

**CPS ENERGY
MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES
HELD ON APRIL 3, 2023**

The Regular Meeting of the Board of Trustees of CPS Energy for the month of March was held on Monday, April 3, 2023 in the Board Room on the First Floor of the CPS Energy headquarters located at 500 McCullough, San Antonio, Texas.

I. CALL TO ORDER

Chair Gonzalez called the meeting to order at 1 p.m.

Present were Board members:

Ms. Janie Gonzalez, Chair

Dr. Francine Romero, Vice Chair

Dr. Willis Mackey

Mr. John Steen

Mayor Ron Nirenberg (arrived at 1:06 p.m.)

Also present were:

Mr. Rudy Garza, President & CEO

Ms. Shanna M. Ramirez, Chief Legal & Ethics Officer, General Counsel & Board Secretary

Mr. Cory P. Kuchinsky, Chief Financial Officer & Treasurer

Mr. Evan O'Mahoney, Interim Chief Information Officer

Ms. Lisa Lewis, Chief Administrative Officer

Mr. Benny Ethridge, EVP

CPS Energy staff members

City of San Antonio officials

Interested Citizens

II. SAFETY MESSAGE, INVOCATION AND PLEDGE OF ALLEGIANCE

A safety message, invocation, and the Pledge of Allegiance were delivered by Ms. Julie Johnson, Vice President of Finance & Accounting and Assistant Treasurer.

III. PUBLIC COMMENT

Ms. Henrietta LaGrange, community member, commented on S.B. 1100, proposed legislation on payments from municipally-owned utilities to the municipality. She expressed her concerns about the legislation.

Mr. Raymond Zavala, customer, expressed his concern about a CPS Energy employee that installed a smart meter on his home. He stated the employee did not announce his presence or show his ID. Finally, he stated he did not want a smart meter, and requested a certificate of conformance.

Mr. Sandra Crocker, community member, stated she believes there is a lack of diversity in thought. She encouraged CPS Energy to include different voices, especially in moving forward with carbon zero efforts.

IV. CHAIR'S REMARKS.

Chair Gonzalez provided comments on her role as Board Chair. She stated her goal is to have orderly and efficient meetings to ensure our important work can get done while following the applicable rules and laws. She stated that she hopes the Board of Trustees can use the established board governance rules, the committee process, board meetings, and access to herself and CPS Energy staff to have an open dialogue and work collectively towards the greater good of CPS Energy. She recognized that this does not mean all Trustees will agree on everything, and that there will be different opinions, but wishes to discuss issues constructively and work towards an environment where we treat each other with professional courtesy and respect. Finally, she hopes the Board will spend its time together focusing on forward progress, and their obligations to CPS Energy require such an approach.

V. RATE ADVISORY COMMITTEE (RAC) UPDATE

Trustee Dr. Romero stated RAC continues its work on rate design. She stated that the March meeting covered a lot of topics on rates, including rate decoupling. She stated RAC's work is focused on affordability, conservation, demand management to achieve bill relief.

A. Amendment of RAC Bylaws

Ms. Ramirez introduced and explained the proposed changes to the bylaws. The Board of Trustees asked questions. Trustee Dr. Romero made a motion to approve the amendments to the RAC bylaws, and Trustee Dr. Mackey seconded the motion. The motion passed unanimously.

B. Member Nomination

Ms. Ann Kinnard, Director of Customer Experience for Customer Engagement, requested the Board appoint a new member, Ms. Miriam Junkett, to the RAC. Ms. Junkett was nominated by the Board of Trustees. Mayor Nirenberg moved approval, it was seconded by Trustee Dr. Romero, and it was unanimously approved.

Trustee Steen noted that Dr. Olufemi Osidele made a great contribution to the RAC and requested that we find a moment to honor him. Chair Gonzalez and Mayor Nirenberg agreed.

VI. EXECUTIVE SESSION

At approximately 1:23 p.m., Ms. Ramirez announced that the required notice had been posted and that the Trustees, with only necessary parties in attendance, would convene into Executive Session, pursuant to the provisions of Chapter 551 of the Texas Government Code, for discussion of a number of posted items, including the following:

- Real Property (\$551.072)
- Competitive Matters (\$551.086)

The Board reconvened in open session at 2:16 p.m. The quorum was re-established, and all members were present. Ms. Ramirez reported that only the matters cited above, and no others were discussed, and no votes were taken in Executive Session.

VII. APPROVAL OF CONSENT ITEMS

On a motion duly made by Trustee Dr. Mackey, seconded by Vice Chair Dr. Romero, and upon affirmative vote by all members present, the following items on the Consent Agenda were unanimously approved:

- A. Minutes of the Special Board meeting held on January 23, 2023
- B. Minutes of the Regular Board meeting held on January 30, 2023
- C. Approval of Payment to the City of San Antonio for February 2023

The New Series Bond Ordinance that took effect February 1, 1997 provides for a total cash payment to the City of San Antonio (City) in an amount not to exceed 14% of gross revenue as calculated pursuant to such Ordinance, less the value of other services provided to the City, with the percentage (within the 14% limitation) to be determined by the governing body of the City. The cash transfer to the City for the month of February 2023 is based on actual gross revenue per the New Series Bond Ordinance of \$242,842,791.42, less applicable exclusions. The revenue for the month of February 2023 is calculated as follows:

Gross revenue per CPS Energy financial statements	
Electric revenue	\$184,949,619.87
Gas revenue	35,441,227.62
Interest and other income	(838,906.11)
Gross revenue per CPS Energy financial statements	<u>219,551,941.38</u>
Excluded revenue	
School and hospital revenue per City Ordinance 55022	(11,351,104.63)
LVG revenue per City Ordinance 100709	(368,122.92)
Fuel cost component of off-system nonfirm energy sales per City Ordinance 61794 and revenue for wholesale special contracts	(5,629,573.02)
Noncash and other income, GASB 31 investment market value change, miscellaneous interest income, gas billing adjustment and unbilled Revenue	<u>40,639,650.61</u>
Total excluded revenue	<u>23,290,850.04</u>
Gross revenue per New Series Bond Ordinance subject to 14% payment to the City	<u>\$242,842,791.42</u>
City payment per Bond Ordinance for February 2023 based upon February 2023 revenue	\$33,997,990.80

City payment per memorandum of understanding (MOU) regarding wholesale special contracts	371,511.79	
City Payment reduction per gas customer billing adjustment MOU	(25,000.00)	
City payment per Bond Ordinance plus adjustments for memorandums of understanding	34,344,502.59	A
Utility services provided to the City for February 2023	(3,164,075.81)	
Net amount to be paid from February 2023 revenue to the City in March 2023	<u>\$31,180,426.78</u>	

Comparison of City payment per Bond Ordinance (plus adjustments for memorandums of understanding) vs. Budget before deduction for utility services provided to the City:

(Dollars in thousands)

February 2023	Actual	Budget	Variance	
Current Month* A	\$34,345	\$33,902	\$443	1.3%
Year-to-Date*	\$34,345	\$33,902	\$443	1.3%

* This amount does not include any additional funding authorized by the Board of Trustees.

Approval of the following resolution is requested:

A. "BE IT RESOLVED by the CPS Energy Board of Trustees that payment to the City of San Antonio in the amount of \$31,180,426.78 representing 14% of applicable system gross revenues for the month of February 2023, such payment being net of City utility services (\$3,164,075.81), is hereby approved."

D. Resolution for the Sale of Surplus Property

E. Procurement Items: None

VIII. FY2024 ADDITIONAL FINANCING OPPORTUNITIES

Mr. Cory Kuchinsky, Chief Financial Officer & Treasurer, presented information on FY2024 additional financing opportunities, specifically: 1) tendering outstanding bonds to generate debt service savings, and 2) establishing a companion commercial paper program to provide additional liquidity. He stated these additional financing tools will allow us to generate savings for our customers. Mr. Kuchinsky requested authorization to execute the additional financing transactions. The Board of Trustees asked questions and made comments. Trustee Dr. Mackey made a motion to give authorization, which was seconded by Mayor Nirenberg. The motion was unanimously approved.

IX. FY2023 END OF YEAR PERFORMANCE REVIEW

Mr. John Soltau, Director of Enterprise Planning & Performance, presented the FY2023 End of Year Performance Review. He reviewed the results for the Key Results and Tier 1 Metrics and noted that the metrics reflect a solid performance in the face of significant headwinds. He also highlighted accomplishments in FY2023 and noted the Key Results performance highlights in the success we had in

focusing on what is important to our community. The Board of Trustees discussed the presentation and asked questions.¹

X. CEO'S CLOSING COMMENTS

Mr. Rudy Garza discussed our safety culture and how our team holds each other accountable to a standard that recognizes the thing that matters is getting every employee home safely at the end of the day. He recognized members of the Gas Solutions Guidance Team, Gas Solutions Grassroots Team, the Energy Delivery Services Guidance Team, the Energy Delivery Services Substation and Transmission Grassroots Team, and the Executive Transition Team. Mr. Garza stated that it is because of our people that we will be successful.

Trustee Steen read prepared comments and asked Mr. Garza about the contents of the agenda. Ms. Ramirez clarified that the Chair sets the agenda and our governance rules set out the process of requesting items on the Agenda. Trustee Romero asked for formal guidance from Ms. Ramirez.

Ms. Ramirez reviewed the action items discussed: 1) recognizing Mr. Osidele and Ms. Junkett on RAC, 2) considering agenda items for future meetings, and 3) including Trustee Steen's comments in the minutes.

Trustee Steen raised some questions for Mr. Garza on board meeting agenda items.²

XI. ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Trustee Dr. Mackey, seconded by Vice Chair Dr. Romero and upon an affirmative vote by all members present, the meeting was unanimously adjourned at 3:07 p.m. by Chair Gonzalez.



Shanna M. Ramirez
Secretary of the Board

¹ Trustee Steen requested his comments be included in the minutes. His comments are attached as Attachment A.

² Trustee Steen requested his comments be included in the minutes. His comments are attached as Attachment B.

4/3/23

Statement of John Steen

Re: FY2023 End of Year Performance Review

(Agenda Item #9)

CPS Energy's FY2023 ended two months ago, on January 31st. Included on the agenda for our last meeting was an item entitled "Year-End Financial Update." This was the agenda item I was not allowed to speak on. I did ask you, Mr. Garza, about the final numbers on our FY2023 Tier 1 Metrics, and you replied they weren't finalized. You've now provided the final numbers to your trustees, which was done on March 6th by email, and this item has been placed on today's agenda. I appreciate your agendaing it.

Please put up slide 6. We now know that management failed to meet six out of the 16 metrics. The six areas where our metrics were not achieved are:

- Portfolio Commercial Availability (PCA)
- Customer Satisfaction - Residential
- Days Cash on Hand
- Debt Capitalization
- Enterprise Recordable Incident Rate (RIR)
- Enterprise Readiness - Executive

So bottom line: CPS Energy's overall score at the end of the year is 10 out of 16 – or a 63. CPS Energy's Tier 1 Metrics are often referred to as our **report card**, which means our final grade for FY2023 is, I regret to say, a D-.

By the way, I think our overall score might be considered lower than a 63 because of the way one of the metrics was set up. Let me explain. Tier 1 Metrics need to be calibrated so that they drive improvements and help CPS Energy focus its people and resources on what's important. To be effective our metrics must be appropriately aspirational, challenging and tough. As Ed Kelley liked to put it: There should be no softballs. Hitting the targets should mean our company is firing on all cylinders, that is, operating at the highest level. The FY2023 metric we used for "Senior Lien Bond Ratings" was set up to be met if all we did was merely *maintain* our current downgraded ratings as well as the "Negative" outlooks assigned us by two of the three credit rating agencies. Guess what happened? We set the target low, and we met it. But our goal should have been, at an absolute minimum, to move the two "Negative" outlooks to "Stable." Thus, in my mind, we didn't really achieve our metric for Senior Lien Bond Ratings because our target was not appropriately set at stretch-level.

Be that as it may, at our last meeting FY2023 was described as a "strong" year for CPS Energy. What if one's child brought home a final report card showing a 63 or D- average? Would one describe him or her as a strong student? In line with my fiduciary responsibilities as a trustee, I very much want management to succeed in getting CPS Energy's house in order. A good start is to acknowledge that our position is not "strong" as was asserted at our last meeting and perhaps

not even “solid” as you’re maintaining today and that CPS Energy needs to overcome significant challenges – financial and otherwise – to be considered “strong” or “solid.”

Please put up slide 3. So there it is for all to see, our grade of 62.5. I don’t like dwelling on bad news, but we must be realistic about this and not pretend things are rosy when they’re not. Management must be held accountable for this underperformance.

So my question to you, Mr. Garza, with all due respect, is this: Would you please add as an agenda item for our next meeting a more detailed report on why CPS Energy failed to meet six of our FY2023 Tier 1 Metrics, and provide us with your comprehensive plan to rectify this situation in FY2024 **without lowering – and, in some cases, with even raising – the bar on our Tier 1 Metrics?**

I respectfully request that this statement be included in the minutes of today’s meeting.

4/3/23

Statement of John Steen

Re: CEO's Closing Comments

(Agenda Item #10)

Harking back to our last board meeting when I was blocked from expressing my views on two agenda items, I want to begin by quoting from the Texas Government Code, specifically Section 551.042 entitled "Inquiry Made at Meeting:"

- (a) If at a meeting of a governmental body ... a member of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:
 - (1) a statement of specific factual information given in response to the inquiry; or
 - (2) a recitation of existing policy in response to the inquiry.
- (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Interestingly, this very language is paraphrased in the Rules of Order for the CPS Energy Board of Trustees, which rules were implemented at the instigation of our previous chair. This is found in Article 5 of our Rules of Order:

To the extent ... a Trustee questions or asks about a subject for which notice has not been given, as required by the Open Meetings Act, the response to such inquiry must be limited to:

- (a) An informational statement of factual explanation, given in response to the inquiry; or
- (b) A recitation of existing policy in response to the inquiry.

NOTE: Any deliberation or decision about the subject of such inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Finally, since at the last meeting, Robert's Rules of Order were cited in denying me the right to speak, here's some language from a 5/18/22 BoardEffect article entitled "Robert's Rules of Order: How to Run a Board Meeting":

The role of the board chair is a specific role with duties and responsibilities that are different than other members. One of the responsibilities is to facilitate discussion among board members, giving each board member an opportunity to speak. An effective chair gives opposing sides time to present their arguments and invites the participation of other members.

So here are my two inquiries to our CEO, Mr. Garza.

At our December 19, 2022, board meeting, a resolution was passed regarding CPS Energy's strategy to mitigate customer debt. The final paragraph reads:

BE IT FURTHER RESOLVED, CPS Energy Board of Trustees hereby directs CPS Energy to provide this Board of Trustees a monthly update on the effects of this comprehensive plan in addressing past due accounts.

Undeniably the spirit of that language was – and is – that such an update would be an agenda item for a presentation and discussion at every board meeting going forward, and, in point of fact, that's what was done at our January and February meetings. Indeed it was agendized both times as "Accounts Receivable Monthly Update." However, this matter was not placed on the agenda for today's meeting. Please correct me if I'm wrong, but I believe our last Accounts Receivable Monthly Update was presented to us at our 2/27/23 board meeting, but the information contained therein was as of 1/31/23 so, despite our 12/19/22 resolution, the last data we've been provided is more than two months old. This lack of transparency leads me to believe that adequate progress is not being made to resolve this significant, intractable problem. Therefore, in line with this board's December 19, 2022, resolution, my questions to you, Mr. Garza, are:

- First, why didn't you place this matter on today's agenda? and
- Second, will you be placing it on the agenda for our next board meeting to be held April 24th?

I respectfully request that this statement be included in the minutes of today's meeting.