



October 17, 2025

Via Electronic Mail

Clerk of Council
Council of the City of New Orleans
Room 1E09, City Hall
1300 Perdido Street
New Orleans, LA 70112
Clerkofcouncil@nola.gov

Re: Resolution and Order Establishing a New Docket and Procedural Schedule to Revise Chapter 158 of the Code of Ordinances (UD-25-01)

Dear Clerk:

Please find enclosed the Alliance for Affordable Energy's comments related to the above captioned docket. Please file the attached communication and this letter into the record. The Alliance submits this letter electronically and will submit the requisite original and number of hard copies as you direct.

Thank you for your time and attention,
Sincerely,

A handwritten signature in black ink, reading "Logan Atkinson Burke". The signature is written in a cursive style and is positioned above a horizontal line.

Logan Atkinson Burke
Executive Director
Alliance for Affordable Energy

Before
The Council of the City of New Orleans

**In Re: RESOLUTION AND ORDER
ESTABLISHING A NEW DOCKET
AND PROCEDURAL SCHEDULE
TO REVISE CHAPTER 158
OF THE CODE OF ORDINANCES**

DOCKET NO. UD-25-01

OCTOBER 17, 2025

**MEMORANDUM OF THE ALLIANCE FOR AFFORDABLE ENERGY ON PROPOSED
REVISIONS TO CHAPTER 158 OF THE CODE OF ORDINANCES AND TO THE
UTILITIES REGULATORY MANUAL**

I. INTRODUCTION

On July 24, 2025, the New Orleans City Council (“the Council”) adopted Resolution No. R-25-407, establishing the instant docket and providing for intervenors to submit redline revisions to Chapter 158 of the Code of Ordinances and to the Utilities Regulatory Manual (“URM”). The Alliance for Affordable Energy (“AAE”) submits the following memorandum in support of its proposed revisions to Chapter 158 and to the URM, attached hereto as Attachments A and B, respectively:

II. PROPOSED REVISIONS TO CHAPTER 158

A. The Council should declare utility access a fundamental human right.

New Orleans has experienced the worst effects of a climate that is warming due to greenhouse gas emissions, including increasing days of deadly heat.¹ In this environment, access to vital utilities such as electricity are more crucial than ever, yet nearly 1 out of every 5 households in New Orleans faces the possibility of disconnection each year due to inability to pay ENO’s rising bills.² The Council should approach utility access as an issue of fundamental

¹ https://www.nola.com/news/lethal-heat-louisiana/collection_2369e269-8598-4175-940e-ccc1e544e8dd.html

² <https://lailuminator.com/2023/09/24/new-orleans-shutoffs/>

human rights, acknowledging the critical role that utility access plays in contemporary life, and this understanding should color the Council's approach to utility regulation. Accordingly, AAE has proposed amending the Bill of Rights under Sec. 158-8 to include a declaration that residential utility access is a fundamental human right.

The Council would not be alone in taking this step, as a call is growing nationally for such a declaration.³ The Council could and should be among the first regulatory bodies to take this important step in protecting the most vulnerable among us.

B. The Council should end residential disconnections due to inability to pay.

Chapter 158 of the Code of Ordinances governs utility regulatory proceedings and customer protections. AAE's proposed revisions are intended to maximize ratepayer rights and the accountability and transparency of utilities.

As the Alliance has noted in previous dockets, including UD-23-02, past experience has taught us that access to electricity service is a life or death matter for many in our community. The intensity, frequency, and variety of climate disasters we are experiencing – including more days of extreme heat and cold – are all increasing, and a piecemeal approach to prohibiting residential service disconnections will inevitably allow vulnerable ratepayers to be disconnected in between declared emergencies or states of extreme weather, only to be left without vital services during the next emergency. Accordingly, AAE's proposed revisions to Chapter 158 would eliminate residential disconnections due to inability to pay and all provisions that reference that practice.

Alternatively, should the Council deem a total prohibition on residential service

³ <https://tlaib.house.gov/posts/tlaib-bush-bowman-reintroduce-resolution-recognizing-the-human-rights-to-utilities>;
See also: <https://www.nclc.org/resources/implementing-a-roadmap-to-utility-service-as-a-human-right/>

disconnections too broad in scope, the Alliance would suggest a **three-year moratorium** on residential service disconnections while Entergy works to increase resilience under docket UD-21-03 and to improve reliability under docket UD-17-04. Another alternative would be seasonal moratoria for summer and winter, beginning on each respective solstice and ending on the next equinox. Should the council decline any of these proposals, AAE's redlines to Chapter 158, Article II, Section 158-8, (j) should not be construed as a suggestion that current protections should be eliminated.

C. The customer dispute process can be further streamlined.

The current customer dispute process under Chapter 158 is inadequate to address consumer frustrations because it still requires the customer to await receipt of a letter of disposition of a complaint from the utility before the customer can proceed to file an appeal with the Council Utilities Regulatory Office ("CURO"). Customers who are faced with potential late fees and disconnection for failing to pay inflated and disputed bills must be allowed to prosecute their claims urgently. The requirement to await receipt of a formal disposition from the utility leaves the customer with no recourse if the utility is nonresponsive to the initial complaint. Thus, AAE has proposed revisions that would alleviate the requirement of a formal disposition in the event that the utility is not responsive.

Furthermore, under Sec. 158-14 pertaining to failure to attend a hearing concerning a customer dispute, AAE would propose to change the discretionary language allowing the hearing officer to find in favor of the complainant should the utility not appear at the hearing to a *mandatory* finding in favor of the complainant.

D. Ratepayers should have the right to representation in regulatory proceedings or to compensation for reasonable costs of intervention.

In 1978, the United States Congress Passed the Public Utility Regulatory Policies Act (“PURPA”), and included retail regulatory policies for electric utilities for the purpose of achieving 1) conservation of energy supplied by electric utilities; 2) optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers. 16 U.S. Code § 2611.

Section 122 of PURPA provides for individuals or organizations who would not otherwise be adequately represented to receive fair compensation for their useful intervention in a regulatory proceeding. 16 U.S. Code § 2632. Since PURPA’s adoption in 1978, most states have created either 1) an office of people’s counsel, a ratepayer funded advocate, or some other entity to specifically represent the interests of residential customers, or 2) guidelines by which such an intervenor may request remuneration for substantial contribution to the final regulatory decision. The New Orleans City Council has never created a statutorily recognized or funded residential public advocate, the state Attorney General’s office has categorically declined to represent utility ratepayers in Louisiana, and there are presently no guidelines for any organization to request and receive reasonable compensation for intervention on behalf of ratepayers. At least thirteen states have approved some kind of intervenor funding mechanism when an alternative means does not exist.⁴

⁴ IDAHO CODE § 61-617A (1992); Idaho Fair Share v. Public Util. Comm'n, 751 P.2d 107 (Idaho 1988); Northern Ind. Pub. Serv. Co. v. Citizens Action Coalition of Ind., Inc., 548 N.E.2d 153 (Ind. 1989); ME. REV. STAT. ANN. § 1310 (1992); MICH. COMP. LAWS §§ 460.6(1), (i) (1990); MINN. STAT. ANN. § 216B.16(10) (West, 1992), § 237.075(10) (1984); N.H. CODE ADMIN. R. PUC 205; Rodriguez, 506 N.Y.S.2d 888; OKLA. STAT. tit. 17, § 34.1 (1981); Public Serv. Co. of Okla., 688 P.2d at 1274; Utah State Coalition of Senior Citizens, 776 P.2d at 632 (in absence of public-utility commission procedures, action for fees must be brought in state court, not before public utility commission, but court found all but one precondition for fees met by intervenors); and Wis. STAT. ANN. § 196.31 (West 1992), Wis. ADMIN. CODE §§ PSC 3.01 *et seq.*

Delta Utilities (“Delta”) and ENO have vast resources with which to advance their interests, however, this is not true for most residents of New Orleans. The Council has the authority to create a pathway for New Orleans low-income residential customers to be thoroughly represented in ratemaking and other regulatory proceedings, and should include residential ratepayer representation and intervenor compensation as an enumerated right under the Customer Bill of Rights.

E. Confidentiality protections should extend only to those categories of protected materials are those designated explicitly in the council’s protective order.

The Council should disallow any designation of materials as highly sensitive protected materials (“HSPM”) beyond the categories designated explicitly by the Council’s standing protective order. For instance, under docket UD-24-01, pertaining to the sale this year of ENO’s gas distribution system to Delta, Delta created, of its own volition and without prior Council approval, an entirely new category of protected materials it called “HSPM-CS”, copies of which it would provide only to the Council’s advisors.

As regulator, the Council, not regulated utilities, must have ultimate authority to determine the parameters of confidentiality in regulatory proceedings. The default should be toward open access to information and transparency, and any confidentiality designations must receive prior Council approval.

F. Council’s authority to regulate telecommunications is not reflected.

AAE notes that Article I, Division I, Section 158-1 states that for the “purpose of this chapter, the term “utilities” refers to electric and natural gas service providers.” However, the Council’s authority extends to telecommunications companies servicing customers in Orleans

Parish. AAE asserts that, barring a legal reason for excluding such companies, this purpose should include telecommunications providers.

G. Ex Parte Communications

The Alliance strongly recommends that the council's ex-parte rules should not be changed from the existing rules, which allow vital communication between parties and Council members or staff. In the proposed language, which refers only to "staff", and does not distinguish between council's internal staff, Council Utility Regulatory Office staff, or outside consulting advisors who operate as staff in proceedings. This would make negotiations or discussions about open proceedings impermissible between operational parties of the proceedings.

II. PROPOSED REVISIONS TO THE UTILITIES REGULATORY MANUAL

AAE has no recommended revisions to the Utilities Regulatory Manual at this time, but reserves the right to provide further proposals in response to other parties.

III. CONCLUSION

AAE appreciates this opportunity to propose revisions to Chapter 158 and the URM in the best interest of New Orleans ratepayers. The Council has the authority and responsibility to ensure that ratepayers receive the service and protections they deserve from monopoly utilities, and we urge you to do so with boldness and urgency.

Submitted respectfully,

Logan Burke
Executive Director
Alliance for Affordable Energy

Before
The Council of the City of New Orleans

**In Re: RESOLUTION AND ORDER
ESTABLISHING A NEW DOCKET
AND PROCEDURAL SCHEDULE
TO REVISE CHAPTER 158
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2025**

DOCKET NO. UD-25-01

OCTOBER 17,

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of October 2025, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.



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ATTACHMENT A

Article I. - In General

Division I. — Generally

Sec. 158-1. -Purpose. The purpose of this Chapter is to establish an efficient and uniform system by which the New Orleans city council (“council”) may institute, oversee, and/or participate in any proceeding affecting the council’s supervision, regulation, and control over utilities or that affect the interests of ratepayers in the city of New Orleans. For the purpose of this chapter, the term “utilities” refers to electric and natural gas service providers.

Sec. 158.2. -Amendments to this chapter. Any amendments to this chapter may be conducted pursuant to Sec. 3-114 of the Home Rule Charter.

Sec. 158-3. -Utility regulatory manual. The council shall adopt by resolution the Utility Regulatory Manual (“URM”) in connection with this chapter. The purpose of the URM is to provide a single common reference document to provide detailed rules, procedures, descriptions, and specifications for filing requirements and procedures related to this chapter. A copy of the URM shall be made available on the council’s website. The URM may be amended by resolution of the council.

Sec. 158-4. - Utility designated representative. Each owner or operator of a utility regulated by the council shall designate and maintain the designation of a natural person responsible for the performance of acts required under this chapter including notice of service in other forums. The utility shall file notice of the original designation and of any changes to the designation with the clerk of council with copy to the Council Utilities Regulatory Office (“CURO”) within two business days of the designation. Such designation shall be signed by both the designee and a registered officer of the utility. **CURO will maintain a published list of these designees on the council’s website.**

Sec. 158-5. – Successor entities. Should an entity cease to exist, responsibilities under this article shall be assumed by the entity’s successor or functional successor under applicable law and/or practice.

Sec. 158-6. – Computing time. Unless otherwise stated in this chapter, the URM, or ordered by the council, the Louisiana Code of Civil Procedure shall determine the amount of time allowed or prescribed.

- (a) In computing time allowed or prescribed, the period of time shall begin the day after a filing is received by the service list or the day after an instrument is adopted by the council.

(b) A holiday is any day on which city hall is closed to the public. In computing time, holidays and weekends are to be included in the computation of time, except when:

- (1) It is expressly excluded,
- (2) It would otherwise be the last day of the period, or
- (3) The period is less than seven (7) days.

In the event time allowed or prescribed falls on a weekend or holiday, the deadline for action shall move the next day on which city hall is open to the public.

Article II. — Customer Protections

Sec. 158-7. - Purpose. The purpose of this article is to establish a customer bill of rights which includes a process for addressing certain customer complaints filed against utilities providing utility services to in the city.

Sec. 158-8. – Bill of Rights. Among the rights that are more fully set forth in the council-approved customer service regulations governing the provision of utility services in New Orleans, customers shall have the following rights:

- (a) For residential customers, access to utility services is considered a fundamental human right.
- (b) The right to safe and reliable service in accordance with industry standards and those set by the council.
- (c) For residential customers, the right to choose to pay a deposit, obtain a satisfactory credit score in lieu of a deposit, or otherwise demonstrate the ability to pay on a nondiscriminatory basis. For commercial and industrial customers, the right to choose to pay a deposit or to obtain an irrevocable bank letter of credit or surety bond from a bank or surety company acceptable to the utility.
- (d) The right to earn interest on any deposit at a rate ordered from time to time by the council.
- (e) For residential customers, the right to have any deposit returned after 24 months if the customer has paid ~~its~~ their bills on time for the preceding 12 months or, at any time, if customer discontinues receiving service from the utility and does not have an outstanding balance with the utility.
- (f) Upon discontinuing utility service, the right to have their deposit returned less any outstanding balance.
- (g) The right to have a deposit requirement waived if an existing customer with no outstanding balance transfers service to a new location within the city.

- (h) The right to have **individual** customer information, including payment history and consumption patterns, kept confidential, unless the customer provides written consent or voluntarily discloses the information to the public.
- (i) The right to receive written notice from the utility at least ~~five (5)~~ **ten (10)** business days prior to the disconnection of service due to nonpayment. During the ~~five~~ **ten**-day period, the customer may either make payment or request alternate payment arrangements to avoid disconnection.
- (j) The right not to have **residential** service disconnected ~~except by request for non-payment when:~~
 - ~~(1) the low temperature for the day is forecast to remain below 40 degrees Fahrenheit or the following night is forecast to be 32 degrees F or lower; or~~
 - ~~(2) the high temperature for a day is forecast to reach 100 degrees F or higher; or~~
 - ~~(3) the National Weather Service issues an “Excessive Heat Warning” (or such other term that reflects a heat index of 105 degrees F or higher) that includes Orleans Parish. (For any day during which an excessive heat warning is issued, the utility is prohibited from reinstating normal disconnect policies for the remainder of the day); or~~
 - ~~(4) a storm or weather event affecting any portion of the city for which: the president of the United States issues an emergency or major disaster declaration, or declares the city as a Federal Disaster Area, or makes a similar declaration affecting the city, or the mayor of New Orleans or governor of Louisiana, declares a state of emergency for all or part of the city, issues a disaster or emergency declaration, declares a state of emergency, or makes a similar declaration for Orleans Parish. In the event a state of emergency is declared, the utility shall not resume service disconnects for nonpayment until the day after an emergency declaration expires.~~
- ~~(j) The right to have a special medical designation which prohibits service from being disconnected for nonpayment for 30 days if customer is on life support or has another life-sustaining medical treatment system that requires electricity or natural gas. The customer has the right and obligation to provide each affected utility with written medical certification from a licensed physician as to the customer's condition to receive this special designation.~~
- ~~(k) The right not to have service disconnected on a weekend, holiday, day before a holiday, or Friday after 1:00 p.m.~~

- (l) The right to have same-day service for reconnection provided payment is received by the utility or one of its authorized pay centers before 7:00 p.m. on the day of the requested reconnection.
- (m) The right to have a meter that is regularly maintained and accurate. The maintenance and accuracy of a meter is the responsibility of the utility.
- (n) The right to have the utility test the customer's meter as provided for in the customer service regulations.
- (o) The right to be charged only for actual usage of electricity and natural gas and in accordance with rate schedules approved by the council based on an accurate metering process consistent with prudent utility practices as defined in the customer service regulations.
- (p) The right to have complaints regarding meter accuracy resolved ~~promptly prior to disconnection~~ provided that the customer pays the amount currently chargeable for monthly or seasonal periods (as appropriate) at customer's level of usage for the corresponding monthly or seasonal periods during the prior year, or, in the event such usage data is not available, the average usage for the customer class for the corresponding monthly or seasonal periods while the complaint is pending under Division II, unless the customer and the utility mutually agree to an alternative payment arrangement.
- (q) The right not to have late fees charged on the portion of a bill that is the subject of a complaint as provided for in the customer service regulations.
- (r) The right to participate in the customer complaint and dispute resolution process set forth herein.
- (s) ~~The right to representation in, or to reasonable compensation for costs and fees associated with intervening in, regulatory proceedings before the council.~~

Division II. — Customer Complaints

Sec. 158-9. – Purpose. The purpose of this division is to set forth a procedure to address certain customer complaints regarding utility service. The process described herein is intended to be easy, inexpensive, and result in an independent, neutral assessment of whether there has been a violation of the customer bill of rights or service regulations by the utility.

Sec. 158-10. – Applicability. The customer complaint resolution process established in this division is applicable to complaints between a customer and a utility where the subject of the complaint is under the jurisdiction of the council. The subject of complaints reviewed under this article include, but are not limited to the following:

- (a) ~~inaccurate bills,~~

- (b) violation of the council-approved customer service regulations,
- (c) violation of the customer bill of rights enumerated in Sec. 158-8,
- (d) inaccurately reading a customer's meter, the failure of a meter to correctly record consumption within the range of accuracy established in the customer service regulations due to mechanical damage or defect, failure to manually read customer's meter after receiving communication of that damage or defect, and failure to properly record a meter reading,
- (e) misapplication of credit scoring procedures and information,
- (f) failure to keep scheduled appointments with the customer or their representative,
- (g) unauthorized release of confidential customer information, payment history, or consumption patterns, and
- (h) unresolved property loss claim resulting from a loss of service or defect in service.

Please note that certain issues are more appropriately resolved in other forums, either by the council itself, judicially, or in another proceeding designed specifically for their resolution.

Sec. 158-11. - Complaint process.

- (a) Summary of Customer Complaint Resolution Process. The customer complaint and dispute resolution process begins with the filing of an initial complaint with the utility. If a customer is dissatisfied with the results of the utility's investigation, the customer may request an appeal with CURO. CURO shall review appeal applications for eligibility and dismiss those ineligible pursuant to this division. All eligible appeals will be reviewed by CURO or a third-party appeal officer who will issue a final decision on the appeal.
- (b) Submission of Initial Complaint. Customers must submit all complaints directly to the utility prior to filing an appeal with CURO.
 - (1) ~~In the event the initial complaint involves the potential disconnection of a customer's service the customer must file the initial complaint no later than one (1) business day prior to the scheduled date for service disconnection.~~
 - (2) If the subject of an initial complaint is the accuracy of a bill, the utility shall not disconnect the customer's service for nonpayment ~~provided that the customer pays the average bill amount or another amount agreed to by the utility and the customer as described in Sec. 158-8.~~
- (c) Form of Initial Complaint. Although there is no specific requirement for the form of an initial complaint, a customer should provide the utility with a detailed description of the

problem and all the necessary facts giving rise to the problem. In receiving the complaint, the utility shall obtain the following information from the customer or their designee:

- (1) the name of the customer and claimant and the preferred means of contact, i.e. via telephone, text message, and/or e-mail, during normal business hours,
- (2) the claimant's mailing address and, if different, the service address,
- (3) the account number,
- (4) the date of the circumstances from which the initial complaint arose,
- (5) a brief description of the circumstances surrounding the complaint,
- (6) a copy of any correspondence between the claimant and the utility regarding the matter,
- (7) the date on which the utility has scheduled a service disconnect, if applicable, and
- (8) the relief sought.

This information shall be specifically included by the utility in any written disposition provided to the claimant at the conclusion of the initial complaint process.

- (d) Method of complaint submission. A claimant shall submit an initial complaint to the utility in writing to the utility's customer care center, website, or other means provided in the utility's service regulations or verbal communication with a utility representative at the utility's customer care center, customer service call center, or other means provided in the utility's customer service regulations. The utility shall maintain a log of all customer complaints, assign a reference number to each complaint, and provide the reference number to the customer.
- (e) Initial complaint disposition and relief. The utility is required to notify the claimant of the results of an investigation, an explanation for why relief was granted or denied, and how the relief amount was determined ("disposition"). Unless the claimant agrees to receive communications related to their complaint electronically or telephonically, the utility shall notify the customer in writing by mail to claimant's address via certified mail. In addition to the disposition, the utility shall notify the claimant of their right to appeal the utility's disposition of the initial complaint through CURO and provide a copy of the council-approved customer bill of rights.
- (f) Initial complaint investigations
 - (1) Within two business days of receiving an initial complaint, the utility shall assign an investigator to review the complaint.
 - (2) The assigned investigator shall contact the claimant in accordance with the claimant's preferred means of contact no later than one business day after the investigator is assigned the complaint.

- a. For all complaints, the investigator shall provide the claimant with a reference number for the initial complaint, the investigator's contact information, and a means by which the claimant may submit related documentation that supports the complaint. Additionally, for property loss claims, the adjuster shall provide the claimant with a proof of damage form to complete, any other forms required by the utility's service regulations, and a means by which the claimant may submit related documentation that supports the damage claim.
- (3) The investigator shall attempt to contact the claimant at least twice. Each attempt shall be no less than 24 hours apart. After each unsuccessful attempt, the investigator shall provide their name, the name of the utility, a brief description of the matter, and a contact number. If the investigator is unable to reach the claimant, or the claimant does not respond within three business days of the second attempt, the utility shall provide a written communication to the claimant including the dates and method of attempted communication and the contact information to address their complaint.
 - (4) All complaints shall be deemed resolved if the claimant does not contact the investigator within seven (7) business days of receiving the written communication from the utility.
 - (5) Property loss claims resulting from loss of service or defective service. If the investigator finds the claimant is entitled to compensation, the utility may request additional routine documentation, including receipts and/or a qualified technician's report including photographs verifying inspection and identifying the scope of the damage(s). If the investigator finds the claimant is not entitled to compensation, the utility shall conduct a supervisory review of the adjuster's decision in accordance with the provisions of the customer service regulations regarding customer complaints.

(g) Complaint disposition.

- a. If no site visit is required to investigate the complaint, the utility shall issue an investigation disposition within seven business days speaking with the complainant, not to exceed 12 business days from receipt of initial complaint.
- b. If a site visit is required to investigate the complaint, the investigator will coordinate with the claimant to schedule a time for the site visit. The site visit should occur within 14 business days of the claimant's response to the investigator. The utility shall send the disposition to the claimant no more than ten business days after the site visit not to exceed 36 business days from receipt of initial complaint.

- c. Complaint disposition and right to appeal. In the complaint disposition, the utility shall state clearly that an appeal must be filed within ten business days of the date the claimant receives the disposition of the complaint. The disposition shall include the rationale upon which the utility based its decision. The date provided on a return receipt from the United States Postal Service or a read receipt for electronic mail, shall be used as the date on which the claimant received the disposition and the date for establishing any appeal deadlines.

Sec. 158-12. - Appeals filed with the Council Utilities Regulatory Office.

- (a) Right to appeal. A customer may appeal the outcome of an initial complaint by submitting an appeal request form electronically or in writing within ten business days of the date the claimant receives a notice of disposition **or at any time during the complaint process if the utility is not responsive**. The form for filing an appeal shall be made available online via the council's website, at the council utilities regulatory office, and all customer care centers.
- (b) Appeal form. The appeal request form shall include:
 - (1) a written acknowledgement by the customer authorizing the utility to release any confidential customer information germane to the complaint to CURO and the appeal officer ,
 - (2) a clear statement of the dispute and, if known, identification of the customer service regulation(s) the customer alleges the utility has violated,
 - (3) a simple statement of the relief sought; and
 - (4) any other supplemental appropriate information the customer believes is relevant to the dispute.
- (c) Determination of eligibility. CURO has five business days to review the appeal request for eligibility and to assign an appeal officer to oversee the appeal.
- (d) Notice of appeal. Within five business days of determining an appeal is eligible for review pursuant to this article, CURO shall advise the affected utility an eligible appeal has been submitted provide a copy to the utility's designee(s).
- (e) Utility answer. Within five business days of receiving the notice of appeal, the utility shall respond to CURO with any reports produced by the utility in connection with any investigation of the complaint, a copy of the complaint disposition, its position with respect to the allegations contained in the complaint, and any grounds that exist which constitute the grounds for the immediate dismissal of the appeal.
- (f) Appeal officer.

- (1) Appeals shall be heard by an appeal officer who may be an employee of CURO or a designee of the council. The appeal officer shall review the appeal request and related materials and arrange for a hearing, if necessary. The appeal officer shall make a finding as to whether the utility has violated the customer service regulations, including any of the customer's enumerated rights and, if necessary, recommend an appropriate remedy.
- (2) The appeal officer shall have the authority to resolve appeals through settlement on terms that are mutually agreeable to all parties. Such settlements are encouraged and can occur at any time.
- (3) The appeal officer shall also have the authority to dismiss summarily, and without hearing, appeal requests that are deemed frivolous or that are otherwise ineligible for hearing as set forth in Sec. 158-16. Where eligibility for hearing is raised by the utility as an issue, the determination of whether an appeal request is eligible for hearing shall be made by the appeal officer and a decision on the eligibility for hearing shall be made and issued within five business days of CURO issuing a notice of appeal.
- (4) Where appropriate, the appeal officer may request technical assistance from the council's utility advisors.

Sec. 158-13. - Timing and notice of appeal hearing. Unless otherwise ordered by the appeal officer, hearings shall be held within 30 business days of CURO receiving the appeal. The appeal officer shall notify the claimant of the date of the hearing to the customer and the utility. The notice shall state the potential consequences of any failure to appear for the hearing. Notice shall be given via the claimant's preferred method of communication as provided on the complaint form, at least five business days prior to the hearing date, unless the parties agree to a shorter period. The hearing shall be held 9:00 a.m. to 5:00 p.m. on a business day at a location in the city or virtually, if both the claimant and utility consent.

Sec. 158-14. - Failure to attend hearing. If the claimant does not attend a hearing, the appeal officer may dismiss the complaint. If the utility fails to attend the hearing, the appeal officer ~~shall~~ find in favor of the customer.

Sec. 158-15. – Appeal hearing procedure. Claimants may represent themselves or be represented by counsel or any other person of their choosing. A claimant and the utility shall have the right to present evidence, call witnesses, question any witness, and present written materials and a summary of their positions. The appeal officer shall have the right to question any witness. The appeal officer shall have the discretion to limit any line of questioning to the relevant issues in dispute and to set an amount of time for the utility and the claimant to summarize their positions. The formal rules of evidence shall not apply; however, the appeal officer may exclude irrelevant or unduly repetitious evidence.

Sec. 158-16. - Restriction on appeal. Grounds upon which CURO will dismiss an appeal include, but are not limited to:

- (a) The customer did not initiate a complaint that follows the procedures required for initial complaints as provided for in Sec. 158-11.
- (b) The customer is disputing:
 - (1) the terms or denial of a deferred payment agreement voluntarily offered to the customer by the utility,
 - (2) the customer's financial ability to pay for utility services provided by the respective utility,
 - (3) a council-approved rate schedule, fuel adjustment clause, or purchased gas adjustment clause,
 - (4) an unlawful use of service, damage to utility equipment, unauthorized sale of utility service, or related violation of law,
 - (5) the right of the utility to collect for undercharged costs or charges assessed for an unlawful use of service, or for damage to utility equipment,
 - (6) the appeal request involves customer consumption and
 - A. as part of the initial complaint process, the customer's meter has been tested and has been determined to be accurate or
 - B. the customer has refused a meter test on the basis that they, in accordance with the service regulations, may be required to bear the cost of such test if the meter is found to be accurate,
 - (7) the denial or termination of utility service at issue was based on a danger to public health or safety,
 - (8) a matter subject to a court's decision, or
 - (9) the application or amount of a security deposit, provided that the security deposit amount is in accordance with the customer service regulations.

Sec. 158-17. – Results of an appeal.

- (a) Within 15 business days after the hearing or review period concludes, the appeal officer shall issue written findings which set forth whether the utility has violated the customer service regulations or the customer's enumerated rights, the basis for that conclusion, a remedy, or the terms of any settlement reached between the claimant and the utility while the appeal was under review.

- (b) If a settlement is agreed to by the utility and claimant, the appeal officer shall indicate that the dispute was resolved without hearing and the claimant's right to hearing and the appeal officer's finding was waived.
- (c) In appeals involving a billing dispute in which the appeal officer determines that all or part of the amount in dispute is owed by the customer, the appeal officer may, for good cause stated in the finding, propose that the amount found outstanding be paid in installments, which installments over a period not to exceed 12 months.
- (d) In appeals involving a billing dispute in which the appeal officer determines that all or part of the amount in dispute is owed by the utility, the appeal officer may, for good cause stated in the finding, propose a credit be applied to the customer's next bill. If the credit amount exceeds the next monthly bill amount, the remainder of the credit shall be applied for the subsequent month(s) until the credit is exhausted.
- (e) In appeals involving property loss claims in which the appeal officer determines that the utility is responsible for damage to the customer's property, the utility must reimburse the claimant for the cost to repair or replace the damaged property, or the utility must replace the damaged property, **and for the reasonable expenses of prosecuting the claim**. If the utility replaces the damaged property, replacement property must be of same or similar quality as approved by the customer.
- (f) Copies of the appeal officer's decision and the executed settlement agreement shall be sent to the claimant, the utility, and CURO.

Sec. 158-18. - Effect of appeal officer's decision. The appeal officer's decision shall be binding. Following the issuance of the appeal officer's decision, the utility and claimant may exercise any other rights or remedies they may have under the law.

Article III - Rules of Practice and Procedure for Regulatory Proceedings

Sec. 158- 19. - Purpose. The purpose of this article is to establish a system of practices and procedures to govern utility dockets and other proceedings before the council related to the regulation of utilities beyond the complaints covered by section 158-10. These rules govern the general practice and procedure for the institution, conduct, and determination of regulatory proceedings before the council. It is intended that such practices and procedures shall be construed liberally to permit the council to perform a thorough analysis of all filings and shall be construed to promote the maximum public disclosure of all information relevant to any proceeding governed by this article. Information is subject to a valid protective order governing the disclosure of highly sensitive protected materials ("HSPM") approved by the council. **The only categories of protected materials are those designated explicitly in the council's protective order.**

Division I—General Rules

Sec. 158-20. Administrative hearing officer.

- (a) The council may appoint an administrative hearing officer to conduct all or any portion of a regulatory proceeding. The administrative hearing officer shall have full authority to make all rulings on jurisdiction or the admissibility of evidence, subject to the right of all parties to include in the record any objection to such ruling and subject to review by the council.
- (b) If the administrative hearing officer becomes disabled, withdraws, is removed from employment, or from the regulatory proceeding at any time before the conclusion of the discharge of his duties, the council may appoint another such administrative hearing officer who may perform any function remaining to be performed without the necessity of repeating any proceedings theretofore had in the case. If the entire council is acting as examiner, then the presence of a quorum shall be sufficient to continue hearings into purely factual matters.

Sec. 158-21. Conduct and decorum. Every party, witness, attorney or other representative, and member of the public shall participate in all proceedings with proper dignity, courtesy and respect for the council, the clerk, and all other parties present. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys by the Louisiana State Bar Association, the Louisiana Supreme Court, and the Code of Civil Procedure. Violation of this rule may subject any party, witness, attorney, or other representative to just, reasonable, and lawful disciplinary action as the council may lawfully prescribe including, but not limited to, exclusion from any proceeding.

Sec. 158-22. - Penalties for false or misleading representations. It shall be unlawful for any person to make, or cause to be made, any false or misleading representations of fact, whether intentionally or through negligence, in any filing in a regulatory proceeding under this article or in any proceeding before the council. Demonstrated violation of this section may result in a monetary penalty being assessed by the council on the offending party or parties.

Sec. 158-23. - Ex-parte communications **prohibited.** ~~While a matter is the subject of a utility docket under this article, ex-parte communications between the council and parties to the utility docket regarding any aspect of the subject utility docket are strictly prohibited. An ex-parte communication is any message or statement to a councilmember or staff member serving in an individual councilmember's office, transmitted outside of an electronic communication to the docket's service list, and includes information pertaining to a utility docket on which the council has not issued a final order.~~ During the pendency of a proceeding under this article, no party of record shall engage in any ex-parte written communications with regard to any matter pending, with any councilmember or designated agency of the council. Any written communication related to active utility dockets must be submitted electronically to the appropriate service list or during the appropriate public meeting or technical conference to maintain transparency and fairness in the regulatory process. Ex-parte communication by a party may result in penalties as determined by

the council or the administrative hearing officer including disqualification of the communication and changes to the procedural schedule to allow parties to provide comment on the prohibited communication.

Sec. 158-24. - General communications. Any comments, letters, or filings that are not part of a utility docket shall be treated as general communication, unless otherwise ordered by the council or the administrative hearing officer.

Division II – Utility Dockets

Sec. 158-25. – Establishing a utility docket. A utility docket may be established by the council via a resolution in response to a request from a utility, a third-party, a governmental department, agency, or office (“applicant”), or as an independent action taken by the council. Whenever a utility docket is instituted, the initiating resolution shall assign a number to the utility docket, which shall consist of the letters "UD" followed by the last two numerals of the year in which the proceeding is instituted, followed by a hyphen and the number indicating the place the particular matter holds in the sequence of utility dockets instituted in that particular year, e.g., UD-25-01. Further, the initiating resolution shall assign an administrative hearing officer and establish a procedural schedule with deadlines by which participants must act.

Sec. 158-26. Show cause orders and contempt in regulatory proceedings.

- (a) The council, either on its own motion or upon receipt of sufficient written complaints, may, in its sound discretion, at any time after legal notice to all interested parties, cite any person operating under its jurisdiction to appear before it in a public hearing and require him or it to show cause why his or its franchise or operating authority should not be revoked, suspended or amended, or why some other action available to the council be taken, for failure to comply with any applicable statute, order or the rules, rates, regulations or general order of the council.
- (b) All hearings of such proceedings shall be conducted in accordance with the provisions of this article; provided that in any proceeding wherein the public interest may be seriously and adversely affected, or service to the public discontinued, the council may issue on its own motion a restraining order for purpose of protecting the public interest until the matter may be orderly heard and a decision rendered thereon.

Sec. 158-27. - Filings.

- (a) All applications, petitions, complaints, motions, protests, replies, answers, notices, and other pleadings (referred to herein collectively as “filings”) relating to any proceeding pending before the council under this article, shall be transmitted electronically to the clerk of council with a cover letter as provided for by council rules with copy to the service list.

All such filings shall be deemed filed only when submitted with a cover letter to the clerk and service list for the relevant utility docket in accordance with council rules.

- (b) In the event a filing relates to an undocketed matter, the party should submit the filing electronically to the clerk as provided in the council's rules with copy to CURO.
- (c) Filings related to undocketed regulatory matters shall be received by the council as a general communication.

Sec. 158-28. - Archives. The clerk shall keep electronic copies of documents filed in proceedings governed under this article filed and organized according to the docket number, if applicable, and in accordance with title 44 of Louisiana Revised Statutes, or its successor statute governing public records.

Sec. 158-29. - Service list. A service list, including all participants in a utility docket, shall be maintained by CURO. When making a filing the submitting party must provide an electronic copy to each member of the most current service list. A party requesting a change to the service list must submit the request in writing to CURO.

(a) Classification of participants.

- (1) Participants in a regulatory proceeding are subject to classification or reclassification as a party or a stakeholder by CURO, regardless of errors in a party's self-designation in their filing.
- (2) Parties. A party to a utility docket is a participant with a justiciable or administratively cognitive interest in the matter at issue in the docket. Parties may request to participate in a utility docket by submitting a motion to intervene which includes the party's interest in the docket's subject matter and otherwise meets the requirements set forth in Sec. 158-28. The following entities are parties to every utility docket unless otherwise ordered by the council:
 - a. the utilities
 - b. the city attorney
 - c. the applicant
 - d. a designee of the mayor, whose name and contact information shall be submitted electronically to CURO.

All parties are subject to discovery and any testimony or evidence submitted by the party or their representative is subject to cross examination.

- (3) The council, as regulator, may designate legal or technical advisor(s), or otherwise necessary agent, to participate in utility dockets and to represent its interest as the utility regulatory body.

- (4) Stakeholders. A stakeholder to utility docket is an entity desiring to receive information filed in the docket but does not wish to be treated as a party or does not have a justiciable or administratively cognitive interest in the matter at issue in the utility docket. As such, a stakeholder may not submit evidence or testimony nor are they subject to discovery requests. Further, a stakeholder may not view highly sensitive protected materials. A stakeholder may request to be included on the service list for a utility docket by submitting a motion to intervene which denotes that the entity wishes to participate as a stakeholder and otherwise meets the requirements set forth in Sec. 158-31.

Sec. 158-30. - Appearances personally or by representative. Any party may appear on their own or through a representative. The party's intervention shall identify the designated representative and a statement signed by the representative and the represented person or a registered agent of the represented organization.

Sec. 158-31. Form and content of filings.

- (a) Classification of filings. Filings submitted to the council under this article shall be subject to appropriate re-classification, including as applications, protests, petitions, complaints, answers, prehearing orders, replies, or motions, and redesignation to the appropriate docket(s) as deemed necessary by CURO.
- (b) Format. All filings in any proceeding shall, unless the council otherwise orders or permits, be double spaced, typed, and submitted electronically. Except as otherwise ordered or permitted by the council, all filings shall be formatted so as not to exceed a width of 8½ inches and a length of 14 inches and shall have inside margins not less than one inch wide. Whenever practical, all documentary exhibits shall conform to such requirements of size and margin. All filings shall contain the address and telephone number of the party submitting the document. If a party is represented by an attorney or other representative, the filing shall also include the name, business address and telephone number of such attorney or other representative. Attorneys shall also attach their state bar association number. A private or United States Post Office Box or drawer shall not constitute a sufficient address for the purposes of this section.
- (c) Subject matter. The subject matter of all filings in any proceeding shall be limited to the scope of that proceeding. Any filing may be amended at any time upon motion, provided that the amendment does not broaden the scope of the subject filing.
- (d) Content. All filings shall contain:
- (1) a cover letter to the clerk as provided in the Council Rules,
 - (2) the docket number, if applicable,
 - (3) the name(s) of the filing party,

- (4) a concise description of the ultimate facts relied upon by the filing party,
 - (5) a concise description of the type of relief, action or order desired by the filing party, and
 - (6) a copy of the most recent service list and a certificate of service on each party on the list.
- (e) Incorporation by reference of council records. Any filing may adopt and incorporate any part of any document or entry in the official files and council records by clear and specific reference to the document to be incorporated. The incorporated document must be readily available for review. This provision shall not relieve any party of the necessity of alleging and providing in detail such facts as the council may deem necessary for the proper determination of a regulatory matter.
- (f) Examination of filings for compliance. Upon submitting a filing to the clerk of council, as provided in Sec. 158-27, CURO shall examine the filing and determine if it complies with this article. If the filing does not comply with this article, CURO may return it to the party, with the reason(s) the filing was rejected. The party shall thereafter have the right to submit a corrected filing, provided that the time required to correct the filing does not result in the corrected filing being submitted after the deadline. If the time required to correct a filing would result in its submission after the deadline, the administrative hearing officer may determine that such delay is necessary to prevent injustice or to protect the public interest and welfare. Failure of CURO to return a filing shall not constitute a waiver by the council or any other party to object at a later time to the sufficiency of the filing.

Sec. 158-32. - Procedural schedule filing deadlines.

- (a) Any filings related to an ongoing utility docket submitted after a procedural schedule deadline may be accepted or rejected subject to the discretion of the administrative hearing officer. Any filing rejected by the hearing officer shall be treated as a general communication and not included as part of the record.
- (b) Unless otherwise provided, the time for submitting a filing, may be extended by order of the administrative hearing officer upon written motion duly filed with the clerk of council prior to the expiration of the applicable period of time for the filing, showing that there is good cause for such extension of time and that the need therefor is not caused by the inexcusable neglect, indifference, or lack of diligence of the party making such motion. A copy of any such motion shall be transmitted contemporaneously to all other parties of record to the proceeding and any additional recipients of service specifically designated by law.

Division III - Administrative Proceedings.

Sec. 158-33. – Discovery.

- (a) Unless otherwise directed by the council or agreed to by the parties to the relevant proceeding, responses to data requests, interrogatories, requests for production of documents, or any other discovery requests (“discovery”) shall be made on a rolling basis and shall be due in hand within ten (10) business days of receipt of a discovery request. Discovery requests shall be deemed received when transmitted by the requestor during hours of operation of the clerk.
- (b) Any party of record shall avail himself of any discovery method authorized by the Louisiana Code of Civil Procedure.
- (c) All objections to discovery requests shall be made in writing prior to the date on which a response is due. The hearing officer shall dismiss any objection made on or after the date on which a response is due unless sustaining the objection is necessary to prevent injustice or to protect the public interest and welfare.
- (d) The council may publish general instructions for the production of responses to discovery requests in the URM.

Sec. 158-34. – Evidence.

- (a) Admissibility. Any evidence which would be admissible under the general statutes of the state, or under the rules of evidence governing proceedings in matters not involving a trial by jury in the courts of the state, shall be admissible. Other evidence may be admitted by the council or the hearing officer if it is at all probative and relevant provided that the substantive rights of all parties are protected. The rules of evidence shall be applied liberally in any proceeding to the end that all probative and competent relevant evidence shall be conveniently, inexpensively, and speedily heard while preserving the substantive rights of the parties to the proceeding.
- (b) Testimony. In all proceedings, testimony of a witness upon direct examination shall be prepared under oath and submitted in the following manner:
 - (1) Accompanied by a sworn attestation.
 - (2) Providing the identity of the witness, including name, business or personal address, place of employment and position held, reason for appearing, educational background, professional background and qualifications.
 - (3) Stating the purpose of the testimony and a summary of the conclusions in the testimony.
 - (4) In question-and-answer form, or upon written request and subject to approval by the hearing officer, presented in narrative form, using clear headers, which identify sections by subject matter.

Testifying witnesses shall be subject to cross-examination and the testimony may be subject to a motion to strike in whole or in part for ruling by the hearing officer.

(c) Exhibits.

(1) Form. Exhibits in documentary form shall be submitted electronically and attached to a brief statement of what the exhibit purports to show. Exhibits shall be limited to factual material relevant to the issue involved in a particular proceeding.

(2) Service. All exhibits shall be provided to the service list electronically as described in Sec. 158-29.

(3) Excluded exhibits. If an exhibit has been submitted, objected to and excluded, the hearing officer shall determine whether the party offering the exhibit will withdraw the offer, and if so, permit the return of the exhibit to the party. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification and shall be included in the record as a proffer, together with the ruling of the hearing officer for the purpose of preserving the objection.

(4) After hearing. Unless specifically directed by the council, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing.

(d) Briefs. Briefs shall be filed only when requested or permitted by the council or by the hearing officer in a proceeding. They shall conform, as near as possible, to the rules herein provided for form. The points involved shall be concisely stated, the evidence in support of each point shall be briefly summarized, and the argument and authorities shall be organized and directed to each point in a concise and logical manner. To the greatest extent possible, the general format and content of each brief shall be arranged and shall include such elements as are required by the Rules of the Louisiana Supreme Court.

(e) Offer of proof. If evidence is excluded by the administrative hearing officer, the party offering such evidence may be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed evidence prior to the conclusion of the hearing. Such offer of proof shall be sufficient to preserve the point for review by the council or on appeal. The administrative hearing officer may ask such questions of the party offering the evidence as is necessary to determine that the evidence is as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

(f) Oral argument. Any party may request oral argument at any time prior to the certification of the administrative record, but oral argument shall be allowed only in the sound discretion of the administrative hearing officer or upon the agreement of the parties. A request for oral argument shall be submitted to the service list as described in section 158-26.

- (g) . All rulings and/or orders made by the administrative hearing officer shall be made in writing and dated and signed by the hearing officer. All such rulings and orders shall be distributed to the service list and made a part of the administrative record.
- (h) Reconsideration. In the event a hearing officer denies the admission of evidence, the offering party may request reconsideration. CURO will evaluate the request for reconsideration, the evidence, and the hearing officer’s reasons for the rejection. If CURO finds substantial error of procedure, the evidence shall be deemed admissible subject to objects stated for the record.

Sec. 158-35. - Confidential materials. The council may adopt and from time to time modify protective orders relative to information that is deemed confidential and/or highly sensitive protected material (“HSPM”). The HSPM designation shall be the only confidential designation utilized in any proceeding unless the party requesting multiple designations can show good cause to either the council or the administrative hearing officer **and the council or administrative hearing officer approve such designation. Other parties shall have the right to object to additional designations that would unduly limit access to information and the transparency of regulatory proceedings.**

Sec. 158-36. - Technical conference. In the discretion of the council or the administrative hearing officer, the procedural schedule for a utility docket may include or be amended to include one or more technical conferences. A technical conference is a meeting of the parties to clarify and address the issues included within the scope of the docket. The agenda for a technical conference, including the order of presentations and the time allocated to each matter, shall be determined by CURO. The agenda shall be circulated to the service list no less than 48 hours prior to the technical conference. Materials presented and statements made during a technical conference are illustrative and shall not be included as part of either the evidentiary or administrative records of a docket unless expressly ordered by the council or the hearing officer.

Sec. 158-37. - Depositions. The taking of depositions in any proceeding shall be permitted or directed by the council or the hearing officer provided that the party requesting the deposition can present a sufficient reason as to why the witness’s written testimony is not sufficient. Depositions shall be governed by the Louisiana Code of Civil Procedure.

Sec. 158-38. - Hearings. Whenever possible, and upon agreement of the parties, hearings as part of a utility docket or regulatory proceeding governed by this chapter shall occur as an exchange of documents (“paper hearing”) rather than in-person.

- (a) Prehearing conference. In any regulatory proceeding, the council or the administrative hearing officer may direct parties to meet prior to a scheduled hearing for the purpose of formulating issues and considering:
 - (1) how to simplify issues,

- (2) the possibility of making any admissions or stipulations regarding matters of public record to avoid the unnecessary introduction of proof,
- (3) hearing procedures,
- (4) limiting the number of witnesses,
- (5) time limits for presentations, and
- (6) other matters to simplify the proceedings.

The decisions made by the parties during a prehearing conference shall be reduced to writings and circulated to all parties. Once all parties agree the document reflects the agreement of the parties, the agreement should be presented to the administrative hearing officer.

(b) Place and nature of hearings.

- (1) Open to the public. In the event the council or the administrative hearing officer determine that an in-person hearing is necessary as part of a utility docket or regulatory proceeding governed by this chapter, the hearing shall be open to the public. The hearing shall be held in the council chamber unless the council permits the hearing be held in another location. If the hearing is not held in the council chamber, the space designated should be accessible to the public.
- (2) Recorded. Whenever possible, hearings shall be broadcast on television and made available to stream live online. In the event a hearing cannot be broadcast live or live streamed, CURO shall make every effort to record the hearing and made available for rebroadcast and streaming within 72 hours of the hearing.
- (3) Notice. Hearings shall be noticed as a public meeting as described in state law governing open meetings.
- (4) Reporters and transcripts. In the event the council determines a transcript is necessary, the council may employ transcription services. The transcribing entity will be permitted to create a transcript from a recording of the proceeding if a court reporter or stenographer did not attend the hearing.

(c) Order of procedure. At the start of a hearing the hearing officer shall direct all parties to enter their appearances on the record. The council or administrative hearing officer shall determine at what stage intervenors shall be permitted to offer evidence.

Sec. 158-39. – Evidentiary and administrative records. At the conclusion of every procedural schedule for a utility docket the hearing officer shall certify an evidentiary record and an administrative record of the proceeding. The evidentiary record shall consist of all filings accepted, including but not limited to, all testimony and evidence provided, and shall serve as the basis upon which the council issues any order in the docket proceedings. The administrative record shall consist of all other filings accepted by the hearing officer that do not form a part of the evidence

presented. Public comment provided during a meeting of the council shall not be included as part of the administrative record unless expressly stated in the procedural schedule.

Sec. 158-40. Form and content of orders.

- (a) All orders of the council shall be in writing and adopted by the affirmative vote of all members of the council.
- (b) After an order has been passed, certified copies shall be distributed to the service list as soon as possible.
- (c) The dispositions may be incorporated either in the body of the order or by reference to the official record.
- (d) All orders shall go into effect upon adoption by the council unless otherwise stated.

Sec. 158-41. Agreements to be in writing. No stipulation or agreement between the parties regarding any matter involved in any proceeding before the council under this article, shall be enforced unless it shall have been reduced to writing and signed by the parties or the representatives authorized hereunder to appear for them and approved by the council.

Sec. 158-42. Notice of service of filings in other forums. Whenever the owner or operator of a public utility regulated by the council files, or participates in the preparation of a document, report, or causes a document, report, or application to be filed with a state public service or public utility commission, the Federal Energy Regulatory Commission (“FERC”), the Securities and Exchange Commission of the United States, the Nuclear Regulatory Commission of the United States or any other body, which regulates in whole or part the utility or utility-related activities and operations of utilities, or which regulates in whole or part companies which own or operate such utilities, the owner or operator or such public utility shall, within one day of filing such document, report, or application, electronically submit a copy of such filing and written notice to the clerk with copy to CURO and the council’s utility advisors.

Division IV—Applications for a Change of Rates, Tariffs, or Services.

Subdivision I- In General

Sec. 158-43. - Purpose. Rate cases are proceedings used to address the costs of operating and maintaining a utility system, the allocation of those costs among customer classes, and the recovery of the allocated costs through changes in tariffs and/or rates.

Sec. 158-44. – Applicability. The standard filing requirements shall apply to all utilities under the supervision, regulation and control of the council and to all applications made by them.

Sec. 158-45. - Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliate(s) means any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a utility. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contracts or any other direct or indirect means.

Control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contracts or any other direct or indirect means. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing five percent or more of the aggregate number of the issued and outstanding voting securities of any domestic public utility.

Cost allocation manual means the manual that sets out a utility's costs allocation policies and related procedures and provides an accurate account of the methods used to allocate the utility's investments and expenses, and non-retail sales revenues that flow between the utility and its affiliate(s).

Cost of service means the total cost of providing service to jurisdictional customers, defined by customer class, as determined by a cost-of-service study which allocates the utility's total costs, representing the utility's revenue requirement, to customer classes.

Effective date means the date on which a rate application filed pursuant to this article is proposed to become effective as an approved rate schedule.

Formula rate plan means a procedure by which rate schedules for a utility may be periodically adjusted based on an established evaluation of the utility's current revenue requirement relative to current revenues.

Gross revenue conversion factor means the factor which, when multiplied times a dollar of operating income, yields the amount of revenue needed to produce that dollar of income after allowing for state and federal income tax and revenue tax.

Period I means the most recent 12 consecutive months, or the most recent calendar year, for which actual data is available, the last day of which is no more than nine months prior to the date of the filing of the application.

Period II means the 12 consecutive months immediately following the end of Period I.

Pro-forma adjustments means adjustments made to identify and illustrate the impact of known and measurable changes made to Period I and Period II based upon actual data during the year.

Projections means estimated results of operations based only upon known facts or reasonable assumptions that can be quantified concerning future events.

Rate schedule means a schedule of rates and conditions for a specific classification or for other specific service.

Rate Case means a proceeding related to a change in electric and gas rates, new services, and new rate schedules applicable to electric and gas service.

Tax expansion factor means the value that when multiplied by a specified value for operating income, yields the tax expense correlated to the revenue needed to produce that dollar of operating income.

Test period means a 12-month period consisting of Period I or Period II used to demonstrate the need for additional revenue and to evaluate the effects of the proposed change in rates.

Uniform system of accounts means the uniform system of accounts as promulgated by the FERC as of the date the filing is served.

Working capital means an allowance for cash, materials and supplies, fuel stock, and prepayments.

Sec. 158-46. - Filing of application to change rates or services.

- (a) The filing requirements established in this division shall govern application to change rates or services (“applications”).
- (b) A utility may request to change rates or service by submitting its application electronically to the clerk of council with copy to CURO and in accordance with filing requirements under this article. The application shall include a summary of the utility’s requested change to rates or services, including potential bill impacts for typical usage customers in each rate class.
- (c) All statements, schedules, spreadsheets, and working papers included in the filing and used in support of the application(s), or contained in discovery responses, shall be provided in an operable electronic format, i.e. models and spreadsheets are to be provided with formulae intact and source data included. To the extent electronic data is provided in PDF format, the PDF shall not contain any security settings that limit the usability or the extraction of data.
- (d) Electronic data shall include any work sheets linked to the calculations or any data utilized in the performance of the calculations. The related and relevant data must be provided in a format usable by the council.
- (e) All information required by these standard filing requirements, or any other applicable law, ordinance, or order and/or rule of the council shall be included in and/or attached to the application at the time it is filed and served. The fact that any information or data is required by this article shall not be construed as a statement of or evidence of regulatory policy or as an endorsement of any concept, principle, methodology, or allowance, hitherto, presently, or in the future employed or proposed to be employed in this or any other jurisdiction in the calculation of rate base, rate of return, revenue requirements, rate design, or any other aspect of regulation of rates and services.
- (f) An application for a waiver under Sec. 158-52 shall be included with any application for a change in rates.
- (g) Acceptance of applications.

- (1) Deficient applications. Where deficiencies are noted by the council, its designees, or CURO the filing shall be deemed as accepted on the dates that such deficiencies are cured and approved by the council or when the council has granted a waiver to the standard filing requirements. When filing deficiencies have been noted by the council, its designees, or CURO, and the utility has corrected the deficiencies, the council, its designees, or CURO shall notify the utility at the earliest practicable date that the filing has been accepted.
- (2) Accepted applications. Where no deficiency is noted by the council, its advisors, or CURO, within 14 days of the date the filing is served, the filing shall automatically be deemed as accepted beginning on the 15th day following such date.

Sec. 158-47. - Council review of applications. Upon acceptance, the council shall have 12 months in which to review the filing and to render a determination as to the proper rates to be charged by the utility. If the council has not made this determination by 12 months plus one day after the date of acceptance, the rates as submitted by the utility in the accepted filing shall become effective subject to refund. During the period when the rates are being collected subject to refund, the utility shall keep an accurate account of all amounts received under the increased rates, including:

- (a) the monthly billing determinants of gas, heat, electricity, and power sold and delivered to each purchaser; and
- (b) the amount of revenue collected from each customer class that is in excess of the amount that would have been collected using the rates in effect immediately prior.

If, after the utility has implemented rate relief, the council determines that the utility is entitled to a different amount of relief, the utility shall compute the amount of revenue to be refunded or collected and shall present to the council within 60 days of such council determination a plan to make the customers and the utility whole. The council shall then authorize refunds or surcharges or both so that the level of revenue collected equals that determined by the council to be appropriate. Interest on the revenue to be refunded shall be charged at an average prime rate for each calendar quarter. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest 0.01 percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's Selected Interest Rates (Statistical Release G. 13), for the fourth, third, and second months preceding the first month of the calendar quarter. Interest shall be compounded quarterly. The costs of effecting the refunds shall not be deducted from the amounts refunded.

Subdivision II - Technical Procedure and Requirements

Sec. 158-48. - Filing standards. All applications filed pursuant to this article shall provide the information necessary to permit a thorough analysis of the utility's application. If the utility

believes that additional information is necessary to support its application or is proposing a position that requires a departure from the basic exhibits, the utility shall provide supplemental information as considered necessary. Each utility shall provide the required information on appropriate schedules and provide an index and references to these schedules. Any additional exhibits submitted by the utility shall be clearly identified and filed within the appropriate section as hereinafter established.

Sec. 158-49. - Supplemental information. In addition to the information required by the filing requirements described in Subdivision I, the council has the authority to require supplemental information necessary to fulfill and/or satisfy the purposes of this Article II, as previously set forth. If any supplemental information requests are considered necessary, the utility shall respond to such requests within 30 days after receiving such a written request, or within such additional period as the council, for good cause shown, may allow. Unless otherwise ordered by the council, the filing of supplemental information shall comply with the requirements of Sec. 158-48.

Sec. 158-50. - Work papers. A utility shall submit all work papers related to data which support the test period. The utility shall provide a full explanation of the bases for all adjustments. Upon request by the council's utility advisors or CURO, the utility shall provide a full explanation for any estimates and, if such adjustments or estimates are based on a regularly prepared corporate budget, shall include relevant excerpts from such budget. Where applicable, work papers and documents containing additional explanatory material shall be cut or folded to letter size, shall be assigned page numbers, and shall be marked, organized and indexed according to subject matter, the cost-of-service statements to which they apply, and the witness sponsoring the statement. Said work papers shall be submitted in an electronic format in accordance with the requirements of Sec. 158-48.

Sec. 158-51. - Uniform system of accounts. Where applicable, exhibits, schedules and work papers shall be prepared in accordance with the uniform system of accounts as prescribed by the federal regulatory agency responsible for that type of utility. In the case of electric and gas utilities, the uniform system of accounts used shall be that prescribed by the FERC, or its functional successor in the United States Government, except as otherwise specifically permitted or requested by the council, the council's utility advisors, or CURO.

Sec. 158-52. - Waiver of requirements.

- (a) If any information required by these standard filing requirements cannot be provided or is not applicable to a particular utility, such utility shall submit electronically to the clerk of council, with a copy to CURO, a written application for a waiver of the requirement(s) with which it cannot comply or which is not applicable, at the time of filing the application. The waiver shall include specific reasons for the inapplicability of such information, or the inability of the utility to provide this information and shall be filed in accordance with the requirements of Sec. 158-48.

- (b) The council may approve or deny the request for waiver by resolution. If the council denies the request, the utility shall file the information, which is the subject of the denied waiver request, to the clerk with a copy to CURO within 15 days unless the council designates a longer time.
- (c) If the utility fails to cure the deficiency, which was the subject of a denied waiver application, in the period allowed the application shall be deemed rejected.

Sec. 158-53. - Suspension of filing requirements. In its sound discretion the council may suspend the operation of any provisions of this article or modify them instanter to the extent authorized by law, or after such proceedings and upon such conditions as it finds to be just and practicable, provided that any such suspension and modification shall be consistent with provisions of the home rule charter of the city.

Sec. 158-54. - Public notice.

- (a) When a utility files an application for a change of rates or service, the clerk of council shall publish the summary provided with the application in the official journal. The utility shall pay the cost of publication.
- (b) The utility shall make the application available on the utility's website.
- (c) The provisions of this section are mandatory. Nonetheless, compliance with the provisions of this section by a utility shall not be deemed a procedural prerequisite to the consideration or final disposition of any application filed under this article. No deficiency in the language of any cover sheet, advertisement or summary required by this section shall create a right in favor of any person to delay the progress of any proceeding initiated by an application filed under this article, nor shall any such deficiency create a basis for the invalidation or setting aside of any order issued by the council in order to dispose of the proceeding.

Sec. 158-55. - Technical filing requirements. Each application for a change in rates or service under this division shall satisfy the requirements enumerated in this section. Specifications for these requirements can be found in the URM available on the council's website.

- (a) General utility data:
 - (1) Charter or other business organization document.
 - (2) Most recent balance sheet.
 - (3) Utility property.
 - (4) Retained earnings analysis.
 - (5) Construction program statement.
- (b) Revenue related data.
- (c) Rate-base related data.
- (d) Income statement data.
- (e) Data related to the cost of capital.

- (f) Financial statements and statistical data.
- (g) Data related to cost of service.
- (h) Allocation of affiliate costs.

Subdivision III- Formula Rate Plans.

Sec. 158-55. - Purpose. The formula rate plan (“FRP”) is an intermediary mechanism by which the utility can implement rate adjustments more frequently under council review based on a predetermined formula during the period between utility rate change application filings.

Sec. 158-56. –Formula rate plans.

As part of a general rate case, the council may approve a request from a utility to implement a FRP in connection with setting new rates for the requesting utility. Subject to the council’s approval, a procedure to conduct the FRP shall be included in the utility’s electric or gas formula rate plan rider schedule as applicable.

- (a) Procedural schedule. The procedural schedule governing proceedings related to formula rate plans, including deadlines for filing the evaluation report and proposed rate adjustments and for the review period, shall be determined as part of the rate case and included in the utility’s electric or gas formula rate plan rider schedule approved by the council.
- (b) Procedural schedule amendment. When applicable and for good cause shown and as required by the circumstances of the proceedings, the council or an administrative hearing officer may change or amend the dates established in the schedule set.
- (c) Deficiencies in applications. In the event of one or more disputes regarding deficiencies in an evaluation report, the dispute may be referred to a hearing officer for an administrative hearing and a subsequent decision by the council.

Division V – Generation Resource Programs

Sec. 158-57. – Integrated resource plan. The integrated resource plan (“IRP”) is a triennial process that assesses the energy resources available to meet the electric service needs of the city of New Orleans and ensures that changes in customer demands and environmental conditions are addressed effectively and presented in a final IRP report filed by the utility. The goal of the IRP is to identify the optimal set of resources to meet the current and future electric service needs of the city, at the lowest total cost to customers and utility, in a manner consistent with the public interest and the council’s energy policy goals. The expected combination of costs, reliability, risks, and uncertainty are all considered in this process.

- (a) Procedural Overview. The minimum procedural schedule requirements for an IRP shall be as follows:

- (1) Initiating resolution. The council adopts an initiating resolution outlining the IRP process, intervenor and public participation, policy objectives, procedural schedule, and any other matters deemed necessary by the council. The IRP process shall include an opportunity for intervenors to participate in the concurrent development of inputs and assumptions for the major components of the IRP in collaboration with the utility within the confines of the IRP timeline and procedural schedule.
 - (2) Public Meetings. CURO shall schedule at least three (3) public engagement meetings. The meetings will be advertised at least thirty (30) days prior to the public technical conferences. A description of the meetings to be scheduled are as follows:
 - A. Public meeting 1: An initial meeting that describes the IRP process including the purpose of the IRP and procedural timelines.
 - B. Public meeting 2: The utility presents its IRP as filed.
 - C. Public meeting 3: Dedicated to public comment on the utility's IRP report.
 - (3) Technical Meetings. CURO shall schedule at least four (4) technical meetings in which parties will be able to discuss the major IRP components, including present inputs and assumptions, provide comments, and attempt to reach consensus.
 - (4) Additional information related to this Division is contained in the IRP rules section of the URM.
- (a) Policy objectives for IRP consideration. In addition to the analysis components described above, the IRP incorporates policy objectives as determined by the council including, but not limited to:
- (1) The renewable and clean portfolio standard ("RCPS") program. To pursue reductions to carbon emissions, improve the health and quality of life of the citizens of New Orleans, and to reduce the city's impact on climate change, compliance with the council's RCPS should be incorporated into the planning strategy reflecting known utility regulatory policy goals of the council.
 - (2) Energy Smart Program kW and kWh reduction goals. Upon the conclusion of the utility's IRP report filing, the utility should include, for evaluation by CURO, council advisors, and intervenors, Energy Smart Program goals of increasing the projected annual kWh savings at a rate equal to a percentage of kWh sales and reducing the utility system peak load.

- (3) Transmission and distribution planning. Transmission and distribution planning should be more fully integrated into the IRP process to ensure that transmission and distribution solutions be considered as alternatives to supply-side and demand-side resources are evaluated, and that any reliability concerns and customer-owned distributed energy resources are addressed.
- (4) Optimization software. To ensure that demand-side resources are compared equally with supply-side resources in all IRPs, all supply-side and demand-side resource alternatives should be made available to the utility's select optimization engine concurrently such that the optimization software can choose an optimal combination of resources.

Sec. 158-58. Renewable and Clean Portfolio Standard. The goal of the renewable and clean portfolio standard ("RCPS") as established by the council requires the electric utility to reach "net-zero" emissions in its generation facilities in 2040 and to eliminate the use of all carbon-emitting generation resources by 2050. In addition, RCPS seeks to ensure that the city has a safe and reliable power supply at a reasonable cost while retaining as much flexibility as possible to employ a wide range of currently known and yet to be developed zero carbon-emissions energy technologies.

- (a) Periodic review. The council's RCPS rules and procedures are set forth more fully in the URM and are formulated to ensure that the RCPS continues to meet the council's review process in the RCPS rules at least every five years. Such review shall consider a wide array of relevant factors, including, but not limited to:
 - (1) Progress made toward ultimate and interim goals.
 - (2) Developments in climate science.
 - (3) Impacts on customers.
 - (4) Technological developments, market developments, and progress on actual emissions reductions of the utility's portfolio.

At the conclusion of each such review, the council will decide whether the RCPS remains appropriate for the city or whether it requires modification. Any modification may be made by resolution by the council revising, changing, or updating the RCPS rules to implement the findings and conclusions of the council's periodic review.

Sec. 158-59. Community Solar Program.

- (a) Overview. The council's community solar program ("CSP") provide the method by which subscribing customers may utilize large-scale solar facilities to offset their energy usage. The rules governing CSP are detailed in the URM.
- (b) Policy objectives and enforcement. The CSP is intended to increase subscriber credits and the growth of community solar generation facilities to their approved limit while providing protection for ratepayers from undue burden while considering the stated benefits and costs of community solar.

Division VI—Mergers, Sales, and Acquisitions

Sec. 158-60. -In general. In addition to the rules of practice and procedure for regulatory proceedings set forth in this article, the procedures set out in this division shall apply to proceedings initiated in connection with mergers, sales, and acquisitions of utilities regulated by the council.

Sec. 158-61. - Procedural overview. Each merger, sale, and acquisition shall commence with an initiating resolution establishing the procedural schedule, policy objectives, and any other matters deemed necessary by the council.

Sec. 158-62. - Minimum filing requirements. In determining whether a merger, sale, or acquisition is in the best interest of the ratepayers, the council will review the following and decide based on a set of enumerated factors. As such, in addition to the requirements set forth above in Article II, a utility requesting approval of a merger, sale, or acquisition, shall address each of the elements listed below in its request:

- (a) whether the transfer is in the public interest;
- (b) whether the purchaser is ready, willing, and able to continue providing safe, reliable, and adequate service to the utility's ratepayers;
- (c) whether the transfer will maintain or improve the financial condition of the resulting utility;
- (d) whether the proposed transfer will maintain or improve the quality of service to utility ratepayers;
- (e) whether the transfer will provide net benefits to ratepayers in both the short and long term as well as provide a ratemaking method that will ensure — to the fullest extent possible — that the ratepayers will receive the forecasted short and long term benefit;
- (f) whether the transfer will adversely affect competition;
- (g) whether the transfer will maintain or improve the management of the resulting utility doing business in the city;
- (h) whether the transfer will be fair and reasonable to the affected utility employees;
- (i) whether the transfer would be fair and reasonable to the majority of all affected utility shareholders;
- (j) whether the transfer will be beneficial on an overall basis to city and local economies and to the communities in the area served by the utility ;
- (k) whether the transfer will preserve the jurisdiction of the council and the ability of the council to effectively regulate and audit the utility's operations in the city;

- (l) whether conditions are necessary to prevent adverse consequences which may result from the transfer;
- (m) the history of compliance or noncompliance that the proposed acquiring entity or principals or affiliates have had with regulatory authorities in this city or other jurisdictions;
- (n) whether the acquiring entity, persons, or corporations have the financial ability to operate the utility system and maintain or upgrade the quality of the physical system;
- (o) whether any repairs and/or improvements are required and the ability of the acquiring entity to make those repairs and/or improvements;
- (p) the ability of the acquiring entity to obtain all necessary health, safety and other permits;
- (q) the manner of financing the transfer and any impact that may have on encumbering the assets of the entity and the potential impact on rates; and
- (r) whether there are any conditions which should be attached to the proposed acquisition.