

**RESOLUTION
NO. R-19-206**

CITY HALL: May 23, 2019

**BY: COUNCILMEMBERS MORENO, WILLIAMS, GIARRUSSO, BANKS AND
BROSSETT**

**IN RE: ESTABLISHING A DOCKET AND OPENING A RULEMAKING
PROCEEDING TO CONSIDER REVISING THE COUNCIL'S RULES TO
ALLOW RELEASE OF WHOLE-BUILDING DATA TO BUILDING OWNERS
RESOLUTION AND ORDER ADOPTING SETTLEMENT AGREEMENT**

DOCKET NO. UD-18-04

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans ("Charter"), the Council of the City of New Orleans ("Council") is the governmental body with the power of supervision, regulation, and control over public utilities providing service within the City of New Orleans; and

WHEREAS, pursuant to its powers of supervision, regulation and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities, and making all necessary rules and regulations for the fixing and changing of rates and charges of public utilities; and

WHEREAS, in Council Resolution No. R-17-428, the Council expressed its support for the City's goal to reduce overall greenhouse gas emissions dramatically by 2030 and directed the Utility Advisors and the Council Utility and Regulatory Office ("CURO") to work with the Administration; and

WHEREAS, in that Resolution, the Council also committed that as each proposal for a specific action affected by the Climate Action Strategy that requires Council approval comes forward, the Utility, Cable, Telecommunications, and Technology Committee ("UCTTC") shall

open an appropriate docket to provide a full and transparent process, open to all stakeholders, to examine the proposed action and develop a supportable regulatory strategy and administrative record upon which to base Council action; and

WHEREAS, the Council was aware of efforts by the Administration's Office of Resilience and Sustainability ("ORS") to implement programs designed to encourage commercial building owners to benchmark their energy usage data in order to calculate the value of making energy efficiency improvement to their buildings. In discussions with ORS, ORS indicated to the Council's Advisors that the Council's restrictions preventing ENO from releasing whole-building data to building owners for buildings with multiple meters without first obtaining the consent of each tenant creates a time-consuming obstacle for building owners seeking such data for benchmarking purposes; and

WHEREAS, in Council Resolution No. R-18-225, the Council opened this rulemaking to consider whether the issue of whether the Council's regulations should be modified such that aggregated whole-building data could be released to building owners where a building has four or more meters and also sought comment on any feasibility or logistical issues associated with aggregating and releasing such data to building owners; and

WHEREAS, comments and reply comments were filed in this proceeding by ENO, the Alliance for Affordable Energy ("AAE"), and the Natural Resources Defense Council ("NRDC"). Joint comments were filed by a coalition of The National Housing Trust, Stewards of Affordable Housing for the Future, and the Renaissance Neighborhood Development Corporation (collectively, the "Affordable Housing Intervenors"), and the Advisors submitted an Advisors Report with recommendations upon the review of the parties' comments; and

WHEREAS, during these discussions ENO indicated to the parties and in its filings to the Council that after full Advanced Meter Infrastructure (“AMI”) meter roll out was complete, ENO would be able to provide this data at a much lower cost than providing it prior to full AMI roll out; and

WHEREAS, subsequently, in Resolution No. R-18-539, the Council revised its Customer Service Regulations to permit the release of aggregated whole-building energy use data to building owners under certain, specified conditions, and required ENO to provide such data upon request pursuant to a Council-approved process post AMI roll out; and

WHEREAS, Resolution No. R-18-539 also authorized ENO to proceed with building internal software to aggregate the data and transmit it to Portfolio Manager at an anticipated cost of \$25,000 plus labor. The Resolution also required ENO to file for Council review and approval its draft processes for building owners to request data, and for ENO to verify building owner identity, to verify meters on each building, to notify customers/tenants in each building, and for customers/tenants to challenge the release of aggregated whole building data; and

WHEREAS, the Council also directed ENO to file further information regarding the costs and benefits anticipated to ratepayers by releasing such data to a limited number of building owners prior to complete AMI roll out; and

WHEREAS, the Council also requested that Intervenors file any information in their possession regarding the number and size of buildings to be included in a pre-AMI roll out “interim” solution, and instructed the Advisors to convene teleconferences among the parties to discuss possible interim solutions; and

WHEREAS, subsequent to the adoption of Resolution No. R-18-539, the parties continued to discuss possible interim solutions to allow building owners to receive data prior to full AMI roll out and ENO continued to work to develop a possible interim solution; and

WHEREAS, on February 18, 2019, ENO submitted its *Comments Regarding Draft Processes for the Release of Whole Building Aggregated Data* (“Comments”), in which ENO proposed: (1) the process by which the owner of the building will request data from ENO; (2) the process ENO will follow for verifying the building owner’s identity; (3) the process ENO will use to verify the meters attached to the owner’s building; (4) the process ENO will use to notify customers whose data is being aggregated and released; (5) the process for a tenant to challenge the release of the data; and (6) the process by which ENO will provide aggregated data to building owners; and

WHEREAS, in its Comments, ENO proposed that it post an application form on its website for building owners to fill out and submit through the website to ENO to request aggregated whole-building energy use data from ENO for their building. The application form would request the name and email address of the owner; the name and email address of the owner’s designee (optional); the address of the building; and the number of meters attached to the building; and

WHEREAS, in its Comments, ENO also proposed that once an application is submitted, ENO will access the Orleans Parish Assessor’s website to verify the building owner’s identity, and if the owner listed on the Assessor’s website does not match the owner listed on the application, ENO will use the contact information for the owner listed on the application to resolve any issues; and

WHEREAS, in its Comments, ENO proposes that after it has verified the building's owner, and that the request meets the requirements established by the Council for disclosure of aggregated usage data, ENO will verify the meter numbers listed on the application form through use of its internal Automated Route Control System ("ARCS"), which is software that records the readings of meters in a sequential manner and records the address, building or tenant name, and proximity of the time stamps on the meter readings. If the list of meters provided by the owner and the list of meters determined to be in the building by use of the ARCS system do not match, ENO will contact the owner to try to reconcile the discrepancy; and

WHEREAS, in its Comments, ENO also proposes the procedure it will use to notify customers that their data will be aggregated and provided to the building owner or building owner's designee. ENO proposes a customer notification letter detailing the purpose for the release of the data, the process of the data aggregation and transmission, and the process for challenging the appropriateness of the release of the data to the name and address associated with the meter number; and

WHEREAS, ENO also proposes a process for the tenant to challenge the release of their data to the building owner. ENO proposes that its notification letter inform tenants that they have 14 days from receipt of the letter to notify the Council Utilities Regulatory Office ("CURO") of their intent to challenge the release of the data. CURO would then instruct ENO to hold release of the data until such time as customer challenges have been resolved. If the release of the data is successfully challenged by a tenant, and it is determined by CURO that the data should not be released, CURO will notify ENO, which will, in turn, decline to provide the data. If the tenant's challenge is unsuccessful, then upon notification from CURO, ENO will move forward with preparing the data for release; and

WHEREAS, in its Comments, ENO also proposed the process by which ENO will provide the aggregated data to building owners. ENO states that it will request that owners or their designees establish a Portfolio Manager account, and then grant ENO access to the account. Then, after all of the requirements to receive the data have been met, ENO will input the aggregated data directly into Portfolio Manager and owners and designees will be able to retrieve the data from their Portfolio Manager account; and

WHEREAS, ENO also informed the Council in its Comments that it was investigating the possibility of developing an innovative automated process to handle the majority of the processes for both pre-AMI and post-AMI deployment; and

WHEREAS, ENO also informed the Council in its Comments that it was contemplating incorporating a role for an Energy Advisor; and

WHEREAS, on April 10, 2019, ENO submitted to the Council a *Stipulated Settlement Term Sheet* (“Settlement”) indicating that ENO, the Council’s Utility Advisors (“Advisors”), the Alliance for Affordable Energy, National Housing Trust, the Greater New Orleans Housing Alliance and the Natural Resource Defense Council (“Settling Parties”) had agreed to settle and resolve the matter and that all remaining intervenors either support or do not oppose the Settlement; and

WHEREAS, the Settlement noted that the parties had been discussing two potential options as possible interim solutions. The first would have Green Coast Enterprises, currently a contractor in the Energy Smart program that has been performing benchmarking analysis for a number of years, work with APTIM Environmental, the current Energy Smart Program Third Party Administrator, to perform (1) engagement and initial account set-up; (2) building energy benchmarking; (3) building performance analysis and reporting; (4) opportunity identification;

and (5) Energy Smart application support for a cost of between \$136,620 for 100 buildings and \$1,030,725 for 800 buildings. The second option discussed by the parties, an automated solutions option, would have ENO design, develop, and implement an automated process to handle such processes as (1) verification of the owner of the building; (2) verification of the meters attached to the building; (3) aggregation of the data; and (4) transmission of the data to Portfolio Manager. ENO estimated that this would be less costly than the Green Coast option, costing an estimated \$50,000; and

WHEREAS, the Settlement indicates that the parties also had no objection to Green Coast fulfilling an Energy Advisor role performing the building performance analysis and reporting, opportunity identification, and Energy Smart application support at a cost of approximately \$600 per building for up to 100 buildings; and

WHEREAS, the Settlement indicates that the Settling Parties recommend that the Council issue a decision containing the following findings:

- a. The development and implementation of ENO's automated process solution at the estimated cost of \$50,000, including ongoing maintenance and support for 2020-2023, is in the public interest at this time.
- b. ENO should move forward with implementation of draft processes as proposed in its February 18, 2019 filing; and

WHEREAS, the Settlement also indicates that the Settling Parties recommend that the Council issue a decision to add Green Coast as an Energy Advisor, as described in the Settlement, in the automated process solution to provide aggregated whole building data to multitenant building owners; and

WHEREAS, finally, the Settlement also indicates that the Settling Parties recommend that the Council find that:

- a. Incremental costs associated with (i) the implementation of draft processes as proposed in ENO's February 18, 2019 filing; (ii) the development of the automated solution as described above, and (iii) the addition of Green Coast as an Energy Advisor, which are incurred after the rate effective date of the 2018 Combined Rate Case, shall be eligible for recovery through whichever funding mechanism the Council approves for recovery of future Energy Smart costs in the 2018 Combined Rate Case.¹
- b. For such incremental costs described above that are incurred prior to the rate effective date of the 2018 Combined Rate Case, ENO is authorized to use existing funding dedicated to Energy Smart Program Year 9 to recover such costs.

WHEREAS, the Council, noting that all parties are either party to, support, or do not oppose the Settlement, finds that the recommendations contained in the Settlement would bring the benefit of building owners being able to access whole building energy use data for their buildings to assist in identifying and implementing appropriate energy efficiency measures, which is consistent with the Council's longstanding policy of encouraging energy efficiency in the City at a low cost to ratepayers and is therefore, in the public interest; and

WHEREAS, the Council is pleased that the parties to this case continued to work productively with one another until a reasonable solution was reached for the interim period; now, therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:

1. The Council finds that the development and implementation of ENO's automated process solution at the estimated cost of \$50,000, including ongoing maintenance and support for 2020-2023, is in the public interest at this time.
2. The Council finds that ENO should move forward with implementation of draft processes as proposed in its February 18, 2019 filing.
3. The Council finds that Green Coast should be added as an Energy Advisor, as described in the Settlement, in the automated process solution to provide aggregated whole building data to multitenant building owners.
4. Incremental costs associated with (i) the implementation of draft processes as proposed in ENO's February 18, 2019 filing; (ii) the development of the

¹ The Council observes that the incremental costs of the Whole Building data automated solution should be included in the Energy Smart plan and budget for the prospective program years 10 - 12.

automated solution as described above, and (iii) the addition of Green Coast as an Energy Advisor, which are incurred after the rate effective date of the 2018 Combined Rate Case, shall be eligible for recovery through whichever funding mechanism the Council approves for recovery of future Energy Smart costs in the 2018 Combined Rate Case.²

5. For such incremental costs described above that are incurred prior to the rate effective date of the 2018 Combined Rate Case, ENO is authorized to use existing funding dedicated to Energy Smart Program Year 9 to recover such costs.

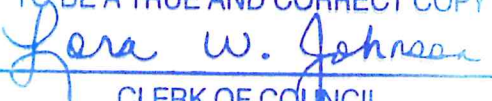
THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS: Banks, Brossett, Gisleson Palmer, Moreno, Williams - 5

NAYS: 0

ABSENT: Giarrusso, Williams - 2

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

CLERK OF COUNCIL

² The Council observes that the incremental costs of the Whole Building data automated solution should be included in the Energy Smart plan and budget for the prospective program years 10 - 12.