

293824

LR

D. C.

ORDINANCE NO. 0-07-94

AN ORDINANCE REGARDING NEW FEDERAL STANDARDS PERTAINING TO ELECTRIC UTILITIES UNDER THE PUBLIC UTILITIES REGULATORY POLICIES ACT OF 1978, AS AMENDED BY THE ENERGY POLICY ACT OF 2005; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the Public Utility Regulatory Policies Act of 1978 ("PURPA") as amended by the Energy Policy Act of 2005 ("EPACT 2005") requires municipal electric utilities with total retail sales of 500 million kilowatt-hours during any calendar year to formally consider and determine whether to adopt five new electric utility standards relating to net metering; smart metering; interconnection; fuel diversity; and fossil fuel generation efficiency (the "Standards"); and

WHEREAS, Conway Corporation, the lessee operator of the city-owned electric utility, had annual retail sales in excess of this 500 million kilowatt-hours and accordingly must comply with PURPA, as amended by EPACT of 2005; and

WHEREAS, management of Conway Corporation published a notice in the Log Cabin Democrat and accepted written comments for 45 days in 2006 on net metering, fuel efficiency and fuel diversity and this month conducted a public hearing after a notice in the Log Cabin Democrat on smart metering and interconnection as required by PURPA, as amended by EPACT of 2005; and

WHEREAS, Management of Conway Corporation have considered the comments and evaluated the consequences of these new Standards to the Corporation and have recommended policies on those Standards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION ONE. Conway Corporation opts to implement the net metering service to any electric customer that Conway Corporation serves. Net metering service under which electric energy generated by the customer from an eligible on-site generating facility such as solar energy and is delivered to the local distribution facilities may be used to offset electric energy provided by Conway Corporation during the billing period. In addition, net metering service is regulated by Act 1781 of 2001 as amended by Act 1026 of 2007 of the Arkansas General Assembly. Conway Corporation should develop rules and regulations to allow net metering no later than January 1, 2008. Based on these facts, the City Council hereby directs Conway Corporation to offer this provision.

SECTION TWO. Conway Corporation opts out of the Fuel Diversity standard. Section 1251 of the Energy Policy Act of 2005 requires each utility company to consider adoption of a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies including renewable technologies. Conway Corporation's only owned generation is a 2% undivided interest in the White Bluff Steam Electric Station and the Independence Steam Electric Station. These coal-fired generating plants are located in Jefferson County and Independence County. The plants are operated by Entergy Arkansas, Inc. The remainder of Conway Corporation's energy is provided through a power purchase agreement with Constellation Energy Commodities Group which prohibits the Corporation from adding additional owned generation. Based on these facts, the Council hereby directs Conway Corporation to opt-out of this provision.

SECTION THREE. Conway Corporation opts out of the Fossil Fuel Generation Efficiency standard. Section 1251 of the Energy Policy Act of 2005 requires each utility to consider the development and

implementation of a 10-year plan to increase the efficiency of its fossil fuel generation. Conway Corporation owns 2% of 4 fossil fuel plants, White Bluff Steam Electric Station Units 1 and 2 and Independence Steam Electric Station Units 1 and 2. These plants are co-owned with others and operated by Entergy Arkansas, Inc. These plants supply approximately 40% of the energy needed by Conway Corporation. The remainder of its energy is provided through a power purchase agreement with Constellation Energy Commodities Group. Conway Corporation cannot control energy efficiency at these plants due to its minority ownership. Based on these facts, Conway Corporation does not have the ability to adopt this standard and the Council hereby directs Conway Corporation to opt-out of this provision.

SECTION FOUR. Conway Corporation opts out of the Smart Metering standard. Section 1252 of the Energy Policy Act of 2005 requires consideration of the use of time-based metering and communications. Under the proposal, each electric utility shall offer each of its customer classes time-based rate schedules under which the retail rate charged by the electric utility varies during different time periods with the utility's costs of generating and purchasing energy at the wholesale level. In its existing ownership contract with Entergy Arkansas, Inc. ("EAP"), Conway Corporation does not receive any difference in price from the coal units based on time of generation or purchase. Replacement Energy is provided in the event of loss of coal generation and is priced at the average of the Replacement Energy cost; Conway Corporation does initiate these purchases. In its power purchase agreement with Constellation Energy Commodities Group, Conway Corporation does not receive any difference in price based on the time of generation or purchase. Therefore, since Conway Corporation does not receive time based charges for energy it cannot pass those on to retail customers and the Council hereby directs Conway Corporation to opt out of this provision.

SECTION FIVE. Conway Corporation opts out of the Interconnection standard. Section 1254 of the Energy Policy Act of 2005 requires each electric utility to make available interconnection service unless it opts out of the provision. Interconnection service means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Conway Corporation's power supply agreement with Constellation Energy Commodities Group prohibits Conway Corporation from expanding any program which encourages distributed generation. Therefore, the Council hereby directs Conway Corporation to opt out of this provision except with respect to interconnection that is a part of the Company's net metering rules addressed in Section One above.

SECTION SIX. It is ascertained and declared that the implementation of this Ordinance is of immediate concern to the inhabitants of the City; that by reason thereof an emergency exists and this Ordinance, being necessary for the immediate preservation of public welfare, shall take effect and be in full force from and after its passage and approval.


PASSED this 7th day of August, 2007.

APPROVED:



Mayor Tab Townsell

ATTEST:



Michael O. Garrett
City Clerk/Treasurer