

EMPIRE ELECTRIC ASSOCIATION, INC.  
MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
April 9, 2021

Regular meeting of the board of directors of Empire Electric Association, Inc. was held Friday, April 9, 2021 with the following directors present: David Sitton, Jerry Fetterman, Kent Lindsay, Bob Barry, Larry Archibeque and Norman Butler. Others present: General Manager Josh Dellinger, Attorney Shay Denning, Operations Manager Ken Tarr, and Financial Manager Ginny Johnson. Appearing by web conference: Engineering Manager Clint Rapier, Business Services Manager Chris Snyder, Executive Secretary / HR Representative Shawna McLaughlin, and Member Engagement Manager Andy Carter.

Others present by web conference: Members Allen Maez, Ken Curtis, Bill Mollenkopf, and Marianne Mate.

President Sitton called the meeting to order at 8:30 a.m.

Approve Consent Agenda:

**Action Item:** Archibeque moved to approve the consent agenda, seconded by Lindsay. Motion carried.

Membership Input: Allen Maez stated that he is interested in running for the District 1 position that is up for election.

Marianne Mate mentioned that she is working with the Dolores Community Corp on the Solar Forward Program and that she will be bringing information to the board. She is also interested in the new rate structure.

Ken Curtis stated that DWCD is still interested in small hydro power. He is also interested in the new rate change structure and has questions regarding the peak window that has been set.

Monthly Safety Report: Dellinger reported that there were no personnel injuries and there was one property damage on a truck. The side tool bin door was not latched in place and was damaged when the outrigger was put up. The Safety and Health Committee finalized the Safety Improvement Plan for 2021 and it was distributed to the employees.

Correspondence:

General Correspondence:

Federated Insurance Report from the Board.

CRC Report from the Boardroom.

CoBank Statement of Qualified Patronage Distribution of 2020.

SEDC Patronage Capital Notice of Allocations.

Thank you from:

The Pinon Project for the Donations.

Policy Review/Action:

**Action Item:** Policy 38: Inactive Employee Benefits (11-9-18): Dellinger explained that there were a few minor changes along with the new format. There was a verbiage clarification that inactive employee benefits start on the day of disability. Fetterman moved to approve Policy 38 as presented, seconded by Butler. Motion carried.

**Action Item:** Policy 40: Alcohol and Drug (12-14-18): Dellinger stated that the only changes were format changes. Archibeque asked about our random drug testing procedures and that was explained by Dellinger. A

conversation was had regarding CBD oils and what our procedures are for that. It was explained that we have an administrative policy that covers drug testing procedures. Butler moved to approve Policy 40 as presented, seconded by Lindsay. Motion carried.

General Manager Report:

**Strategic Planning Update:** Dellinger reviewed the quarterly strategic planning updates with the board. Staff continues to work on all goals. Sitton mentioned that in our next strategic planning session, the board should start looking at the cost of infrastructure to allow for higher load to accommodate increased electric vehicles. Discussion was had on the future of EV's, what should be expected, what the cooperative will need to be able to handle as far as load growth, and improvements on our infrastructure.

**Action Item: Select FastTrack Board Representative:** Dellinger explained that the board can elect whomever they wish, it does not have to be a board member. The person appointed will need to understand that they will have to report back to the board. Archibeque asked if there was any conflict of interest regarding a non-board member going into executive session. Denning explained that executive sessions may be attended by non-board members, but that the non-board members would need to leave the executive session for any topics that are not related to their matter. Denning explained how the FastTrack board affirms their board members and they do this at their annual meeting, which will be held this fall. Sitton stated that we do have a non-board member that is interested in serving on the FastTrack Board. He asked if any of the board members would be interested. Bill Mollenkopf was nominated by Archibeque to represent EEA on the FastTrack Board. Mollenkopf stated that he would accept this nomination. Archibeque moved to appoint Member Bill Mollenkopf as the FastTrack Board Representative, seconded by Fetterman. Motion carried. Sitton mentioned that the board will need to appoint a board member or the General Manager to vote our share at the FastTrack Annual Stockholders Meeting when that time comes.

**E&O Property Lease for Solar Project.** Dellinger stated that we have been working with One Energy to lease 9.5 acres that Empire owns out at the E&O facility. The lease is in a draft form and the redline still needs to be finalized. Dellinger explained that one of the surrounding neighbors is opposed to this and he stated that when the E&O was built, there was a verbal agreement that Empire would not put solar on that land. Neither staff nor the board remember this conversation. Denning stated that she looked in the purchase agreement and other written documentation, and it is not mentioned. She stated that we should add this to the executive session to discuss further. This portion of the meeting has been tabled to review in executive session.

**Financials:** Johnson reported on the financials for February. She highlighted that year-to-date kilowatt hour sales are under budget due to the large power rate class, mainly the Kinder Morgan clusters. The low large power kWh sales have been somewhat offset by increased kWh sales in the residential rate class. She explained the favorable variance in purchase power is temporary and is driven by line loss. A discussion was held on our variable debt and what percentage of long-term debt has a variable interest rate versus a fixed interest rate. Johnson also included in the board packet an explanation of how we handled the Shell/Kinder Morgan property tax credit discussed last month.

**Miscellaneous:** Dellinger stated that there have been recent questions from the Ute Mountain Ute Tribe (UMUT) and BIA regarding our rights-of-way (ROW) across UMUT land. Questions have ranged from whether we even have legitimate ROW for our existing system to whether we need to do a cultural assessment of our existing ROW. After going through agreements and records, we think that we have appropriate ROW. We have a Franchise Agreement, a Service Agreement, and ROW Agreement that were all approved by the UMUT and BIA in 1994. Each of these had a 20-year term with provisions for EEA to renew for another 20 years at our discretion. We informed the UMUT of our intention to renew each of these agreements in 2014; thus, we think these agreements

are effective until 2034. Regarding the cultural assessment, it appears that EEA fulfilled any assessment requirements either in 1994 or before; thus, we think we have the ability to maintain our existing ROW without doing cultural studies at this time. Any new ROW will likely need a cultural assessment. The entity requesting the new line will be financially responsible for any cultural assessments. Denning stated that she is currently working to clarify Empire's responsibilities on UMUT land. Denning stated that she is hoping to have final answers and a better report by the meeting next month.

Dellinger discussed the Totten Lake Solar Project. OneEnergy has once again asked to extend the completion date. They would like to build the project in 2022 instead of 2021. The first extension requested last year was due to the discovery of the eagle's nest on an adjacent property, which severely limited the time period in which construction can be done. This new extension request is due to supply chain issues. Board agrees to allow the extension on this contract to 2022, if we can maintain the same financial benefit that we were expecting. We will work with Tri-State and OneEnergy in extending this contract.

The Board District 3 position has received two applications as of today. Dellinger asked the Board if they would prefer to set up a special meeting to review the applications or if they would like to set up interviews for all applications. Board agrees to interview all applicants based on how many we end up with. Dellinger will send out the interview questions to the board so they can review these and make any changes before interviews are scheduled. Sitton asked that the board give comments regarding the questions by the end of next week. Board agreed to tentatively schedule interviews for May 7<sup>th</sup>. Schedule first interview for 2:00 p.m. with an hour for each interview. If we end up with several applications, we will look at a different date to complete the interviews. The appointment will be made during the May 14, 2021 Board Meeting.

Dellinger mentioned that the Montezuma Board of County Commissioners would like to schedule a board-to-board meeting to establish a working relationship and they would like to discuss a special rate for their General Service three phase accounts. Board agrees to meet with them the afternoon of April 20<sup>th</sup>.

Dellinger stated that he would like to see more participation in the Rate Structure Forums. Carter is doing a great job on these forums, but we don't have much member participation. Johnson has provided all board members, as well as all employees, with a spreadsheet that shows what their individual bills would be under the new time of use rate structure.

Director Roundtable: None.

Attorney: Denning provided a written attorney report in the board packet. She stated that we closed the CR England hit pole claim. She continues to work on the joint use agreements. She has heard from CenturyLink with an apology for the delays, so she is hoping to continue work on that.

Tri-State: Fetterman gave a report on the Tri-State Board meeting. He stated that the BP 117 contract renewal for the community solar garden was approved. He commented on the Nucla demolition project. The cost of this demolition increased due to asbestos issues. He discussed the CEO Report. He stated that one of the power companies in Texas had to file for bankruptcy due to the issues that happened there. He discussed the \$12 million loss during the cold weather event in February as well as potential costs of coal mine reclamation. CEO Highly has been working with the Sierra Club to get federal funding for stranded assets. NRECA recommended that they not do that, but Tri-State is still talking to them. He discussed some legislative items in Wyoming. There is a bill that would make other states pay expenses for the closure of coal plants in Wyoming.

CREA: Archibeque submitted a written report that was presented in the board packet. He noted the classes from CREA will be held in person starting in June. Several classes will be held in October that will be held in person. There is a special CREA meeting that will be held next week regarding a bill aimed at reducing greenhouse gases. He also mentioned two bills that would affect our cooperative. These are bills for agriculture workers that would impact the way agriculture workers are paid. There is also a bill regarding animal rights that will have a

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tremendous impact on the farming and ranching community. Dellinger stated that the Wildfire Bill went to committee and the trial lawyers killed it.

Western United: No report.

Utah Rural Electric Cooperatives Association: Dellinger attended the URECA meeting and put a report in the packet. He highlighted legislative issues in Utah.

FastTrack: Dellinger noted there is no report because their meeting is not until next week.

Committees: None.

Audit Review with CarlsonSV, Abby Williamson: A presentation of the EEA Audit was presented by Abby Williamson with CarlsonSV. The report was given in open session. Lindsay moved to go into a board-only executive session to discuss the audit report, seconded by Archibeque. Board went into executive session at 11:26 a.m. Came out of executive session at 11:36. Lindsay moved to accept the audit report as presented, seconded by Barry. Motion carried.

Executive Session: Archibeque moved to go into executive session to discuss FastTrack, the Totten Lake Solar Project, and the E&O Property Lease, seconded by Butler. Motion carried. Went into executive session at 11:39 a.m. Came out of executive session at 12:30 p.m.

**Adjournment:** Meeting adjourned at 12:30 p.m.



Kent Lindsay, Vice President



Jerry Fetterman, Secretary/Treasurer