

**Board of Directors' Written Determination
With Respect to PURPA Standards
August 17, 2023**

I. Overview

This document constitutes the written, public determination of Sawnee Electric Membership Corporation ("SEMC" or "Sawnee EMC") with respect to the two (2) new standards that Sawnee EMC is required to consider pursuant to the Infrastructure Investment and Jobs Act of 2021 (the "IIJA") which amended the Public Utility Regulatory Policies Act of 1978 ("PURPA"). These standards, which shall be referred to in this document as "The IIJA Standards," are as follows: **(1) Demand-response practices (16 U.S.C. § 2621(d)(20))**, and **(2) Electric vehicle charging programs (16 U.S.C. § 2621(d)(21))**. This document is adopted pursuant to Rule 15 of Sawnee EMC's PURPA Rules and 16 U.S.C.A. § 2621(b).

II. Background

The Board began consideration of each of the IIJA Standards on July 21, 2022. Subsequently, the Board directed Sawnee EMC's staff to review each of the IIJA Standards, confer with expert consultants as appropriate, and to develop testimony relating to each of the IIJA Standards for the purposes of guiding and informing the Board's consideration of, and ultimate determination with respect to, each IIJA Standard. Sawnee EMC scheduled and held a public hearing on May 9, 2023 (the "Hearing").

To solicit and encourage participation in the Hearing, public notice was provided by each of the following means:

1. Letter notice to the Secretary of Energy was sent on March 10, 2023.
2. Web site posting beginning on November 15, 2022, at the Sawnee EMC Web site.
4. Notice posted at the Sawnee EMC headquarters and all district offices beginning on April 6, 2023.
5. Board resolution adopting the PURPA Manual and record date for notice of the Hearing was approved on July 21, 2022.
6. Notices were mailed to all members from February 2, 2023, through February 28, 2023.

The Board has now completed its consideration of whether the adoption of each of the IIJA Standards will serve the three purposes of PURPA,¹ in reliance upon the facts, opinions, conclusions and other information derived from a careful review of the testimony presented at the Hearing, and after giving due and thoughtful consideration to applicable federal and state laws, the unique circumstances of non-profit, member-owned cooperatives in general, and to the specific circumstances of Sawnee EMC in particular, the Board adopts the following determinations:

¹ The three purposes of PURPA are: (i) to encourage the conservation of energy; (ii) to optimize the efficient use of energy facilities and resources; and (iii) to encourage equitable consumer rates. 16 U.S.C.A. § 2611.

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III. Findings

Based upon the foregoing, the Board has resolved and makes the determinations set forth below:

A. The Demand-response practices (The DRP Standard)

1. Overview

The Demand-response practices ("DRP") Standard provides as follows:

(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).

16 U.S.C.A. § 2621(d)(20).

2. Consideration

The Board believes that the testimony presented at the Hearing indicates that many of Sawnee EMC's current rates, policies, and programs, implement the DRP Standard and promote the purposes of PURPA and include components of DRP. These include, for example: (i) switched air-conditioning and heat pumps, (ii) incentives for smart thermostats, (iii) incentives for A/C and Heat Pump replacements and insulation upgrades, (iv) time-based rate tariffs (including time of use, critical peak pricing, net metering), and (v) demand side management (DSM) plans and budgeting. Each of these rates, policies and practices serve the purposes of PURPA and support this PURPA standard.

3. Determination

Sawnee EMC's current and on-going demand-response and demand flexibility programs are described in Mr. Warmack's written testimony. Mr Warmack's testimony demonstrates that Sawnee EMC, to the extent it is

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able to do so as an electric distribution utility, has already adopted programs that promote demand-response and demand flexibility practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand. The Board further commits that it will, on Sawnee EMC's behalf, continue to evaluate its current programs as well as opportunities for future DRPs to ensure that the Cooperative's demand response provides optimal benefits to the Cooperative and its members. For example, Sawnee EMC intends to continue to examine the benefits of new technologies allowing for the control of charging/discharging of electric vehicles, solar array inverters, and the deployment of battery storage systems.

The Board finds that Sawnee EMC's current DRPs serve the three (3) purposes of PURPA. The Board further finds that because its practices are compliant with the DRP Standard, and because of its unique structure as a member-owned, member-governed cooperative, it is not necessary for Sawnee EMC to modify its current DRPs or policies, or to formally adopt the DRP Standard as set forth in IJJA.

B. Electric vehicle charging programs (The EV Charging Standard)

1. Overview

The EV Charging Standard provides as follows:

Each State [and nonregulated electric utility] 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. § 2621(d)(21).

2. Consideration

Sawnee EMC's current and on-going EV charging and related programs are described in Mr. Warmack's written testimony. Mr Warmack's testimony demonstrates that Sawnee EMC, to the extent it is able to do so as an electric distribution utility, has already adopted programs that promote EV charging while appropriately recovering the costs of EV charging, and to enhance the convenience and likelihood of EV use. These programs include: (i) efforts to educate lawmakers, (ii) implementation of commercial and residential EV charging rates, (iii)

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efforts to provide membership with accurate, unbiased information regarding the use of EVs, (iv) efforts to provide charging location information to EV users, and (v) providing grants to assist deployment of 60 level 2 EV chargers. The Board intends to ensure that the Cooperative continues its efforts to appropriately enhance EV services as a means of addressing the needs of the Cooperative, its membership, and indeed the needs of the many communities served by the Cooperative.

3. Determination

Sawnee EMC's current and on-going EV charging and related programs are described in Mr. Warmack's written testimony. Mr Warmack's testimony demonstrates that Sawnee EMC, to the extent it is able to do so as an electric distribution utility, has already implemented several programs, as stated above, that promote greater electrification of the transportation sector. Further, Sawnee EMC will continue to evaluate its current programs, as well as opportunities for future electric vehicle charging programs, to ensure that the Cooperative continues to promote the electrification of the transportation sector, while incorporating measures needed to recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.

The Board finds that Sawnee EMC's current EV charging rates and policies serve the three (3) purposes of PURPA, and the Board directs that Sawnee EMC continue utilizing such factors in designing EV charging rates and policies where appropriate. The Board further finds that because its current rates are compliant with the EV Charging Standard, and because of its unique structure as a member-owned, member-governed cooperative, it is not necessary for Sawnee EMC to modify its current retail rates, or to formally adopt the EV Charging Standard as set forth in IJJA.

IV. Conclusion and Certification

This Board, having considered the testimony presented at the Hearing, the purposes of PURPA, and both federal and state laws, hereby adopts this document by unanimous vote of the Board on August 17, 2023.

Sawnee Electric Membership Corporation

By: 
Gary Porter, Chairman

Attest: 
Tim G. Heard, Secretary/Treasurer

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