

RECORD OF MINUTES

Colorado 31 Larimer

Poudre Valley Rural Electric Association, Inc.

February 21, 2023

Chair Steven D. Anderson called the meeting to order at 9:00 a.m. Seven of the nine directors were present in the J. Arthur Anderson Room of the Association's headquarters, being Steven D. Anderson, Rick D. Johnson, Thaine J. Michie, Peter C. Hyland, Bryan D. Ehrlich, Sheryl Dryer Henderson, and Jan K. Peterson. Jack R. Schneider and Ronald G. Sutherland were absent. Also attending in person were President and CEO Jeffrey C. Wadsworth; Vice President, CFO and Treasurer Amy Mahon; Vice President, COO John Bowerfind; Vice President, Member and Government Relations Amy Rosier; Vice President, Technology and Energy Resources Josh Noel; and Vice President, Safety and Human Resources Ben Ludington; along with General Legal Counsel Randolph W. Starr and Michael A. Westbrook. Notice of this meeting was issued as required by law and the bylaws.

Agenda Item 1—Call the Meeting to Order: Chair Anderson called the February 21, 2023, Board meeting to order.

Agenda Item 2—Roll Call. Each Board member answered the roll call, and a quorum was present in person. [09:00]

Agenda Item 3—Pledge of Allegiance: Ben Ludington led the Pledge of Allegiance. [09:01]

Agenda Item 4—Additions to Agenda: Additional subject matters were added to the agenda. None. [09:01]

Agenda Item 5—Public Participation: Chair Anderson and President and CEO Wadsworth had received no written comments made by members prior to the meeting. No members or others were present in person. [09:00]

Agenda Item 6—Public Utility Regulatory Policies Act (PURPA) Section 111(D) Hearing: Chair Anderson opened the public hearing on the consideration of Promoting Greater Transportation Electrification and the consideration of Utility Demand Response as required under the amendments made by the Public Utility Regulatory Policy Act by the Infrastructure Investment and Jobs Act. No documents or written testimony had been delivered to the Association prior to the hearing by third parties. No person appeared at this hearing to testify. President and CEO Wadsworth and Staff of the Association presented documents and testimony in support of the Transportation Electrification and the Utility Demand Response provisions of PURPA. Questions posed by Board members to Staff were responded to by Staff members. President Anderson

then closed the hearing. The Board discussed and considered the documents and testimony presented. A motion was made, seconded, and unanimously carried, to adopt the following Resolution:

RESOLUTION

A RESOLUTION OF THE BOARD OF DIRECTORS CONCERNING IMPLEMENTATION OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 BY POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC.

The Board of Directors of Poudre Valley Rural Electric Association, Inc. makes the following findings and resolution regarding the Public Utility Regulatory Policies Act of 1978:

I. Background and Summary of the Federal PURPA Standards.

1.01 The purpose of Title I (“Retail Regulatory Policies for Electric Utilities”) of PURPA, as stated in the 1978 law, was to encourage: (1) conservation of energy supplied by electric utilities, (2) optimal efficiency of electric utility facilities and resources, and (3) equitable rates for electric consumers (PURPA section 101).

1.02 PURPA originally included in Title I six federal standards in Subtitle B (“Standards for Electric Utilities”). The first five of these federal standards concerned customer rate determination and design. They dealt with: (1) cost of service, (2) declining block rates, (3) time-of-day rates, (4) seasonal rates, and (5) interruptible rates. The last federal standard in the 1978 law was (6) load management techniques. All six standards are listed in PURPA section 111(d).

1.03 PURPA stated that “each state regulatory authority [with respect to each electric utility for which it has ratemaking authority] and each nonregulated electric utility shall consider each standard” and then “make a determination concerning whether or not it is appropriate to implement such standard” [PURPA section 111(a)]. State commissions and nonregulated utilities may also consider prior determination on the standards if it complies with the requirement of Title I of PURPA [PURPA section 112(a)].

1.04 PURPA also specifies the “procedural requirements for consideration and determination” that state commissions and utilities are to follow. After “public notice and hearing” a state commission’s or a utility’s determination is to be made “(A) in writing, (B) based upon findings included in such determination and upon the evidence presented at the hearing, and (C) available to the public” [PURPA section 111(b)(1)].

1.05 The Title I requirements apply to utilities with total annual retail sales greater than 500 million kilowatt-hours (kWh, or 500,000 megawatt hours – MWh). Wholesale sales are explicitly excluded from this sales calculation. The baseline year for the retail sales calculation is two years before the year when the standards are being considered.

1.06 The Energy Policy Act of 1992 amended PURPA section 111(d) and added four additional federal standards. Three federal standards were in Title I (“Energy Efficiency”) Subtitle B (“Utilities”) and required state commissions and utilities to consider (standard 7) integrated resource planning, (8) investments in conservation and (9) energy efficiency investment in power generation and supply.

The tenth federal standard was in Title VII (“Electricity”), Subtitle A (“Exempt Wholesale Generators”) of the 1992 Energy Policy Act, and added (10) “consideration of the effects of wholesale power purchases on utility cost of capital; effects of leveraged capital structures on the reliability of wholesale power sellers; and assurance of adequate fuel supplies.”

1.07 There were five additional PURPA standards in the Energy Policy Act of 2005. They were (11) net metering, (12) fuel diversity, (13) fossil fuel generation efficiency (section 1251 of 2005 EPAct), (14) time-based

metering and communications (section 1252) and (15) interconnection standards for distributed resources (section 1254). The Association acted on the Energy Policy Act standards on June 27, 2007; and a copy of the Resolution of the Board of Directors of the Association is attached to this Resolution.

1.08 The President signed the Energy Independence and Security Act of 2007 (“EISA”) into law on December 19, 2007, which is the date of enactment for purposes of the deadlines set by the law. The statute added four new federal standards to PURPA section 111(d) for state commissions and utilities to consider and a fifth “standard” that is not labeled as a PURPA standard but is similar in some respects. The first two PURPA standards in EISA are (16), “Integrated Resource Planning” and (17), “Rate Design Modifications to Promote Energy Efficiency Investments” [Subtitle D, “Energy Efficiency of Public Institutions,” section 532 of EISA, sections 111(d)(16) and (17) of PURPA]. Two additional PURPA 111(d) standards are also in section 1307 of EISA. These are confusingly labeled with the same standard numbers as the section 532 standards. They are labeled as (16) Consideration of Smart Grid Investments and (17) Smart Grid Information. The Association acted on the Energy Policy Act standards on January 27, 2009; and a copy of the Resolution of the Board of Directors of the Association is attached to this Resolution.

1.09 The Biden Administration’s Infrastructure Investment and Jobs Act (IIJA) included, among its many provisions, certain new standards under Section 111(d) of PURPA. These new standards deal with demand response practices and electric vehicle charging programs.

Section 111(a) of PURPA (16 U.S.C. §2621) requires any electric utility (including a Colorado deregulated cooperative) that has total sales of electric energy exceeding 500 million kilowatt hours (500,000 MWh), excluding wholesale sales, to “consider” any such standards and to make a “determination” regarding those standards. Section 111(b) of PURPA provides some guidance to meet the “consideration” requirement:

1. Provide public notice and conduct a hearing;
2. Make a written “determination” supported by written findings based upon evidence presented at the hearing; and
3. Make such determination available to the public. (16 U.S.C. § 2621(b)(1)).

Each utility is free to determine the procedures for such “consideration” and “determination.” (16 U.S.C. § 2621(b)(2)). However, a participant or intervenor in any proceeding respecting the rates of the utility may request, and shall obtain, such consideration and such determination in such rate proceeding. (16 U.S.C. § 2622(a)).

The required “determination” that must be made is “whether or not it is appropriate to implement such standard to carry out the purposes of this chapter.” (16 U.S.C. § 2621(a)). These “purposes” are set forth in Section 101 of PURPA as follows:

“The purposes of this chapter are to encourage:

- (1) conservation of energy supplied by electric utilities;*
- (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and*
- (3) equitable rates to electric consumers.”*

(16 U.S.C. § 2611).

Nothing, however, requires a utility to adopt or implement the standards. (16 U.S.C. § 2621(a) (“Nothing in this subsection prohibits any ... nonregulated electric utility from making any determination that it is not appropriate to implement any such standard”). Moreover, a utility may determine that a standard is appropriate to carry out these purposes but still decline to implement the standard. If so, the utility must state the reasons therefor in writing. (16 U.S.C. § 2621(c)(2)).

1.10 Time Limitations. Each utility must commence “consideration” of the new standards, or set a hearing date for consideration, by November 15, 2022, and must complete its “consideration” and make the required “determination” by November 15, 2023. (16 U.S.C. § 2622(b)(7), (8)). These requirements are not applicable, however, if the state has implemented the standard (or a comparable standard); if the utility has already conducted a hearing to consider implementation of the standard (or a comparable standard); or if the state legislature has voted on the implementation of the standard (or a comparable standard) during the 3-year period ending on November 15, 2021. (16 U.S.C. § 2622(g), (h)). Because Colorado has not implemented or voted on the implementation of such standards, the only exemption that would potentially apply to the new standards is if a cooperative has already conducted a hearing on a comparable standard.

Unless one of the above exceptions applies, there must be a hearing regarding the new PURPA standards, that evidence must be received at such hearing, and that a written determination (including findings based on such evidence) must be conducted. Beyond that, it is up to the individual utility to determine what types of evidence are

to be considered, any limitations on presentations, and other procedural matters. Failure to conduct such a hearing or to decide with factual findings based on evidence may be the subject of a legal challenge by any customer or by the Secretary of the Department of Energy. (16 U.S.C. § 2633(b)).

It should be noted that the new PURPA standards (16 U.S.C. § 2621(d)(20) and (21)) are some-what vague. For example, the demand-response practices standard would require a utility to “promote” the use of demand-response but does not specify what that entails. “Promoting” could include advertising, subsidies, or a host of other actions. Similarly, the electric vehicle charging standard does not specify what “measures” should be considered to “promote” greater electrification of the transportation sector, or what would constitute “affordable and equitable” charging options.

1.11 Action by the Association. A public hearing by Board of Directors will be held for consideration of the new PURPA 111(d) standards on February 21, 2023 at 9:00 a.m. In order to provide the broadest notice of the process, a special link was set up on the Association’s website. While neither EISA nor IIJA mandated a specific procedure to undertake the consideration of the standards, the staff, and Board of Directors provided that a structured process should be implemented in order to assure maximum notice to the Association’s members and the public, along with a procedure to receive, hear and consider all information possible so that the Board could make its determination. Therefore, the public notices set forth certain procedural deadlines established by the Board so that the consideration of the standards could proceed in an orderly fashion. The public notices set forth various dates by which parties may file testimony or other materials for consideration by the Board. An open hearing was conducted by the Board. The purpose of the hearing was for the Board to consider all filed testimony, deliberate and set a date for its consideration of the standards. The President asked for any comments from the public; and no member of the public made any further comment.

II. Findings and Resolution on PURPA Standards.

The Board has considered the standards required by EISA and IIJA, and whether to implement each standard. Subject to the discussion below, we find that the Association currently meets the EISA standards. Following is the Board’s consideration of each of the standards, and the Board’s determination based upon findings included in this determination and upon the evidence presented as to whether the Association meets each of the standards.

2.01 Promoting Greater Transportation Electrification (Sec. 40431)

.01 Based on the evidence adduced, and the following conclusions, we find that the Association already promotes greater transportation electrification, and the Association will continue to implement the Association’s existing programs as well as promote future programs:

- EV Home Charging resulting in increased off-peak charges and rate reductions
- EV Rebates – Residential and Commercial
- Vehicle-to-grid technology for peak reduction and renewable energy alignment
- Commercial EV Fleet charging management to allow for grid flexibility
- Review and future planning for individual feeders’ saturation related to Electric Vehicles and Distributed Energy Resources as they come online

2.02 Utility Demand Response (Sec. 40104)

.01 Based on the evidence adduced, and the following conclusions, we find that the Association already employs a utility demand response program, and the Association will continue to implement the Association’s existing programs as well as promote future programs.

.02 The Association accepts this standard; and, has in fact addressed the Utility Demand Response standard through prior actions consistent with the standard. Following is a summary of the conclusions leading to this finding:

- Rebates for demand response and flexibility programs and installers
- Retail rates that promote demand response
- Energy Audits
- Demand response and flexibility programs related to control of AC and other behind the meter applications

- Implementation of Distributed Energy Resource Management System to all for aggregation of Demand Response and Flexibility programs
- Local microgrids that can also be used for demand curtailment when system conditions arise

SUMMARY, CONCLUSIONS AND RESOLUTION

Based upon the evidence presented, we determine and resolve that the Association has met the standards required by EISA and IIJA. We determine and resolve that the Association has also met the procedural and time requirements of EISA and IIJA for the consideration of its requirements. This document shall constitute a resolution of the Board of Directors with respect to the determination required by EISA.

The Staff of the Association is directed to post this decision on the PURPA page of the Association's website forthwith. In addition, as soon as is practicable, Staff shall forward a copy of this decision to the United States Department of Energy and to the Colorado Public Utilities Commission. Finally, this decision shall be made available to the public. This decision, along with the record, shall be made available to the public in conformance with the Association's records policy. This decision and the entirety of the record concerning this proceeding shall be held by the Association for at least a period of seven years from this date. At that time, the Board of Directors of the Association may consider how to dispose of the record of the proceedings, if at all.

III. Effective Date of Resolution

This Resolution shall be effective as of the date of its adoption.

EXHIBIT 1 TO JANUARY 27, 2009 EISA RESOLUTION

RESOLUTION

**A RESOLUTION OF THE BOARD OF DIRECTORS
CONCERNING IMPLEMENTATION OF THE
PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978
BY POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC.**

WHEREAS, the Public Utilities Regulatory Policies Act of 1978 (“PURPA”) requires unregulated electric utilities with total retail sales of 500 million kilowatt-hours during any calendar year to formally consider and determine the following five ratemaking standards (the “standards”), which were added by the Energy Policy Act of 2005 (“EPAct of 2005”): net metering; fuel sources; fossil fuel generation efficiency; time-based metering and communications; and interconnection; and

WHEREAS, the Association now exceeds the retail sales threshold is therefore subject to PURPA; and

WHEREAS, PURPA requires the Association to consider the standards, after notice and public hearing, and to make a determination in writing whether or not to implement the standards to fulfill the stated purposes of PURPA, which are to encourage: conservation of energy supplied by electric utilities; the optimization of the efficiency of use of facilities and resources by electric utilities; and equitable rates to electric consumers; and

WHEREAS, the Association may determine that it is not appropriate to implement a particular standard and decline to do so as long as it sets forth its reasons in writing; and

WHEREAS, public notice was given, and the Board of Directors of the Association held a public hearing on June 1, 2007, to receive testimony and evidence on implementation of the standards; and

WHEREAS, the Board of Directors of the Association has considered the testimony and documentary evidence and other written comments submitted to the Board of Directors;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC.:

Section 1. That the Board of Directors hereby finds and determines with regard to the PURPA standards that it should adopt the proposals of the Association’s staff presented at the hearing as follows:

Standard 1 – Net metering. This standard requires each electric utility to make available upon request net metering service to any electric consumer that the electric utility serves. The Association has previously implemented this standard. The Association has adopted Tariffs to provide for net metering for certain customers of the Association. For Qualifying Facilities [“QFs”] up to 10 kilowatts of generating capacity the consumer has the ability to generate all the offsetting energy and to feed back any excess energy onto the grid and to “reverse the meter” to reduce the billing on a retail basis. For QFs greater than 10 kilowatts but less than or equal to 25 kilowatts of generation capacity a net billing process is available. For QFs that are greater than 25 kilowatts but less than or equal to 100 kilowatts, then the rate is negotiated based on the QF’s capability of generating on the Association’s peak. For QFs greater than 100 kilowatts of generation capacity, then it is Tri-State’s responsibility to negotiate net metering. In addition, the Colorado legislature has passed and the Governor has signed House Bill 07-1169 that provides that the Association shall implement net metering as provided under the terms of the law. The Association will implement into its Tariffs all necessary and reasonable provisions to implement the law.

Standard 2 – Fuel sources. This standard requires each electric utility to develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies. The Association currently implements this standard through its wholesale provider, Tri-State Generation And Transmission Association, Inc. [“Tri-State”]. Tri-State

reviews its future fuel requirements on an annual, monthly, and daily basis, with fuel requirements driven by the members' loads, scheduled maintenance of generation units, available hydropower and wind resources, fuel price, wholesale market prices, and other factors. Multiple fuels and generation technologies are used to meet the members' loads, including renewable sources. Resources used to serve the members in 2006 included: coal, hydropower, purchases, renewable sources, and natural gas. All resource plans and budgets are approved by the Tri-State Board of Directors, which is comprised of each member's designate. The Association has the opportunity to obtain up to 5% of its power requirements from sources other than Tri-State, and the Association will make available through net metering and distributed generation this opportunity through Tariffs of the Association.

Standard 3 – Fossil fuel generation efficiency. This standard requires each electric utility to develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation. The Association currently implements this standard through its wholesale provider, Tri-State. The Integrated Resource Plan ["IRP"] that is assembled by Tri-State provides information associated with the planning of resource acquisitions to meet future electrical energy needs, including options for increasing efficiency of generation facilities. Multiple efficiency upgrades have been made to the generation facilities over time. Enhancements include efficiency improvements in generation equipment as well as facility support systems. Continued improvement to plant efficiency is one of Tri-State's annual operating goals. As part owner in the Craig generation facility, Tri-State also participates in evaluation of efficiency enhancements at that facility through operating and management oversight committees. All plans for increased efficiency are approved by Tri-State's Board of Directors, either on an individual project basis or as part of the regular budgeting process.

Standard 4 – Time-based metering and communications. This standard requires each electric utility, not later than eighteen months after the date of enactment of EPAct of 2005, to offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The Association has previously determined that it is appropriate to implement this standard and the Association has adopted time-based metering and communications at this time for certain customer classifications. Time based metering for certain customer classifications [such as street lighting and irrigation] is not appropriate for time based metering.

Standard 5 – Interconnection. This standard requires each electric utility to make available, upon request, interconnection service to any electric consumer that the electric utility serves. The Association has created a standard for interconnecting distributed resources with the Association's electric power system. This standard allows for interconnection and outlines the specific requirements and processes to follow. The Association currently implements this standard for all rate classifications.

Section 2. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 27th day of June, 2007.

/s/

Rickey D. Johnson, President

ATTEST:

/s/

Jack Schneider, Secretary

EXHIBIT 2 TO JANUARY 21, 2023 EISA RESOLUTION

RESOLUTION

**A RESOLUTION OF THE BOARD OF DIRECTORS
CONCERNING IMPLEMENTATION OF THE
PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978
BY POUDRE VALLEY RURAL ELECTRIC ASSOCIATION, INC.**

The Board of Directors of Poudre Valley Rural Electric Association, Inc. makes the following findings and resolution regarding the Public Utility Regulatory Policies Act of 1978:

I. Background and Summary of the Federal PURPA Standards.

1.01 The purpose of Title I (“Retail Regulatory Policies for Electric Utilities”) of PURPA, as stated in the 1978 law, was to encourage: (1) conservation of energy supplied by electric utilities, (2) optimal efficiency of electric utility facilities and resources, and (3) equitable rates for electric consumers (PURPA section 101).

1.02 PURPA originally included in Title I six federal standards in Subtitle B (“Standards for Electric Utilities”). The first five of these federal standards concerned customer rate determination and design. They dealt with: (1) cost of service, (2) declining block rates, (3) time-of-day rates, (4) seasonal rates, and (5) interruptible rates. The last federal standard in the 1978 law was (6) load management techniques. All six standards are listed in PURPA section 111(d).

1.03 PURPA stated that “each state regulatory authority [with respect to each electric utility for which it has ratemaking authority] and each nonregulated electric utility shall consider each standard” and then “make a determination concerning whether or not it is appropriate to implement such standard” [PURPA section 111(a)]. State commissions and nonregulated utilities may also take into account prior determination on the standards if it complies with the requirement of Title I of PURPA [PURPA section 112(a)].

1.04 PURPA also specifies the “procedural requirements for consideration and determination” that state commissions and utilities are to follow. After “public notice and hearing” a state commission’s or a utility’s determination is to be made “(A) in writing, (B) based upon findings included in such determination and upon the evidence presented at the hearing, and (C) available to the public” [PURPA section 111(b)(1)].

1.05 The Title I requirements apply to utilities with total annual retail sales greater than 500 million kilowatt-hours (kWh, or 500,000 megawatt hours – MWh). Wholesale sales are explicitly excluded from this sales calculation. The baseline year for the retail sales calculation is two years before the year when the standards are being considered.

1.06 The Energy Policy Act of 1992 amended PURPA section 111(d) and added four additional federal standards. Three federal standards were in Title I (“Energy Efficiency”) Subtitle B (“Utilities”), and required state commissions and utilities to consider (standard 7) integrated resource planning, (8) investments in conservation and (9) energy efficiency investment in power generation and supply.

The tenth federal standard was in Title VII (“Electricity”), Subtitle A (“Exempt Wholesale Generators”) of the 1992 Energy Policy Act, and added (10) “consideration of the effects of wholesale power purchases on utility cost of capital; effects of leveraged capital structures on the reliability of wholesale power sellers; and assurance of adequate fuel supplies.”

1.07 There were five additional PURPA standards in the Energy Policy Act of 2005. They were (11) net metering, (12) fuel diversity, (13) fossil fuel generation efficiency (section 1251 of 2005 EPAAct), (14) time-based metering and communications (section 1252) and (15) interconnection standards for distributed resources (section 1254). The Association took action on the Energy Policy Act standards on June 27, 2007; and a copy of the Resolution of the Board of Directors of the Association is attached to this Resolution.

1.08 The President signed the Energy Independence and Security Act of 2007 (“EISA”) into law on December 19, 2007, which is the date of enactment for purposes of the deadlines set by the law. The statute added four new federal standards to PURPA section 111(d) for state commissions and utilities to consider and a fifth “standard” that is not labeled as a PURPA standard, but is similar in some respects. The first two PURPA standards in EISA are (16), “Integrated Resource Planning” and (17), “Rate Design Modifications to Promote Energy Efficiency Investments” [Subtitle D, “Energy Efficiency of Public Institutions,” section 532 of EISA, sections 111(d)(16) and (17) of PURPA]. Two additional PURPA 111(d) standards are also in section 1307 of EISA. These are confusingly labeled with the same standard numbers as the section 532 standards. They are labeled as (16) Consideration of Smart Grid Investments and (17) Smart Grid Information.

1.09 Time Limitations. For the first two PURPA standards in section 532 of the new 2007 statute, a time limit for how long states and utilities have to begin consideration and make a determination is not specified. Time limits are specified in PURPA section 112; however, this section of PURPA was amended by the Energy Policy Act of 1992 and again in 2005 to refer to specific standards and with two different time limits. The compliance deadlines for the Smart Grid section 1307 standards are specified in the statute [section 1307(b)(1) of EISA, “Time Limitations,” amended section 112(b) of PURPA]. The deadline for compliance is one year after enactment (December 19, 2008). By that date, state commissions and nonregulated utilities are to begin consideration or set a hearing date for consideration. Within two years after enactment (December 19, 2009) state commissions and utilities are to have completed their consideration and made a determination on whether or not to adopt the standards. Unfortunately, the standard numbers referred to in this subsection of the new statute are inconsistent and likely erroneously labeled. EISA’s “Time Limitation” language refers to “the standards established by paragraphs (17) through (18) of section 111(d)” of PURPA [section 1307 (b)(1) of EISA]. If they were labeled sequentially in the statute, these would be labeled as standards (18) and (19) or the subsection would reference all the new 2007 standards (16) through (19). This ambiguity makes it unclear if this time limit refers to just the Smart Grid standards of section 1307, just standard (17) “Smart Grid Information,” both standards labeled as “(17),” or if it refers to all four of the numbered standards. There is no standard labeled as “(18)” anywhere in the statute. It therefore has no corresponding standard or reference to a standard. A plain reading of the section suggests that the time limits only apply to the standard numbers specified in the statute. Therefore, for both standards labeled (17) (“Rate Design Modifications to Promote Energy Efficiency Investments” and “Smart Grid Information”), state commissions and nonregulated utilities have one year after enactment (December 19, 2008) to begin consideration or set a hearing date for consideration and up to two years after enactment (December 19, 2009) to complete their consideration and make a determination on whether or not to adopt the standard. Since no time limit is specified for the standards labeled (16) (“Integrated Resource Planning” and “Consideration of Smart Grid Investments”) and, as noted, PURPA section 112(b) has been amended to refer to specific standards in past legislation, there simply are no time limits specified for the states and utilities to begin consideration and make a determination. The Association has considered all four of the standards in the same time frame since the standards labeled (16) are related to the subsequent standards labeled (17) of the same section of EISA.

1.10 Non-PURPA Standard. The Energy Independence and Security Act of 2007 also added a standalone “standard” that is not an amendment to PURPA. This is in section 374, “Additional Incentives for Recovery, Use, and Prevention of Industrial Waste Energy.” This standard has specific options and implementation procedures that are similar to the PURPA procedures, but not identical. An important difference of note concerning this non-PURPA standard is that this standard does not specify a minimum size of utility over which the standard applies, as does Title I of PURPA (that is, total annual retail sales greater than 500,000 MWh, as discussed in section 2.3 of this manual). This essentially means that it must be considered by state commissions for all their jurisdictional utilities and by all nonregulated utilities. Section 374(a) outlines the consideration of this “standard” and it states, in essence, that within six months of receiving a request from a project sponsor, owner, or operator, a state commission or nonregulated electric utility is to provide public notice and conduct a hearing on the standard and, based on the hearing, consider and make a determination on whether or not to implement the “standard.” The Association will defer consideration of this “standard” until a qualifying request from a project sponsor, owner or operator is received by the Association.

1.11 Action by the Association.

.01 EISA required that the Association undertake the consideration of these standards by December 19, 2008. The Association did so. Staff and the Association’s legal counsel began a review and study of the standards in June 2008. Staff was instructed by the Board to begin work on the consideration for further discussion at the July, 2008 Board meeting; and Staff’s first report and the Board’s first consideration took place at the Board’s July, 2008 meeting.

.02 The Board also reviewed the PURPA consideration process at its August, 2008, September, 2008, October, 2008 and November, 2008 meetings.

.03 In order to provide the broadest notice of the process, a special link was set up on the Association's website on September 10, 2008.

.04 In early October, 2008, a notice of this process was mailed to the entire membership of the Association through the Colorado Country Life Magazine, a monthly publication provided to the membership by the Colorado Rural Electric Association. Additionally a notice of this process was published in the October 10, 2008 Fort Collins, Colorado, Coloradoan newspaper.

.05 While EISA did not mandate a specific procedure to undertake the consideration of the standards, the staff and Board of Directors provided that a structured process should be implemented in order to assure maximum notice to the Association's members and the public, along with a procedure to receive, hear and consider all information possible so that the Board could make its determination. Therefore the public notices set forth certain procedural deadlines established by the Board so that the consideration of the standards could proceed in an orderly fashion.

.06 The public notices set forth various dates by which parties may file testimony or other materials for consideration by the Board. Mr. R. Brad Gaskill, Chief Executive Officer of the Association, Mr. E. James Byrne, Engineering Manager of the Association and Mr. James P. Spiers, Senior Manager Energy Strategies for Tri-State Generation and Transmission Association, Inc. did file testimony and all of that testimony and the exhibits was posted on the Association's website at <http://www.pvrea.com> in the PURPA area of the site on December 10, 2008. No other person filed any written testimony by December 9, 2008, as provided in the rules.

.07 An open hearing was conducted by the Board on December 23, 2008 beginning at 2:00 p.m. at the headquarters of Poudre Valley REA located at 7649 REA Parkway, Fort Collins, CO. The purpose of the hearing was for the Board to consider all filed testimony, deliberate and set a date for its consideration of EISA standards. The President asked for any comments from the public; and no member of the public made any further comment.

II. Findings and Resolution on PURPA Standards.

The Board has considered the standards required by EISA, and whether to implement each standard. Subject to the discussion below, we find that the Association currently meets the EISA standards. Following is the Board's consideration of each of the standards, and the Board's determination based upon findings included in this determination and upon the evidence presented as to whether the Association meets each of the standards.

2.01 Energy Efficiency

.01 E. James Byrne testified that the Association is a distribution cooperative which purchases its entire power and energy requirements from Tri-State Generation and Transmission Association, Inc. ("Tri-State"). Tri-State is responsible for developing an IRP which includes the Association's requirements. Tri-State's most recent IRP includes detailed analyses of eight resource portfolios. The conclusion of the detailed analyses showed that the addition of EE (Energy Efficiency) to a resource portfolio increased the portfolio economics. Jim Spiers testified that Tri-State has acted on the IRP results by adding a number of new EE incentives to its existing programs which were approved at Tri-State's June 2008 Board meeting. All of Tri State's EE programs are available to the Association. They include:

- providing education and training,
- load research,
- field services, such as energy audits and advisory services,
- pilot projects,
- research and development,
- utilizing sophisticated modeling of energy efficiency as a resource,
- providing financial support to buy down the first cost of programs and measures,
- developing deployment options through third parties.

The Association has made, and will make use of the programs.

.02 Based on the evidence adduced, and the following conclusions, we find that the Association already accepts the standard, and will implement Tri State's EE program:

- already offers EE incentives to customers.
- already offers rate options for all customer classes that support the investment of EE and provide a timely recovery of these investments.

- already is publicizing the financial and environmental benefits associated with making home energy efficiency improvements through its website and other marketing material.
- Regarding additional EE programs, the Association will consider implementing high efficiency cooling, LED Holiday Lighting, and Energy Star appliance rebates that are consistent with Tri State's programs.

2.02 Rate Alignment

.01 This standard requires consideration of electric rates to align utility incentives with the delivery of cost-effective EE and to promote EE investments. As discussed above, the Association obtains its power [and, hence, the basis of its EE investments and rate design] from Tri-State. Jim Spiers testified that Tri-State's wholesale rate design allows the Association to reduce its Member Coincident Demand during Tri-State's Peak Periods. The demand/energy split of 58/42% in Tri-State's wholesale rate structure rewards the Association and its member-consumers for actions that lessen Tri-State's demand requirements. The current rate structure calls for demand pricing based on the Member's highest thirty minute integrated total demand measured in each monthly billing period during the Tri-State Summer Peak Periods or the Winter Peak Periods. This is what is referred to as TPP-MCP rate structure. Tri-State has over one and one-half years of experience with the new rate signal. Initial evidence indicates the signal is having the desired effect.

.02 The Association accepts this standard; and, has in fact addressed the Rate Design standard through prior actions consistent with the standard. Following is a summary of the conclusions leading to this finding:

- already offers EE incentives to customers.
- already offers rate options for all customer classes that support the investment of EE and provide a timely recovery of these investments.
- already is publicizing the financial and environmental benefits associated with making home energy efficiency improvements through its website and other marketing material.

2.03 Smart Grid Investments

.01 Technically, by PURPA, the Association need not even consider this standard as it applies only to states. Nonetheless, at Mr. Byrne's suggestion, the Association addressed it anyway in order to proactively, and more completely, address the energy issues faced by our customers and our country.

.02 Based on the evidence adduced, we find that the Association has already adopted, or is in the process of adopting this standard. The reasons for this finding are as follows:

- already been considering smart investments through the business case decision making process in its evaluation of Supervisory Control and Data Acquisition ("SCADA") and Advanced Metering Infrastructure ("AMI") in comparison to non-advanced grid technologies. SCADA and AMI are components of a Smart Grid.
- invested roughly \$1,500,000 in its deployment of SCADA to approximately 70 percent of its system and has plans to invest another \$460,000 in the next three years.
 - The Association has entered into an agreement to deploy during the next three years a state of the art AMI system at cost of \$4,500,000 that will provide Smart Grid capabilities including load control options, automatic meter reading, real time metering and future outage management.

We note that the last two sections of the standard, having to do with cost recovery for regulated utilities, do not apply in the next three years and do not apply to the Association.

2.04 Access to Information

.01 As discussed in the Standard relative to energy efficiency incentives above, and as described in Mr. Byrne's and Mr. Spiers' testimony, Tri-State's wholesale rates to the Association are seasonally differentiated and provide the Association with a summer and winter peak periods. Tri-State's price signal is not further differentiated. Tri-State does, however, make available on its website 30 minute, and in some cases, 3 minute load data to the Association that can be, and often is, shared with the member-consumers who are interested in changing their consumption patterns. The Association has developed time differentiated rates and provides those rate signals to their member-consumers. Tri-State periodically provides to the Association its resource portfolio by type of fuel. In

addition, Tri-State Staff has provided to the Association an analysis of the “carbon” footprint or greenhouse gas emissions, taking into account Tri-State’s entire generation fleet, its power purchases, its transmission resources, and its fleet operations. Last, Tri-State has information available on the greenhouse gas emissions of the different types of generation in Tri-State’s resource mix.

.02 Based on the evidence adduced, we find that the Association adopts this standard on a modified basis, based on the following conclusions:

- The Association already provides access to time-based rates by request and to its E-Bill customers through its website.
- The Association will make its residential, commercial and industrial rates available on its website, not just to E-Bill customers that login.
- The Association already provides its members access to the sources of power through its website link to Tri-State.
- The Association does have access to information from Tri-State that can be shared with members indicating potential billing peaks which are a signal to shift peak load. However, the current realities of the Colorado marketplace in terms of real time pricing preclude the Association from providing daily price updates at this time. There are no price signals that change on a daily basis with hourly prices, or “day ahead” projections available to the Association. Tri-State does not offer time-based rates to the Association that change daily, nor is there a centralized market in Colorado for buying/selling electricity where daily price updates are available. We will reconsider these circumstances when such pricing becomes available (if at all).

SUMMARY, CONCLUSIONS AND RESOLUTION

Based upon the evidence presented, we determine and resolve that the Association has met the standards required by EISA. We determine and resolve that the Association has also met the procedural and time requirements of EISA for the consideration of its requirements. This document shall constitute a resolution of the Board of Directors with respect to the determination required by EISA.

The Staff of the Association is directed to post this decision on the PURPA page of the Association’s website forthwith. In addition, as soon as is practicable, Staff shall forward a copy of this decision to the United States Department of Energy and to the Colorado Public Utilities Commission. Finally, this decision shall be made available to the public. This decision, along with the record, shall be made available to the public in conformance with the Association’s records policy. This decision and the entirety of the record concerning this proceeding shall be held by the Association for at least a period of seven years from this date. At that time, the Board of Directors of the Association may consider how to dispose of the record of the proceedings, if at all.

III. Effective Date of Resolution

This Resolution shall be effective as of the date of its adoption.

ADOPTED this 27th day of January, 2009.

/s/ _____
Keith D. Croonquist, President

ATTEST:

/s/ _____
Thaine Michie, Secretary

[09:51]

Agenda Item 7—Items for Review and Consideration of Approval: Upon motion duly made, seconded, and unanimously carried, the following matters were adopted and approved by the Board:

- A.** Minutes of the Board Meeting on January 31, 2023.
- B.** Estate capital credits Retirements: discounted payment for January 2023 in the total amount of \$ 7,108.68.
- C.** Changes to Rules and Regulations: Attached to the materials sent to the Board prior to the meeting as approved as the final version. [09:51]

Agenda Item 8—Staff Reports / Presentations: Staff reports were presented as follows:

- A. Safety Report:** Vice President, Safety and Human Resources Ben Ludington reviewed the contents of the February 1, 2023, safety report with the Board. [9:56]
- B. President~CEO and Staff Written Reports:**
 - a. President and CEO Wadsworth gave a verbal update to his written presentation that had been sent to the Board prior to the meeting. Mr. Wadsworth conducted a detailed discussion of rate issues with Tri-State, and he responded to questions by Board members. [10:52] A break was taken. [10:52 to 11:03]
 - b. Vice President, COO Bowerfind gave a verbal update to his written presentation that had been sent to the Board prior to the meeting. [11:06]
 - c. Vice President, Technology and Energy Resources Noel gave a verbal update to his written presentation that had been sent to the Board prior to the meeting. [11:06]
 - d. Vice President, Member and Government Relations Rosier gave a verbal update to her written presentation that had been sent to the Board prior to the meeting. [11:08]
 - e. Vice President, CFO and Treasurer Mahon gave a verbal update to her written presentation that had been sent to the Board prior to the meeting. [11:09]

Questions from the Board members were addressed and answered by staff. Upon motion duly made, seconded, and unanimously carried the staff reports were accepted. [11:09]

- C. Financial Report:** Vice President, CFO and Treasurer Mahon with input by President and CEO Wadsworth, gave a verbal update to her report on financial matters for January 2023. Questions posed by Board members were answered by Vice President Mahon. Upon motion duly made, seconded, and unanimously carried the financial report was accepted. [11:19]
- D. 10 Year Financial Forecast / Rate Stabilization:** President and CEO Wadsworth and Vice President, CFO and Treasurer Mahon presented a written and verbal report on the 10 Year Financial Forecast. The Forecast considers:
 - Financial requirements to be met (*i.e.* MDSC and Equity ratio)
 - Future capital requirements (*i.e.* work plan items and general plant)
 - Future predicted: kWh sales, purchased power, O&M, and other expense/revenue accounts

The final output is a 10-year statement of operations (2023-2032) showing rate changes and loan amounts needed to fund capital projects and maintain service levels. The Forecast is not a budget - the Forecast is a high-level estimate in the outlying years showing trends based on general assumptions. Staff requested Board approval on 10-year financial forecast with planned / estimated utilization of rate stabilization funds. [The forecast / use of rate stabilization funds is an estimate (not locked in); we will have discussion with the Board before utilizing rate stabilization.]

Questions posed by Board members were answered by Ms. Mahon and Mr. Wadsworth. Upon motion duly made, seconded, and unanimously carried, the 10-Year Financial Forecast with planned / estimated utilization of rate stabilization funds as presented by staff was approved. [11:38]

Agenda Item 9—Attorney Report: Attorney Starr reported that Federated is handling the wildfire damage claim mentioned last month. [11:39]

Agenda Item 10—Director Reports / Items:

- A. Western United Report:** Director Hyland reported on WUESC matters. A written report on WUESC had been distributed prior to the meeting. Questions posed by Board members were answered by Mr. Hyland. [11:40]
- B. Tri-State Report:** Director Michie reported on Tri-State matters. President and CEO Wadsworth gave additional comments and input. A written report on Tri-State had been distributed prior to the meeting. Questions posed by Board members were answered by Mr. Michie with input by Mr. Wadsworth. [12:02]
- C. CREA Report:** Chair Anderson reported on CREA matters. A written report on CREA had been distributed prior to the meeting. [12:03]
- D. Form 990 Board Questionnaire:** Board members reviewed and filled out the questionnaire about the IRS Form 990 information. Questions were answered by Vice President Mahon. [12:08] A break for lunch was taken. Staff members left the Board room. [12:08 to 12:38]

Agenda Item 11—Discussion of Utility Industry and PVREA Topics if Needed:

- A.** Member Correspondence and General Correspondence.
- B.** Other. [12:47] All staff members left the meeting.

Agenda Item 12—Review Upcoming Events/Meeting Dates:

- A.** CREA Annual Meeting, February 22-25, 2023.
- B.** NRECA PowerXchange, March 5-8, 2023.
- C.** PVREA Board Meeting, March 28, 2023.
- D.** PVREA Annual Membership Meeting, April 1, 2023. PVREA Reorganization Board Meeting, April 1, 2023, following the Annual Membership Meeting.
- E.** Tri-State Annual Meeting, April 5-6, 2023.
- F.** NRECA Legislative Conference, April 16-18, 2023.
- G.** PVREA Board Meeting, April 20, 2023. [12:47]

Agenda Item 13—Consideration of Delegate Designations:

Meeting	Delegate	Alternate
Tri-State Annual Member Meeting	Michie	Hyland
[12:48]		

Agenda Item 14—Consider Board, Attorney and President-CEO's

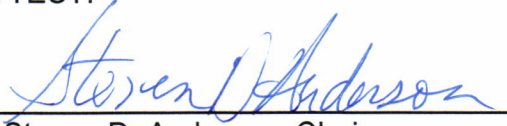
Expenses: Each of the Board members, legal counsel and the President and CEO reported on the contents of their respective expense billing sheets as reported. Upon motion duly made, seconded, and unanimously carried, the directors, President and CEO and legal expense reports were approved. [12:51]

Agenda Item 15—Executive Session if Needed: None. [12:51] Additional discussion about record keeping of the association and generation and transmission issues ensued.

Agenda Item 16—Adjourn: There being no further business to come before the meeting, upon motion duly made, seconded, and unanimously carried, the meeting was adjourned. The next regular Board meeting will be held on **Tuesday, March 28, 2023, at 9:00 a.m.** [12:56]


Peter C. Hyland, Secretary

ATTEST:


Steven D. Anderson, Chair

Poudre Valley REA Board Meeting Schedule for 2023

March 28, 2023—Tuesday
April 1, 2023—Saturday - reorganization meeting after the Annual Meeting
April 20, 2023—Thursday
May 30, 2023—Tuesday
June 27, 2023—Tuesday
July 20, 2023—Thursday
August 22 & 23, 2023—Tuesday/Wednesday-Strategic Planning
August 29, 2023—Tuesday
September 21, 2023—Thursday
October 26, 2023—Thursday
November 28, 2023—Tuesday
December 14, 2023—Thursday