

**DRAFT MEETING MINUTES**  
**Policy & Regulatory Committee**  
**Clean Energy Advisory Board**  
Monday, September 13, 2021  
Charlottesville, VA

Members Present: Sam Brumberg (Chair) Will Reisinger, Will Cleveland, Sarah Nerette

Members Absent: KC Bleile

Staff Present: Carrie Hearne, Michael Skiffington, Counsel Grant Kronenberg, Al Christopher (via WebEx) and Aaron Berryhill (via WebEx)

Guests Present: Wafa May Elamin, Nate Hausman (via WebEx) (Clean Energy States Alliance)

**Minutes**

**Committee Chair Sam Brumberg called the meeting to order at 12:12pm. A quorum was present.**

The Chair reviewed an opportunity for the Committee to adopt the proposed electronic meeting policy to conduct business in accordance with new provisions, which is attached to these minutes and incorporated by reference.

**Upon a motion properly made by Mr. Cleveland, seconded by Mr. Reisinger, and unanimously passed, the Committee adopted the policy.**

The Chair then began a discussion on the topic of solar leases. At some point there were concerns raised as to the legality of solar leases as a net energy metering (NEM) ownership structure pursuant to Va. Code § 56-594 and 594.01 and whether a NEM customer-generator needs a certificate of public convenience and necessity (CPCN) from the State Corporation Commission when conducting NEM activities.

The Chair summarized his view on this topic, that solar leases are undoubtedly a legal method for NEM customer-generators to finance their solar. Additionally, CPCNs for NEM are not required. The Chair opined that both of these propositions are beyond any doubt.

Mr. Cleveland, Mr. Reisinger, and Ms. Nerette were all in agreement with the Chair's opinion.

The Chair proposed that the Board does not need to get a declaratory judgement from the State Corporation Commission to settle questions; rather, the Committee could obtain a letter from the major utilities stating their assent to the two propositions discussed above. This would be faster and easier to obtain. It was observed that if there were any parties that might object to this solar ownership model, it would be the utilities.

The Committee is proposing to draft a Memorandum of Understanding (MOU) that would be between the Committee and each of: Old Dominion Power (Kentucky Utilities), Appalachian Power Company (APCo), Dominion (Dom), and the Electric Cooperatives, stating that solar leases and third-party ownership through a leasing structure is legal and that no CPCN is required for NEM. Not only would this be more efficient than a straight request for a declaratory judgment, if there were controversy or if any utility refused the Committee's request, this could be a stronger basis for a declaratory action.

CESA commented that they are comfortable with this approach in terms of how it relates to the forthcoming RFP. DMME and OAG staff are comfortable with this approach. There would be a letter that could be presented to contractors during the RFP process to alleviate concerns, if there were any.

**Upon a motion made by Mr. Cleveland, seconded by Mr. Reisinger, and unanimously passed, the Committee authorized the Chair to draft the MOU as proposed.**

**Upon a motion made by Mr. Cleveland, seconded by Ms. Nerette, and unanimously passed, the Committee directed the Chair to present the minutes of this meeting along with the proposal outlined to the Chair of the Board and receive any further guidance as she may direct.**

**Upon a motion made by Mr. Reisinger, seconded by Mr. Cleveland, and unanimously passed, the Committee directed the Chair to continue to work on this topic, get signatures from the utilities to then present final report on this topic to full Board at the next meeting.**

The Chair then went on to the next agenda item, concerning additional questions for CESA and feedback regarding its July 21 presentation. On Slide 13, it was commented that SIR >1 and HERS rating for EE would serve as a proxy for 12% EE reduction. The intent of the pilot program is to look at homes which have already been retrofitted through the weatherization program.

In addition, the Board's 2020 annual report references the SIR and HERS rating should be used as a proxy for the exact percentage reduction to avoid a lengthy data collection period and burdensome paper trail collection process from the customer.

**Upon a motion made by Mr. Cleveland, seconded by the Chair, the Committee resolved to recommend to the Board that the Board endorse a legislative change on the energy efficiency threshold in the form of a more effective measure.**

Discussion on Slides 21 and 22 continued as follows. As for a potential pilot location in Wise County: for the record, Powell Valley Electric Cooperative (PVEC) does not participate in Virginia net metering. § 56-594 does not apply to PVEC. However, PVEC only serves 9 customer meters in this locality. In essence, the Pilot proposal should strike PVEC from Wise County for participant eligibility.

Discussion continued regarding the Department's 2022 legislative session budget request.

**Upon a motion made by Mr. Cleveland, seconded by Mr. Reisinger, the Committee directed the Chair to express to the Administration its support for the Department of Energy's body of work and its support for associated budget amendments.**

The Committee addressed some questions around new construction projects and other DHCD approved energy efficiency professionals. Agency staff will check on the proposed legislative language submitted for consideration by the Governor's office; Staff recalls this amendment is also in the proposed language for the 2022 legislative session, should the Governor's office adopt this policy proposal as an Administration priority.

Regarding previous research and assumptions on cost figures and project economics, the previously submitted CESA / NC CTC report and data will be circulated to new board members for full review.

**The Chair recessed the Committee for a 10-minute break.**

**The Committee reconvened and received public comment starting at 1:25pm. No public comment was received.**

**The Chair announced that the Committee would next convene on November 9, 2021, from 12:00pm-3pm, at a location to be determined.**

**The meeting was adjourned by the Chair at 1:34pm.**

**DRAFT**