

STATE OF NORTH CAROLINA

BRUNSWICK COUNTY

In the Matter of:)	
Consideration of Federal Standards)	BRUNSWICK ELECTRIC MEMBERSHIP
Proposed by Amendments to the)	CORPORATION'S FINDINGS AND
Public Utility Regulatory Policies Act)	DETERMINATIONS
<u>("PURPA")</u>)	

INTRODUCTION AND BACKGROUND

The Infrastructure Investment and Jobs Act ("IIJA") was passed in 2021 by the President of the United States and included amendments to Title I of the Public Utility Regulatory Policies Act (PURPA) of 1978. The IIJA 2021, in part, adopts two new Federal Standards (regarding electric vehicles and demand-response practices) that must be considered by state regulatory authorities and large nonregulated electric utilities, such as electric cooperatives. Title I of PURPA and the obligation to consider the new federal standards apply to electric utilities with retail sales greater than 500 million kWh, such as Brunswick Electric Membership Corporation.

The Infrastructure Investment and Jobs Act (IIJA) of 2021 provides the following two new PURPA Standards pursuant to PURPA Section 111(d).

1. **Demand-Response Practices, 16 U.S.C. § 2621(d)(20)**

(A) In general, each electric utility shall promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand.

(B) Rate recovery.

(i) In general, each state regulatory authority shall consider establishing rate mechanisms allowing an electric utility with respect to which the state regulatory authority has ratemaking authority to timely recover the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).

(ii) A nonregulated electric utility may establish rate mechanisms for the timely recovery of the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).

2. **Electric Vehicle Charging Programs, 16 U.S.C. § 2621(d)(21).**

Each state shall consider measures to promote greater electrification of the transportation sector, including the establishment of rates that:

(A) promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure;

(B) improve the customer experience associated with electric vehicle charging, including by reducing charging times for light-, medium-, and heavy-duty vehicles;

(C) accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles; and

(D) appropriately recover marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.

BASED UPON a review of the administrative record and with the input of Brunswick Electric Membership Corporation's staff, the BEMC Board of Directors makes the following Findings of Fact:

FINDINGS OF FACTS

1. Brunswick Electric Membership Corporation is a nonregulated electric utility with retail sales for calendar year 2022 greater than 500 million kilowatt-hours (500,000 MWh) pursuant to Energy Information Administration data.

2. Pursuant to the requirements as set forth in the IJA 2021, Brunswick Electric Membership Corporation's Board of Directors, by Resolution dated October 2, 2022, adopted certain rules for conducting a public proceeding in compliance with the Public Utility Regulatory Policies Act of 1978, as amended, ("PURPA"). See BEMC Exhibit 1.

3. Brunswick Electric Membership Corporation's Board of Directors by resolution approved a Public Notice document and that said Public Notice document would be disseminated through advertisements and postings as hereinafter set forth.

4. The relevant adopted Public Notice of BEMC sets forth the following timeline:

- (A) Initial Comments to be submitted on or before April 14, 2023.
- (B) Reply Comments and/or written rebuttals to be submitted by June 15, 2023.
- (C) Public Proceeding to be held on August 17, 2023 commencing at 10:00 A.M.
- (D) Determination to be rendered by the BEMC Board of Directors on or before November 14, 2023.
- (E) Any BEMC decision[s] to become effective per terms of Order.

5. The Affidavit of Donna S. Waters setting forth the dissemination of the Public Notice meets specific requirements of providing notice to the public and has been entered into the record of this proceeding. See Affidavit of Donna S. Waters, Exhibit 5.

6. The Affidavit of Brookes Versaggi setting forth the dissemination of the Public Notice meets specific requirements of providing notice to the public and membership and has been entered into the record of this proceeding. In addition, attached to said Affidavit of Brookes Versaggi were Publishers' Affidavits and advertising invoices from the publishers. It is further noted that Exhibit 6(a) contained the Public Notice of the proceeding as published in the Carolina Country magazine for February, 2023, which was mailed and/or disseminated to at least 90,000 BEMC members. See Exhibit 6.

7. The Affidavit of Janet Smith dated August 8, 2023, setting forth the dissemination of the Public Notice and her role as "CC" in the collection, entering, filing, copying, and record keeping of all data received and transmitted for purposes of this proceeding, meets specific requirements of providing notice to the public and membership and has been entered into the record of this proceeding. See Exhibit 7(a), pages 1 – 12, which contain BEMC's administrative staff statement of position (Exhibit 7(a), pages 6 -7), and four (4) PURPA Proceeding comments as contained in Exhibit 7(a), pages 8 -12.

8. The second Affidavit of Janet Smith dated August 14, 2023 contains the BEMC Board Resolution adopted October 20, 2022, the BEMC Rules for conducting the proceeding under PURPA dated August 17, 2023, and the BEMC Outline of Dates for PURPA Standards.

9. All comments filed with BEMC were available to BEMC members and other interested third parties and/or could have been acquired by non-BEMC members through a written or oral request to BEMC. Notwithstanding significant advertising as detailed in Brookes Versaggi's Affidavit dated June 26, 2023, there were no requests made to Janet Smith for any of the filings.

10. BEMC retained Cherie Anderson of Aurelia Ruffin & Associates Court Reporting Service to prepare a transcript of the proceeding and a transcript of all submissions and copies of documents presented at the August 17, 2023 PURPA proceeding and will be make the record available for review by the Members and other interested third parties. Additionally, the transcript of the proceedings upon being processed by the above-identified court reporter, will be posted on the BEMC PURPA site address.

11. All members of the BEMC Board of Directors were present, with the exception of one member who is experiencing a medical concern.

12. With respect to the Demand-Response Practices detailed under 16 U.S.C. § 2621(d)(20), the members of BEMC Board of Directors convened and sitting as a regulatory body on August 17, 2023, at 10:00 o'clock, a.m., hereby make the following Findings of Facts based upon the "greater weight of the evidence" standards:

(a) The regulatory body of BEMC finds that the implemented demand-response initiatives and procedures currently in place at BEMC are achieving the objectives outlined in the proposed standards as set forth in 16 U.S.C. 2621(d)(20).

(b) In addition, the BOD acting as a regulatory body determines that BEMC expects to continue to meet or exceed the goals and objectives outlined in the standards through BEMC's ongoing strategic planning and oversight.

(c) The BEMC board of directors, as part of the BEMC routine monthly practices receives and reviews from BEMC staff, key performance indicators, measures quantifiable savings, and reviews reliability and member satisfaction metrics. The strategic direction of all demand response programs are reviewed and regularly reported to the Board of Directors.

13. With respect to the Electric Vehicle Charging Programs detailed under 16 U.S.C. § 2621(d)(21), the members of BEMC Board of Directors convened and sitting as a regulatory body on August 17, 2023, at 10:00 o'clock, a.m., hereby make the following Findings of Facts based upon the "greater weight of the evidence" standards:

(a) Comments submitted by the membership were unanimously opposed to the adoption of the proposed standard.

(b) The BEMC BOD acting as a regulatory body find that BEMC's implemented EV initiatives and current programs are achieving the goals and objectives outlined in the proposed standards as set forth in 16 U.S.C. 2621(d)(21).

(c) In addition, the regulatory body of BEMC expects to continue to meet or exceed the goals outlined in the standards through strategic planning and oversight.

(d) The BEMC board of directors, as part of BEMC's routine practices, reviews key performance indicators, measures the rate of return, and reviews EV charger reliability and satisfaction metrics. The strategic direction of all EV programs and rates are reviewed and regularly reported to the Board of Directors.

WHEREFORE, Brunswick Electric Membership Corporation, in compliance with the timeline and BEMC Rules for Conducting the proceeding under PURPA as above set forth and based upon the evidence presented pursuant to the Public Notice and a result of the proceeding held on August 17, 2023, makes the following considerations and determinations as to each of the applicable new PURPA Standards:

CONSIDERATIONS AND DETERMINATIONS

1. The Brunswick Electric Membership Corporation's Board of Directors determines that BEMC has substantially complied with the established procedures adopted for the PURPA Proceeding.

2. The Board of Directors of Brunswick Electric Membership Corporation determines with reference to the PURPA's new "Demand-Response Practices" Standard as follows:

BEMC will not adopt the PURPA "Demand-Response Practices" proposed standards as set forth in 16 U.S.C. 2621(d)(20).

3. The Board of Directors of Brunswick Electric Membership Corporation determines with reference to PURPA's new "Electric Vehicle Charging Programs" Standard as follows:

BEMC will not adopt PURPA "Electric Vehicle Charging Programs" proposed standards as set forth in 16 U.S.C. 2621(d)(21).

4. The transcript of this proceeding shall be expedited by the court reporter and appropriately posted on PURPAProceeding@bemc.org.

5. This Determination and Order shall be made a part of the official record of the Brunswick Electric Membership Corporation's PURPA proceeding and shall be entered and posted within 14 days after the posting of the transcript of this proceeding in the following electronic address: PURPAProceeding@bemc.org.

This 12th day of September, 2023.

BRUNSWICK ELECTRIC MEMBERSHIP
CORPORATION

By: 
David Gore, President

ATTESTED BY:

 (SEAL)

Larry Fowler, Secretary/Treasurer