

TRANSCRIPT OF PROCEEDINGS

BEFORE

BLUE RIDGE ELECTRIC MEMBERSHIP CORPORATION

LENOIR, NORTH CAROLINA

IN RE: )  
CONSIDERATION OF THE )  
PURPA EISA STANDARDS )

**PUBLIC HEARING**

**TUESDAY, MARCH 3, 2009**

BE IT REMEMBERED THAT at approximately 4:00 p.m., Tuesday, the 3<sup>RD</sup> of March, 2009, the above-entitled matter came on for hearing at the corporate headquarters of Blue Ridge Electric Membership Corporation, 1216 Blowing Rock Blvd., NE, Lenoir, North Carolina, before Brian C. Crutchfield, presiding PURPA EISA officer; and the following proceedings were recorded and transcribed by Karen Ford, an administrative assistant at the cooperative.

BRIAN CRUTCHFIELD: Good afternoon. It is now 4 o'clock, our posted start time for the public hearing. So we are going to go ahead and start. With that, I call to order this public hearing that Blue Ridge Electric Membership Corporation is hosting to consider the four EISA standards that amend certain provisions of the Public Utilities Regulatory Act of 1978, commonly referred to as PURPA.

We are officially going on the record now at about 4:03`, and all comments made today will be recorded by digital tape recorder.

My name is Brian Crutchfield. I am the director of sustainable development of Blue Ridge Electric. I'm also the designated PURPA EISA officer. If you'd like to reach me after today, I can be reached at 828-759-8979. I also have business cards available on the table if you prefer to take one.

I'd also like to introduce other staff from Blue Ridge Electric who are with us today that will be available to answer questions on the proposed EISA Standards under consideration.

RAND SMITH: I'm Rand Smith, Electric Services Manager.

LEE LAYTON: I'm Lee Layton, Chief Operating Officer.

MR. CRUTCHFIELD: These two gentlemen and I will be available to anyone that participates in this public hearing to answer questions or receive comments from those in attendance today. I'd like to read a prepared statement regarding our situation this afternoon.

In regard to this meeting today, we put legal notices in all the local newspapers over 90 days ago, and also had this information in our monthly cooperative newsletter called "Membership Matters." Information has also been posted on our website and I think we've performed adequately in that area to notify our membership and the general public regarding today's meeting. We will also have a 30 day period after this date for information that's entered into the record today to be studied and opportunities for cross examination by any of our members. That information will be due by April 2, 2009. Any rebuttal and testimony analysis, comments, etc., received by April 2, 2009 will be included in the information that is reviewed by the board of directors of Blue Ridge Electric and used as part of the deliberation by our board of directors at their monthly meeting on May 28, 2009.

On December 19, 2007, the President signed into law the Energy Independence and Security Act of 2007 (EISA 2007). Among other things, EISA 2007 requires state regulatory authorities (North Carolina Utilities Commission), along with the utilities they regulate and non-regulated utilities with retail sales exceeding 500 GWh/year, to consider adopting new rate design standards in four areas. EISA 2007 imposes this requirement by amending certain provisions of the Public Utility Regulatory Policies Act of 1978, commonly referred to as PURPA.

With the passage of EISA 2007, Congress amended the Public Utility Regulatory Policies Act ("PURPA") of 1978. PURPA was enacted to encourage: (1) the conservation of energy supplied by electric utilities; (2) optimal efficiency of electric utility facilities and resources; and (3) equitable rates for electric consumers (PURPA § 101). As implemented in 1978, and as amended since, PURPA sets forth a number of standards to fulfill these purposes. EISA 2007 added four additional standards concerning energy efficiency, rate alignment, smart grid investment, and access to information. The requirements of

EISA 2007 apply to regulated and non-regulated utilities (Blue Ridge Electric is a non-regulated utility for purposes of this proceeding) with retail sales exceeding 500 million kilowatt-hours in any calendar year. Blue Ridge Electric's sales exceed this limit. Therefore, Blue Ridge Electric is required to comply with the consideration requirements of EISA 2007 (PURPA § 102(a)). EISA 2007 amendments to PURPA require that Blue Ridge Electric begin consideration of certain standards by December 19, 2008. The consideration is to be completed no later than December 19, 2009. Blue Ridge Electric decided to meet these deadlines with respect to all standards. Neither PURPA nor the amendments to PURPA set forth in EISA 2007 give any details on the procedure by which a non-regulated utility such as Blue Ridge Electric is to consider the four standards. The only guidance is provided in section § 111 of PURPA.

Because neither PURPA nor EISA 2007 provided further specificity as to how a proceeding such as this was to progress, Blue Ridge Electric was required to determine and implement procedures which would best accomplish the requirements of PURPA and EISA 2007. Important to this process is the collection and receipt of as much information and evidence as possible, along with the participation by members of Blue Ridge Electric and others so that the best possible consideration of the standards as set forth in EISA 2007 can be accomplished.

The Board began consideration of the process in November 2008 by reviewing recommendations of the staff and Blue Ridge Electric counsel as to how to implement the process for the consideration of the EISA 2007 standards. The Board, which is responsible for managing the business and affairs of the cooperative, decided it would act as the decision-making body to ensure consideration of the standards. The Board decided to do so along with the assistance of the staff and counsel of Blue Ridge Electric. As such, the Board asked staff and counsel to prepare, for the Board's consideration and implementation, a process which best accomplished the requirements of EISA 2007, best allowed gathering of information and evidence, and provided the widest notice and participation of members and others. In November 2008, the Board passed a Resolution outlining a process for the consideration of the standards. By a resolution of the Board dated November 20, 2008, the Board documented that the consideration process had begun.

With this backdrop, we will now discuss the specific procedural history of this proceeding which demonstrates compliance with the requirements of PURPA and EISA 2007. The first cornerstone of the

procedural requirements for consideration and determination of the EISA 2007 standards is that the consideration must be made “after the public notice and hearing.” (PURPA § 111(b) (1)). Notice of this proceeding was issued on November 21, 2008, to the entire membership of Blue Ridge Electric, through legal notices in area newspapers and the establishment of a special web page that was implemented as part of Blue Ridge Electric’s website to provide the broadest available dissemination of information on this proceeding. The notices and the website set forth the deadlines by which certain actions would be taken, including intervention, dates for filing testimony, and the public hearing. Further, the notice set forth specific procedural requirements for the proceeding.

The second cornerstone of the procedural requirements for consideration and determination is that the determination must be in writing, based upon findings included in such determination and upon evidence presented at the hearing, and available to the public. (PURPA § 111(d)). The comments in this paper constitute part of the “determination in writing,” and is “based upon findings included in such determination and upon the evidence presented at the hearing,” which is to be conducted March 3, 2009. Further, as set forth above, this decision is to be made available to the public. This decision will also be posted on the website so that the widest possible dissemination of the determination can be made. Since the decision must be based on evidence presented at the hearing, it is important that not only notice to the public be made, but the availability of participation in the process in order to present evidence is also critical.

The requirements of EISA 2007 do not mandate that the affected electric utilities implement the four new standards. Instead, EISA 2007 states that “each state regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each non-regulated electric utility (Blue Ridge Electric) shall consider each standard” and then “make a determination concerning whether or not it is appropriate to implement such standard” (PURPA Section 111 (a)). PURPA further states that “nothing in this subsection prohibits any state regulatory authority or non-regulated electric utility from making any determination that it is not appropriate to implement any such standard.”

Blue Ridge Electric Membership Corporation (the “Cooperative”) has annual retail sales well in excess of 500 million kWh and is a non-regulated electric utility, which PURPA defines as “any electric utility other than a state regulated electric utility.” Thus, it is the responsibility of the Cooperative’s Board

of Directors to make its own independent determination regarding whether or not to implement each of the new EISA 2007 standards. That determination must follow an appropriate consideration of the standards that includes evidence presented during the course of a public hearing.

The goals of PURPA continue to be the same as those stated in the original Public Utilities Regulatory Policy Act of 1978, that is 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. The first goal focuses on retail energy users and promotes conservation of end-use consumption. The second goal applies to electric utilities, their use of energy, and the facilities they utilize to deliver energy. By including the third goal, PURPA recognizes the need for proper development and administration of retail rates, thereby providing a check and balance relative to the other two goals, so that the programs, policies and rates employed by electric utilities to achieve the first two goals reflect their associated costs and are not arbitrary, unfair or unduly discriminatory.

The Cooperative's Board of Directors should make its determination regarding each PURPA standard (EISA 2007) based on whether or not, given the Cooperative's particular circumstances, that the standard will accomplish any one of those three purposes, while not adversely impacting the other two. Thus, if implementation of a standard adversely impacts even one of the three goals, the Cooperative's Board of Directors can decline to implement that standard.

The Cooperative has several organizational and operational characteristics that should materially influence the Board of Directors' consideration of the EISA 2007 standards. First, the Cooperative is member-owned and thus self-regulated. The Cooperative's member/consumers elect the Board of Directors that establishes and oversees the Cooperative's policies, rates, and service rules and regulations. Unlike investor-owned electric utilities, the Cooperative has no third party investors to satisfy. Thus, there is no conflict of interest between the utility's owners and consumer/members regarding profitability. In fact, the Cooperative is a not-for-profit organization. Revenues collected in excess of operating expenses (such difference is referred to as "margins") are assigned back to the Cooperative's consumer/members in the form of capital credits. Under this form of organization, all costs associated with the programs, policies and rates adopted to implement the EISA 2007 standards will be born in full by the Cooperative's consumer/members.

The Cooperative owns and operates an electric distribution utility. Unlike a vertically integrated electric utility, the Cooperative has no direct control over the generation and transmission costs incurred to furnish electric energy to the Cooperative's consumer/members. Instead, such bulk power services are purchased from an investor-owned utility, Duke Energy Carolinas (DEC), through long-term contracts. Through the Board of Directors, the Cooperative began consideration of the four new EISA 2007 standards on November 20, 2008 after the Board adopted a resolution directing the Cooperative's staff to initiate the consideration phase of the EISA 2007 standards. Staff has attended several seminars and meetings on the topic conducted by the National Rural Electric Cooperative Association and the North Carolina Electric Membership Corporation and consulted legal staff from these organizations. In addition, staff has consulted with Duke Energies Carolinas (DEC) regarding two of the standards on Integrated Resource Planning and Rate Design Modifications to Promote Energy Efficiency Investments since they are responsible for providing electricity to the Cooperative from generation resources that they own and operate. Representatives from DEC have provided comments on the discussion of the standards prepared by the Cooperative.

It is important to note that, even though the standards themselves are written as if they are mandatory, PURPA EISA 2007 does not require that the standards be implemented. Rather, it is Blue Ridge Electric's responsibility "to consider" each standard and determine, based on evidence presented during the consideration process, whether the implementation of that standard is appropriate for its distribution system. The standards to be considered are: 1) Energy Efficiency; 2) Rate Alignment; 3) Smart Grid Investments; and 4) Access to Information.

With those comments said, it is now twelve minutes after four o'clock and we still don't have any members or other persons here to make any comments. We're going to turn off the digital tape recorder and if anyone comes in we will then turn it back on and interview that person and allow them to make comments and we'll also add to the record using the digital tape recorder. We appreciate those staff that are here in attendance and look forward to your participation throughout today's hearing.

MR. CRUTCHFIELD: It is now 7:00 p.m. and there are no other people in the lobby or hearing room waiting to be heard or ask questions about the PURPA EISA Standards that are being considered by Blue

Ridge Electric. We have met the obligations required of our Public Hearing notice and call this hearing to a close. The transcript of this hearing and any additional written public comments that may be provided to Blue Ridge Electric in the next thirty days will be placed on our web site: [www.BlueRidgeEMC.com](http://www.BlueRidgeEMC.com)

Good night and thank you to all the staff that participated in this hearing.

Listed below are the names and contact information of those who participated and attended the hearing:

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