

STATE OF NORTH CAROLINA

COUNTY OF CALDWELL

**In the Matter of:  
Consideration of Federal Standards  
Proposed by Amendments to the Public  
Utility Regulatory Policies Act (“PURPA”)**

**BLUE RIDGE ELECTRIC  
MEMBERSHIP CORPORATION’S  
FINDINGS AND DETERMINATIONS**

### **INTRODUCTION AND BACKGROUND**

The Infrastructure Investment and Jobs Act (“IIJA”) was passed in 2021 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 demand response practices and electric vehicles programs) 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 Blue Ridge 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), which Blue Ridge is required to consider for adoption.

**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 the input of a retained consultant, Ashby Consulting, LLC as well as Blue Ridge Electric Membership Corporation's management, the Blue Ridge Board of Directors, adopts the Recommendation of its Finance & Rates Committee and makes the following Findings of Fact:

## FINDINGS OF FACTS

1. Blue Ridge 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 IJA 2021, Blue Ridge Electric Membership Corporation by Board action on October 25, 2022, approved the process for consideration of the two PURPA standards; set the time period for written public comment as June 1, 2023 through July 17, 2023; set the hearing for October 26, 2023; and delegated to the Finance & Rates Committee the review, oversight to ensure compliance with procedural requirements, the initial evaluation process and the conducting of a public proceeding in compliance with the Public Utility Regulatory Policies Act of 1978, as amended, (“PURPA”) and North Carolina law. See BREMC Exhibit 1, Affidavit of Kelly Melton.

3. In accordance with the delegated responsibility, the Finance & Rates Committee has reviewed and found Blue Ridge exceeded the required public notice by (i) publishing its “PURPA Comments and Hearing Notice” in paid advertisements twice within the proper time period in six different newspapers within its service territory; (ii) posting signage of such Notice in its corporate office, each of its four district offices and on its website; (iii) including the Notice in newsletters to its members as part of *Membership Matters* in both the May and July 2023 *Carolina Country* magazine sent to all its members either by US mail or electronically; and (iv) establishing a portal on its website for the general public and members to make written comments and submissions from June 1, 2023 at 8am (EDT) through July 17, 2023 at 5pm (EDT). See BREMC Exhibit 2, Affidavit of Renee Walker.

4. To assist in Blue Ridge's determinations, Ashby Consulting LLC, an energy and utilities consulting firm that has advised Blue Ridge with respect to its wholesale power contract and electric services for over twenty (20) years was retained to assist in Blue Ridge's required determinations. Blue Ridge engaged Ashby Consulting to conduct a study and among other things, to identify and analyze the relevant factors and considerations to be taken into account by the Blue Ridge's Finance & Rates Committee and its Board's when deciding whether to adopt either or both of the new PURPA standards, or to decline to adopt the new PURPA standards. The Ashby Consulting Study was provided in written form to both the Finance & Rates Committee for its consideration in making its Recommendation to the Board and to the full Board in making these findings and determination. See BREMC Exhibit 3, Ashby Consulting LLC's October 19, 2023, Study for Blue Ridge Electric Membership Corporation entitled "Considerations of PURPA Section 111(d) Standards in the Infrastructure and Jobs Act of 2021."

5. The Finance & Rates Committee and the Board took into consideration the proposed PURPA Demand Response Standard in the context of PURPA's goals and Blue Ridge's existing demand response programs and rates and unique Blue Ridge limitations and circumstances, including Ashby Consulting LLC's analysis and opinion which was summarized as with respect to demand response as follows:

"In Ashby Consulting's opinion, through Blue Ridge's current and on-going demand-response and demand flexibility programs, Blue Ridge has already adopted and implemented programs that promote demand-response practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand or emergency situations. Further, it is Ashby Consulting's recommendation that Blue Ridge should continue to evaluate its current programs as well as opportunities for future Demand-Response Practices to ensure that demand response provides benefits to the Cooperative and its members."

See BREMC Exhibit 3 at pages 7-8.

6. The Finance & Rates Committee and the Board took into consideration the proposed PURPA Electric Vehicle Charging Programs Standard in the context of PURPA's goals generally as well as Blue Ridge's existing strategy and EV rate programs, its territory and limitations of Blue Ridge relative to the proposed PURPA standard, including Ashby Consulting LLC's analysis and opinion which was summarized the EV Charging Standard and Blue Ridge's programs as follows:

“In Ashby Consulting's opinion, the Board has already considered and implemented measures to promote greater electrification of the transportation sector in its service area by installing chargers at their cost and by adopting and implementing residential and commercial EV charging programs. It is Ashby Consulting's recommendation that going forward Blue Ridge's Board continue to monitor the evolving technology and infrastructure related to electric vehicles and regularly consider measures to promote greater electrification of the transportation sector. Future consideration may take many forms, including continuing programs that encourage and incentivize members to make informed decisions about the purchase of an EV and the optimal time to conduct the charging as well as the application of rates that appropriately recover the marginal costs of providing EV charging service. In that manner, cost-based measures can provide benefits to both consumers of electric service and electric utilities. “

See Exhibit 3 at pages 12-13.

7. Alan Merck, the Chief Operating Officer of Blue Ridge Electric Membership Corporation, presented the Finance & Rates Committee as well as the Board with an overview of Blue Ridge's current methodology and historical and existing programs with respect to demand response as well as the Cooperative's limitations in its existing wholesale power contract regarding demand response. Mr. Merck also presented an overview to the Finance & Rates Committee and the Board of Blue Ridge's current strategy with respect to EV Charging, EV rates and schedules, based on a cost of service conducted by Blue Ridge with respect to such programs and rates. Mr. Merck presented the only two general public or member comments received during the submission

process for consideration and addressed Blue Ridge's practices and programs relevant to the written comments submitted as well as the oral comments from two members present at the hearing discussed below. Finally, Mr. Merck summarized additional factors and concerns with respect to the potential adoption of the new PURPA standards by Blue Ridge. See BREMC Exhibit 4, Presentation by Alan Merck on behalf of Blue Ridge management of information relevant to the two PURPA standards and Blue Ridge's existing practices and programs.

8. Two current members registered and presented comments orally at the hearing before the Finance & Rates Committee. Ms. Pattie Phelps from Alleghany District spoke in favor of promoting electric vehicle charging and requested lower rates for off peak charging. See Exhibit 5, Ms. Phelps "Comments for PURPA 111(d)". Ms. Jessica Hicks from Watauga District spoke regarding her concerns about the electric vehicle charging standard and stated she did not agree with adopting the PURPA standard, and encouraged slow and appropriate development of electric vehicle charging programs at Blue Ridge.

9. All members of the Finance & Rates Committee were present and participated in the hearing and the Committee deliberations with respect to the Recommendation to the full Board, with one Committee member participating via Teams due to illness. All members of the Board of Directors were present, with eleven (11) directors participating in the deliberations in person and one director participating via Teams due to illness.

10. With respect to the Demand Response Practices detailed under 16 U.S.C. § 2621(d)(20), the members of the Blue Ridge Board of Directors convened and sitting as a regulatory body on October 26, 2023, after review and evaluation of the evidence introduced at the hearing, hereby adopts the Recommendation of the Finance & Rates Committee and makes the following Findings of Facts based upon the "greater weight of the evidence" standards:

(a) The Board of Directors of Blue Ridge, acting as a regulatory body, finds that the implemented demand response practices and programs currently in place at Blue Ridge are consistent with the intent and goals of the proposed PURPA standard as set forth in 16 U.S.C. 2621(d)(20) and that Blue Ridge's practices and programs are appropriate for Blue Ridge and in the best interests of its members.

(b) In addition, the Board, acting as a regulatory body, states that it intends for Blue Ridge to continue to evaluate and adopt demand response practices and programs that are appropriate for Blue Ridge and in the best interests of its members. Further, Blue Ridge's ongoing strategic planning will continue and will include the evaluation of such practices and programs. The strategic direction of all demand response programs are regularly reported to and reviewed by the Board of Directors.

11. With respect to the Electric Vehicle Charging Programs detailed under 16 U.S.C. § 2621(d)(21), the members of Blue Ridge's Board of Directors convened and sitting as a regulatory body on October 26, 2023, after review and evaluation of the evidence introduced at the hearing, hereby adopts the Recommendation of the Finance & Rates Committee and makes the following Findings of Facts based upon the "greater weight of the evidence" standards:

(a) The Blue Ridge Board of Directors, acting as a regulatory body, finds that the implemented programs, rates and measures currently in place at Blue Ridge are consistent with the intent and goals of the proposed PURPA standard as set forth in 16 U.S.C. 2621(d)(21) and that Blue Ridge's EV strategy, programs and rates are appropriate for Blue Ridge and in the best interests of its members.

(b) In addition, the Board, acting as a regulatory body, states that it intends for Blue Ridge to continue to evaluate and adopt EV charging programs, rates and measures that are

appropriate for Blue Ridge and in the best interests of its members. Further, Blue Ridge's ongoing strategic planning will continue and will include the evaluation of such practices and programs. The strategic direction of all EV charging programs, rates and measures are regularly reported to and reviewed by the Board of Directors.

WHEREFORE, Blue Ridge Electric Membership Corporation, in compliance with the federal requirements as set forth above and based upon the evidence presented at the hearing and considered by the Board as part of its deliberations, makes the following considerations and determinations as to each of the applicable new PURPA Standards:

### **CONSIDERATIONS AND DETERMINATIONS**

1. The Board of Blue Ridge Electric Membership Corporation determines that Blue Ridge has fulfilled the requirements of the Infrastructure Investment and Jobs Act (IIJA) of 2021 in its consideration of the new PURPA standards regarding demand response practices and electric vehicle charging programs..

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

Blue Ridge will not adopt the PURPA "Demand Response Practices" proposed standard as set forth in 16 U.S.C. 2621(d)(20).

3. The Board of Directors of Blue Ridge Electric Membership Corporation determines with reference to PURPA's new "Electric Vehicle Charging Programs" Standard as follows:

Blue Ridge will not adopt PURPA "Electric Vehicle Charging Programs" proposed standard as set forth in 16 U.S.C. 2621(d)(21).

4. This Determination and Order shall be made a part of the official record of the Blue Ridge Electric Membership Corporation's PURPA proceeding and shall be entered and posted

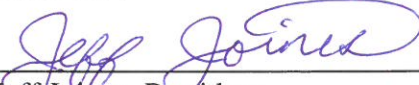


within 14 days on the Blue Ridge Energy website at the following electronic address:

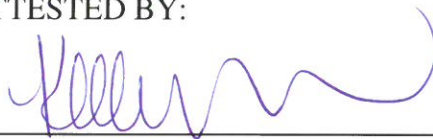
[www.blueridgeenergy.com/company/purpa-111d](http://www.blueridgeenergy.com/company/purpa-111d).

This 26th day of October, 2023.

BLUE RIDGE ELECTRIC MEMBERSHIP  
CORPORATION

By:   
Jeff Joines, President

ATTESTED BY:

 (SEAL)  
Kelly Melton, Secretary-Treasurer