrates about the most realistic and cost-conscious path to deep decarbonization by mid-century, EFNO and its members have continually attempted to re-define and shift the scope of this proceeding. For years, EFNO members have opposed many of ENO’s proposals under the guise of climate advocacy. Now, presented with an opportunity to address climate policy in New Orleans, they continue to obfuscate and shift the focus. This may be because creating a reasonable and effective long-term climate policy for New Orleans is not these groups’ primary goal. If reducing emissions and combatting climate change were the primary focus, their filings would not go to such great lengths to ignore or attempt to discredit industry and scientific consensus on what the necessary solutions are and what policies will enable their adoption. Nor would their filings and other lobbying efforts focus so intensely on mandating adoption of certain technologies as opposed to reducing emissions through all cost-conscious means available. These entities’ filings make clear that dismantling ENO and creating business opportunities for EFNO members take precedence over engaging in a transparent, intellectually-curious dialogue about feasible and cost-effective solutions to address climate change. The Council should not let these entities detract from one of the most pressing issues facing New Orleans – addressing climate change in the way experts believe is required.

An enormous amount of information has been submitted and referenced in this proceeding to substantiate the notion that all available zero-emitting solutions must be on the table to achieve decarbonization of the electric grid by mid-century.⁴⁴ More scientific studies confirming the

⁴⁴ See, e.g., Moniz, Ernest J., et al. (February 2019), *Advancing the Landscape of Clean Energy Innovation*, IHS Markit, available at <https://ihsmarkit.com/Info/0219/clean-energy-innovation.html>; CLEARPATH, Center for Climate and Energy Solutions, American Council for Capital Formation Center for Policy Research, Bipartisan Policy Center, Cresforum (February 2019), *Clean Energy Solutions Must Include Nuclear: A Briefing for Everyone Concerned about Climate Change*, available at <https://static.clearpath.org/2019/02/ce-solutions-must-include-nuclear.pdf>; International Energy Agency, *Nuclear Power in a Clean Energy System* (May 2019) available at https://webstore.iea.org/download/direct/2779?fileName=Nuclear_Power_in_a_Clean_Energy_System.pdf; Editorial, *A Warming World Needs Nuclear Power*, Bloomberg.com (Dec. 31, 2018) available at www.bloomberg.com/opinion/articles/2018-12-31/nuclear-power-is-part-of-the-solution-to-climate-change; Parsons, John; Buongiorno, Jacopo; Corradini, Michael; Petti, David, “A Fresh Look at Nuclear Energy,” *Science Magazine* (Jan. 11, 2019), available at sciencemag.org, Vol. 363, Issue 6423, at p. 105 (“Parsons, et al., 2019”); Achieving Energy for Sustainable Development, Outcome Document of the Ministerial Conference and the Ninth International Forum on Energy for Sustainable Development, Kiev (Nov. 12-15, 2018), available at https://www.unece.org/fileadmin/DAM/energy/se/pdfs/eneff/9th_Forum_Kiev_Nov.2018/Outcome_Document_v05.pdf; Greenstone, Michael; McDowell Richard; Nath, Ishan, Working Paper No. 2019-62, *Do Renewable Portfolio Standards Deliver?* (April 2019), available at https://bfi.uchicago.edu/wp-content/uploads/BFIEPIC_WP_201962_v3.pdf; Shreve, Dan, Schauer, Wade, “Deep Decarbonisation Requires Deep Pockets, Trillions Required to Make the Transition,” June 2019, available at <http://www.decarbonisation.think.woodmac.com/summary/>; Clack, Christopher, T.M., et al., “Evaluation of a Proposal for Reliable Low-Cost Grid Power with 100% Wind, Water, and Solar,” *Proceedings of the National Academy of Sciences of the United States of America*, Vol. 114, No. 26., June 27, 2017, available at <https://www.pnas.org/content/pnas/114/26/6722.full.pdf>; MacDonald AE, Clack CTM, Alexander A, Dunbar A, Wilczak J, Xie Y (2016) Future cost-competitive electricity systems and their impact on US CO2 emissions. *Nat Clim. Change* 6:526–531; Deep Decarbonization Pathways Project (2015) *Pathways to Deep Decarbonization* (Sustainable Development Solutions Network and Institute for Sustainable Development and International

accuracy of this conclusion, and disproving the contention that a 100% renewables solution is optimal – or even possible, continue to emerge.⁴⁵ Yet, in the instances that EFNO members do deign to address any of this information, they do so in misleading ways that do not address the actual merits of the issues. Instead, they cast aspersions on ENO for having the audacity to cite to scientific studies that do not conform to their view of the world. It is in this way that the EFNO members’ anti-intellectualism style of argument evokes tactics used for decades by climate-science deniers – when scientific studies or literature present conclusions they do not like, they refuse to engage on the merits and instead attack the integrity of the authors or the entity citing the study, which in this case, is ENO. ENO will not attempt to refute or expose every misleading statement in the EFNO members’ various filings or each time these entities appear to willfully sidestep important issues that expose flaws in their proposals; but ENO will provide a few examples.

In comments authored by a PosiGen employee, 350 characterizes the Energy Futures Initiative’s (“EFI”) *Green Real Deal* report as “presenting a binary choice between a very specific deep decarbonization strategy including CCNG and CCUS, and a dismissal of distributed energy resources;”⁴⁶ and implies that ENO is advocating that the Council “officially mandate CCUS as a decarbonization method in lieu of developing more economical, and strategically deployed renewable energy infrastructure.”⁴⁷ Neither statement is remotely true and both are blatant distortions of relevant issues and arguments intended to sidestep the substance of the debate.

Relations, Paris); Fawcett AA, Clarke LE, Weyant JP, eds, The EMF24 study on U.S. technology and climate policy strategies. *The Energy Journal*. June 1, 2017; Krey V, Luderer G, Clarke L, Kriegler E (2014) Getting from here to there – energy technology transformation pathways in the EMF27 scenarios. *Clim. Change* 123:369–382; Williams JH, et al. (2012) The technology path to deep greenhouse gas emissions cuts by 2050: The pivotal role of electricity. *Science* 335:53–59; Mileva A, Johnston J, Nelson JH, Kammen DM (2016) Power system balancing for deep decarbonization of the electricity sector. *Appl. Energy* 162:1001–1009; IEA (2015) Energy Technology Perspectives 2015: Mobilising innovation to accelerate climate action (International Energy Agency, Paris); Energy and Research Partnership (2015) *Managing Flexibility Whilst Decarbonising the GB Electricity System* (Energy Research Partnership, London); IPCC (2014) *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, eds Pachauri RK, Meyer LA (IPCC, Geneva); Energy Futures Initiative, “*The Green Real Deal, a Framework for Achieving a Deeply Decarbonized Economy*,” available at: <https://static1.squarespace.com/static/58ec123cb3db2bd94e057628/t/5d41c61878b170000194e2af/1564591645307/EFI+Green+Real+Deal.pdf>.

⁴⁵ A September 2019 Study from the Massachusetts Institute of Technology’s Joint Program on the Science and Policy of Global Change (Tapia-Ahumada, K.D., J. Reilly, M. Yuan and K. Strzepek (2019): *Deep Decarbonization of the U.S. Electricity Sector: Is There a Role for Nuclear Power?*. Joint Program Report Series Report 338, September, 2019 available at: <http://globalchange.mit.edu/publication/17323>) (hereafter, the “MIT Joint Program Report”) recently modeled several mid-century deep decarbonization scenarios (90% emissions reductions from 2005 levels by 2050) to determine whether nuclear and other technologies would play a role, even assuming a drastic decline in the cost of renewables and substantial carbon taxes. None of the modeling scenarios resulted in a 100% renewables outcome, with the highest resulting portfolio percentage of renewables being 60%.

⁴⁶ See, 350 October 15, 2019 Comments at pg. 6. 350’s Comments define CCUS as Carbon Capture and Sequestration and CCNG as Combined Cycle Natural Gas Generation.

⁴⁷ *Id.* at pg. 5. It should be noted that 350’s cost comparisons are all based on a Levelized Cost of Energy. The MIT Joint Program Report documents the fact that the intermittent nature of renewable generation “makes the levelized cost calculation a poor guide to the full cost of providing reliable, dispatchable power.” See MIT Joint Program Report at pg. 3.

ENO has staunchly advocated that the Council not mandate the adoption of **any** zero-emission technology to the exclusion of others. This position is at the heart of ENO’s advocacy for a “technology neutral, ‘all-the-tools-in-the-toolbox’ approach”⁴⁸ to emissions reductions, within a “framework for flexibly utilizing **all** resources and technologies available (e.g., solar, wind, nuclear, hydro, demand-side management, beneficial electrification, etc.) to achieve these goals.”⁴⁹ This technology-neutral approach to investment in net zero-emission generation options is also widely supported by organizations doing serious work, research, and modeling on realistic, cost-conscious policies for combatting climate change, including, but not limited to, the EFI. The fact that 350 seeks to distort and distract from these groups’ findings, rather than using the information to skeptically evaluate their own proposal, suggests that 350 only values “collaboration over working alone”⁵⁰ when collaborators refrain from challenging 350’s views.

Moreover, the nature of 350’s argument reveals that its only option (other than acknowledging that it might be wrong) is to sidestep facts that demonstrate the flaws with the R-RPS proposal and claims made in support thereof. 350 argues that solar + storage options will prove to be more economic than natural gas generation equipped with carbon capture technologies.⁵¹ It then mischaracterizes ENO’s position, and EFI’s research, as advocating for mandates to adopt these allegedly uneconomic technologies to the exclusion of DERs, including solar + battery installations. To be crystal clear, the **only** parties urging the Council to mandate adoption of **any** technologies to the exclusion of other net-zero-emission solutions are parties supporting the R-RPS – which would limit New Orleans’ energy options to only five technologies. Yet, if these parties’ assertions about the economic and competitive viability of their preferred technologies are true, the Council will not need to enact a mandate for their adoption; they will be identified as the least-cost options in competitive solicitations. Thus, carrying its arguments to a logical conclusion shows that the R-RPS’ restrictive mandates are not needed. Rather than admit this fact, 350 opts to distort ENO’s position and the results of EFI’s modeling and research.

Similarly, the EFNO comments take issue with the Advisors’ position on the validity of the Google Project Sunroof as a tool for providing a regulatory-grade estimate of rooftop solar potential in the city, stating that the Advisors relied on “the purported conclusions of an ENO study that the Advisors did not read and that is not in the record in this proceeding.”⁵² PosiGen also takes issue with the Advisors’ skepticism about the Google tool’s reliability, but mischaracterizes the concerns ENO raised as a claim that “New Orleans’ roofs are not appropriate for solar.”⁵³ ENO’s comments in this Docket clearly laid out its concerns about the accuracy and usefulness of the Project Sunroof estimates, which concerns were based on real-world experience using the tool

⁴⁸ See, ENO’s July 15, 2019 Comments at pg. 2.

⁴⁹ *Id.* at pg. 1. Emphasis added.

⁵⁰ See, 350 October 15, 2019 Comments at pg. 1.

⁵¹ It should be noted that 350 cites to several publications from solar industry trade associations and papers in support of their argument, including Clean E Group (the Foundation Member of the AAE discussed above), PV Magazine, and others.

⁵² See, EFNO October 15, 2019 Comments, at pg. 9.

⁵³ See, PosiGen October 15, 2019 Comments at pg. 6

and then vetting the accuracy of the tool's assessments with site visits and other cross checks, as documented by evidence submitted and carefully reviewed in Council Docket No. UD-17-05, and referenced in this Docket.⁵⁴ ENO did not assert that rooftops in New Orleans are unsuitable for solar, as PosiGen suggests. Rather, ENO noted that the Google tool provided only one component of the first of three levels of analysis ENO undertook for estimating commercial rooftop solar potential in New Orleans and that more detailed analysis would almost certainly reveal the 2.7 gigawatts identified in EFNO members' comments to be a significant overestimate of rooftop solar potential. But EFNO did not respond to that criticism by offering data or analysis to demonstrate that the Google tool does merit consideration, or by refining its assessment with additional modeling using other tools. Rather, EFNO simply brushes aside the Advisors' reasonable skepticism about using the Google tool as the sole basis for estimating rooftop solar potential in New Orleans and splits hairs by stating the evidence demonstrating the flaws with relying on the Google tool alone was not created within this Docket.

EFNO goes on to criticize the EFI report as having no applicability to the discussion of energy policy in New Orleans and suggests Dr. Ernest Moniz's credibility is undermined because of an alleged business relationship with the Advisors "that should be publicly detailed."⁵⁵ Despite its unsupported insinuation of an inappropriate connection between Dr. Moniz and the Advisors, EFNO offers no credible arguments addressing the merits of the EFI report or its value for informing the Council's decisions in the instant Docket.

What's more, EFNO, 350, and others mischaracterize the nature of EFI and the *Green Real Deal* report. Information readily available through a simple Google search reveals that EFI is much more than Dr. Moniz; its staff comprises more than three dozen analysts and associates who are among the energy sector's top minds and represent centuries of combined, relevant experience and expertise.⁵⁶ EFI's mission statement indicates it "is committed to objective analysis-based reports on important energy issues to inform policy makers, regulators and others engaged in debates on public policy."⁵⁷ The *Green Real Deal* is one of many reports published by this team

⁵⁴ See, ENO's July 15, 2019 Comments at pg. 20, which reference the Testimony of D. Andrew Owens filed October 2017, Council Docket UD-17-05.

⁵⁵ See, EFNO Comments, at pg. 10. The extensive intertwining of economic interests among PosiGen, the AAE, and 350, and possibly other EFNO members, which have never been explored by the Council, makes this comment somewhat ironic.

⁵⁶ These individuals include: (i) the founding Executive Director of the BlueGreen Alliance, which is described as "the country's foremost labor/environmental advocacy group on climate change policy solutions with a special emphasis on energy intensive industries, job creation, and the interchange between global warming and trade policy;" (ii) the Executive Director of the Massachusetts Institute of Technology Energy Initiative's "The Future of Solar" study; (iii) a founding member and former Executive Director of the Massachusetts Institute of Technology Energy Initiative; (iv) numerous Obama-era alums of the Department of Energy; and (v) many other industry, scientific, and academic experts. These individuals have educational backgrounds and extensive professional experience that make them experts in the fields of energy and climate change and qualify them to credibly opine on such issues. Their published reports are also substantiated by objective, scientifically, and statistically valid research and analyses. Yet, because EFI's work exposes basic and critical flaws with their proposals for 100% renewables mandates in the R-RPS, EFNO members dismiss the efforts of this collective of individuals as unworthy of the Council's consideration.

⁵⁷ See <https://energyfuturesinitiative.org/about>.

that result from thorough, neutral, and objective research, modeling and analyses. The *Green Real Deal* is an attempt to turn the aspirational goals of the Green New Deal legislation into “an actionable framework for meeting deep decarbonization of energy and associated systems by midcentury in ways that minimize costs, maximize economic opportunities, accelerate solutions, and promote social equity.”⁵⁸ These are some of the very same principles EFNO and its members claim to support. Yet because research, analyses, and modeling performed with these principles in mind shows that restrictive, regressive policies like the R-RPS will not achieve these goals, EFNO members cast aspersions and make character attacks on an entire team of objective experts who are working to combat climate change. EFNO is not interested in “modeling, analysis, and vetting” unless the results conform to the outcome they desire. Rather than engage with analyses that challenge the R-RPS on the merits, EFNO dismisses such analyses as biased or incomplete.

A notable example of this tactic, and one which is in direct contravention of the Council’s request for parties to provide substantive analyses in their comments, is captured in EFNO’s statement, “We disagree that ENO’s cost impact estimates are a credible starting point for evaluating the costs of an RPS. Much more data, transparency, and analysis is required.”⁵⁹ This quote clearly shows EFNO’s plan to attack the only credible, regulatory-grade analyses submitted in this proceeding without offering any merit-based reasons for their disagreement (other than, perhaps, the fact that ENO performed the analyses) or attempting to submit their own work to try to support their position.

EFNO and its members persist in refusing to acknowledge that restrictive, technology-mandating policies like the R-RPS, or any renewables-only standard, do not represent viable, cost-conscious solutions to achieve emissions reductions and address climate change. As ENO noted in its previous comments in this proceeding, this denial of what credible research and modeling tells us about necessary solutions to climate change is the equivalent to denying that carbon emissions cause climate change and that rapid action to reduce emissions is needed. Sophistry, obfuscation, and solution-denial will not curb climate change; only reducing emissions through all available technologies will. The Council should decline to follow these parties down the endless path of climate-solution denial by firmly rejecting all elements of their proposals.

V. Evidentiary Burdens Should Apply with Equal Force to All Parties.

Comments from EFNO members contain numerous unsubstantiated assertions and call for more analyses to be performed to help to prop up their R-RPS proposal. Examples of unsubstantiated, or less than truthful, assertions include:

- PosiGen asserts that “MISO offers 50% solar capacity recognizing that solar provides peak power.”⁶⁰ ENO interprets this statement to mean that MISO offers a 50% capacity credit to solar resources. This is, at best, only partially true. MISO offers this capacity credit in the first year of a MISO-registered solar resource’s existence. After that, the

⁵⁸ See, *Green Real Deal* at pg. 8.

⁵⁹ EFNO Comments, at pg. 14.

⁶⁰ See, PosiGen October 15, 2019 Comments at pg. 7.

capacity credit is based on actual output from the facility. Moreover, MISO is re-evaluating this practice through a Renewable Integration Impact Assessment.

- PosiGen asserts, without **any** evidentiary citation, that “rooftop solar delivers a net positive benefit to the grid” and that “[it] has been largely assumed that customers with solar are subsidized by customers without solar but this is not born [sic] out by the facts.”⁶¹ While it may be that PosiGen and other solar providers have largely assumed this to be the case, numerous, independent studies have confirmed that solar customers receiving a 1:1 full retail credit under net energy metering are in fact shifting costs to non-participating customers.⁶²
- PosiGen and the AAE both assert that solar installations purchased by individual customers do not cost “ratepayers” anything and provide benefits to all customers. The studies cited in the above footnote demonstrate otherwise. Moreover, the Council noted in Council Resolution No. R-18-538, while summarizing a net metering investigation the Council conducted, “ENO submitted evidence, demonstrating to the Advisors’ satisfaction, that non-NEM customers were subsidizing NEM customers.”⁶³
- The AAE and PosiGen both **invent** numbers that they claim to represent the costs of ENO’s rooftop solar pilot and extrapolate slipshod “analyses” based on their fabrications.
- PosiGen claims that “The Louisiana Home Energy Affordability Gap reported that more than 19,500 New Orleans families spent a shocking 28% of their income on their electric bills in 2018, a grave and unrelenting humanitarian crisis.” It is unfortunate that PosiGen resorts to histrionic rhetoric that invokes, and arguably minimizes, the circumstances faced by people in the many war-torn and extremely impoverished parts

⁶¹ See, PosiGen October 15, 2019 Comments at pgs. 6 and 7.

⁶² 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.

⁶³ See, R-18-538 at pg. 40 (emphasis added).

of the world to bolster its agenda related to electric service in New Orleans. Further, it is unclear, based on PosiGen's filing, what this report is, what data it is based on, or who produced it. This lack of clarity exists because PosiGen includes no linked source for this assertion, or any other claims made in their filing.

- Multiple EFNO members have asserted, as discussed above, that the Google Project Sunroof tool can serve as a valid basis for estimating solar capacity and insist that their assertions should be treated as valid analyses, unless affirmatively disproven by ENO.

When parties make unsubstantiated assertions and ENO is forced to spend time and resources demonstrating the falsities and fallacies inherent in such assertions, ENO incurs unnecessary costs that ultimately are borne by customers. ENO understands that the Advisors would like ENO to provide analyses in opposition to the unworkable proposals from EFNO,⁶⁴ and it has done so, but ENO's customers should not have to bear the cost of disproving every allegation made by every intervenor in Council proceedings or the cost of providing analyses about the harms or rate impact of proposals that are untenable on their face and have not been supported by evidence or analyses. Instead, these parties should bear the same evidentiary burden, and be subjected to the same rigorous scrutiny, that is applied to ENO. If their proposals are not supported by regulatory-grade analyses when submitted to the Council, they should be dismissed out of hand. By applying this principle, the Council can ensure that ENO's customers will no longer foot the bill for the work required to debunk unfounded assertions.

Similarly, ENO's customers should not bear the cost of analyses that intervenors demand, but which those intervenors cannot, or are unwilling to, produce on their own, or at their own cost. EFNO members have called for additional analyses to be conducted in ENO's next IRP, and possibly other proceedings, to further evaluate the proposals they have failed to substantiate with analyses in this proceeding. Devoting more time and resources to "modeling" unworkable proposals is not the purpose of an IRP, nor is it a good use of finite resources.⁶⁵ By applying and enforcing evidentiary burdens in an even-handed manner, the Council can reduce the cost of regulation borne by ENO's customers.

VI. Miscellaneous Issues from the October 15 Comments.

Air Products proposes a few edits and additions to the Advisors' Alternative 2 in its Comments. On the subject of reporting, they propose that ENO make a pair of filings each year on April 1 (annual report for prior calendar year) and June 1 (prospective compliance plan for next calendar year) that would be the subjects of docketed, litigated proceedings. As discussed in the Company's October 2019 Comments, it would be preferable and more efficient to align the prospective compliance plans with the triennial IRP process rather than requiring annual plans. Air Products makes several other suggestions regarding cost recovery and enforcement that would require further discussion among the parties. As ENO noted in its October 15, 2019 Comments and discusses above, ENO believes further procedural steps to define enforcement, compliance,

⁶⁴ See, Advisors' Report at pg. 41.

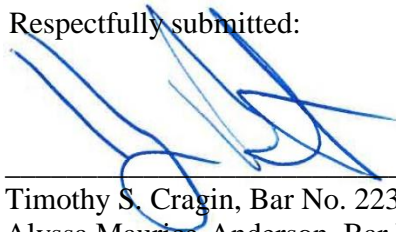
⁶⁵ Apparently, these parties have no issue using "ratepayer dollars" when it comes to footing the bill for regulatory expenses, they only oppose the use of such funding for capital investments by ENO.

and administrative details will be necessary after the Council takes an interim action to determine what policy the RPS or CES will be designed to pursue, *i.e.*, combatting climate change or providing economic subsidies to regional solar installation companies.

VII. Conclusion.

ENO believes that the evidentiary record in this proceeding is more than sufficiently developed to allow for the Council to issue a Resolution that will (i) confirm that its policy goals are fighting climate change by reducing carbon emissions, while keeping rates low and preserving reliability, (ii) clarify that it will use a technology-neutral approach for doing so, (iii) determine that a near-term target of 70% carbon-free electricity for New Orleans by 2030 is appropriate, (iv) lay out the procedural steps necessary for refining the enforcement mechanisms for this target, and (v) direct that the next IRP cycle include a scenario for modeling a path towards achieving net-zero carbon emissions by 2050. ENO also believes the record would support a Council decision (i) rejecting the R-RPS, (ii) confirming that a 100% renewable mandate is not the Council’s desired outcome, and (iii) finding that providing economic subsidies to a company located in Jefferson Parish, Louisiana is not an appropriate use of a Council proceeding or funds recovered through rates paid by Orleans Parish electric customers. Past experience with EFNO members indicates that they will not accept such Council determinations as final and will continue to pursue the R-RPS and the new retail open access proposal indefinitely through media outlets and all other channels available to them. However, a decision from the Council that unequivocally rejects these unsubstantiated, unsupported, and inevitably disastrous policy proposals now would mean that ENO’s customers would not have to foot the bill for the continued regulatory efforts undertaken to protect them from the consequences of further considering, much less actually adopting, these ill-founded ideas.

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CERTIFICATE OF SERVICE

Docket No. UD-19-01

I hereby certify that I have served the required number of copies of the foregoing report upon all other known parties of this proceeding, by the following: electronic mail, facsimile, overnight mail, hand delivery, and/or United States Postal Service, postage prepaid.

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