



LINCOLN ELECTRIC SYSTEM

LES RESOLUTION 2009-21

WHEREAS, the Public Utility Regulatory Policies Act (PURPA) of 1978 required Lincoln Electric System (LES) to consider and determine the appropriateness of certain Standards set forth in PURPA as applied to certain LES operations; and

WHEREAS, the primary goal of PURPA is to encourage conservation of energy, equitable rates for electric consumers, and the efficient use of generation facilities and resources by electric utilities; and

WHEREAS, the Energy Independence and Security Act (EISA) of 2007 amended PURPA to provide additional standards to be considered by certain utilities, including LES; and

WHEREAS, staff conducted an analysis of existing PURPA standards and new standards contained in EISA 2007; and

WHEREAS, PURPA requires a public hearing be held to receive input from ratepayers regarding the utility's consideration of the PURPA standards; and

WHEREAS, LES held a public hearing on August 18, 2009, at the Walter A. Canney Service Center, for the purpose of receiving public input on the following PURPA standards:

- Integrated Resource Planning;
- Rate Design Modifications to Promote Energy Efficiency Investments;
- Consideration of Smart Grid Investments;
- Smart Grid Information; and
- Waste Energy Recovery Projects; and

WHEREAS, the LES Administrative Board Budget & Rates Committee reviewed and agrees with the staff recommendations regarding these standards as outlined in the attached summaries.

NOW, THEREFORE, BE IT RESOLVED, that based on the information provided by staff and the public input obtained at the public hearing, the LES Administrative Board approves the standards as follows:

- Integrated Resource Planning – adopt the federal standard;
- Rate Design Modifications to Promote Energy Efficiency Investments – adopt a modified standard;
- Consideration of Smart Grid Investments – adopt a modified standard;
- Smart Grid Information – adopt a modified standard; and
- Waste Energy Recovery Projects – adopt a modified standard.


Chair

Adopted: 12-18-09

INTEGRATED RESOURCE PLANNING PURPA SECTION 532 111(d)(16)

Federal Standard

111(d)(16) INTEGRATED RESOURCE PLANNING. – Each electric utility shall –
 (A) integrate energy efficiency resources into utility, State, and regional plans; and
 (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

Staff Discussion

LES adopted an LES Integrated Resource Planning (IRP) Standard consistent with previous requirements. A and B above are already included in the LES standard and processes.

The term 'Integrated Resource Planning' as previously defined means, "a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchase, energy conservation and efficiency, load changing and shifting projects (commonly referred to as Demand Side Management), cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost." (Emphasis added) As is evident from this definition, energy efficiency is included.

On at least a five year cycle, LES, as a Western Area Power Administration customer, is required to prepare a detailed IRP investigating a full range of Supply Side and Demand Side resource options. Plans and reports are updated on a regular basis and provide the opportunity for public participation and comment through public meeting processes.

To most accurately incorporate the IRP Principles, LES uses a corporate financial model development. The total retail revenue and rate impacts of options from the financial model runs can be compared to determine the least cost and most efficient options. This approach has been used in selecting resource options, evaluating DSM options (including efficiency), and in developing financial and risk analysis for LES.

Staff Recommendation

LES continues to support the Integrated Resource Planning (IRP) standard and process. The LES current IRP Standard and the LES IRP processes meet the requirements of 111(d) (16) A and B above. Therefore, LES recommends adopting the federal standard.

**RATE DESIGN MODIFICATIONS
TO PROMOTE ENERGY EFFICIENCY INVESTMENTS
PURPA SECTION 532 111(d)(17)**

Federal Standard

111(d)(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS. –

(A) **IN GENERAL.** – The rates allowed to be charged by any electric utility shall –

- (i) align utility incentives with the delivery of cost-effective energy efficiency; and
- (ii) promote energy efficiency investments.

(B) **POLICY OPTIONS.** – In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider –

- (i) removing the throughput and other regulatory and management disincentives to energy efficiency;
- (ii) providing utility incentives for the successful management of energy efficiency programs;
- (iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;
- (iv) adopting rate designs that encourage energy efficiency for each customer class;
- (v) allowing timely recovery of energy efficiency-related costs; and
- (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

Staff Discussion

This standard is in response to the concern that standard ratemaking practices may not encourage, or could even discourage, utilities from adopting energy conservation measures. LES generally complies with this standard.

Policy Option (i)

The “throughput” incentive refers to the link between a utility’s sales (kWh) and the earnings of the company. Generally, an increase in sales means an increase in earnings as well because some fixed costs and margin are typically recovered in the per-unit part of the rate. Therefore, a decrease in utility sales that result from an energy efficiency program could also mean a decrease in earnings. In

LES' case, a drop in earnings would reduce debt coverage, but would continue to cover fixed and variable expenses. LES' response to the "throughput disincentive" is to project sales decreases due to energy efficiency when designing rates. LES does not have an incentive for the purpose of profit. One method of eliminating the throughput incentive is to load the fixed rate components with the fixed costs and margin requirements. Then, a change in sales would only affect the corresponding variable cost. This upsets the comparability with neighboring utilities and could shift substantial fixed costs to customers using little energy. The current policy of designing rates based on careful projections, and using rate stabilization funds to offset any earnings decline, seems appropriate for LES.

Policy Option (ii)

There are no management incentives for successful management of energy efficiency programs, except for annual personnel performance reviews. LES is not allowed to provide management bonuses for attaining specified goals.

Policy Option (iii)

Energy efficiency can be one of the goals of rate design. This must be balanced with other goals, such as cost of service based rates, three-part design (customer, energy and demand), peak reduction, valley filling, and regional comparability and competitiveness.

Policy Option (iv)

Adopting certain rate designs can encourage energy efficiency. LES' rate design uses cost of service principles. Seasonal rates for all major rate classes discourage high use in the summer, when costs are high. Winter residential energy rates use the declining block structure. This reduces the per unit price of electricity when a customer exceeds the 900kWh threshold. This cost of service design would seem to encourage energy use, rather than energy efficiency. The purpose of this design, along with cost of service, is to promote electric heating for the further efficient annual use of generating resources. A design which would more effectively encourage energy efficiency is the inverted rate. This design increases the price per unit as the customer uses more electricity. The inverted rate design, while used in some parts of the country, has been avoided here because it does not follow cost of service principles. Generally, once the connection to the customer is made, it is more cost effective to provide more energy than it is a small amount of energy. Recall that a portion of the energy charge pays for the fixed costs. Another option, which is cost of service based, is the time-of-use rate option. This rate design can lead to energy efficiency during expensive generating periods. Customers may shift energy use to less expensive periods of the day, or may reduce consumption. Time-of-day rates continue to be studied by LES. To date, these rates are not viewed as cost beneficial.

Policy Option (v)

Timely recovery of energy efficiency-related costs are not an issue at LES. Costs of programs are analyzed to determine a net benefit. If the program is beneficial, the costs are included in the budgeted expenses and the rate design.

Policy Option (vi)

LES has offered home energy audits for many years. LES currently uses an on-line service to provide a self-audit to the over 110,000 customers. However, an employee will conduct a personal audit if requested. LES conducts energy audits of businesses as well, both on-line and in person. The commissioning program helps businesses evaluate their energy use and provide cost-effective options to improve energy efficiency.

LES has operated the Power Purchase Program (a demand response program) for nine years. In this program, businesses voluntarily run their emergency generators, or reduce load, when LES calls for a demand reduction, usually during system peaks. This program was established to directly impact system peak demands. Curtailments are only initiated when they would reduce peak demands, thereby minimizing generation capacity expansion.

LES' consumer education is aimed at promoting energy conservation and improving energy efficiency. This effort is consistent with adoption of the PURPA advertising standard in 1981.

On educating homeowners, staff maintains a general working knowledge of federal and state energy programs, incentives and credits. Customers are referred to the State Energy Office when a more detailed question is asked. The System will give further consideration to keeping current on applicable incentives for homeowners' information and benefit. Staff do work with customers on appropriate use of the System's Sustainable Energy Program to make energy efficiency improvements in homes and businesses.

Staff Recommendation

Staff recommends adopting the modified standard as follows:

Lincoln Electric System supports energy efficiency in principle. LES will hold energy efficiency as a goal of rate design, in conjunction with cost of service principles. In further support of energy efficiency, LES will offer on-line and personal energy audits for homes and businesses; offer demand response programs which are cost effective at conserving energy and/or reducing demand requirements; and promote conservation and energy efficiency through consumer education. LES will deploy smart grid technology and apply the data to the design of rates that promote energy conservation.

**SMART GRID INVESTMENTS
PURPA SECTION 1307 111(d)(16)**

Federal Standard

111(d)(16) CONSIDERATION OF SMART GRID INVESTMENTS. –

- (A) IN GENERAL. – Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including –
- (i) total costs;
 - (ii) cost-effectiveness;
 - (iii) improved reliability;
 - (iv) security;
 - (v) system performance; and
 - (vi) societal benefit.
- (B) RATE RECOVERY. – Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.
- (C) OBSOLETE EQUIPMENT. – Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

Staff Discussion

This standard is directed to States, not to utilities. However, LES will consider this standard.

LES has many intelligent systems currently in place and continually explores technologies to further improve reliability and efficiency. LES is a member of EPRI, whom performs extensive research in smart grid technologies. In seeking to appropriately improve the intelligence of the System, LES keeps an awareness of EPRI's research and other related technological developments in the industry. Employing this information, LES is able to consider the costs, effects on reliability, security, system performance and the potential benefits to society through undertaking smart grid investments.

LES has contracted with an outside consultant to help further analyze the benefits of smart grid technology to LES and its customers.

Parts B and C of the standard were written to provide recovery of all smart grid expenditures and recovery of the capital costs of capital made obsolete by smart grid investments. This recovery is important to investor-owned utilities. LES, as a non-profit municipal utility, recovers all expenditures from ratepayers. Therefore, parts B and C are not applicable to LES.

This standard was written to the States for them to require electric utilities in their jurisdiction to consider the standard. LES does not report to a State agency, but to the Lincoln City Council. LES will not tell the State what to consider, but LES has considered this standard, as intended by Congress. LES will discuss this standard with the City Council and present the following recommendation for their approval.

Staff Recommendation

Staff recommends adopting the modified standard as follows:

Lincoln Electric System (LES) will continue to stay abreast in smart grid technology developments and the potential benefits to be gained from employing these advanced technologies. LES will continue to evaluate appropriate factors of undertaking smart grid investments prior to undertaking investments in non-advanced grid technologies.

**SMART GRID INFORMATION
PURPA SECTION 1307 111(d)(17)**

Federal Standard

111(d)(17) SMART GRID INFORMATION. –

- (A) STANDARD. – All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).
- (B) INFORMATION. – Information provided under this section, to the extent practicable, shall include:
- (i) PRICES. – Purchasers and other interested persons shall be provided with information on –
 - (I) time-based electricity prices in the wholesale electricity market; and
 - (II) time-based electricity retail prices or rates that are available to the purchasers.
 - (ii) USAGE. – Purchasers shall be provided with the number of electricity units, expressed in kWh, purchased by them.
 - (iii) INTERVALS AND PROJECTIONS. – Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.
 - (iv) SOURCES. – Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

Staff Discussion

LES currently provides to customers some of the information included in this standard. Most information is provided on paper, either on the bills or in notices within the bill envelope, or electronically on the LES website. The information suggested by this standard and its availability is described below.

- (i) Prices (i.e., retail rates) are available to customers and other interested persons on the LES website. The rate schedules for all classes are maintained on the website continually. The website is updated with new rates when the rates change. Proposed rates are posted on the website and are available in paper form at the administrative office at least ten days prior to a public meeting on a change in rates and

remain available on the website in the most current proposed form throughout the rest of the approval process. The public is notified through newspaper notices that proposed rates are available.

LES has a type of time-of-use rate program for large customers. The rates and time periods are set when rates are approved and do not change until the next system-wide rate change approved by the City Council. Retail rates are known ahead of time and do not change weekly or daily or hourly. There is no uncertainty in these time-of-use rates, as there is with “real-time” rates at other companies.

Time-based wholesale prices are not made available to consumers. LES can have real-time prices that are set by purchased power, internal or external generation, or SPP market energy. The prices set by SPP market energy can vary widely and can vary every five minutes. Additionally, certain aspects of internal costs can be unknown until after the hour (losses, for example). The matrix of wholesale prices is huge and complex. Currently, LES does not have the technical ability to provide real-time prices to the general public. As LES develops this technical ability, LES will try to provide this information to consumers.

- (ii) Usage is important to consumers. Usage, stated in units of kilowatt-hours, is useful to the consumer in determining why his/her electric bill is at a particular level and shows the consumer if his/her efforts at conservation are effective. For these reasons, LES includes usage on all electric bills. LES also provides usage on residential bills for the same month a year prior for comparison purposes. Security lights are an exception. Security lights are billed a flat amount month after month. LES also provides a customer with kilowatt demand information, if that customer has a demand-metered account. Comparison of this demand information can display the effects of conservation.

The information on usage and demand is available on the customer's paper bill. This standard suggests making this information available electronically, such as on a web-page. LES does not have an adequate customer information system (CIS) to provide this service. Such a CIS is an expensive program. LES has no plans to make this information available on the internet, but will consider this issue in the future as changes to the CIS are contemplated.

- (iii) Intervals and projections. The standard suggests updates of information on prices and usage be made available on a daily basis. Further, this information would include hourly price and use information. Such a provision would be important for real-time rates, which change frequently. LES' retail prices do not change hourly. All prices, or rates, are known in advance. Hourly usage information is

also not practical or available. LES does not obtain usage information hourly from customers. Displaying this information, if it was available, would again require a sophisticated CIS. LES does not have the ability to provide this information today. LES will look to develop a plan in the future when the technology is available. While hourly usage information would help consumers watch their use and conservation efforts, few have asked for this information. LES provides isolation relays, when requested, which can link an electric meter to a customer's energy management system. This gives the customer hourly usage information.

LES has interval recording meters on about 250 of the largest customers. These recorders provide a record of the hourly usage after the meters are read. LES provides this hourly information to customers who request it at the end of the month. The data is provided in an Excel spreadsheet. This process is very time consuming to provide to many customers, but LES is able to expand this service as necessary.

- (iv) Sources. The standard suggests providing consumers with information on type of generation resources and emissions annually. LES can provide this information for LES owned units and for participation contracts. This information is not available for LES' many short-term purchase arrangements. This information on known resources can be provided to consumers on an annual basis. The information will be historic.

Staff Recommendation

Staff recommends adopting the modified standard as follows:

Lincoln Electric System will print on retail electric bills the usage information in kilowatt-hours and, for demand-metered classes, demand information in kilowatts for the period of the bill. Information on current retail electric rates will be available on LES' website and in paper form from the LES administrative office. Annually, LES will make available the types of generation used in the past twelve months, including the percentage of the System energy from each type and the level of emissions, to the extent known. LES will deploy smart grid technology and increase the information available to consumers.

**INDUSTRIAL WASTE ENERGY
EISA SECTION 374**

Federal Standard

SECTION 374 ADDITIONAL INCENTIVES FOR RECOVERY, USE, AND PREVENTION OF INDUSTRIAL WASTE ENERGY.

- (a) **CONSIDERATION OF STANDARD.** –
- (b) **STANDARD FOR SALES OF EXCESS POWER.** – For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).
- (c) **OPTIONS.** – The options referred to in subsection (b) are as follows:
 - (1) **SALE OF NET EXCESS POWER TO UTILITY.** – The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.
 - (2) **TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTY.** – The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.
 - (3) **TRANSPORT OVER PRIVATE TRANSMISSION LINES.** – The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that –
 - (A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and
 - (B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.
 - (4) **AGREED ON ALTERNATIVES.** – The utility and the owner or operator of the project may reach agreement on any alternate

arrangement and payments or rates associated with the arrangement that is mutually satisfactory and in accord with State law.

(d) **RATE CONDITIONS AND CRITERIA.** –

(1) **DEFINITIONS.** – In this subsection:

(A) **Per unit distribution costs.** – The term ‘per unit distribution costs’ means (in kilowatt hours) the quotient obtained by dividing –

- (i) the depreciated book-value distribution system costs of a utility; by
- (ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

(B) **PER UNIT DISTRIBUTION MARGIN.** – The term ‘per unit distribution margin’ means --

- (i) in the case of a State-regulated electric utility ...
- (ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying–
 - (I) the percentage (but not less than 10 percent) obtained by dividing –
 - (aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by
 - (bb) the gross revenues of the utility during the prior year to obtain a percentage; by
 - (II) the per unit distribution costs.

(C) **PER UNIT TRANSMISSION COSTS.** – The term ‘per unit transmission costs’ means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

(2) **OPTIONS.** – The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

(3) **APPLICABLE RATES.** –

(A) **RATES APPLICABLE TO SALE OF NET EXCESS POWER.** –

- (i) **IN GENERAL.** – Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.
- (ii) **VOLTAGES EXCEEDING 25 KILOVOLTS.** – If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, the

purchase price shall further be reduced by per unit transmission costs.

(B) RATES APPLICABLE TO TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTIES.–

- (i) **IN GENERAL.** – Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.
- (ii) **VOLTAGES EXCEEDING 25 KILOVOLTS.** – If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.
- (iii) **STATES WITH COMPETITIVE RETAIL MARKETS FOR ELECTRICITY.** – In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

(4) LIMITATIONS. –

- (A) **IN GENERAL.** – Any rate established for sale or transportation under this section shall –
 - (i) Be modified over time with changes in the underlying costs or rates of the electric utility; and
 - (ii) Reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.
- (B) **LIMITATION.** – No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

Staff Discussion

This is not a PURPA standard, but some of its provisions are similar to the PURPA standards. Non-regulated utilities must consider this standard within six months of a request by a developer of a waste energy project that is identified on the newly-established Registry of Waste Energy Recovery Sources. LES chose to consider this standard along with the four PURPA standards. The focus of this standard is to encourage “waste energy recovery” projects that generate “net excess power.” Examples of waste energy that are given in the statute include

“exhaust heat or flared gas from any industrial process” and “waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented.” The term “net excess power” is defined as generation from these facilities “of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.”

The owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power. Those options are discussed below.

Option (1) SALE OF NET EXCESS POWER TO UTILITY

The electric utility may purchase the net excess power from the owner or operator of the eligible waste energy recovery project. This option is similar to existing PURPA standards to purchase energy from qualifying cogeneration and small power production facilities (Qualifying Facilities). LES complies with the Public Utilities Regulatory Policy Act of 1978 (PURPA). LES has a policy to buy excess energy from Qualifying Facilities. That policy is proposed to be extended to these eligible waste energy recovery projects. LES will purchase excess energy from these eligible projects at the same prices and procedures as from Qualifying Facilities. This proposal ensures (a) waste energy is not wasted, (b) the waste energy recovery operator receives a payment for energy which would have been wasted and (c) LES pays a fair price for energy added to its resource mix.

Option (2) TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTY

Under this option, the utility transmits the power to third parties on the utility's system for sale by the project owner or operator to up to three separate locations within a 3-mile radius of the plant. In this case the utility would either have to grant access to its system, or be required to grant access by State law. The effect of this second option is to allow retail sales on the utility's system directly to retail customers. This requirement is counter to existing LES policy and Nebraska State law.

Option (3) TRANSPORT OVER PRIVATE TRANSMISSION LINES

This third option would authorize the project to build and operate a private transmission/distribution system and to transmit the excess power across those private lines. The State or other legal authority would have to waive or change existing laws that prohibits the construction and operation of private electric wires to transmit power – and do so without subjecting the project to regulation as a public utility, but “according the wires the same treatment for safety, zoning, land use and other legal privileges as apply or would apply to the wires of the utility.” The exceptions are that there would be no granting of any power of eminent domain and the project's wires would not be interconnected with the utility's system. Finally, given the cost of new power lines, the additional cost could negate any potential benefits from the sale of excess power from a combined

heat and power facility to a third party. This requirement is counter to existing LES policy and Nebraska State law.

Rate Conditions and Criteria

LES has a pricing policy for customer-owned generation (PURPA defined Qualifying Facilities) which is sold to LES. This policy sets the price for customer-owned energy at the average cost of energy for LES. This price is fair to all customers, not just the customer selling the energy. The pricing procedure in this standard, in section (d)(3)(A), credits the customer for the full retail rate. The full retail rate is greater than the avoided cost of energy the utility would experience with the customer's generation. Any payment in excess of the avoided cost would effectually be an unfair cost shift to other LES retail customers. Only the variable cost, LES' average cost of energy, would be avoided. Therefore, LES proposes to use its pricing policy already in use for customer-owned generation Qualifying Facilities.

LES does not intend to allow direct sales of net excess power to a third party. Therefore, section (d)(3)(B) is not applicable.

Staff Recommendation

Staff recommends adopting the modified standard as follows:

LES encourages the efficient use of waste energy. LES will purchase net excess electric power from the owners or operators of eligible waste energy recovery projects according to LES' established Policy and Guidelines for Customer-Owned Generation. Contractual arrangements and purchase prices will be the same as for PURPA Qualifying Facilities. LES will not allow direct sales over LES wires or allow private wires within its service area.