

STATE OF NORTH CAROLINA

WAKE COUNTY

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

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 Wake 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 Wake Electric Membership Corporation’s Staff, the Wake Electric Membership Corporation (“Wake EMC”) Board of Directors makes the following Findings of Fact:

FINDINGS OF FACTS

1. Wake 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 IJIA 2021, Wake Electric Membership Corporation’s Board of Directors, adopted certain rules for conducting a public proceeding in compliance with the Public Utility Regulatory Policies Act of 1978, as amended, (“PURPA”). See Wake EMC Exhibit 3.

3. Wake Electric Membership Corporation's Board of Directors authorized Management to propose a Public Notice document. The Wake EMC Board required that the Public Notice document be disseminated through publications and postings as hereinafter described:

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

(A) Comments may be submitted by Wake EMC Members or Non-Members between August 1, 2023 and September 15, 2023.

(B) The Public Proceeding will be held on October 23, 2023 commencing at 6:00 p.m.

(C) The Wake EMC Board of Directors will issue its Determination on or before November 14, 2023.

(D) Any Wake EMC decision will become effective per terms of the Order.

5. The Affidavit of James E. Mangum, Jr., Chief Executive Officer and General Manager of Wake Electric Membership Corporation, identifies a copy of the "Notice of Hearing and Request for Member Input on New Federal Energy Standards" and describes the methods of publication and posting of that Notice for the Public Hearing to be conducted October 23, 2023. See Affidavit of James E. Mangum, Jr., Exhibit 5.

6. The Affidavit of Keith Alexander, Advertising Manager of the Carolina Country Magazine, identifies a copy of the "Notice of Hearing and Request for Member Input on New Federal Energy Standards" which was published in the August Issue of the Carolina Country Magazine, providing Notice to Members of Wake Electric Membership Corporation of the Federal PURPA Hearing to be Conducted on October 23, 2023 AT 6:00 p.m. See Affidavit of Keith Alexander, Exhibit 6.

7. The Affidavit of Maria to Pedro, Communications Assistant for Wake Electric Membership Corporation, identifies the “Notice of Hearing and Request for Member Input on new Federal Energy Standards” which was posted on the Wake EMC website on July 31, 2023, inviting Members and Non-Members to submit written comments to Wake EMC between August 1, 2023, and September 15, 2023 regarding the new proposed PURPA Federal Energy Standards. See Affidavit of Mario de Pedro, Exhibit 7.

8. The Affidavit of Rachel Roberson, Legal Assistant for Wake Electric Membership Corporation, identifies the Legal Notice of the Public Hearing to be conducted October 23, 2023 at 6:00 p.m. by Wake Electric Membership Corporation regarding the new proposed PURPA Federal Energy Standards. This Legal Notice was published in the seven (7) newspapers distributed within the WEMC territory. See Affidavit of Rachel Roberson, Exhibit 8.

9. Written comments were submitted by Wake Electric Membership Corporation Member Kathy Brehme dated August 22, 2023. See Written Comments by Member Kathy Brehme, Exhibit 9. The Wake EMC Board of Directors has considered the comments submitted by Wake EMC Member Kathy Brehme: (1) requesting that Wake EMC not require Members to participate in “Time of Use” Rates, and; (2) that Kathy Brehme has questions concerning the practicality of Electric Vehicles in the rural area. The Wake EMC Board has taken Kathy Brehme’s comments into consideration. Wake EMC does not require that Ms. Brehme or any Wake EMC Member participate in either the “Time of Use” Rates or in the Electric Vehicle Program. These Demand Response Programs and Electric Vehicle Programs are completely voluntary.

10. Written sworn testimony of Don Bowman, Assistant General Manager, and Vice President of Engineering & Operations of Wake Electric Membership Corporation, addresses the

current programs offered by WEMC regarding Demand Response Practices and Electric Vehicle Charging Practices. See Written Sworn Testimony of Don Bowman, Exhibit 10

11. Wake EMC EMC retained Grey Court Reporting to prepare a transcript of this Proceeding and a transcript of all submissions and copies of documents presented at the October 23, 2023 PURPA proceeding. Wake EMC will make the record available for review by the Members and other interested Non-Members.

12. All members of the Wake EMC Board of Directors were present.

13. With respect to the Demand-Response Practices detailed under 16 U.S.C. § 2621(d)(20), the members of Wake EMC Board of Directors convened and sitting as a regulatory body on October 23, 2023, at 6:00 p.m., hereby make the following Findings of Facts based upon the “greater weight of the evidence” standards:

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

(b) In addition, the Board of Directors acting as a regulatory body determines that Wake EMC expects to continue to meet or exceed the goals and objectives outlined in the standards through Wake EMC’s ongoing strategic planning and oversight.

(c) The Wake EMC Board of Directors, as part of the Wake EMC routine practices, receives and reviews from Wake EMC staff, key performance indicators, measures of 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.

14. With respect to the Electric Vehicle Charging Programs detailed under 16 U.S.C. § 2621(d)(21), the members of Wake EMC Board of Directors convened and sitting as a regulatory

body on October 23, 2023, at 6:00 p.m., hereby make the following Findings of Facts based upon the “greater weight of the evidence” standards:

(a) The Wake EMC Board of Directors acting as a regulatory body finds that Wake EMC’s implemented Electric Vehicle (“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).

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

(c) The Wake EMC Board of Directors, as part of Wake EMC’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, Wake Electric Membership Corporation, in compliance with the timeline and Wake EMC Rules for Conducting the Proceeding under PURPA as set forth above and based upon the evidence presented pursuant to the Public Notice and a result of the Proceeding held on October 23, 2023, makes the following Conclusions and Determinations as to each of the applicable new PURPA Standards:

CONCLUSIONS AND DETERMINATIONS

1. The Wake Electric Membership Corporation’s Board of Directors determines that Wake EMC has substantially complied with the established procedures adopted for the PURPA Proceeding.

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

Wake EMC 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 Wake Electric Membership Corporation determines with reference to PURPA's new "Electric Vehicle Charging Programs" Standard as follows:

Wake EMC 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.

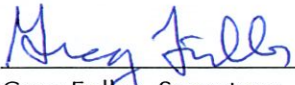
5. This Determination and Order shall be made a part of the official record of the Wake Electric Membership Corporation's PURPA proceeding and shall be entered and posted at the following electronic address: <https://wemc.com/purpa/>.

This 23rd day of October, 2023.

WAKE ELECTRIC MEMBERSHIP
CORPORATION

By: 
Suzanne K. Morgan, President & Presiding
Chairperson

ATTESTED BY:

 (SEAL)
Greg Fuller, Secretary