

## Record of Minutes

### Colorado 31 Larimer

#### Poudre Valley Rural Electric Association, Inc.

**September 29, 2009**

President Keith D. Croonquist called the meeting to order at 9:00 a.m. All Directors were present except directors Alexander, Hole (vacation) and Johnson (medical). Also attending were CEO Brad Gaskill, Finance and Corporate Services Manager Jeff Wadsworth, Operations Services Manager Tim Stanton, Human Resources and Safety Services Manager Duane Ziller, Member Services Manager Myles Jensen, Engineering Services Manager Jim Byrne and Attorney Randolph Starr and Michael Westbrook.

There being no further business to come before the August 25, 2009, meeting of the Board, upon motion duly made, seconded and carried, the meeting was adjourned.

President Croonquist called the regular September Board meeting to order.

Changes to the Agenda were made by President Croonquist: an executive session will be held re employee and employee compensation matters and discuss board evaluations after lunch. [09:01]

President Croonquist asked for comment from the public, and there was no comment as no members of the public appeared. [09:01]

Upon motion duly made, seconded and carried, the following matters were adopted unanimously by the Board:

1. Minutes of the Board Meeting on August 25, 2009.
2. Work Order Form 219 (#790-08-09) in the amount of \$158,174.26.
3. Construction contracts for September, 2009, on the list given to the Board prior to the meeting.
4. Estate capital credits discounted payment on the list given to the Board prior to the meeting in the amount of: \$NONE. [09:02]

CEO Gaskill distributed additional documents received since the Board packet had been mailed. Discussion about the response to President Croonquist's letter to the members ensued. During the discussion director Alexander entered the board room. [09:14]

Manager Wadsworth gave a verbal and PowerPoint® report on various financial matters. Manager Wadsworth also presented the CFC annual KRTA

[Key Ratio Trend Analysis] that had been sent to the board prior to the meeting. Questions were asked by the Board and answered by Manager Wadsworth. Upon motion duly made, seconded and carried the financial report was accepted. [10:11]

CEO Gaskill reported on the status of: A) Moblesource payment update; B) status of the damage claims from the Neva Road Fire on January 7, 2009; C) status of the proposed sale of about 1.59 acres to the Windsor-Severance Fire Protection with input from Manager Byrne; D) update on status of Town of Wellington franchise; and a motion was made, seconded and carried to direct management to advise Wellington that franchise fees would cease being collected on January 1, 2010, unless a franchise agreement is entered into prior to that time and that absent a retroactive franchise agreement that the Town will reimburse the Association for past collected franchise fees collected after the expiration date of the prior franchise [for reimbursement by the Association to affected customers]; E) and F) USDA, Rural Development REDLG program—discuss process for making loans by the association to qualifying projects—Cheryl Scofield of USDA and Pat Plank entered the board room and discussed the parameters of the loan program; and upon motion duly made, seconded and carried the “Revolving Loan Fund Plan” presented by Mr. Plank was approved; and then Mr. Plank gave an update on the Timberline Energy’s landfill methane electric generation (now Larimer Energy, LLC) 1.5Mw Larimer County landfill methane generation project from which the association will purchase the electric output. [11:55]

At this time the regular luncheon break was taken. [reconvene at 12:37]

CEO Gaskill read an email from Canadian counsel about the status of the Moblesource matter. [12:45]

CEO Gaskill presented a number of matters for action by the board:

A. Considered the proposed Amendment to Section 3.02 of the Bylaws of the association to effect a reduction in the size of the board from 11 members to 9 members as follows:

3.02 Term of Office and Voting Districts. The Board of Directors shall be elected by and from the membership for three-year terms from voting districts on the following basis:

3.02.01 Voting District B shall be composed of Boulder County and two Directors shall be elected to represent said District. Commencing with the election at the annual meeting of Members in 2009, these positions shall thereafter be designated Position B-1 and B-2. Position B-1 shall be elected for the term commencing in 2011, and Position B-2 shall be elected for the term commencing in 2009.

**One position shall be eliminated under the following transition provisions and thereafter there shall be one Director elected from Voting District B.**

3.02.02 Voting District W shall be composed of Weld County and three Directors shall be elected to represent said District. Commencing with the election at the annual meeting of Members in 2009, these positions shall thereafter be designated Position W-1, Position W-2, and Position W-3. Position W-1 shall be elected for the term commencing in 2010 and Position W-2 shall be elected

for a term commencing in 2011, and Position W-3 shall be elected for the term commencing in 2011.

**One position shall be eliminated under the following transition provisions and thereafter there shall be two Directors elected from Voting District W.**

3.02.03 Voting District L shall be composed of Larimer County and six Directors shall be elected to represent said District. Commencing with the election at the annual meeting of Members in 2009, these positions shall thereafter be designated Position L-1, Position L-2, Position L-3, Position L-4, Position L-5, and Position L-6. Position L-1 shall be elected for the term commencing in 2011, Position L-2 shall be elected for the term commencing in 2010, Position L-3 shall be elected for the term commencing in 2009, Position L-4 shall be elected for the term commencing in 2009, Position L-5 shall be elected for the term commencing in 2009, and Position L-6 shall be elected for the term commencing in 2010.

3.02.04 Such Directors shall serve for the term for which they were elected, subject to the provisions of the Bylaws with respect to the removal of Directors.

Transition Provisions for elimination of the At Large positions of the Board and the creation of a position in Larimer County and a position in Weld County. The following transition provisions are included in the Bylaws to achieve that goal:

1. The changes to the provisions Paragraph 3.02 shall take effect on September 25, 2008.
2. The At-Large Director positions (1-A and 1-B) will be eliminated effective at the end of a regular term for each position so that position 1-A will be eliminated at the annual member meeting in 2010 and position 1-B will be eliminated at the annual member meeting in 2011. The At-Large Director position 1-A shall be redesignated as position L-6 for the election at the annual member meeting in 2010. The At-Large Director position 1-B shall be redesignated as position W-3.
3. Paragraph 3.06 of the Bylaws regarding Vacancies is not applicable to a vacancy in a Director position to be terminated. On or after the date that this Bylaw provision is adopted, if a Director who holds a Director position that will be eliminated vacates the office prior to the date that the position is terminated, then the vacancy in such position shall not be filled and such position shall remain vacant until the position is terminated.
4. If a Director position that is not to be terminated becomes vacant during the term of office for such position, then a person who occupies a Director position that is to be terminated may be appointed by the Board to the vacancy in the position that is not to be terminated. Thereafter the Director position to be terminated that is vacated under this method [by appointment to a different position] shall not be filled and such position shall remain vacant until the position is terminated.
5. The provisions of Paragraph 3.03 Qualifications of Directors shall apply to all candidates for election to the Board.

The Transition Provisions shall be eliminated from the Bylaws after the Annual meeting of Members in 2012.

**Transition Provisions for Reduction in size of Board. The number of board members of the association shall be reduced to nine members under the following provisions. The following transition provisions are included in the Bylaws to effectuate the reduction of the size of the Board from 11 members to 9 members:**

1. A Boulder County Director position will be eliminated effective at the time that the first Director position from Boulder County becomes vacant due to the death, disqualification, resignation or removal of the Director occupying the position who was elected to the Director position by the members. After the vacancy in such position occurs, then that position shall not be filled and the position shall be eliminated.
2. A Weld County Director position will be eliminated effective at the time that the first Director position from Weld County becomes vacant due to the death, disqualification, resignation or removal of the Director occupying the position who was elected to the Director position by the members. After the vacancy in such position occurs, then that position shall not be filled and the position shall be eliminated.
3. Paragraph 3.06 of the Bylaws regarding Vacancies is not applicable to a vacancy in a Director position to be terminated. On or after the date that this Bylaw provision is adopted, if a

Director who holds a Director position that will be eliminated vacates the office prior to the date that the position is terminated, then the vacancy in such position shall not be filled and such position shall remain vacant until the position is terminated. It is the intent of these transition provisions not to eliminate a position as a result of a regular annual election contest by an incumbent board member for a board position.

4. At the date a Director position becomes vacant during the term of office for such position, then a person who occupies a Director position that is to be terminated may be appointed by the Board to a vacancy in a Director position that is not to be terminated. Thereafter the Director position to be terminated that is vacated under this method [by appointment to a different position] shall not be filled and such position shall remain vacant until the position is terminated.

The Transition Provisions shall be eliminated from the Bylaws after both of the two board positions are eliminated.

Upon motion duly made, seconded and carried by majority vote [7 in favor and 2 dissenting—incl. director Sutherland], the proposed Amendment was passed.

B. Approved by majority vote [8 in favor and 1 dissenting—director Sutherland] Change to Board Policy 5.03 Capital Credit Policy as shown in the attachment to the Minutes.

The Association shall allocate and retire capital credits in a manner that: (1) is consistent with state and federal law; (2) is consistent with operating on a cooperative basis under federal tax law; (3) is fair and reasonable to the Association's patrons and former patrons; (4) provides the Association with sufficient equity and capital to operate effectively and efficiently; and (5) protects the Association's financial condition. Subject to law, the Association's articles of incorporation, and the Association's bylaws, the allocation and retirement of capital credits are at the sole discretion of the Association's Board of directors ("Board").

**1.01 Board Approval.** The Association shall allocate and retire capital credits according to the manner, method, timing, and amount approved by the Board.

**1.02 Patronage Earning Allocations.** For each good or service provided by the Association on a cooperative basis during a fiscal year, the Association shall equitably allocate to each patron, in proportion to the value of the good or service purchased by the patron during the fiscal year, the Association's patronage earnings or losses from providing the good or service during the fiscal year. The Association shall allocate patronage earnings or losses on the basis of value of the electric energy provided to the patron less power cost.

**1.03 General Capital Credit Retirements.** The Association shall generally retire capital credits with the goals of: (1) maintaining an equity level between THIRTY-FIVE percent (35%) and FIFTY percent (50%) of the Association's total assets; (2) retiring some capital credits every year during the month of SEPTEMBER; (3) retiring the Association's capital credits on a last-in, first-out and first-in, first-out hybrid basis and **not** retiring allocated power supply cooperative capital credits on a first-in, first-out basis only to the extent of the cash retirement amount paid by the power supply cooperative to the Association; (4) communicating and promoting the Association principles; (5) fostering loyalty and support among patrons and former patrons; and (6) maximizing public relations and political goodwill; and (7) may not retire capital credits to any patron who voluntarily discontinues the purchase of all electric energy from the Association in order to purchase electric energy at the same premises from another public or private electric utility; and capital credits retired and payable to such a patron shall be treated as unclaimed capital credits; and capital credit payments shall resume prospectively if the former patron thereafter becomes a patron of the Association and purchases all of the patron's electric energy at the same premises from the Association.

**1.04 Special Capital Credit Retirements.** The Association: (1) may specially retire capital credits upon the death of an individual patron or former patron as provided in section 1.06; (2) may not specially retire capital credits upon the dissolution, liquidation, or cessation of existence of an entity patron or former patron; (3) may not specially retire capital credits upon the reorganization, merger, or consolidation of an entity patron or former patron; (4) may not specially retire capital credits upon a patron or former patron reaching a certain age; (5) may specially retire capital credits upon a patron becoming a former patron as provided in section 1.06; (6) may not specially retire capital credits upon a patron failing to pay an amount owed to the Association; (7) may not specially retire capital credits upon a former patron failing to pay an amount owed to the Association.

**1.05 Discounted General Capital Credit Retirements.** The Association may not generally retire capital credits before the time the Association anticipates normally retiring the capital credits and pay the discounted, net present value of the capital credits **of the Association not including power supply cooperative capital credits.**

**1.06 Discounted Special Capital Credit Retirements.** For capital credits specially retired before the time the Association anticipated normally retiring the capital credits, as approved by the Board, the Association may pay the discounted, net present value of the capital credits **of the Association not including power supply cooperative capital credits.**

**1.07 Recoupment.** After retiring, and before paying, capital credits allocated to a patron or former patron, the Association shall recoup, offset, or set off any amount owed to the Association by the patron or former patron by reducing the amount of retired capital credits paid to the patron or former patron by the amount owed.

**1.08 Forfeiture of Capital Credits.** The Association shall not enter contracts through which a patron or former patron forfeits the right to the allocation or retirement of capital credits. The Association shall not require any patron or former patron to forfeit the right to the allocation or retirement of capital credits.

**1.09 Patron Classes.** As reasonable and fair, and as approved by the Board, the Association may allocate or retire capital credits to classes of similarly situated patrons or former patrons under different manners, methods, timing, and amounts, provided the Association allocates and retires capital credits to similarly situated patrons and former patrons under the same manner, method, timing, and amount.

**1.10 Separate Allocations and Retirements.** The Association shall separately identify and allocate to the Association's patrons capital credits and similar amounts allocated to the Association by the power supply cooperative entity in which the Association is a member, patron, or owner. The Association may retire these separately identified and allocated capital credits only after the entity retires and pays the amounts to the Association. The Association shall not separately identify and allocate to the Association's patrons capital credits and similar amounts allocated to the Association by any other cooperative entity in which the Association is a member, patron, or owner, but will include these amounts with the Association's allocation and retirement of capital credits.

**1.11 Notice of Allocation.** Within eight and one-half (8 ½) months following a fiscal year, the Association shall notify each patron in writing of the amount of capital credits allocated to the patron for the preceding fiscal year through a written notice stating the dollar amount allocated.

**1.12 Adverse Financial Impact.** The Association shall not retire any capital credits unless the Board first determines that the retirement will not adversely impact the Association's financial condition.

**1.13 Request and Agreement for Special Retirement.** The Association may specially retire capital credits upon the death of an individual patron or former patron or upon a patron becoming

a former patron only upon receiving a written request from the appropriate legal representative, and only under terms and conditions agreed upon by the Association and the appropriate legal representative.

**1.14 Discount Rate.** If the Association retires capital credits before the time the Association anticipates normally retiring the capital credits and pays the discounted, net present value of the capital credits, then the Association shall use a discount rate equaling the National Rural Utilities Cooperative Finance Corporation's (CFC's) 15 year long term interest rate for borrowing plus one percent.

**1.15 Minimum Amount.** The Association shall not retire and pay capital credits in an amount less than TWENTY-FIVE dollars (\$25.00), unless the retirement and payment is for all remaining capital credits allocated to a former patron.

**1.16 Payment and Notice of Retirement.** After the Association retires capital credits allocated to a patron, the Association shall pay the retired amount by sending a check for the amount to the patron's most current address listed on the Association's records. After the Association retires capital credits allocated to a former patron, the Association shall pay the retired amount by sending a check for the amount to the former patron's most current address listed on the Association's records.

**1.17 Unclaimed Capital Credits.** In accordance with the Bylaws of the Association, if a patron or former patron fails to claim a retired capital credit amount within six months after the date such amount is declared payable or the date such amount is paid by the Association by negotiable instrument whichever first occurs, then the Association shall send a notice by first class mail regarding the failure to the patron or former patron's most current address listed on the Association's records. If a Patron or former Patron fails to claim the retired amount within three years, then the Association may use the amount for educational, charitable or ratemaking purposes.

**1.18 Implementation of Policy.** The CEO is responsible for implementing this Policy and for developing the practices and procedures necessary to allocate and retire capital credits according to this Policy.

**1.19 Recommendations to Board.** The Association's CEO is responsible for: (1) recommending to the Board the manner, method, timing, and amount for allocating and retiring capital credits; and (2) when in the best interest of the Association and its patrons and former patrons, recommending to the Board revisions to this Policy.

**1.20 Review and Approval by Board.** The Board is responsible for: (1) reviewing, discussing, and evaluating the CEO's recommendations regarding the manner, method, timing, and amount for allocating and retiring capital credits; (2) approving the manner, method, timing, and amount for allocating and retiring capital credits; (3) reviewing, discussing, and evaluating this Policy every other year; (4) reviewing, discussing, and evaluating the CEO's recommendations for revising this Policy; and (5) revising this Policy.

**1.21 Compliance with Policy.** The Board is responsible for the Association's compliance with this Policy.

At this time the department Managers except Manager Byrne left the board room.

C. Approved the CEO to sign the Annexation Agreement between the Association and the Town of Windsor as presented by CEO Gaskill and Manager Byrne.

D. Approved the CEO to sign the Delegation Agreement with Tri-State as presented by CEO Gaskill and Manager Byrne after management has approved the final version.

E. Approved the CEO to sign the Letter Agreement with Tri-State for transfer of ownership of certain transmission facilities as presented by CEO Gaskill and Manager Byrne after management has approved the final version. [13:26] At this time Manager Byrne and Attorney Westbrook left the board room.

Director Michie reported on Tri-State matters. A written report on Tri-State had been distributed prior to the meeting. [13:33]

Upon motion duly made, seconded and unanimously carried the board entered executive session to consider documents or testimony given in confidence generally relating to board evaluation, CEO evaluation and employee and employee compensation matters. No action was taken by the board to make final policy decisions or adopt or approve any resolution, rule, regulation, or formal action, any contract, or any action calling for the payment of money. Director Michie left the board room at the end of the discussion on the board evaluation and CEO evaluation. [16:05] Discussion continued about employee and employee compensation matters. Director Park left the board meeting at the end of the discussion. [14:55] A short break was taken in the discussion.

A motion to exit the executive session was made, seconded and carried. [15:02]

A motion was made to alter the salary of the CEO and the leave days to the amount certified in a supplemental schedule approved by President Croonquist effective October 1, 2009. The motion passed unanimously.

A motion was made to eliminate the present health insurance benefit for board members effective after December 31, 2009; and that each board member shall be paid \$10,000 per year [payable monthly] effective on January 1, 2010 as a medical insurance allowance. The motion passed unanimously. [15:22]

A motion was made to approve the agreement with the IBEW for the customer service representatives as presented by CEO Gaskill. The motion passed unanimously. [15:30]

At this time the department Managers reentered the board room.

CEO Gaskill continued his report on the status of: G) AMI Project with ARRA grant application with input from Manager Jensen; H) Richard Lake to Waverly 115kV project update with input from Manager Byrne; I) Boomerang Substation project update with input from Manager Byrne; J) Reliability Compliance by Tri-

State for the association; K) Front Range Energy, PRESYS Energy Group and association demonstration project; L) NRECA 2009 Issues Committee report and proposed Region VII Resolutions; M) status of climate change legislation and review of comments on letter sent to members; N) changes made to Administrative and Team Member policies that were included in the materials sent to the board prior to the meeting. [15:53]

Director Diehl reported on WUESC matters. A written report on WUESC had been distributed prior to the meeting. [15:55]

Director Schneider reported on CREA matters. A written report on CREA had been distributed prior to the meeting. [15:57]

CEO Gaskill gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting.

Manager Wadsworth gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting.

Manager Stanton gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting.

Manager Ziller gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting, and then he gave a verbal update to the slides.

Manager Byrne gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting.

Manager Jensen gave his report by printed slides from his PowerPoint® presentation that had been sent to the Board prior to the meeting, and then he gave a verbal update to the slides.

Upon motion duly made, seconded and carried the management reports were accepted. [15:58]

The written safety report of September 9, 2009, was sent to the Board prior to the meeting. CEO Gaskill reviewed the contents of the report. Upon motion duly made, seconded and carried, the safety report was accepted. [16:06]

Attorney Starr reported on an eminent domain case brought against Eicheim and the association and he sent a copy of the Complaint filed against Tri-State, including director Michie, by the Nebraska members wishing to withdraw from Tri-State. [16:10]

Upon motion duly made, seconded and carried the President was designated as delegate to the Federated Rural Electric Insurance meeting on

October 15. Upon motion duly made, seconded and carried director Alexander was designated as delegate and the director Lock was designated as alternate to the Basin Electric Association meeting on November 3-5. [16:21]

Other past and upcoming meetings were discussed: PVREA Board meeting on October 27. Arrangements for the upcoming NRECA Region VII meeting [Cheyenne] and CREA Semi-Annual and Western United Annual meeting and NRECA Colorado membership meeting [Telluride] ensued. [16:25]

Each of the Board members reported on the contents of their respective Board billing sheets. Upon motion duly made, seconded and carried, the reports were approved. Upon motion duly made, seconded and carried, the CEO's expense report was approved. [16:30]

Discussion of utility industry and association issues ensued (none). NRECA education courses were discussed and selected. [16:32]

There being no further business to come before the meeting, upon motion duly made, seconded and carried, the meeting was recessed until October 27, 2009, at 9:00 A.M. [16:32]

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Thaine J. Michie –Secretary

ATTEST:

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Keith D. Croonquist – President

NOTE: The 2009 Board meeting dates have been set as follows: October 27, 2009, November 24, 2009, and December 22, 2009.