

**Fort Collins Electric Utility Staff Recommendation Regarding  
Infrastructure Investment & Jobs Act of 2021 Amendments to PURPA Art. I  
Standards**

1. **STAFF RECOMMENDATION REGARDING HISTORIC STANDARDS in Section 111 (d) (11)-(19):** Staff recommends City Council maintain current City Electric Utility polices related to those PURPA Art. I standards set forth in Section 111 (d) (11)-(19), 16 U.S.C. 2621, as amended by the Energy Policy Act of 2005 and Energy Independence and Security Act of 2007, including policies relating to net metering, time-of-day rates, renewable energy incentives, renewable energy resource integration, and interconnection standards, as amended by Council Ordinances No. 056, 2009; No. 003, 2010; No. 074, 2013; Nos. 053 and 163, 2018; No.125, 2019; No. 139, 2020; and No. 149, 2021.
  
2. Pursuant to 2021 Infrastructure Investment and Jobs Act (“IIJA”), the following standard was added the PURPA Art. I at Section 111(d), 16 U.S.C. 2621, applicable to the Fort Collins Electric Utility:

...

(d) Establishment

The following Federal standards are hereby established:

...

(20) Demand-response practices

(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

...

(ii) Nonregulated electric utilities

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).

...

**STAFF RECOMMENDATION REGARDING STANDARD in Section 111 (d) (20):**

Electric Utilities staff conducted a comparison of existing City electric utility rates and standards with the updated EPAct standards, finding the City’s electric utility operations comport with the goals of and demonstrate compliance with the updated demand response standards, determining that separately adopting the

EPA standards is not in the best interest of City electric utility ratepayers as it may be duplicative and interfere with current benefits received by ratepayers.

3. Pursuant to IIJA, the following standard was added the PURPA Art. I at Section 111(d), 16 U.S.C. 2621, applicable to the Fort Collins Electric Utility:

...

(d) Establishment

The following Federal standards are hereby established:

...

**(21) Electric vehicle charging programs**

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.

...

**STAFF RECOMMENDATION REGARDING STANDARD in Section 111 (d) (21):**

Electric Utilities staff conducted a comparison of existing City electric utility rates and standards with the updated EPA standards, finding the City's electric utility operations comport with the goals of and demonstrate sufficient compliance with updated electric vehicle charging standards, determining that separately adopting the EPA standards, including shifting how marginal costs are recovered under existing rate schedules, is not in the best interest of City electric utility ratepayers as it may be duplicative and interfere with current ratepayer incentives.

## ATTACHMENT A

### Infrastructure Investment & Jobs Act of 2021 Amendments to PURPA

#### 16 U.S.C.A. § 2621.

#### Consideration and determination respecting certain ratemaking standards

##### (a) Consideration and determination

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 chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter 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 any such standard, pursuant to its authority under otherwise applicable State law.

##### (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.

##### (c) Implementation

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law--

(A) implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this chapter, such

authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

**(3)** If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall--

**(A)** consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

**(B)** implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

**(d) Establishment**

The following Federal standards are hereby established:

...

**(20) Demand-response practices**

**(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) Nonregulated electric utilities**

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).

**(21) Electric vehicle charging programs**

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.

**16 U.S.C.A. § 2622.****Obligations to consider and determine****(a) Request for consideration and determination**

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 2621 of this title with respect to any standard established by section 2621(d) of this title in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 2631 of this title) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 2621(d) of this title, a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding--

- (1) any appropriate prior determination with respect to such standard--
  - (A) which is made in a proceeding which takes place after November 9, 1978, or
  - (B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 2634 of this title, with the requirements of this chapter; and
- (2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

**(b) Time limitations**

- ...
  - (7) (A) Not later than 1 year after November 15, 2021, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated electric utility shall commence consideration under section 2621 of this title, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 2621(d) of this title.
    - (B) Not later than 2 years after November 15, 2021, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 2621 of this title with respect to the standard established by paragraph (20) of section 2621(d) of this title.
  - (8) (A) Not later than 1 year after November 15, 2021, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated utility shall commence consideration under section 2621 of this title, or set a hearing date for consideration, with respect to the standard established by paragraph (21) of section 2621(d) of this title.

**(B)** Not later than 2 years after November 15, 2021, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 2621 of this title with respect to the standard established by paragraph (21) of section 2621(d) of this title.

**(c) Failure to comply**

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title in the first rate proceeding commenced after the date three years after November 9, 1978, respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) with respect to such standard

...

In the case of the standard established by paragraph (20) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to November 15, 2021. In the case of the standard established by paragraph (21) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to November 15, 2021.

...

**(g) Prior State actions**

Subsections (b) and (c) shall not apply to the standard established by paragraph (20) of section 2621(d) of this title in the case of any electric utility in a State if, before November 15, 2021--

- (1)** the State has implemented for the electric utility the standard (or a comparable standard);
- (2)** the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or
- (3)** the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility.

**(h) Other prior State actions**

Subsections (b) and (c) shall not apply to the standard established by paragraph (21) of section 2621(d) of this title in the case of any electric utility in a State if, before November 15, 2021--

- (1)** the State has implemented for the electric utility the standard (or a comparable standard);
- (2)** the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

EXHIBIT A TO RESOLUTION 2024-146

**(3)** the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility during the 3-year period ending on November 15, 2021.