



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Carlson, Barofsky, McRae, Schlossberg, and Brown
FROM: Brian Booth, Chief Energy Resources Officer; Megan Capper, Energy Resources Manager; Jon Hart, Power Planning Supervisor; Aaron Bush, Resource Analyst
DATE: August 25, 2023
SUBJECT: Resolution No. 2316, Adopting New EWEB PURPA Manual and Process
OBJECTIVE: Action

Issue

EWEB's existing Public Utility Regulatory Policies Act ("PURPA") manual was adopted in 1979 to address the newly enacted PURPA statute. The EWEB manual is now outdated and the procedural requirements to adopt (or not adopt) any new PURPA standard should be revised. Staff recommend that the Board repeal the existing manual, via Resolution 2316, and institute a more streamlined and suitable process for considering and determining PURPA standards.

Background and Discussion

PURPA was initially passed in 1978 to promote conservation of energy, efficient use of facilities and resources, and provide equitable rates to customers. Over the years, PURPA has been updated with new standards. These updates have occurred in 1992, 2005, and more recently in 2021 with the Infrastructure Investment and Jobs Act. For each new standard, PURPA requires that utilities such as EWEB conduct a public process to consider and issue a written determination of whether to adopt the standard.

When PURPA was enacted in 1978, EWEB created an extensive Procedures Manual for Hearings Under the National Energy Act to address PURPA's requirements (Attachment 3). This manual is 25 pages and requires procedural and documentation actions similar to courtroom proceedings. Many aspects of EWEB's PURPA manual are not required by PURPA, are overly burdensome, and do not add value for the utility or its customers.

Staff recommend that the Board repeal the existing PURPA manual and institute a new process for considering new PURPA standards (Attachment 1). This change to process is timely because the Infrastructure Investment and Jobs Act of 2021 created new PURPA standards that EWEB must evaluate by November 15, 2023. The Board resolution is included in Attachment 2.

Existing PURPA Manual

As mentioned above, EWEB's existing PURPA manual was adopted in 1979, at a time when PURPA was new, and the nation was recovering from the 1970's energy crisis. Likely due to the novelty and

apparent importance of PURPA, EWEB dedicated substantial time and effort into creating PURPA-related material. The 1979 manual is written in complex legal language and has numerous requirements for public feedback, among other considerations. While the manual was written in good faith, it creates impractical hurdles for collecting feedback from the public. For example, the manual requires:

- A hearings officer.
- Oral testimony with cross examination and rebuttal.
- Petitions to intervene (with 40-day notice requirement).
- Formal processing of exhibits and documentation.

None of these requirements fundamentally improve EWEB's ability to solicit public feedback or comments, or to determine whether a particular standard is applicable to EWEB. Instead, these procedural requirements overly complicate what should be a simple process and take up valuable staff time. For example, the hearings that EWEB conducted in 1979 resulted in 786 pages of typed transcripts and involved 9 members of EWEB staff, as well as several staff members from the Oregon Public Utilities Commission, in addition to members of the public.

Improvements in technology and communications have also made EWEB's existing manual outdated. In a 2006 memo to the Board, the last time new PURPA standards were considered, EWEB staff commented that the existing manual was 'process heavy' and that it seemed preferable to go 'process light.' However, no changes were made, and we are left today to chart a course forward.

Codified PURPA Process Requirements

The codified PURPA language is simple but vague on procedural requirements. PURPA requires that consideration and determination of new standards shall be:

- Made after public notice and hearing.
- In writing.
- Based upon findings and evidence presented.
- Available to the public.

PURPA's language is broad enough that it gives EWEB substantial ability to determine the appropriate process for our needs. For example, EWEB has discretion to determine the format, timeline, and venue for public hearing. To this end, EWEB can choose to provide for in-person testimony and cross examination as described in the existing manual. Alternately we could choose to use a written comment process. However, until EWEB repeals the existing manual, we must follow the procedures it describes.

Other Utilities' Processes

Staff have examined other utilities' PURPA processes for the new 2021 standards to help establish an appropriate path forward. From our research, the majority of consumer-owned utilities that must comply with PURPA have posted PURPA notices along with comment information on their websites. Several utilities have also conducted in-person hearings. No other utility that we have found has a PURPA process similar to the one required by EWEB's existing PURPA manual.

One example of an online description of the new PURPA standards can be found at the Tennessee Valley Authority (TVA) website¹. The TVA is a federal power marketing authority similar to the Bonneville Power Administration. Their online PURPA notice briefly describes PURPA's history, the new proposed standards, and offers contact information for emailed and mailed public comments.

Proposed PURPA Hearings Process

Given the information that staff has collected, we believe that a written public comment process combined with an in-person hearing is appropriate and sufficient to collect input from our community. A 35-day comment period would allow customers adequate time to respond, without being open-ended. Staff propose to conduct analysis of the new standards and summarize public comment in order to provide the Board information to make a determination on the new PURPA standards. This proposed process is described in further detail below.

Proposed EV and DR PURPA Process Timeline

Pending Board approval of the new PURPA Hearings Process, staff have outlined a hearings process for consideration of the new EV and DR standards. The tentative dates and actions are bulleted below.

- September 8, 2023
 - Post public notice and commence public comment.
 - Provide summary of EWEB existing and planned relevant policies and programs.
- October 3, 2023
 - Venue for public comment at EWEB Board meeting, consistent with standard EWEB procedures (time limit of 3 minutes per speaker).
 - Staff to provide further analysis of EV and DR standards, including potential leanings on recommendations of whether to adopt.
- October 14, 2023
 - Close Public Comment.
- November 7, 2023
 - Staff recommendation of whether to adopt new standards, as well as summary of public comment.
 - Board Resolution on staff's recommended determination for the new EV and DR standards.

PURPA Deadlines

The deadline to issue a determination on the current EV and DR standards is November 15, 2023. Meeting this deadline requires EWEB to conduct a public process, conduct staff analysis, consider comments, and issue a determination within roughly two months (proposed timeline above). While staff believe that this is achievable, the tight timeline supports consolidation and simplification of EWEB's process so EWEB can meaningfully and timely comply with the statute's requirements.

¹ [Public Utility Regulatory Policies Act \(PURPA\) \(tva.com\)](https://www.tva.com)

Board Resolution: PURPA Hearings Process

The recommended hearings process is described in Attachment 1. The resolution is included as Attachment 2.

Recommendation and Requested Board Action

Management requests approval of Resolution No. 2316 repealing the 1979 Procedures Manual for Hearings Under the National Energy Act and adopting the PURPA Hearings Process.

Recommended Motion...“move to approve Resolution 2316 repealing the 1979 Procedures Manual for Hearings Under the National Energy Act and adopting the PURPA Hearings Process”.



PURPA Hearings Process

To evaluate PURPA standards updates, EWEB will follow the process for consideration and determination outlined below. EWEB may choose to follow this process to evaluate future PURPA standards and policy updates without further Board approval but is not required to do so. EWEB considers this process to be compliant with PURPA procedural requirements for consideration and determination.

- EWEB will post a formal notice soliciting public comment and feedback in a publicly distributed newspaper or other publication.
- This public notice will start a 35-day public comment period, during which members of the community may send EWEB comments for consideration of the PURPA standard under review. This 35-day public comment period is the “hearing” required under PURPA.
- During the comment period, EWEB will provide opportunity for at least one round of in-person public comments, such as at a regularly scheduled Board meeting.
- EWEB will provide information about the PURPA standard and comment contact information in a reasonable location on its website during the comment period.
- EWEB staff will prepare a written staff evaluation of the PURPA standard, including:
 - A description of the purpose of the new PURPA standard.
 - Information about EWEB’s relevant existing programs or policies.
 - Information about EWEB’s relevant planned programs or policies.
 - Analysis of the potential costs and benefits of the proposed standard.
 - Analysis of the ‘appropriateness’ of the standard to EWEB.
- EWEB staff will provide the Board with a written staff evaluation, as well as a summary of the public comments received, for the Board to consider and make its determination on the new PURPA standard.
- The Board will issue a resolution to adopt or not adopt the new PURPA standard.
 - Not adopting a standard does not mean that EWEB will not pursue actions related to the PURPA standard. Rather, not adopting the standard means that either the standard is not appropriate for EWEB at the time of consideration, or that it is not necessary for EWEB given existing or planned programs or policies.
 - EWEB may (re)evaluate PURPA standards at a future date if deemed prudent.
 - Documentation for the resolution will include staff analysis, as well as public comment, either aggregated or discrete.

**RESOLUTION NO. 2316
SEPTEMBER 2023**

**EUGENE WATER & ELECTRIC BOARD
PURPA HEARINGS PROCESS**

WHEREAS, the Eugene Water & Electric Board (EWEB) adopted the *Procedures Manual for Hearings Under the National Energy Act* (Manual) in 1979 to the newly enacted Public Utility Regulatory Policies Act (PURPA) and the National Energy Conservation Policy Act; and

WHEREAS, the 1979 Manual is outdated and contains burdensome process requirements for public hearings that are not appropriate or necessary for EWEB to solicit feedback for PURPA standards; and

WHEREAS, the *PURPA Hearings Process* streamlines and simplifies the public hearings required by PURPA; and

WHEREAS, the *PURPA Hearings Process* provides for consideration and determination as required by PURPA;

NOW, THEREFORE, BE IT RESOLVED by the Eugene Water & Electric Board that the Board hereby repeals the *Procedures Manual for Hearings Under the National Energy Act* and adopts the *PURPA Hearings Process*.

DATED this 5th day of September 2023.

THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

President

I, ANNE M. KAH, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its September 5, 2023 Regular Board Meeting.

Assistant Secretary

Doc. #6334-4

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May 9, 1979

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Mr. Keith Parks
Eugene Water & Electric Board
P.O. Box 10148
Eugene, Oregon 97401

Re: Procedures Manual

Dear Keith:

Enclosed is a copy of the Procedures Manual, revised in accordance with the changes recommended by the Board at its meeting of May 7, 1979.

This copy should be added to the Resolution adopted by the Board on this subject and will thereafter become the official Procedures Manual for proceedings under the National Energy Act.

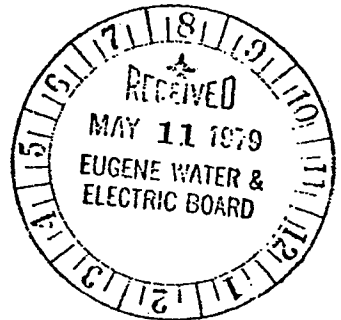
Very truly yours,

John G. Crawford, Jr.
John G. Crawford, Jr.

JGC/tl

Enclosure

cc: Mr. Gary Kunkel



Adopted by
EWEB Board
at May 7, 1979
meeting

EUGENE WATER AND ELECTRIC BOARD

PROCEDURES MANUAL

FOR

HEARINGS UNDER THE NATIONAL

ENERGY ACT

INTRODUCTION

This Manual establishes the procedures to be followed in conducting hearings under the Public Utility Regulatory Policies Act ("Regulatory Act") and the National Energy Conservation Policy Act ("Conservation Act") (collectively the "Acts") under the National Energy Act ("NEA"). Although the rate standards hearings to be conducted under the Regulatory Act and the hearings related to the conservation plans under the Conservation Act are in the nature of rulemaking proceedings, Section 111 of the Regulatory Act requires that determinations be "based upon findings included in such determination and upon evidence presented at the hearing", and Section 114 requires an Evidentiary Hearing. As a result, this Manual provides additional procedures for hearings on items contained in those Sections.

THE FOLLOWING PROCEDURES HAVE BEEN DEVELOPED SOLELY FOR PURPOSES OF NEA AND THEY ARE NOT APPLICABLE TO OTHER HEARINGS OR PROCEEDINGS CONDUCTED BY THE UTILITY.

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CHAPTER I

DEFINITIONS

As used in this Manual:

A. "Acts" mean the Conservation Act and the Regulatory Act.

B. "Acts' Definitions": Definitions set forth in the Acts are expressly incorporated herein.

C. "Board" means the governing body of EWEB.

D. "Conservation Act" means the National Energy Conservation Policy Act of 1978, enacted on November 9, 1978.

E. "Electric Consumer" means any person, entity, state or federal agency to which electric energy is sold by EWEB for purposes other than resale.

F. "EWEB" means the Eugene Water and Electric Board.

G. "Hearing" means a proceeding under the Acts of which notice to the public is given, is open to the public and is conducted pursuant to these rules.

H. "Intervenor" means the Secretary, any affected electric utility, any Electric Consumer of an affected electric utility or any Electric Consumer of EWEB or such person's authorized representative who: desires to be a full party to the proceedings and present evidence; where appropriate, cross-examines and will be cross-examined; and complies with EWEB's procedural requirements for designation as such.

I. "Limited Appearance" means an appearance at which a person may present a written statement or make an oral state-

ment of position within limits and conditions fixed by the Presiding Officer; not subject to the right to cross-examine or be cross-examined.

J. "Meeting" means any convening of the Board under its customary rules and procedures.

K. "Order" means any formal determination by the Board under the Acts.

L. "Party" means the EWEB staff and any Intervenor.

M. "Person" means an individual, corporation, governmental agency, association, partnership, or any other legal or commercial entity.

N. "Presiding Officer (Hearing Officer)" means the chief administrative officer of EWEB, a member of the Board or any other person designated by the Board.

O. "Public Record" includes any writing relating to the conduct of the public's business prepared, owned, used or retained by a public body regardless of physical form or characteristics.

P. "Regulatory Act" means the Public Utility Regulatory Policies Act of 1978, enacted November 9, 1978.

Q. "Records Custodian" means the officer or employee of EWEB designated by the Board to maintain records pertinent to the Board's actions taken pursuant to the Acts.

R. "Secretary" means the Secretary of Energy, Department of Energy, the United States of America.

S. "Writing" means handwriting, typewriting, printing, photostating, photographing and every means of recording, including

letters, words, pictures, sounds or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punch cards, discs, drums, or other forms of recorded communication.

CHAPTER II

COVERAGE

The procedures set forth in this Manual apply only to proceedings under the Acts and do not apply to other hearings, procedures or actions of the Board or EWEB.

CHAPTER III

NOTICES

A. Notices to Public. Notices of proceedings pursuant to the Acts when given for the purpose of informing the public generally shall:

1. Be in substantially the form of the sample below;
2. Be given separately for hearings under the Regulatory Act and for hearings under the Conservation Act; and
3. Be given not later than sixty days prior to commencement of proceedings under the Acts by a single publication in a newspaper of general circulation in the EWEB service area and such additional means as may be adopted by the Board to notify the public of the proceedings.

SAMPLE:

"Before the Eugene Water &
Electric Board"

"In the Matter of [Consideration)	NOTICE OF HEARING PURSUANT
of Adoption of Standards Under)	TO PUBLIC UTILITY REGULATORY
the Public Utility Regulatory)	POLICY ACT [NATIONAL ENERGY
Policies Act] or [Adoption of a)	CONSERVATION POLICY ACT]
Conservation Plan Under the)	
National Energy Conservation)	
Policy Act])	

"1. On _____, at _____ M., a public hearing will commence in Room _____ of the offices of Eugene Water & Electric Board ("EWEB"), 500 E. 4th Avenue, P.O. Box 10148, Eugene, Oregon 97440, to consider the adoption by EWEB [of standards and dates of the consideration thereof under the Public Utility Regulatory Policy Act] or [of a conservation plan under the National Energy Conservation Policies Act], as follows: [Describe standards and dates] and to provide public comment pertinent thereto.

"2. Information concerning such [standards or plan] is being prepared by the EWEB staff and is on file at the offices of EWEB for review during the hours of eight a.m. to five p.m., Monday through Friday.

"3. A schedule of the matters to be considered at the hearing will be developed by the Presiding Officer prior to the commencement of the hearings. Schedules will be available at the offices of EWEB. During the hearing, the EWEB staff will give its report and testimony will be taken concerning the [standards or plan].

"4. Any person desiring to intervene in this hearing must give notice to the Presiding Officer, as designated below, no later than _____, 1979, [a date approximately 40 days before the hearing commences] by completing a petition prepared for this hearing. A petition can be obtained at the offices of EWEB. The petition shall be personally delivered or sent by regular mail to the Presiding Officer.

"5. Persons desiring to make limited appearances for the purpose of presenting oral or written statements may do so at the start of the hearing.

"6. _____ has been designated by EWEB to preside over and conduct the hearing whose address is _____.

"7. Copies of the Procedures Manual governing this hearing are available at the offices of EWEB.

"DATED _____, 1979.

"

"[President of the Board]
"Eugene Water & Electric Board"

B. Computation of Time. Time for notices and service shall be computed by excluding the first day and including the last day unless the last day falls upon any legal holiday, or on Saturday or Sunday, in which case the last day is also excluded.

C. Notice, Delivery and Filing. Except for the public notice provided for in paragraph A, any requirement in these rules for the giving of notice or the delivery, filing or serving of any paper or document shall be met by personal delivery to the

person entitled to its receipt or by a mailing thereof, with regular mail postage pre-paid, properly addressed to the person entitled to its receipt at the regular office address or the last address given in the proceedings for that person. Any notice required or permitted to be given shall be deemed to have been received by the addressee upon the earlier of (1) actual receipt by the addressee, or (2) ninety-six (96) hours after the time notice was deposited in the mail as provided above.

Notice given in the manner as hereinabove provided upon the attorney of a person shall be deemed to be notice upon such person.

D. Notice to the Secretary. The Secretary shall be given notice of any hearing.

CHAPTER IV

CONDUCT OF HEARINGS

A. Presiding Officer. Public hearings shall be conducted by the Presiding Officer designated in the Notice of Hearing and pursuant to these rules. The Presiding Officer shall be authorized to hold a prehearing conference for the purpose of scheduling the sessions of the hearing, discussing the issues to be involved, the evidence to be presented, and may schedule the exchange of documents.

B. Limited Appearances. At the commencement of the hearing, any person wishing to make a limited appearance shall so inform the Presiding Officer; whereupon the Presiding Officer shall provide an appropriate form to be filled out and filed which shall indicate the name of the witness, address, affiliation, if any, and such other information as the Presiding Officer may deem appropriate.

C. Opening. At the opening of the hearing, the Presiding Officer shall have introduced as an exhibit in the record the public notice of the hearing and proof of its publication. The Presiding Officer shall also name for the record the intervenors and persons making limited appearances.

D. Order of Presentation.

1. Hearings Under Sections 111 and 114 of the Regulatory Act.

(a) Subject to the discretion of the Presiding

Officer, the order of presentation of evidence shall be as follows:

- (1) Limited appearances.
- (2) EWEB staff Report.
- (3) Intervenors
- (4) Rebuttal testimony

(b) The method of presentation shall be as follows:

- (1) Brief summary of position of witness.
- (2) Direct examination.
- (3) Cross examination.
- (4) Redirect examination.
- (5) Recross examination.

The Presiding Officer may set reasonable time limits for oral statements, examination of witnesses and presentation of documents; and may exclude or limit cumulative, repetitious or immaterial evidence.

2. Hearings Under Section 113 of the Regulatory Act and Other Sections of the Acts. Subject to the discretion of the Presiding Officer, the order of the presentation shall be:

- (a) EWEB staff report.
- (b) Statements and documents of Intervenors or persons making limited appearances.
- (c) Rebuttal statements.

The Presiding Officer or any Board member shall have the right to question or examine any witness making a statement at the hearing. The Presiding Officer may permit

other persons to examine or cross-examine witnesses. The Presiding Officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

E. Evidence for Sections 111 and 114 Hearings.

1. Physical and Documentary Evidence. Exhibits shall be marked, and the marking shall identify the witness offering the exhibit. The exhibits shall be preserved by EWEB for one year or, in the discretion of the Presiding Officer, returned to the witness who offered the exhibit. A procedure for the marking of exhibits shall be established by the Presiding Officer.

2. Oral Testimony.

(a) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.

(b) Cumulative, repetitious or immaterial evidence may be excluded.

(c) Evidence objected to may be received by the Presiding Officer with a ruling on its admissibility or exclusion to be made at any time prior to or at the time the Final Order is issued.

3. Admission of Documents.

(a) At any time which is at least twenty days before the date set for the beginning of a hearing, any party may serve on any other party a copy of any affidavit, certificate or other document the party proposes to introduce into evidence. Unless the party so

served indicates an intention to cross-examine the affiant, certificate preparer, other document preparer, or custodian, by serving an appropriate notice on the proposing party at least ten days prior to the hearing, the affidavit, certificate, or other document may be received in evidence.

(b) If the party so served requests cross-examination as provided under subparagraph (a) above, and the party so served is informed by written notice served at least five days prior to the hearing that the person will not appear for cross-examination and that the affidavit, certificate or other document will be offered in evidence, the affidavit, certificate or other document may be received in evidence, provided the Presiding Officer determines that:

(1) The contents of the affidavit, certificate or other document is of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs and

(2) The party requesting cross-examination will not be unduly prejudiced or injured by lack of cross-examination.

F. Record of Proceedings. The proceedings shall be kept by a court reporter or by a reliable recording device and a ~~typewritten transcript of such proceedings~~, in whole or in part, shall be made available as provided in these rules.

CHAPTER V

INTERVENTION AND LIMITED APPEARANCES

A. Applicability. The provisions of this Chapter V shall be applicable only to proceedings under the Regulatory Act. Participation in hearings under the Conservation Act shall be as provided in Chapter IV B, above.

B. Intervention.

1. A potential Intervenor requesting status as a party shall file with the Presiding Officer at least forty (40) days prior to the date set for the first hearing under the Regulatory Act, a petition together with proof of service upon all other parties. Petitions not timely filed shall not be considered unless the Presiding Officer determines that good cause has been shown for failure to file timely.

2. The petition requesting status as a party shall set forth the following:

(a) Name and address of the petitioner, and, if an individual, of any organization which the petitioner represents.

(b) Name and address of the petitioner's attorney, if any.

(c) A brief statement of petitioner's contentions.

(d) A statement of the reasons why existing parties to the proceeding cannot adequately represent petitioner's interests.

3. In ruling on petitions for party status, the Presiding Officer shall consider:

(a) Whether the petitioner is the Secretary, an affected electric utility, an Electric Consumer of an affected utility, an Electric Consumer of EWEB or such person's authorized representative.

(b) The extent to which petitioner's alleged interest will be represented by existing parties.

4. A ruling by the Presiding Officer on a petition for party status shall be in writing and served promptly on the petitioner and all parties.

C. Limited Appearances. Persons desiring to make only limited appearances may do so, provided they comply with the provisions of Chapter IV B of these rules.

D. Attorneys, Attorneys' Fees, Expert Witness Fees and Other Reasonable Costs.

1. Thirty days before the Regulatory Act hearing referred to in Chapter IV, the Presiding Officer may, or, at the request of an Intervenor, shall conduct a preliminary proceeding to consider the appointment of counsel, at EWEB's expense, for Intervenors who demonstrate that they are unable to intervene effectively in the hearings because they cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of intervening in such hearing (including fees and costs of obtaining judicial review

of such hearing); or for an inquiry regarding the items contained in subparagraphs 3(a)(1) and (2) below.

2. If the Presiding Officer decides that appointment of counsel for Intervenors is appropriate, the Presiding Officer shall recommend to the Board that it adopt a preliminary order, appointing counsel for Intervenors with the same or similar interests. The preliminary order adopted by the Board granting or denying the request shall be served upon the requesting Intervenors.

3. If counsel is not appointed for requesting Intervenors, an award of reasonable attorneys' fees, expert witness fees, and other reasonable costs shall be made to those Intervenors who:

(a) Demonstrated in the preliminary proceeding that;

(1) But for the receipt of such award, intervention in the hearing would be a significant financial hardship for such Intervenors;

(2) The interests of such Intervenors were not the same or similar to the interests of other Intervenors for whom counsel was appointed;

(b) Have substantially contributed to the approval in the Suggested Final Order, in whole or in part, of a position advocated by such Intervenors on the standards set forth in the Regulatory Act.

The determination in subparagraph 3(b) shall be made at a hearing to be conducted by the Presiding Officer no later

than five days after the service of the Suggested Final Order by the Board. At the conclusion of such hearing, the Presiding Officer shall present a recommendation to the Board as to whether such an award should be included in the Final Order, and if so, the amount thereof.

4. All parties shall be entitled to be represented by counsel at their own expense.

E. Transcripts. The Presiding Officer, upon a showing of need, shall make complete or partial transcripts of the proceedings available to Intervenors at the cost of reproduction.

DISCOVERY

A. Records and Information. Records or other information maintained by parties which are not otherwise exempt from disclosure shall be made available for inspection to other parties or persons making limited appearances if the party or person requesting such material gives timely and reasonable notice to the other party of the material requested. Parties requesting copying of documents shall reimburse the other party for actual costs in making such records or other information available or for the copying thereof. Copying shall be done only if adequate time is allowed from the time of request and the documents involved are of a nature practically permitting of copying. All inspection and copying shall be accomplished during normal business hours at the office where the relevant records or other information is maintained. The Records Custodian or custodian of the records of a party may consolidate requests for records or other information so as to avoid unnecessary duplication of effort. In cases where the Records Custodian or other custodian denies a party's request to inspect or copy material, the aggrieved party may request the Presiding Officer to conduct a hearing to determine the timeliness and reasonableness of the notice for purposes of proceedings under these rules.

B. Time of Request. Unless otherwise authorized by the Presiding Officer upon good cause shown, all notices of requests

for discovery must be given to the Records Custodian or the creator of the records of a party at least twenty days prior to the commencement of the hearing.

CHAPTER VII

CONTINUANCES

A hearing may be continued with recesses as determined by the Presiding Officer until all parties and persons making limited appearances have had an opportunity to make their relevant presentations.

CHAPTER VIII

REOPENING OF HEARINGS

Prior to the adoption of the Final Order and upon adequate notice, the Presiding Officer or Board may call for additional evidence. If such additional evidence is called for under the Regulatory Act, the Presiding Officer shall reopen the hearing. In the event that additional evidence is requested relevant to the Conservation Act hearing, the reopening of the hearing shall be at the discretion of the President Officer. In the event that the hearing is reopened, the schedule for adoption of a Final Order following completion of the reopened hearing shall be as contained in paragraphs IX C and D below.

CHAPTER IX

ORDER

A. Application. Provisions A through E of this Chapter IX shall apply only to proceedings under the Regulatory Act.

B. Interim Order. At any time prior to the adoption of the Final Order, the Board may adopt an Interim Order if required by the circumstances. Provisions in the Interim Order shall not interrupt the proceedings hereunder and may be modified by the Final Order.

C. Proposed Order. Each party may prepare a Proposed Order. Such order shall be filed with the Presiding Officer within thirty (30) days following the last day of the hearing with proof of service upon every other party. All other parties shall have the right to object to part or all of the Proposed Order by filing their written objections with the Presiding Officer within ten (10) days from the filing of the Proposed Order.

D. Adoption of Final Order. The Board shall consider adoption of a Final Order at a regular or special meeting of the Board. The considerations of the Board shall include the record of the proceedings, Proposed Orders and objections thereto, and comments, if any, of the Presiding Officer. Proceedings of the Board in consideration of adoption of a Final Order shall be open to the public, but statements and comments shall be limited to the Presiding Officer and the Board members. At the conclusion of such considerations, the Board shall prepare or shall order

the preparation of a Suggested Final Order (which shall include all items contained in Section E below except item 10). The Suggested Final Order shall be served upon all of the parties to the hearing. The parties to the hearing shall submit their written comments on the Suggested Final Order to the Board within ten (10) days from the date of service. At the next regular meeting of the Board which occurs after the period set for comment, the Board shall adopt a Final Order.

E. Content of Final Order. The Final Order shall be in writing, available to the public and shall include the following:

1. A determination pertinent to each Section 111 standard (i.e., cost of service, declining block rates, time-of-day rates, seasonal rates, interruptible rates, and load management techniques) as being appropriate or inappropriate to carry out the purposes of the Regulatory Act, set forth in Section 101 of that Act.

2. A determination to implement or not implement each Section 111 standard found to be appropriate to carry out the purposes set forth in Section 101.

3. A statement of the reason or reasons for any determination not to implement any Section 111 standard found to be appropriate to carry out the purposes set forth in Section 101.

4. A determination to adopt or not adopt each Section 113 standard of the Regulatory Act, in whole or in part.

5. If a determination is made to not adopt the Section 113(b)(1)(master metering), (2)(automatic adjustment

clauses), (3)(information to consumers) or (5)(advertising) standards, the reason or reasons that such standard is not appropriate to carry out the Section 101 purposes, or is otherwise not appropriate, or is not consistent with otherwise applicable state law.

6. If a determination is made to not adopt the Section 113(b)(4) (procedures for termination of service) standard, the reason or reasons that adoption is not appropriate or is not consistent with applicable state law.

7. A determination whether a rate as described in Section 114 (lifeline rates) should be implemented.

8. As to the determination under Sections 111, 113 and 114, the findings upon which such determinations are based.

9. Specific findings pertinent to compliance during the proceedings with Section 115 (special rules for standards) criteria for consideration of Sections 111 and 113 standards.

10. An award of reasonable attorneys' fees, expert witness fees and other reasonable costs if deemed appropriate by the Board based upon the hearings held pursuant to Chapter V D above.

F. Service. The parties shall be served with a copy of the Final Order, together with a notification of their right to judicial review of the Final Order by the Presiding Officer.

CHAPTER X

PETITION FOR RECONSIDERATION

A. Filing. A party may file a petition for reconsideration of a Final Order with the Board within thirty days after the Final Order is served.

B. Grounds. The petition shall set forth the specific ground or grounds for requesting the reconsideration. The petition may be supported by a written argument.

C. Denial. If the Board does not act on the petition within 20 days following the date the petition was filed, the petition shall be deemed denied.

D. Reconsideration. If the petition is allowed, the Board shall, upon adequate notice to the parties, reconsider at a regular or special meeting of the Board.

CHAPTER XI

APPEALS

Appeals under the Regulatory Act shall be as provided
in Section 123.

CHAPTER XII

REPORTS

A. Regulatory Act. Not later than one year after enactment of the Regulatory Act, and annually thereafter for ten years, EWEB, through its General Manager, shall report to the Secretary, in the manner provided in the Code of Federal Regulations, respecting its consideration of the standards established by Sections 111(d) and 113(b). Such report shall include a summary of the determinations made and actions taken with respect to each standard.

B. Conservation Act.

1. Within 180 days after adoption of rules by the Secretary as provided in Section 212, and in any event not later than 270 days after promulgation of the rules as provided in Section 219, EWEB shall submit a proposed plan to the Secretary.

2. Within 6 months after the approval of the plan referred to in subparagraph 1 above, and each two years thereafter before January 1, 1985, EWEB shall adopt a Utility Program to include procedures designed to inform Residential Customers who own or occupy residential buildings of the matters contained in Section 215(a).