



**SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION MEETING  
TO BE HELD ON JUNE 29, 2020  
BY TELEPHONE CONFERENCE  
1 (855) 962-1328**

*This meeting will immediately follow the Regular Board Meeting of the CPS Energy Board of Trustees held at 1:00 p.m.*

*This agenda serves notice that the Board of Directors of the SA Energy Acquisition Public Facility Corporation will hold a meeting, open to the public, at which time the Board of Directors will consider the following matters, detailed below.*

*To protect the health of the public and limit the potential spread of COVID-19, the Board of Directors of the SA Energy Acquisition Public Facility Corporation will hold this meeting via telephone conference. These meeting standards are based upon the provisions of the Open Meetings Act, as modified by the Governor of Texas in response to the COVID-19 crisis. These modified standards shall remain in place until further notice or until the state disaster declaration expires or is otherwise terminated by the Texas Governor. **There will be no in-person public access to the meeting.***

*At any time during the Board Meeting, and pursuant to the provisions of Chapter 551 of the Texas Government Code, the Board may meet in executive session for consultation concerning attorney-client matters under Section 551.071; for deliberations and other authorized action on real property under Section 551.072; on prospective gifts or donations under Section 551.073; on personnel under Section 551.074; on security personnel or devices under Section 551.076; on economic development negotiations under Section 551.087; to deliberate, vote, or take final action on competitive matters under Section 551.086; to deliberate regarding security audits and devices under Section 551.089; or to deliberate under Texas Government Code Section 418.183(f) about confidential information under the Texas Homeland Security Act.*

ITEM	TOPIC	ACTION	PRESENTER / SPONSOR
1	CALL TO ORDER	Execute	Mr. John Steen
2	PUBLIC COMMENT (Pre-Registration scheduled from 11:00 AM – 12:00 PM @ (210) 353-4662) A. Chair's Announcements B. Comments	Discuss	Mr. John Steen
<b>CONSENT AGENDA</b>			
3	APPROVAL OF CONSENT ITEMS: A. Minutes of the Meeting held on 01/14/2020	Vote	Mr. John Steen
<b>REGULAR AGENDA</b>			
4	ACCEPTANCE OF THE AUDITED FINANCIALS (Ms. Jodi Dobson, BakerTilly)	Vote	Mr. Gary Gold
5	DIRECTORS & OFFICERS ("D&O") INSURANCE PROGRAM RENEWAL	Vote	Mr. Orlando Flores
6	RESOLUTION TO APPROVE BYLAWS AMENDMENT	Vote	Ms. Carolyn Shellman
7	CLOSE-OUT: Review Action Items from this meeting	Discuss	Mr. Gary Gold
8	ADJOURNMENT	Execute	Mr. John Steen

  
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**NOTICE OF MEETING**  
**SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION**  
**BY TELEPHONE CONFERENCE**

To protect the health of the public and limit the potential spread of COVID-19, the Board of Directors of the SA Energy Acquisition Public Facility Corporation will hold this meeting via telephone conference. These meeting standards are based upon the provisions of the Open Meetings Act, as modified by the Governor of Texas in response to the COVID-19 crisis. These modified standards shall remain in place until further notice or until the state disaster declaration expires or is otherwise terminated by the Texas Governor.

Notice is hereby given that the Board of Directors of the SA Energy Acquisition Public Facility Corporation will hold a public meeting **on Monday, June 29, 2020 at 4:45 p.m. or immediately following the Regular Board Meeting of the CPS Energy Board of Trustees, whichever is later, by telephone conference.** The Board of Directors will consider specifically those matters referred to in the attached agenda, which is incorporated herein.

**There will be no in-person public access to the meeting.**

**The meeting will be accessible via audio stream on [cpsenergy.com](http://cpsenergy.com)  
or by calling toll-free 855-962-1328.**

Those wishing to speak on an agenda item during the Public Comment portion of the meeting must register on the day of the Board of Directors meeting by phone at 210-353-4662. Registration is open for 1 hour, from 11:00 a.m. CT to 12:00 p.m. CT. Those registering to speak should be prepared to provide the following information:

- First & last name / group or organization
- City & state of residence
- Phone and/or email address
- Agenda item # about which they are speaking
- Group for which the individual is speaking
- Any required translation services


Speakers will be called to speak in the order that they register.

The agenda packet is attached. It and other informational material may be found at:

<https://www.cpsenergy.com/en/about-us/who-we-are/trustees/board-meetings.html>

A recording of the telephonic meeting will be made and will be available to the public in accordance with the Open Meetings Act upon written request.

*At any time during the Board Meeting, and pursuant to the provisions of Chapter 551 of the Texas Government Code, the Board may meet in executive session for consultation concerning attorney-client matters under Section 551.071; for deliberations and other authorized action on real property under Section 551.072; on prospective gifts or donations under Section 551.073; on personnel under Section 551.074; on security personnel or devices under Section 551.076; on economic development negotiations under Section 551.087; to deliberate, vote, or take final action on competitive matters under Section 551.086; to deliberate regarding security audits and devices under Section 551.089; or to deliberate under Texas Government Code Section 418.183(f) about confidential information under the Texas Homeland Security Act.*

  
\_\_\_\_\_  
Carolyn E. Shellman  
Secretary of the Board  
June 24, 2020

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**Minutes of Meeting of  
Board of Directors  
January 14, 2020**

A regular meeting of the Board of Directors of SA Energy Acquisition Public Facility Corporation (PFC or Corporation) was called to order on Tuesday, January 14, 2020 at 4:34 p.m. by Board President Mr. John Steen at the CPS Energy Main Office Building, 145 Navarro, San Antonio, Texas.

The following Directors of the Corporation, constituting a quorum, were present and participated throughout the meeting:

Mr. John Steen  
Dr. Willis Mackey  
Mr. Ed Kelley  
Ms. Janie Gonzalez  
Mayor Ron Nirenberg  
Ms. Paula Gold-Williams  
Ms. Delores Lenzy-Jones

Also, in attendance were Ms. Carolyn Shellman, Secretary, Mr. Gary Gold, Assistant Secretary, Ms. Shannon Albert, Treasurer, and Mr. John Bonnin, Executive Director. Other CPS Energy leadership and staff members were also in attendance.

**WELCOME / AGENDA REVIEW**

Mr. Steen welcomed everyone to the meeting and reviewed the agenda.

**AGENDA**

**Approval of the July 29, 2019 meeting minutes** – Mr. Steen introduced the first item and noted that there were some minor updates to the minutes, but nothing substantively changed. Upon a motion made by Mayor Nirenberg and seconded by Mr. Ed Kelley, the July 29, 2019 minutes were unanimously approved, with Mr. Steen's suggested changes.

**Annual Election of Officers** – Mr. Steen introduced the second item. A draft resolution approving the election of the following persons to serve as officers of the Corporation was reviewed:

President	John Steen
Vice President	Dr. Willis Mackey
Assistant Vice President	Paula Y. Gold-Williams
Secretary	Carolyn Shellman
Assistant Secretary	Gary W. Gold
Treasurer	Shannon R. Albert
Executive Director	Paul Vinson

It was noted that Mr. Paul Vinson would serve as Executive Director because Mr. John Bonnin is retiring in March 2020. Upon a motion made by Mr. Kelley and seconded by Ms. Lenzy-Jones, the PFC Officers were unanimously approved.



**Recommendation to Reappoint Director** – Ms. Carolyn Shellman shared with the Board that Dr. Willis Mackey's current term of service on the PFC Board is expiring on January 31, 2020. The Board was asked to approve Dr. Mackey for a second two-year term expiring on January 31, 2022. This action also requires City Council approval, scheduled for later this month.

Upon a motion made by Mr. Kelley and seconded by Mayor Nirenberg, the recommendation to reappoint Dr. Mackey as a Director was unanimously approved.

**Annual Approval of the Financial Authorization and Approvals Policy for Banking and Investing** – Mr. Steen then introduced the final item on the agenda, the annual approval of the Financial Authorization and Approvals Policy for Banking and Investing. Mr. Steen referenced the Executive Summary included in the packet noting that only minor edits, and no substantive changes to the policy, were being proposed. Upon a motion made by Ms. Lenzy-Jones and seconded by Ms. Gold-Williams, the Financial Authorization and Approvals Policy for Banking and Investing was unanimously approved.

#### **ADJOURNMENT**

There being no further business to come before the Corporation Board, upon a motion by Mr. Kelley, seconded by Ms. Gonzalez, the meeting was unanimously adjourned by Mr. Steen at 4:39 p.m.

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Carolyn E. Shellman, Secretary

# SA Energy Acquisition Public Facility Corporation Report on Fiscal Year 2020 Audit

Presented by:

Jodi Dobson, CPA, Partner  
Baker Tilly Virchow Krause, LLP

Carmen Garcia, Partner  
David Perez, Manager  
C.C. Garcia & Co., P.C.

June 29, 2020



The information provided here is of a general nature and is not intended to address the specific circumstances of any individual or entity. In specific circumstances, the services of a professional should be sought. Tax information, if any, contained in this communication was not intended or written to be used by any person for the purpose of avoiding penalties, nor should such information be construed as an opinion upon which any person may rely. The intended recipients of this communication and any attachments are not subject to any limitation on the disclosure of the tax treatment or tax structure of any transaction or matter that is the subject of this communication and any attachments. Baker Tilly Virchow Krause, LLP trading as Baker Tilly is a member of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. © 2020 Baker Tilly Virchow Krause, LLP



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## Audit presentation topics

- > Audit overview
- > Auditor Communication with Those Charged with Governance
- > Internal control communication
- > Questions

## Audit overview

- > Conduct and plan audit based on internal control over financial reporting and risks of financial misstatement
  - > Internal control over financial reporting
  - > Prepaid assets
  - > Investment valuation
  - > Revenue recognition
  - > Disclosure of risks in the Notes
- > Audit key business processes and procedures
- > Audit financial disclosures for inclusion of
  - > Complex transactions
  - > Risks of the organization

## Audit overview

- > Audit was conducted smoothly with no major difficulties.
- > Management and staff were cooperative and readily available.
- > Audit schedule was maintained and communication between management and auditors was good.
- > Last day of fieldwork was May 15, 2020.
- > No audit adjusting journal entries were noted.



## Audit overview

- > Audit performed in accordance with Generally Accepted Auditing Standards.
- > Audit is based on assessment of inherent and control risk in key business process areas. Below are several key areas of review:
  - Prepaid assets
  - Investment valuation
  - Revenue recognition
  - Receivables
  - Debt
  - Disclosure of risks in the financial statements
  - Analytical review of statement of net position and statement of revenues, expenses and changes in net position



## Audit overview

- > Financial statements received an *Unmodified Opinion* (clean opinion)

## Auditor Communication with Those Charged with Governance

### *Significant Findings from the Audit*

Area to Be Communicated	Auditor's Response
<p><b>Auditor's View on Qualitative Aspects of Significant Accounting Policies</b></p>	<ul style="list-style-type: none"> <li>&gt; The significant accounting policies used in the preparation of your financial statements are discussed in Note 1 to the financial statements.</li> <li>&gt; Accounting estimates are an integral part of the financial statements prepared by management's knowledge and experience about past and current events and assumptions about future events. We feel that management's estimates were made in accordance with generally accepted accounting principles.</li> </ul>



## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit*

Area to be Communicated	Auditor's Response
Significant Difficulties Encountered in Performing the Audit	> We encountered no difficulties in performing our audit.
Uncorrected Misstatements	> Under generally accepted auditing standards, uncorrected misstatements refer to immaterial passed audit adjustments – there were no passed audit adjustments.



## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit*

Area to be Communicated	Auditor's Response
<b>Disagreements with Management</b>	> Professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements were encountered during the course of the audit.
<b>Other Findings or Issues</b>	> There are no other issues to disclose as part of the audit.

## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit*

Area to be Communicated	Auditor's Response
<p><b>Material Corrected Misstatements</b></p>	<ul style="list-style-type: none"> <li>&gt; Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management.</li> <li>&gt; There were no audit adjustments as part of this year's audit.</li> </ul>



## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit*

Area to be Communicated	Auditor's Response
<p>Management Representations</p>	<p>&gt; We have requested certain representations from management that are included in the management representation letter. A copy of this letter is included with this presentation.</p>

## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit* (cont.)

Area to Be Communicated	Auditor's Response
<b>Management's Consultations with Other Accountants</b>	<ul style="list-style-type: none"> <li>&gt; To the best of our knowledge, management has not consulted with or obtained opinions from other independent accountants on auditing and/or the application of accounting principles during the past year.</li> <li>&gt; Professional standards require the consulting accountant to discuss any such contacts with the current auditor to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.</li> </ul>



## Auditor Communication with Those Charged with Governance

*Significant Findings from the Audit*

Area to be Communicated	Auditor's Response
<p><b>Auditor Independence</b></p>	<p>&gt; We are not aware of any relationships between Baker Tilly Virchow Krause, CC Garcia &amp; Co. and CPS Energy that, in our professional judgment, may reasonably be thought to bear on our independence.</p>

## Internal control communication

### AU-C Section 265

#### *Communicating Internal Control Related Matters Identified in an Audit*

Material weaknesses noted in PFC's internal control:

- > None noted

Significant deficiencies noted in PFC's internal control:

- > None noted



## Audit summary

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### Thank You!

We appreciate the work performed by CPS Energy's accounting staff and management on behalf of SA Energy Public Facility Corporation in preparing for and assisting in the audit!

We would be happy to answer any questions regarding the audit.

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# ***DIRECTORS & OFFICERS (D&O) INSURANCE RENEWAL***

*PRESENTED BY:*

**Orlando Flores**

Director, Enterprise Risk Management & Solutions

June 29, 2020

*Approval Requested*

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# OBJECTIVES & TAKEAWAYS

**SAENERGY**  
Acquisition Public Facility Corp.

- **PROVIDE OVERVIEW OF MARKET CONDITIONS & BENCHMARKING**
- **REQUEST APPROVAL FOR ANNUAL PFC D&O INSURANCE RENEWAL**



# AGENDA



- **OVERVIEW OF PFC D&O INSURANCE PROGRAM**
- **D&O INSURANCE COMPARISON**
- **MARKET CONDITIONS & BENCHMARKING**
- **PFC D&O INSURANCE RENEWAL PROGRAM**
- **REQUEST FOR APPROVAL**



# OVERVIEW OF PFC D&O INSURANCE PROGRAM



- Program has been in place since April 2007
- Provides coverage for the PFC's Board of Directors & Officers
- D&O Insurance protects against legal claims for wrongful acts, breach of duty, errors & omissions, misstatements, or neglect





# CURRENT D&O INSURANCE COMPARISON



CPS Energy	PFC
Policy Period: 8/1/2019 – 8/1/2020	Policy Period: 8/1/2019 – 8/1/2020
Policy Limit: \$10,000,000	Policy Limit: \$20,000,000
Deductible: \$1,000,000	Deductible: \$100,000
Annual Premium: \$107,047	Annual Premium: \$58,640

**While coverages are the same, the PFC maintains a higher limit since the PFC does not share the inherent statutory & common law protections afforded a municipally-owned utility.**



# MARKET CONDITIONS & BENCHMARKING



**The PFC is favorably positioned to incur a lower than projected market premium rate increase.**

## Market Impact on PFC D&O Renewal

- Current market conditions forecast premium rate increases to be within the 20% - 40% range
- Limited purpose entity with less complexity



# PFC D&O INSURANCE RENEWAL PROGRAM



Current Program	Recommended Renewal Program
Policy Period: 8/1/2019 – 8/1/2020	Policy Period: 8/1/2020 – 8/1/2021
Policy Limit: \$20,000,000	Policy Limit: \$20,000,000
Deductible: \$100,000	Deductible: \$100,000
Annual Premium: <b>\$58,640</b>	Annual Premium: <b>\$70,000<sup>(1)</sup></b>

**Renewal program maintains the same coverage,  
policy limit, & deductible.**

(1) Estimated annual premium not to exceed cost. Currently awaiting final premium quote. Insurance carriers are reluctant to provide renewal quotes beyond 30 days to expiration date.



# REQUEST FOR APPROVAL



To approve a resolution for the renewal of the PFC's D&O Insurance Program that provides the following:

- One-year policy effective August 1, 2020
- \$20,000,000 Policy Limit
- \$100,000 Deductible
- Annual premium not to exceed cost of \$70,000

**Premium & deductible costs covered by the PFC.**



***Thank You***







## ***Appendix***



# GLOSSARY / DEFINITIONS



Acronym or Word	Definition
D&O	Directors & Officers
PFC	SA Energy Acquisition Public Facility Corporation



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**RESOLUTION APPROVING ACQUISITION OF DIRECTORS AND OFFICERS LIABILITY INSURANCE**

**WHEREAS**, on May 21, 2007, the SA Energy Acquisition Public Facility Corporation's ("Corporation's") Board of Directors resolved to authorize the initial purchase of directors and officers liability insurance with policy limits equal to \$10 million with not more than a \$50,000 deductible; and

**WHEREAS**, on July 27, 2007, in order to provide an enhanced assurance of insurance protection, the Corporation's Board of Directors resolved to authorize the purchase of an additional \$10 million of coverage in excess of the primary \$10 million policy limit, resulting in securing two policies with a total limit of \$20 million; and

**WHEREAS**, on February 25, 2008, the Corporation's Board of Directors authorized the purchase of the primary \$10 million directors and officers liability insurance to renew the policy set to expire April 1, 2008; and

**WHEREAS**, on February 25, 2008, the Corporation's Board of Directors authorized the purchase of \$10 million excess directors and officers liability insurance to renew the policy set to expire June 1, 2008, and established a newly effective policy date of April 1, 2008 to correspond to the effective date of the primary \$10 million policy limit, resulting in continuing to secure two policies with a total limit of \$20 million; and

**WHEREAS**, on March 29, 2010, the Corporation's Board of Directors authorized increasing the directors and officers liability insurance deductible from \$50,000 to \$100,000 to attain additional premium savings; and

**WHEREAS**, the directors and officers liability insurance policies totaling \$20 million with a \$100,000 deductible are currently set to expire August 1, 2020; and

**WHEREAS**, the Corporation's Board of Directors acknowledges that the cost of the policy premium and deductible will be paid by the SA Energy Acquisition Public Facility Corporation; and

**WHEREAS**, the existing policies are available for renewal at the existing terms, conditions, limits and deductible for a period ending August 1, 2021, at a total premium cost not to exceed \$70,000.

**NOW, THEREFORE, BE IT RESOLVED**, that the Corporation's Board of Directors hereby authorizes the renewal of the Corporation's Directors and Officers Liability Insurance Program, which currently provides Corporate Board members and officers with insurance coverage of \$20 million with a \$100,000 deductible, to replace the policies that are set to expire August 1, 2020, with both premium and deductible, if the need arises, to be paid by the SA Energy Acquisition Public Facility Corporation.

\_\_\_\_\_  
Carolyn E. Shellman, Secretary



# ***PROPOSED AMENDMENT TO PFC BYLAWS***

*PRESENTED BY:*

**Carolyn E. Shellman**  
**Chief Legal Officer & General Counsel (CLO & GC)**  
**Secretary, PFC**

June 29, 2020

*Approval Requested*

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# PFC BYLAWS

## PROPOSED AMENDMENT



Administrative	Organizational	Procedural	Substantive
✓	None	✓	None

Change	Original Language Overview	Proposed Change
1	Sections 2.1(c) states that "directors shall serve for a term of two years, except for directors appointed to replace a director who has resigned, etc."	Modify language to align the Directors' terms to expire on January 31 of odd numbered years.



# TODAY'S REQUEST



## **Approve a Resolution:**

- Amending the PFC bylaws to align Directors' terms to expire on January 31 of odd numbered years.

**Details of the changes are provided in the package for your reference.**



***Thank You***







**Resolution Approving Bylaws Amendment**  
**SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION**

\_\_\_\_\_  
**ACTION OF THE BOARD OF DIRECTORS**  
**BY RESOLUTION**  
\_\_\_\_\_

\_\_\_\_\_, 2020

A majority of the members of the Board of Directors (the "**Board**") of SA Energy Acquisition Public Facility Corporation, a Texas nonprofit corporation (the "**Corporation**"), do hereby consent to and adopt the following resolution:

**WHEREAS**, the Board deems it to be in the Corporation's best interests to amend and restate the Corporation's Bylaws (the "**Current Bylaws**") in order to synchronize the terms of the members of the Board;

**NOW THEREFORE**, be it:

**RESOLVED**, that the Board hereby approves and adopts the Amended and Restated Bylaws in the form attached hereto as Exhibit A, and the Current Bylaws are hereby amended and restated in their entirety as set forth therein; and

**RESOLVED**, that the Corporation's officers, or any of them, be, and hereby are, authorized, empowered and directed to cause to be prepared and to execute, deliver and file, or cause to be executed, delivered and filed, any and all documents which such officer, in such officer's sole discretion, deems necessary, appropriate or advisable in order to effectuate the purposes and objects of this resolution; and be it further

**RESOLVED**, that any specific resolutions necessary or advisable for the purpose of accomplishing the foregoing resolution are hereby deemed adopted and may be certified as having been adopted by the Corporation on this date, provided that a copy thereof is inserted in the Corporation's minute books following this resolution; and be it further

**RESOLVED**, that all acts heretofore taken by the Corporation's Board that would have been authorized by this resolution if taken after its adoption, are hereby approved, ratified and confirmed in all respects as the Corporation's acts and deeds.



**Exhibit A**

**AMENDED AND RESTATED BYLAWS  
OF  
SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION  
  
ARTICLE 1  
GENERAL**

1.1. **Name.** The name of the corporation is SA Energy Acquisition Public Facility Corporation (the "**Corporation**").

1.2. **Sponsor.** The sponsor of the Corporation, within the meaning of the Texas Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the "**Act**"), is the City of San Antonio, Texas (the "**City**").

1.3. **Purpose.** The Corporation is organized pursuant to the Act to assist the Corporation's sponsor in financing, refinancing, or providing public facilities, as defined in the Act, including natural gas to be devoted to public use or as otherwise set forth in the Corporation's articles of incorporation. For so long as any indebtedness of the Corporation issued to acquire any such interests is outstanding, the Corporation shall provide such assistance solely by acquiring, owning, operating, maintaining, selling, transferring, and assigning electric energy and power, oil, gas, coal, and other liquid, gaseous, or solid hydrocarbon fuels, leasehold and other interests therein, and similar property and engaging in activities that are incidental or convenient thereto.

1.4. **Nonprofit Corporation.** No part of the Corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer, or other private person, but the Corporation may pay reasonable compensation for services rendered or property provided. No part of the net earnings of the Corporation remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit any person other than the City Public Service Board of San Antonio, Texas ("**CPS Energy**"), acting on behalf and for the benefit of the City.

No substantial part of the Corporation's activities shall be carrying on propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

1.5. **Limitation on Action.** For so long as any indebtedness of the Corporation issued to acquire interests in natural gas or otherwise is outstanding, (1) the Corporation shall not incur, assume, or guarantee any obligations except indebtedness permitted by the indenture or other contracts executed in connection with such indebtedness and (2) the Corporation shall not consolidate or merge with or into any other entity or convey or transfer all or substantially all of its assets or properties unless the entity formed by or surviving such consolidation or merger or to which such assets or properties are conveyed or transferred (a) is organized pursuant to a charter, articles of incorporation, trust instrument, bylaws, or other governing instrument that contains provisions substantially the same as this sentence and (b) has expressly assumed all of the obligations of the Corporation secured by any such indenture or contract.

## **ARTICLE 2 BOARD OF DIRECTORS**

### **2.1. Authority, Number, Term, Removal, and Vacancy.**

- (a) Authority. The Corporation's affairs shall be governed by a board of directors.
- (b) Number; Appointment. The board of directors shall be composed of seven directors.
- (c) Terms. The terms of all of the members of the Board of Directors shall expire on January 31 of odd numbered years (the "**Term End Date**"). Directors shall serve for a term of two years, *except* for directors appointed to replace a director who has resigned, died, become incapacitated, or been removed during his or her term, and directors appointed to replace a director who served on the CPS Energy Board of Trustees (each a "**Successor Director**"), who shall serve for the remainder of the predecessor's term. Directors whose terms have expired shall continue to serve until his or her successors are appointed.

(d) Removal. Any director may be removed from office by the governing body of the City for cause or at any time without cause.

(e) Vacancies. Any seat on the board of directors shall be vacant when the incumbent of such seat has resigned, died, or been removed or the board of directors has determined that the incumbent has become so disabled that he or she will be incapable of participating in the governance of the Corporation for a continuous period of six months or more.

2.2. Appointment. No person shall be appointed as a director of the Corporation unless that person is also appointed as a member of the Board of Trustees of CPS Energy or is the General Manager and CEO or Chief Financial Officer of CPS Energy. Each successor to a director whose term has expired or who has died, resigned, been removed, or become incapacitated, and each new director whose seat has been created by any increase in the number of directors, shall be appointed by the governing body of the City. Any director whose term of office has expired may succeed himself or herself.

### **2.3. Meetings of Directors.**

(a) Place. Meetings of the board of directors may be held at such place or places in the State of Texas as the board of directors may from time to time determine. In the absence of any such determination, meetings of the board of directors shall be held at the CPS Energy Boardroom, located at 145 Navarro, First Floor, San Antonio, Texas 78205.

(b) Regular Meetings. Regular meetings of the board of directors shall be held annually or more frequently on such dates and at such times as the board of directors may determine. Regular meetings of the board of directors may be held without notice to directors. Subject to applicable law, any matter may be considered and acted upon at a regular meeting.

(c) Special Meetings. Special meetings of the board of directors shall be held whenever called by or at the request of the president of the Corporation or any two directors. Except in the event of an emergency, at least three days' notice of the date, time, and place of each special meeting of the board of directors shall be given to each director. At least two hours' notice of each emergency meeting of the board of directors shall be given to each director. Unless otherwise indicated in the notice thereof and subject to applicable law, any matter may be considered and acted upon at a special meeting. At any meeting at which every director shall be present, any matter may be considered and acted upon consistent with applicable law.

(d) Notices. Whenever any notice is required to be given to a director, such notice shall be deemed to be given when deposited in a post office box in a sealed postpaid wrapper addressed to the director at his or her post office address as it appears on the books of the Corporation or when successfully transmitted by facsimile to the facsimile number of the director as it appears on the books of the Corporation. Notice may also be delivered in person or by delivery service or orally by telephone. Attendance of a director at a meeting shall constitute a waiver of



notice of such meeting, *except* attendance of a director at a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the board of directors need be specified in the notice to directors or waiver of notice of such meeting, unless required by the board of directors. A waiver of notice in writing, signed by the person or persons entitled to the notice, whether before or after the time that would have been stated therein, shall be deemed equivalent to the giving of notice.

(e) Open Meetings Act. All meetings and deliberations of the board of directors shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

2.4. Quorum. At least five (5) members of the board of directors shall constitute a quorum to transact business at all meetings convened in accordance with these by-laws. The act of a majority of the directors present at a meeting at which a quorum is present shall constitute the act of the board of directors.

2.5. Conduct of Business.

(a) Procedures. At meetings of the board of directors, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the board of directors.

(b) Presiding Officer. At all meetings of the board of directors, the president of the Corporation shall preside. In the absence of the president, the vice president of the Corporation shall preside. In the absence of both the president and vice president, a director selected by the board of directors shall preside.

(c) Chair Votes. The presiding officer or director shall be entitled to vote on all matters before the board of directors.

(d) Minutes. The secretary of the Corporation shall act as secretary of all meetings of the board of directors. In the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting. The secretary of the meeting or his or her designee shall keep minutes of the meetings of the board of directors.

2.6. Committees of the Board of Directors.

(a) Executive Committees. By resolution adopted by a majority of the number of directors fixed by these by-laws, the board of directors may designate one or more committees consisting of two or more directors to exercise the authority of the board in the management of the Corporation to the extent provided by the resolution.

(b) Other Committees. The president or the board of directors may appoint other committees without power to exercise the authority of the board of directors. Such committees need not be limited to directors.

(c) Committee Meetings. Each committee of the Corporation shall keep minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation. Any such meetings shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

2.7. Compensation of Directors. Directors shall not receive any salary or compensation for their services as directors, but shall be reimbursed for actual expenses incurred by them in the performance of their duties as directors.

### **ARTICLE 3 OFFICERS**

#### **3.1. Officers Generally.**

(a) Officers. The officers of the Corporation shall be a president, a vice president, a secretary, an executive director, and such other officers as the board of directors may from time to time determine to be necessary. A person may simultaneously hold more than one office, *except* that same person may not simultaneously hold the offices of president and secretary. The president of the board of directors must be a member of the CPS Energy Board of Trustees.

(b) Term. Each officer shall serve for a term of one year ending simultaneously with the term of one or more directors. At the expiration of their terms, officers may be reappointed or reelected to the same or different offices.

(c) Qualifications. Only directors shall be eligible to serve as president or vice president. A member of the governing body or officer or employee of the Corporation's sponsor or of CPS Energy who serves as a director of the Corporation may serve as an officer of the Corporation.

(d) Election. All officers shall be elected by the board of directors.

(e) Removal. Officers may be removed from office at any time by the board of directors if it believes that the best interests of the Corporation will be served by the removal.

3.2. President. The president of the board of directors must be a member of the CPS Energy Board of Trustees. The president shall be the chief executive officer of the Corporation and, subject to the authority of the board of directors, shall have general charge of the properties and affairs of the Corporation. The president shall see that all orders and resolutions of the board of directors are given effect. The president shall execute all legal documents and instruments in the name of the Corporation when authorized to do so by the board of directors and shall perform such other duties as may be prescribed from time to time by the board of directors or these by-laws.

3.3. Vice President. The vice president shall have such powers and duties as may be prescribed from time to time by the board of directors and shall perform the duties of the president during the president's absence or disability. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or disability of the president at the time such action is taken.

3.4. Secretary. The secretary shall give and serve all notices required by these by-laws, may attest to the signature and office of other officers signing any legal document or instrument, shall have charge of the corporate books, records, legal documents, and instruments of the Corporation, and shall discharge such other duties as shall be prescribed from time to time by the board of directors or these bylaws. In the case of the absence or disability of the secretary, the board of directors or the president may appoint an assistant secretary to perform the duties of the secretary during such absence or disability.

3.5. Executive Director. The executive director of the Corporation shall provide administrative support services to the Corporation and shall perform such other duties as shall be prescribed from time to time by the board of directors.

3.6. Compensation. Officers shall not receive any salary or compensation for their services, unless approved by the Board, but shall be reimbursed for reasonable and necessary actual expenses incurred by them in the performance of their official duties as officers.

#### **ARTICLE 4 MISCELLANEOUS**

4.1. Principal Office. The principal office and registered office of the Corporation shall be the office of CPS Energy, 145 Navarro, San Antonio, Texas 78205.

4.2. Fiscal Year. The fiscal year of the Corporation shall be each 12-month period ending January 31, or as otherwise established by the board of directors.

4.3. Resignations. Any director or officer may resign at any time by written notice to the president or the secretary of the Corporation. The resignation shall take effect at the time specified therein or, if no time is specified, at the time of its receipt by the president or secretary. Acceptance of the resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

4.4. Indemnification. The Corporation shall indemnify each director, officer, employee, and agent of the Corporation and each member of the governing body, officer, and employee of the Corporation's sponsor or of CPS Energy to the fullest extent provided in the articles of incorporation.

4.5. Dissolution. Upon dissolution of the Corporation, title to all funds and other property owned by the Corporation shall vest in CPS Energy on behalf of the Corporation's sponsor.

#### **ARTICLE 5 AMENDMENTS**

5.1. Amendments. These by-laws may be amended by the board of directors with the approval of the governing body of the Corporation's sponsor.



**RED LINED**

**AMENDED AND RESTATED BYLAWS  
OF  
SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION**

**ARTICLE 1  
GENERAL**

1.1. Name. The name of the corporation is SA Energy Acquisition Public Facility Corporation (the "**Corporation**").

1.2. Sponsor. The sponsor of the Corporation, within the meaning of the Texas Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the "**Act**"), is the City of San Antonio, Texas (the "**City**").

1.3. Purpose. The Corporation is organized pursuant to the Act to assist the Corporation's sponsor in financing, refinancing, or providing public facilities, as defined in the Act, including natural gas to be devoted to public use or as otherwise set forth in the Corporation's articles of incorporation. For so long as any indebtedness of the Corporation issued to acquire any such interests is outstanding, the Corporation shall provide such assistance solely by acquiring, owning, operating, maintaining, selling, transferring, and assigning electric energy and power, oil, gas, coal, and other liquid, gaseous, or solid hydrocarbon fuels, leasehold and other interests therein, and similar property and engaging in activities that are incidental or convenient thereto.

1.4. Nonprofit Corporation. No part of the Corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer, or other private person, but the Corporation may pay reasonable compensation for services rendered or property provided. No part of the net earnings of the Corporation remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit any person other than the City Public Service Board of San Antonio, Texas ("**CPS Energy**"), acting on behalf and for the benefit of the City.

No substantial part of the Corporation's activities shall be carrying on propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

1.5. Limitation on Action. For so long as any indebtedness of the Corporation issued to acquire interests in natural gas or otherwise is outstanding, (1) the Corporation shall not incur, assume, or guarantee any obligations except indebtedness permitted by the indenture or other contracts executed in connection with such indebtedness and (2) the Corporation shall not consolidate or merge with or into any other entity or convey or transfer all or substantially all of its assets or properties unless the entity formed by or surviving such consolidation or merger or to which such assets or properties are conveyed or transferred (a) is organized pursuant to a charter, articles of incorporation, trust instrument, bylaws, or other governing instrument that contains provisions substantially the same as this sentence and (b) has expressly assumed all of the obligations of the Corporation secured by any such indenture or contract.

**ARTICLE 2  
BOARD OF DIRECTORS**

2.1. Authority, Number, Term, Removal, and Vacancy.

(a) Authority. The Corporation's affairs shall be governed by a board of directors.

(b) Number; Appointment. The board of directors shall be composed of seven directors.

(c) Terms. The terms of all of the members of the Board of Directors shall expire on January 31 of odd numbered years (the "Term End Date"). Directors shall serve for a term of two years, except for directors appointed to replace a director who has resigned, died, become incapacitated, or been removed during his or her term, and directors appointed to replace a director who served on the CPS Energy Board of Trustees (each a "Successor Director"), who shall serve for the remainder of such the predecessor's term. Directors whose terms have expired shall continue to serve until his or her successors are appointed.

(d) Removal. Any director may be removed from office by the governing body of the City for cause or at any time without cause.

(e) Vacancies. Any seat on the board of directors shall be vacant when the incumbent of such seat has resigned, died, or been removed or the board of directors has determined that the incumbent has become so disabled that he or she will be incapable of participating in the governance of the Corporation for a continuous period of six months or more.

2.2. Appointment. No person shall be appointed as a director of the Corporation unless that person is also appointed as a member of the Board of Trustees of CPS Energy or is the General Manager and CEO or Chief Financial Officer of CPS Energy. Each successor to a director whose term has expired or who has died, resigned, been removed, or become incapacitated, and each new director whose seat has been created by any increase in the number of directors, shall be appointed by the governing body of the City. Any director whose term of office has expired may succeed himself or herself.

2.3. Meetings of Directors.

(a) Place. Meetings of the board of directors may be held at such place or places in the State of Texas as the board of directors may from time to time determine. In the absence of any such determination, meetings of the board of directors shall be held at the CPS Energy Boardroom, located at 145 Navarro, First Floor, San Antonio, Texas 78205.

(b) Regular Meetings. Regular meetings of the board of directors shall be held annually or more frequently on such dates and at such times as the board of directors may determine. Regular meetings of the board of directors may be held without notice to directors. Subject to applicable law, any matter may be considered and acted upon at a regular meeting.

(c) Special Meetings. Special meetings of the board of directors shall be held whenever called by or at the request of the president of the Corporation or any two directors. Except in the event of an emergency, at least three days' notice of the date, time, and place of each special meeting of the board of directors shall be given to each director. At least two hours' notice of each emergency meeting of the board of directors shall be given to each director. Unless otherwise indicated in the notice thereof and subject to applicable law, any matter may be considered and acted upon at a special meeting. At any meeting at which every director shall be present, any matter may be considered and acted upon consistent with applicable law.

(d) Notices. Whenever any notice is required to be given to a director, such notice shall be deemed to be given when deposited in a post office box in a sealed postpaid wrapper addressed to the director at his or her post office address as it appears on the books of the Corporation or when successfully transmitted by facsimile to the facsimile number of the director as it appears on the books of the Corporation. Notice may also be delivered in person or by delivery service or orally by telephone. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except attendance of a director at a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the

purpose of any regular or special meeting of the board of directors need be specified in the notice to directors or waiver of notice of such meeting, unless required by the board of directors. A waiver of notice in writing, signed by the person or persons entitled to the notice, whether before or after the time that would have been stated therein, shall be deemed equivalent to the giving of notice.

(e) Open Meetings Act. All meetings and deliberations of the board of directors shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

2.4. Quorum. At least five (5) members of the board of directors shall constitute a quorum to transact business at all meetings convened in accordance with these by-laws. The act of a majority of the directors present at a meeting at which a quorum is present shall constitute the act of the board of directors.

2.5. Conduct of Business.

(a) Procedures. At meetings of the board of directors, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the board of directors.

(b) Presiding Officer. At all meetings of the board of directors, the president of the Corporation shall preside. In the absence of the president, the vice president of the Corporation shall preside. In the absence of both the president and vice president, a director selected by the board of directors shall preside.

(c) Chair Votes. The presiding officer or director shall be entitled to vote on all matters before the board of directors.

(d) Minutes. The secretary of the Corporation shall act as secretary of all meetings of the board of directors. In the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting. The secretary of the meeting or his or her designee shall keep minutes of the meetings of the board of directors.

2.6. Committees of the Board of Directors.

(a) Executive Committees. By resolution adopted by a majority of the number of directors fixed by these by-laws, the board of directors may designate one or more committees consisting of two or more directors to exercise the authority of the board in the management of the Corporation to the extent provided by the resolution.

(b) Other Committees. The president or the board of directors may appoint other committees without power to exercise the authority of the board of directors. Such committees need not be limited to directors.

(c) Committee Meetings. Each committee of the Corporation shall keep minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the Corporation. Any such meetings shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

2.7. Compensation of Directors. Directors shall not receive any salary or compensation for their services as directors, but shall be reimbursed for actual expenses incurred by them in the performance of their duties as directors.



### ARTICLE 3 OFFICERS

#### 3.1. Officers Generally.

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(c) Qualifications. Only directors shall be eligible to serve as president or vice president. A member of the governing body or officer or employee of the Corporation's sponsor or of CPS Energy who serves as a director of the Corporation may serve as an officer of the Corporation.

(d) Election. All officers shall be elected by the board of directors.

(e) Removal. Officers may be removed from office at any time by the board of directors if it believes that the best interests of the Corporation will be served by the removal.

3.2. President. The president of the board of directors must be a member of the CPS Energy Board of Trustees. The president shall be the chief executive officer of the Corporation and, subject to the authority of the board of directors, shall have general charge of the properties and affairs of the Corporation. The president shall see that all orders and resolutions of the board of directors are given effect. The president shall execute all legal documents and instruments in the name of the Corporation when authorized to do so by the board of directors and shall perform such other duties as may be prescribed from time to time by the board of directors or these by-laws.

3.3. Vice President. The vice president shall have such powers and duties as may be prescribed from time to time by the board of directors and shall perform the duties of the president during the president's absence or disability. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or disability of the president at the time such action is taken.

3.4. Secretary. The secretary shall give and serve all notices required by these by-laws, may attest to the signature and office of other officers signing any legal document or instrument, shall have charge of the corporate books, records, legal documents, and instruments of the Corporation, and shall discharge such other duties as shall be prescribed from time to time by the board of directors or these bylaws. In the case of the absence or disability of the secretary, the board of directors or the president may appoint an assistant secretary to perform the duties of the secretary during such absence or disability.

3.5. Executive Director. The executive director of the Corporation shall provide administrative support services to the Corporation and shall perform such other duties as shall be prescribed from time to time by the board of directors.

3.6. Compensation. Officers shall not receive any salary or compensation for their services, unless approved by the Board, but shall be reimbursed for reasonable and necessary actual expenses incurred by them in the performance of their official duties as officers.

**ARTICLE 4  
MISCELLANEOUS**

4.1. Principal Office. The principal office and registered office of the Corporation shall be the office of CPS Energy, 145 Navarro, San Antonio, Texas 78205.

4.2. Fiscal Year. The fiscal year of the Corporation shall be each 12-month period ending January 31, or as otherwise established by the board of directors.

4.3. Resignations. Any director or officer may resign at any time by written notice to the president or the secretary of the Corporation. The resignation shall take effect at the time specified therein or, if no time is specified, at the time of its receipt by the president or secretary. Acceptance of the resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

4.4. Indemnification. The Corporation shall indemnify each director, officer, employee, and agent of the Corporation and each member of the governing body, officer, and employee of the Corporation's sponsor or of CPS Energy to the fullest extent provided in the articles of incorporation.

4.5. Dissolution. Upon dissolution of the Corporation, title to all funds and other property owned by the Corporation shall vest in CPS Energy on behalf of the Corporation's sponsor.

**ARTICLE 5  
AMENDMENTS**

5.1. Amendments. These by-laws may be amended by the board of directors with the approval of the governing body of the Corporation's sponsor.