CITY OF MONROE
PUBLIC ENTERPRISE COMMITTEE
300 W. CROWELL STREET, MONROE, NC 28112
TUESDAY, NOVEMBER 1, 2022 - 4:00 PM
AGENDA
www.monroenc.org

1. Public Enterprise Committee Meeting Minutes of August 2, 2022
2. Acceptance of Electricities Betterment Grant
3. Public Utility Regulatory Policies Act

Public Enterprise Committee Minutes
August 2, 2022
City Hall Conference Room
4:00 p.m.

Members Present:	**Council Member Freddie Gordon (Chair), Council Member James Kerr, Council Member Julie Thompson**
Staff:	**Brian Borne, Darwin de los Santos, Mujeeb Shah-Khan, Sarah McAllister, Scott Clark, Chad Splawn, Cathy Nance**

Council Member Freddie Gordon called the April 5, 2022 Public Enterprise Committee meeting to order at 4 p.m.

Item #1: Adoption of Minutes of the Meeting

Recommendation:

Council Member Thompson made a motion that the Minutes of the April 5, 2022 Public Enterprise Committee be approved.

Motion:	Adopt April 5, 2022 PEC Meeting Minutes
Motion made by:	Council Member Julie Thompson
Second:	Council Member James Kerr
Voting:	**In Favor** – Council Member James Kerr, Council Member Freddie Gordon and Council Member Julie Thompson **Opposed** – None
Action:	Motion adopted

Item #2. Staff Report - Request to Consider Information Related to the Proposed 2022-2023 Asphalt Paving Program

Recommendations:
Staff recommends that the Public Enterprise Committee to recommend the following to City Council for consideration on the August 9, 2022 consent agenda:

A. Award of the 2022-2023 Asphalt Paving Program to the lowest responsive bidder;
B. Authorization of contingency allowance in the amount of $50,000;
C. Authorization of a future change order not to exceed the budgeted amount of $316,808.95 for pavement repairs at the Operations Center.
D. Authorization of the City Manager to execute the documents including Contract, future Change Order 1 increasing the contract amount and future change orders if required.

Presentation and Discussion:

Director of Engineering, Sarah McAllister introduced the item. She said this contract would include funds from last year and this year. It's made up of vehicle tax receipts, general fund and Powell bill allocations. There is a list in the staff report of the streets we plan to do this year. We did post a formal bid and Lynches River was the low bidder, at a little over 2.9 million. The engineers' estimate was $3.1 million. They did meet the 10% of scope for minority business participation. Then in addition, there are a little over $300,000 in a project fund for paving at the operations center. So we plan to do a change order to not to exceed that amount to do the repairs at the operations center. It is currently on consent agenda for next week's council meeting. We're asking for award authorization of the contingency in the amount of $50,000, authorization in the future change order not to exceed those funds allotted in that budget, and for the city manager to be able to execute.

Council Member Gordon asked if there were any other questions, comments, or concerns.

Council Member Thompson asked when it would start?

Sarah McAllister said we would award right after council awards, and then it would be about 15 days to issue a notice to proceed. I really cannot speak to when they would start because they are very backed up. We just learned that there is a shortage on cement and we're doing a lot of full depth reclamation with cement so we might run into some issues.

Council Member Gordon asked what we do with cement other than curbing?

Sarah McAllister said it is a process to stabilize subgrade. Once you get to a certain amount of full depth patching, it's cheaper and far more efficient to do full depth reclamation with cement. They grind up the existing roads and some of the subgrade, and they add cement and then add water and it gives you the strength and subgrade and you just pave on top of it. It performs much better than full depth patching and it's much more cost effective.

Council Member Gordon said he would like to ask that the recommended list of streets be taken in the order that they are printed on this piece of paper. Concord Avenue might be the worst one on the list, And it is a gateway to our city. I'm embarrassed by it.

Mujeeb Shah-Khan said when you make that recommendation it would just be that that one is at the top of the list as opposed to say go down the list, if you would want to recommend that the council.

Motion:	Motion to approve items A, B, C, and D with an amendment to A that Concord Avenue be the first project on the list, and add to the consent agenda for the August 9, 2022 City Council meeting.
Motion made by:	Council Member Freddie Gordon
Second:	Council Member Julie Thompson
Voting:	**In Favor** – Council Member James Kerr, Council Member Freddie Gordon and Council Member Julie Thompson **Opposed** – None
Action:	Motion adopted

Item # 3: Staff Report –

Recommendation:

Staff recommends the approval of the Local Water Supply Plan and association Resolution R-2022-56.

Presentation and Discussion:

Director of Water Resources, Scott Clark said the local water supply plan was initially submitted to the Department of Environmental Quality Division of Water Resources by his predecessor, Mr. Colbath. This is an annual plan that is submitted to remain compliant with the North Carolina General statutes. The plan has been approved by the Division of Water Resources. However, to be formally compliant with state statutes, the resolution has to be adopted by the Council. The resolution is presented before you here with the local water supply plan. This presents to the state and to our customers that we are working to ensure that we have a long-term supply of water availability to the community to meet future demand growth of a 2.2% projection. We have a long-term supply that will ensure adequate supply for us for many, many years to come.

Around year 2050, our supplies will last beyond that, however, in 2050 we'll need to start working once we reach 80% of our system, of our capacity, to secure additional supplies. We have the agreement to pull 1.99 MGD from Union County's Catawba supply, and there's an interbasin transfer that has to be done. The interbasin transfer permit, Union County handles that for us. That permit is up for renewal in 2047. We are doing really well with our supply. We also have an additional plan to work on lake augmentation for transferring treated reclaimed water back to Lake Twitty in the future as well. The local water supply plan and the resolution that is presented, once that is approved, we will be compliant with North Carolina general statutes and then I will notify the state that the resolution has been adopted and passed. Do you have any questions?

Council Member Gordon said this city has been very fortunate to have had good leaders that saw that we had proper water and proper sewer which a lot of municipalities don't have. We're trusting you now to take us forward to at least 2050 in this time.

Motion:	Approval of the Local Water Supply Plan and association Resolution R-2022-56.
Motion made by:	Committee Member James Kerr
Second:	Council Member Julie Thompson
Voting:	**In Favor** – Council Member James Kerr, Council Member Freddie Gordon and Council Member Julie Thompson **Opposed** – None
Action:	Motion adopted

Item #4. Other

Council Member Gordon asked if there was other business to discuss. There was none.

Recommendation: Adjourn meeting at 4:18 p.m.

Motion:	Adjourn Public Enterprise Committee meeting
Motion made by:	Council Member Julie Thompson
Second:	Council Member James Kerr
Voting:	**In Favor –** Council Member Julie Thompson, Council Member Freddie Gordon and Council Member James Kerr **Opposed –** None
Action:	Motion is approved

There being no further business, the meeting adjourned at 4:18 p.m.

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Freddie Gordon, Chair

Next Meeting – May 3, 2022 at 4:00 p.m.

City of Monroe
Where Heartland Meets High Tech

STAFF REPORT

TO:	Public Enterprise Committee
VIA:	Brian Borne, City Manager
DATE:	November 1, 2022
FROM:	Robert Miller, Director of Energy Services
PREPARED BY:	Robert Miller, Director of Energy Services
SUBJECT:	Acceptance of Electricities System Betterment Grant

SUMMARY STATEMENT

The Energy Services department recommends that the Public Enterprise Committee recommend to City Council the receipt of a System Betterment Grant of $5,000 from Electricities of NC, Inc. and approve a budget amendment to designate and appropriate said funds.

REVIEW

The Energy Services department applied for a System Betterment of $5,000 from Electricities of NC, Inc. to offset a portion of the expense to upgrade the Camp Sutton transformer control cabinets purchased and installed.

RECOMMENDATION

Staff recommends that the Public Enterprise Committee recommend that City Council accepts the grant funds and adopt Budget Amendment BA-2022-36 to appropriate these funds as noted. Staff requests that this item is placed on the City Council consent agenda.

Attachment: Budget Amendment BA-2022-36

CITY OF MONROE
BUDGET AMENDMENT
BA-2022-36

1. Amendment to appropriate funds for a System Betterment Grant from Electricities of NC, Inc.

Electric Fund:

Revenue	
Restricted Revenue	$5,000
Expenditures:	
Electric System Improvements	$5,000

Adopted this the 8th day of November 2022.

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Marion L. Holloway, Jr., Mayor

Attest:

____
Bridgette H. Robinson, City Clerk

STAFF REPORT

TO:	Public Enterprise Committee
VIA:	Brian J. Borne, City Manager
DATE:	November 1, 2022
FROM:	Rob Miller, Director of Energy Services
PREPARED BY:	Rob Miller, Director of Energy Services
SUBJECT:	Call for Public Hearing to Consider Provision for Public Utility Regulatory Policies Act (PURPA) Title I

SUMMARY STATEMENT

Staff will provide background information on the public hearing to receive public comments and City Council's consideration of a provision for the Public Utility Regulatory Policies Act (PURPA) Title I.

REVIEW

The City is required to have a public hearing, allow for comment and have the City Council to vote on the consideration for a provision for the PURPA Title I that was included in the Bipartisan Infrastructure Law (BIL). The standard only applies to utilities that sell more than 500 million kWh per year, which requires Monroe to take action. The notice for the hearing must be posted prior to 11/15/22 and the public hearing must take place by 11/15/23. The standard only applies to utilities that sell more than 500 million kWh per year, which requires Monroe to take action.

Section 40104 of the BIL expands that electric utilities that sell more than 500 million kWh per year "must consider" provision for PURPA Title I. Section 40104 which reads as follows:

Utility Demand Response. This section amends section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. § 2621(d)) to state that each "electric utility shall promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce consumption during periods of unusually high demand." Id. § 40104. This section also directs state regulatory authorities to "consider establishing rate mechanisms allowing [regulated] electric utility[ies] to timely recover the costs of promoting demand-response and

demand flexibility practices." Id. For electric utilities not regulated by a state regulatory authority, this section provides that such utilities "may establish rate mechanisms for the timely recovery of the costs of promoting demand-response and demand flexibility practices." Id. § 40104.
This is a "must consider" standard, not a "must implement" standard. Consideration must commence within a year of enactment and be completed within two years. Consideration requirements are:

(b) Procedural requirements for consideration and determination

(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be:

(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.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

RECOMMENDATION

There is no recommendation, this was presented for information purposes. The call for public hearing will occur at the November 8, 2022 City Council meeting and the public hearing will be held on December 13, 2022 at 6:00 p.m. to consider this matter.

Attachment:
APPA Presentation – New PURPA Shall Consider Standards

APPA ACADEMY

AMERICAN PUBLIC
POWER ASSOCIATION

New PURPA “Shall Consider” Standards: A Guide to Public Power Obligations

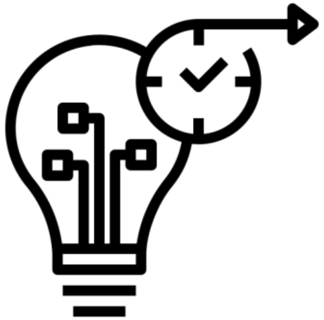
June 28, 2022

Instructors
Sean Neal, Lauren Perkins,
Duncan, Weinberg, Genzer & Pembroke, P.C.

AMERICAN PUBLIC POWER ASSOCIATION

Introduction

- **Implications of Recent Amendments through the IIJA to the Public Utility Regulatory Policies Act of 1978 (“PURPA”).**
- **Action required; nonregulated entities:**
  - “Shall consider” two, new standards and “make a determination” concerning implementation of such standards.
  - Commence consideration of standards no later than November 15, 2022, and conclude with a determination on whether to adopt each standard by November 15, 2023.



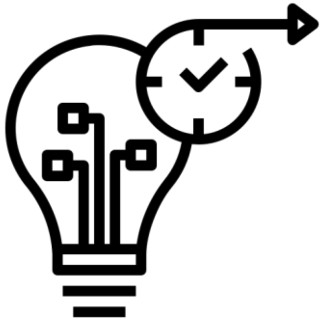
Introduction

- **More specifically, Section 111(a) of PURPA, 16 U.S.C. 2621 states:**

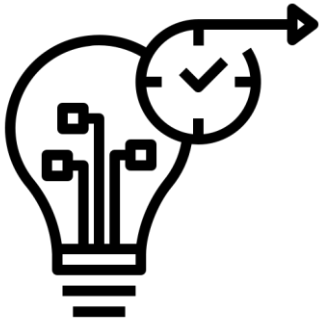
"Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each ***nonregulated electric utility shall consider*** each standard established by subsection (d) and ***make a determination*** concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of consideration and determination . . . the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement such standard, pursuant to its authority under otherwise applicable State law" (emphasis added).

Applicability to Public Power

- **Applies to state commissions and nonregulated electric utilities.**
  - "Nonregulated electric utility" means "any electric utility other than a state regulated electric utility".
  - Accordingly, the definition includes many public power entities and RUS-funded cooperatives.
- **Annual Retail Sales Greater Than 500,000 MWh**
  - Baseline is two years before the year the standards are considered. § 102(a)
  - Wholesale sales excluded. § 102(b)
  - U.S. Department of Energy is required to publish lists of applicable entities. § 102(c)

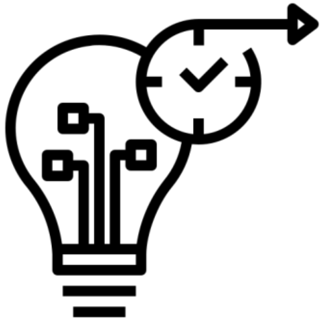


Background to Section 111 Requirements



- **PURPA was designed to promote conservation and efficiency:**
  - Genesis in response to the energy crises of the 1970s.
  - Known commonly for encouraging small, independent power producers and Qualifying Facilities.
- **Purpose of PURPA Title I “Retail Regulatory Policies for Electric Utilities”:**
  - Encourage conservation of energy.
  - Promote efficient use of energy facilities and resources.
  - Promote equitable rates for electric consumers. (§ 101)

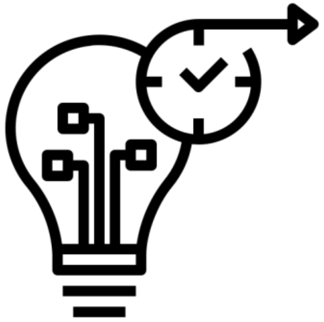
2021 Infrastructure Investment and Jobs ("IIJA") Act



- **"Shall Consider" a Welcome Continuation of Past Language** (rather than mandatory language)
- **Demand Response and Demand Flexibility (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."
  - The latter, "demand flexibility", connotes such concepts as increasingly sophisticated time of use, grid interactive buildings, controls on water systems.

2021 Infrastructure Investment and Jobs ("IIJA") Act

- **Demand Response and Demand Flexibility, continued (20)**
  - "(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 sub-paragraph (A).
    - (ii) NONREGULATED ELECTRIC UTILITIES – A non-regulated 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)."

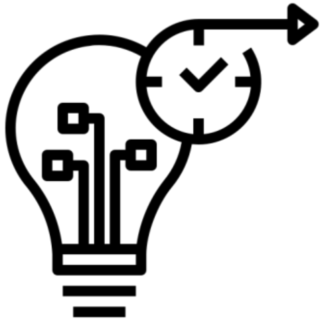


2021 Infrastructure Investment and Jobs ("IIJA") Act

- **Electric Vehicle Charging Programs (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 the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure."



Procedural Requirements in section 111

Public Notice

Hearing

Determination

- In writing
- Based upon:
  - Findings included in the determination
  - Evidence presented at hearing
- Publicly-available

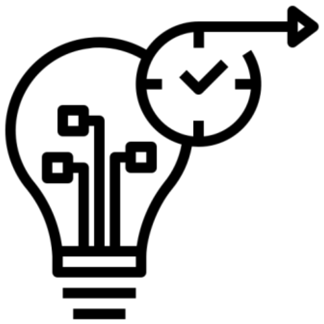
Decline to Implement Standard:

- Statement of reasons must be made available to the public

Implement Standard

Enforcement

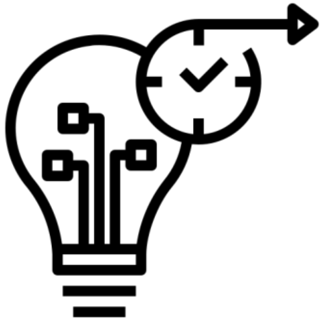
- **What are the consequences of failure to comply?**
  - If a state commission or a nonregulated utility fails to consider and make a determination within the required period, then they are required to so consider in the next, applicable rate proceedings. § 112(c).
  - Judicial review is provided for in PURPA Title I. § 123.



- **Has Section 111 been enforced against a state commission or a nonregulated utility?**
  - We have identified no instances of a court case filed and resolved for violation under Section 111 against a nonregulated utility.
  - In a DC court of appeals case, the court denied a challenge against a state commission concerning its adoption of time-of-day ratemaking for large commercial customers, finding the commission’s consideration was consistent with section 111 of PURPA. *Metro. Washington Bd. of Trade v. Public. Serv. Comm'n*, 432 A.2d 343 (1981).

Conclusion

- **In conclusion,**
  - Section 111(d)(20) and (21) are new standards under PURPA that are required to be considered by many public power entities.
  - Now is the time to prepare to meet the “shall consider” requirement.
  - Examples exist that public power can follow to meet the “shall consider” requirement.



Questions?

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Thank you for participating!

✓ Complete the evaluation