

BEFORE THE BOARD OF DIRECTORS OF MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC., a non-regulated electric utility of the State of Colorado

**IN RE THE MATTER OF:
THE CONSIDERATION OF FIVE STANDARDS SET FORTH IN SECTION 111(d) OF
THE ENERGY POLICY ACT OF 2005**

FINAL DECISION OF THE BOARD

Entered June 12, 2007

I. STATEMENT

1. The Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), as amended by the Energy Policy Act of 2005 (hereinafter “The Act” or “PURPA”), requires each non-regulated electric utility with total annual retail electric sales greater than 500 million kilowatthours to “...consider [certain standards established by the Act, as amended] and make a determination concerning whether or not it is appropriate to implement such standard[s] to carry out the purposes of this chapter.” 16.U.S.C.2621(a).

2. 16 U.S.C 2621 (a) further provides: “...Nothing in this subsection prohibits any ... nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.”

3. The “purposes of this chapter” are set forth in 16.U.S.C. 2611 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.”

4. Mountain View Electric Association, Inc. (hereinafter “The Association”) is an electric utility holding a certificate of public convenience and necessity from the Colorado Public Utilities Commission. It is non-regulated by virtue of a vote of its members pursuant to 40-9.5-104 C.R.S. The Association has annual energy sales in excess of 500 million kilowatthours, and thus it is required to comply with the above-stated provisions of The Act.

5. On July 25, 2006, the Board of Directors (hereinafter “The Board”) of Mountain View Electric Association, Inc. (hereinafter “The Association”) resolved that The Association commence the process of considering the adoption of the standards set forth in 16 U.S.C. 2621 (d) (11) - (15), namely: Net Metering, Fuel Sources, Fossil Fuel Generation Efficiency, Time-Based Metering and Communications, and Interconnection.

6. On November 14, 2006, The Board adopted, by resolution, “Special Procedural Rules

for Consideration of PURPA Title I Standards as Required by Energy Policy Act of 2005" (hereinafter "The Rules") and "PURPA Title I Amendments Schedule for Compliance." (hereinafter "The Schedule.")

7. Prior to December 31, 2006, The Association: (1) sent a Notice of PURPA Implementation to Larry Mansueti, Director State and Regional Assistance, Office of Electricity Delivery and Energy Reliability, United States Department of Energy; (2) sent a Notice of PURPA Implementation to all members of record by publication and mailing of *Colorado Country Life* issue containing the notice to each one; (3) established an e-mail link to "PURPA Hearing Board" for the purpose of receiving inquiries or comments, and posted the Notice of PURPA Implementation and The Rules on the Association web page: www.MVEA.coop.

8. On February 8, 2007, The Board held a Pre-Hearing Procedural Rules Conference, in accordance with The Rules at the Limon Community Center, Limon, Colorado. No one attended the Conference as a member or non-member interested party.

9. February 15, 2007 was set by The Rules as the deadline for filing a Notice of Intervention to become a party to this consideration process. Notice of Intervention was filed prior to this date by Staff of The Association. No other notices were filed.

10. April 13, 2007 was set by The Rules as the deadline for filing Pre-filed Testimony. Testimony was filed prior to this date by Staff of The Association. No other testimony was filed.

11. As of May 3, 2007, no e-mails or written correspondence had been received by the Association from any member or the U.S. Department of Energy concerning the standards or the procedures set up for this consideration process.

12. A Public Hearing was held in front of The Board on May 3, 2007 at the Limon Community Center, Limon, Colorado. A transcript was taken of the statements made at the hearing. Present at the hearing and participating were representatives of Staff of the Association, including (1) Jim. C. Herron, Association General Manager, (2) James P. Spiers, Tri-State Generation and Transmission Association, Inc. Senior Manager, Planning, Rates, Member Services, and (3) Douglas R. Larson, Vice-President, Power System Engineering, Inc.; and (4) Association members Roy and Deanne Obrigewitch.

13. At the Public Hearing, The Board heard testimony and comments on each of the five standards separately.

FINDINGS.

A. Fuel Sources.

14. This standard, set forth at 16 U.S.C. 2621 (f) (12) states:

“Each electric utility shall develop a plan to minimize dependence on 1 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.”

15. The Association contracts with Tri-State Generation and Transmission Association, Inc. to meet 100% of its power requirements, subject to the ability of The Association to connect, and purchase the output from, generation resources from qualifying facilities, as defined in PURPA Part 201, with name plate capacity less than 25 KW, and at The Association’s option to own or control distributed or renewable generation resources providing not more than 5%, in total, of The Association’s energy requirements pursuant to Tri-State Policy 115. This policy is included in the record of the Public Hearing as part of Exhibit F.

16. The Association must look to Tri-State, its wholesale energy provider, when considering this standard. The Association has a limited ability to influence Tri-State decisions as one of 44 Tri-State member systems, each of which has one seat on the Tri-State Board of Directors.

17. Tri-State’s Integrated Resource Plan, dated February 15, 2007 is included in the record of the Public Hearing as part of Exhibit F. Figure 2.3 on page 48 of Tri-State’s IRP shows that for 2006, Tri-State purchased or generated energy as follows for its members, including the Association:

Coal units	68 %
Fuel Oil	< 1%
Natural Gas	1%
Hydro	14 %
Small renewable purchases	< 1%
Other Purchases	17 %

18. Due to recently adopted Renewable Portfolio Standards in New Mexico and Colorado, Tri-State is considering issuance of a request for proposals for approximately 50 MW of renewable resource mid-year in 2007, with the intent to continue acquisition of renewable resources to be able to supply at least 10% of the Association’s energy needs from renewables by 2020. This is in addition to announced plans for base load coal fired generation and combined cycle natural gas fired generation.

19. Tri-State’s efforts and plans are neutral relative to retail rate equity. They are neutral relative to conservation of energy since changes in fuel source will not necessarily result in reductions of energy consumption by its members.

20. Tri-State’s efforts and plans do strongly support the optimal efficiency of electric utility facilities and resources since a diverse portfolio of generation resources can be more easily optimized around different load and market circumstances.

21. Tri-State's actions and plans meet the requirements of the Fuel Sources standard without the need for further action by The Association.

22. The Association can continue to influence Tri-State's actions with regard to diversity of fuel sources and can look for opportunities to work within Tri-State policies to increase diverse distributed resources on the Association's system.

B. Fossil Fuel Generation Efficiency.

23. This standard, set forth at 16 U.S.C. 2621 (f) (13) states:

“Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.”

24. The Association presently contracts with Tri-State Generation and Transmission Association, Inc. to meet essentially 100% of its power requirements..

25. The Association must look to Tri-State, its wholesale energy provider, when considering this standard. The Association has a limited ability to influence Tri-State decisions as one of 44 Tri-State member systems, each of which has one seat on the Tri-State Board of Directors.

26. Tri-State Board Policy 102 directs Tri-State to meet the Association's power requirements at the lowest possible cost consistent with sound utility business practices through developing long-term power supply objectives.

27. Tri-State's Integrated Resource Plan, dated February 15, 2007 is included in the record of the Public Hearing as part of Exhibit F. Pages 49-55 of Tri-State's IRP discuss Tri-State's 10-year plan for investments in plant improvements for Tri-State's fossil generation portfolio. These plans call for investments to improve the generating capacity, heat rate, reliability and plant life for Tri-State's more efficient fossil fuel generating stations. All of these actions go to increase the overall system-wide efficiency of Tri-State's fossil fuel generation

28. Tri-State's 10-year plan is neutral relative to retail rate equity.

29. Tri-State's 10-year plan supports the conservation of energy supplies since it will be obtaining more output from its generation resources with fewer energy inputs in the way of fuels. In addition, the 10 year plan strongly supports the optimal efficiency of electric utility facilities and resources.

20. Tri-State's actions and plans meet the requirements of the Fossil Fuel Generation Efficiency standard without the need for further action by The Association.

C. Net Metering.

31. This standard, set forth at 16 U.S.C. 2621 (f) (11) states:

“Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.”

32. The Colorado legislature has adopted Title 30, Article 9.5, Part 3 of the Colorado Revised Statutes entitled “Net Metering for Customer-Generators of Cooperative Electric Associations. This statute applies to The Association, and states the following:

“Unless the electric utility chooses to pay more to the customer-generator, the electric utility shall provide a credit to the customer-generator for its generation equal to the electric utility’s avoided cost. The avoided cost shall be the average cost of power to the electric utility for the immediately preceding calendar year as published in the utility’s annual report. The average cost of power shall not include the utility’s own transmission, metering, and distribution costs. The average cost of power shall include the capital and expense costs associated with generation facilities for those utilities that generate some or all of their own power needs as well as purchased capacity and energy costs. If the customer-generator’s net aggregate bill is less than zero, credits shall be carried over to future bills of the customer-generator until the credit balance is zero.” 40-9.5-303(2) C.R.S.

33. The Association has implemented this statute in its existing tariff for qualifying facilities, where it provides credits at avoided cost to customer-generators that are renewable based or co-generators with nameplate ratings of 25KW or less.

34. When a customer installs an on-site generation facility with the intent of meeting a portion of its own electrical requirements, it has a financial impact on The Association

35. In providing “traditional” electric service, The Association must install distribution plant with sufficient capacity to meet the expected diversified load of each customer. The Association must maintain the same amount (capacity) of distribution facilities in place to serve a customer-generator in the event the on-site generator is not operating and the customer requires full utility service.

36. When a customer reduces its consumption of electrical energy purchased from The Association through use of an on-site generator, The Association’s retail revenue declines, but The Association continues to incur the same costs, other than for purchase of wholesale energy,

in providing distribution service to this customer. These costs include interest, depreciation, operation and maintenance, taxes and margin requirements associated with installing, owning and maintaining the distribution facilities. The reduced consumption from The Association by the customer-generator, and the associated reduction in distribution revenue, means that such distribution costs must now be borne by all remaining customers.

37. When a customer-generator produces electrical energy in excess of its needs, it reduces the energy that The Association must purchase from Tri-State, and hence it reduces The Association's wholesale power costs.

38. Under The Association's qualified facilities tariff, the customer-generator receives a credit equal to The Association's average wholesale power cost for the excess energy it generates.

39. Under the standard, the customer-generator would receive a credit equal to The Association's full retail rate, with no consideration of The Association's costs of providing service to the customer.

40. In either case, there is a subsidy provided to the customer-generator. This subsidy has been justified to encourage generation from distributed renewable-resource generators, but it comes at the expense of all other ratepayers.

41. The "avoided cost" principle set forth in The Association's qualified facility tariff and the state statute minimizes the subsidy of the customer-generator by other members of a cooperative electric association.

42. When a customer installs an on-site generator to provide a portion or all of its own electrical requirements, the customer inherently reduces consumption from The Association. Therefore net metering, either as defined by the standard or through The Association's qualified facilities tariff, will support the conservation of energy supplied by The Association.

40. Net metering, either as defined by the standard or through The Association's qualified facilities tariff, and as required by Colorado statute, does not support the optimal efficiency of electric utility facilities and resources, since The Association and Tri-State will likely need to install and maintain the same facilities for customers with on-site generation as for those without such on-site generation.

41. Net metering does not support equitable rates for consumers, as it results in a cost shift from customer-generators to other consumers of The Association. The use of credits equal to avoided costs, under the Association's qualified facilities tariff, and as required by Colorado statute, results in more equitable rates than paying a credit equal to The Association's full retail rate, as envisioned by the standard.

42. The Association has addressed the Net Metering standard through prior actions consistent with Colorado statutes by modifying the standard to provide the credit for excess generation at The Association's avoided cost, as defined by Colorado statute.

D. Interconnection.

43. This standard, set forth at 16 U.S.C. 2621 (f) (15) states:

“ Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘interconnection service’ means service to an electric consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by The Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but no limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable and not unduly discriminatory or preferential.”

44. The Association offers interconnection services to any of its electric consumers through its existing Qualifying Facilities Rules and Regulations, contained on Sheets 99 through 123 of The Association's rate tariffs.

45. The Association's Qualifying Facilities Rules and Regulations are consistent with industry standards.

46. Under The Association's Qualifying Facilities Rules and Regulations, the costs associated with the interconnection are borne by the customer-generator.

47. The Colorado legislature has passed HB07-1169. If signed by the Governor, this statute will make Colorado Public Utilities Commission Rules relating to interconnection standards and insurance requirements applicable to The Association.

48. The Association's Qualifying Facilities Rules and Regulations are a starting point for developing working documents within the Association that incorporate the new IEEE Standard 1547, and the Colorado PUC Rules if applicable, as well as other best practices for interconnection as they develop

49. When a customer interconnects an on-site generator to provide a portion or all of its own electrical requirements, the customer inherently reduces consumption from The Association. Therefore the Interconnection standard will support the conservation of energy supplied by The

Association.

50. Interconnection of distributed generation facilities does support the optimal efficiency of electric utility facilities and resources.

51. The Association's Qualifying Facilities Rules and Regulations for interconnection of distributed generation facilities do support equitable rates for consumers, as they place the costs of the interconnection on the customer-generator rather than shifting them to other consumers of The Association.

52. The Association has addressed the Interconnection standard through prior actions, but those actions do not completely match the standard.

E. Time-Based Metering and Communications.

53. This standard, set forth at 16 U.S.C. 2621 (f) (14) states:

“...each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charge 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 time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology... Each electric utility ... shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively...”

54. 16 U.S.C. 2642 (f) goes on to say:

“It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrued to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.”

55. The Association purchases its wholesale power from Tri-State Generation and Transmission Association, Inc. under Tri-State's wholesale rate Schedule A-33. This wholesale rate schedule includes a flat energy charge plus a demand charge that is applied to The Association's highest monthly demand occurring during specifically defined periods (hereinafter the “Peak Periods.”) Thus The Association's average wholesale cost of power is higher, on a

monthly basis during the Peak Periods.

56. The Association presently offers time-based rates to its residential customer class through its Residential Time of Use Rate.

57. The Association presently offers time-based rates to all other customers whose load requirements meet or exceed 25 KVA through its Large Power Load Management and General Power Load Management rates.

58. The Association's rate tariffs for its Large Power Load Management and General Power Load Management rates specify that the customer shall pay for the meter necessary to implement the rate.

59. The Association presently does not offer time-based rates to non-residential customers whose load requirements are less than 25 KVA.

60. Tri-State does not presently offer a coordinated demand response program.

61. It is critical that any demand response program by Tri-State members be coordinated on a system wide basis in order to realize reductions in overall wholesale power costs without cost shifting among the Tri-State members.

62. The Association offers its "Power Partner Program" which controls approximately 1,200 electric water heaters to reduce its monthly wholesale demand.

63. It is not clear, without studying the usage patterns of each individual customer that utilizes a time-based rate whether that customer reduces its energy usage based on the price signals or whether that customer shifts its usage to a period with a lower rate. Some customers who choose a time-based rate may already have a usage pattern that fits the rate signals, such that a reduction in revenue to The Association results with no change in usage pattern.

64. Without studying the usage patterns of individual customers, time-based rates must be considered neutral with respect to conservation of energy supplied by The Association.

65. Without studying the usage patterns of individual customers, time-based rates must be considered neutral with respect to supporting the optimal efficiency of electric utility facilities and resources.

66. Time-based rates will result in a customer paying an electric bill more closely tied to the actual cost of serving that customer than a rate based on the average embedded cost of serving all customers in that rate class.

67. Time based rates will result in more equitable rates to The Association's customers,

regardless of whether customers change usage patterns in response to time-based rates.

68. The Association has addressed the Time-Based Rates standard through prior actions, but those actions do not completely match the standard..

DECISION

69. The Fuel Sources standard is adopted without the need for further action by The Association.

70. The Association shall continue to encourage Tri-State Generation and Transmission Association, Inc. to increase the diversity of its fuel sources, in accordance with prudent engineering practice, through its role as a member of Tri-State, and shall look for opportunities to work within Tri-State policies to increase diverse distributed resources on the Association's system.

71. The Fossil Fuel Generation Efficiency standard is adopted without the need for further action by The Association.

72. The Association shall continue to encourage Tri-State Generation and Transmission Association, Inc. to increase the efficient use of its fossil fuel generation fleet, in accordance with prudent engineering practice, through its role as a member of Tri-State,

73. The Net Metering standard is adopted as modified by The Association's prior actions consistent with Colorado statutes.

74. The Interconnection standard is adopted. The Association shall develop working documents and Rules and Regulations that conform with IEEE Standard 1547 and the Electric Rules of the Colorado Public Utilities Commission as they relate to interconnection standards and insurance of customer-owned generation facilities.

75. The Time-Based Rate standard is adopted as modified by The Association's prior actions.

76. The Association, through its membership in Tri-State will encourage Tri-State to develop coordinated system-wide demand response programs that support the optimal efficiency of electric utility equipment and resources and that promote equitable rates for the customers of all Tri-State members.

BY THE BOARD