

**MINUTES OF THE REGULAR MEETING OF  
THE BOARD OF DIRECTORS OF UNITED POWER, INC.  
WEDNESDAY, OCT. 26, 2022**

**GENERAL**

Chairman Beth Martin called the regular meeting of the United Power Board of Directors to order at 10:45 a.m. on Oct. 26, 2022. The meeting was held at United Power's headquarters in Brighton, CO. Present were Directors Keith Alquist, Ginny Buczek, Brad Case, Tim Erickson, Beth Martin, Brian McCormick, Ursula Morgan, Dave Rose, Tamra Waltemath, James Vigessaa, and Steve Whiteside.

President & Chief Executive Officer Mark Gabriel, Chief Operating Officer Bryant Robbins, Chief Financial Officer Laurie Burkhart, Chief Energy Resource Officer Dean Hubuck, Public Affairs Officer Troy Whitmore, Chief Marketing Officer Trista Fugate, VP of Human Resources, Safety, and Facilities Erin Hane, Safety & Facilities Director Ken McFadden, Corporate Administrative Assistant Ana Pollack, and Executive Administrative Assistant Cheri Simmons were also present. Chief Information Officer Alie Beauchamp was absent.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Director Alquist gave the invocation and led in the Pledge of Allegiance.

**SAFETY UPDATE**

Safety and Facilities Director Ken McFadden provided an update on United Power's safety activities. S&FD McFadden left the meeting following the update, at 10:50 a.m.

**NEW EMPLOYEES**

Data Engineer II Dane Hanson was introduced to the Board via photograph.

**CONSENT AGENDA**

The following items were listed on the consent agenda:

- Approval of Agenda
- Approve Aug. 24, 2022 Regular Board Meeting Minutes
- Approve Oct. 7, 2022 Special Board Meeting Minutes

**Director Buczek made a motion**, which was seconded, and carried, to approve the consent agenda as presented. Director Morgan was not present for the Sept. 23, 2022 Board meeting, therefore she abstained.

**CRITICAL UPDATES, STRATEGIC ISSUES, AND OPEN DISCUSSION**

Attendees were briefed on the following topics: recent ruling by the ALJ, Tri-State's recent statements, the GridFWD 2022 conference in Denver, Director Vigessaa's conversation with Congressman Joe Neguse, and the employee culture survey launch date.

**ADOPT RULES & REGULATIONS OF 2023 ANNUAL MEETING VOTING & OTHER PROCEDURES**

Director Morgan made a motion, which was seconded, and carried, to adopt the following resolution:

**RESOLUTION CONCERNING RULES, REGULATIONS, AND OTHER PROCEDURES OF VOTING FOR THE 2023 ANNUAL BUSINESS MEETING**

WHEREAS, it is necessary and in the best interests of UNITED POWER, INC. that the Board determines the procedures that United Power must follow for its 2023 Annual Meeting of Members to be held April 12, 2023, at 6:30 p.m. at the Riverdale Regional Park and Fairgrounds, Brighton, Colorado, and virtually, and in accordance with Colorado law and United Power's Bylaws.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby determines that, pursuant to United Power's Bylaws and the applicable statutes, the following rules, regulations, and procedures must and will be followed in connection with United Power's 2023 Annual Meeting of Members:

1. **Introduction:** These rules, regulations, and procedures, to be followed in the 2023 Annual Meeting of Members, are designed to meet statutory requirements and United Power Bylaws. The subject matter is subdivided into general procedures, receipt and collection of ballots, counting procedures, and close vote margins requiring a recount. This Resolution is a Governing Document pursuant to Section 1.01.01 of United Power's Bylaws.
2. **General Procedures:** The following general procedures will apply:
  - a. **Eligibility to Vote in the 2023 Annual Meeting of Members:** In order to receive a mail ballot to vote, a person must be a Member of United Power and such membership must be valid as of 12:01 a.m. March 1, 2023. Any person who becomes a Member between 12:02 a.m. March 1, 2023 and 11:59 p.m. March 31, 2023, may request a ballot be sent via mail by calling United Power. The ballot must be requested by April 3, 2023. No ballots will be mailed after this date. No person who becomes a Member after 12:00 a.m. April 1, 2023 will be entitled to vote.

Pursuant to § 40-9.5-110 (2), C.R.S. and Section 3.07 of the Bylaws, each eligible Member of United Power will receive a ballot in order to vote in the director election or concerning any other lawful matter which is properly noticed and brought before the membership for vote at the meeting. The Member will be able to exercise their vote either via the mail ballot they receive, or electronically via a portal provided by United Power and Survey and Ballot Systems (SBS) located behind the secure account login on SmartHub.

- b. **Proxy and Cumulative Voting:** Pursuant to § 40-9.5-110 (3), C.R.S. and Section 3.08 of the Bylaws, no proxy (by spouse or any other person) or cumulative voting will be permitted. Neither votes by proxy nor power of attorney will be considered valid and, therefore, will not be accepted.
- c. **Write-in Candidates:** Because it is not permitted in the Bylaws of the corporation, write-in candidates will not be accepted.
- d. **Ballots:** To automatically receive a mail ballot, a person must be a Member of United Power and such membership must be valid as of 12:01 a.m. March 1, 2023. United Power will mail ballots to its Members at least twenty-three (23) days prior to the meeting. All eligible Members will be mailed a ballot and be able to exercise their vote either via the mail ballot or electronically via the portal provided by United Power and SBS located behind the SmartHub login. Only one vote per Member will be valid and counted.

Anyone who becomes a Member after March 1, 2023, and prior to 11:59 p.m. March 31, 2023 may request a replacement ballot through United Power, and it will be mailed by SBS to the Member.

- 3. **Voting:** Members can vote by return mail, via ballot boxes located in United Power offices; at the annual meeting using their mail ballot sent to them by United Power; electronically via the portal provided behind their SmartHub login; or, if they meet the requirements outlined in section 2.a. (*Eligibility to Vote in the 2023 Annual Meeting of Members*), a replacement ballot mailed to them from SBS at their request. If voted via a ballot box, the ballot will be voted by the Member, placed in a separate return envelope which must be properly signed by the voting Member. If voted via mail, the ballot will be voted by the Member, placed in a separate return envelope which must be properly signed by the voting Member, in accordance with the instructions thereon, and mailed to the independent third party United Power has retained: Survey and Ballot Systems (SBS), 7653 Anagram Drive, Eden Prairie, MN, 55344, to collect, store, and count ballots.

To be valid, a ballot must be received at SBS's post office box in Eden Prairie, MN in a properly signed ballot envelope enclosing the ballot by 11:59 a.m. April 11, 2023. If voting electronically, the vote must be submitted by 11:59 a.m. on April 11, 2023; all electronic balloting will end at that time. Refer to directions in sections 3.a. and 3.b. for casting a ballot between this April 11 deadline for return mail and electronic balloting and the date of the annual meeting.

- a. **Voting (In-Person) Prior to the Annual Meeting of Members:** Sealed ballot boxes will be available for Member use at all three United Power office lobbies (Brighton Headquarters, Carbon Valley Service Center, and the Mountain Area offices) until 12:00 p.m. (noon) on April 12, 2023, and at the annual meeting location from 12:00 p.m. (noon) until 4:00 p.m. on April 12, 2023. Members eligible to receive a mail ballot and choosing to vote in person at designated facilities will use their mail ballot

sent to them by United Power. The ballot will be voted by the Member, placed in the separate return envelope which must be properly signed by the voting Member, in accordance with the instructions thereon, and deposited in the sealed ballot box. If a Member has voted at a designated facility, the Member cannot vote again at the Annual Meeting of Members.

- b. Voting (In-Person) at Annual Meeting of Members: Members eligible to receive a mail ballot and choosing to vote in person at the Annual Meeting of Members will present and use their mail ballot sent to them by United Power or a replacement ballot issued by United Power. Replacement ballots will be available from 4:30 p.m. until the balloting is officially closed. Any person not eligible to receive a mail ballot, and who became a Member between 12:02 a.m. March 1, 2023 and 12:00 p.m. (noon) April 1, 2023, and whose membership is valid as of 4:29 p.m. April 12, 2023, may vote in person at the Annual Meeting of Members using a ballot issued by United Power. Members are eligible to vote until the polls are declared closed. Members choosing to vote in person at the meeting will vote their ballot, place it in the separate return envelope which must be properly signed by the voting Member, and deposit it in the ballot box at the Annual Meeting of Members.
4. **Lost or Misplaced Mail Ballots**: Upon receiving notification from a Member that his/her mail ballot was not received, was lost, or was misplaced, a replacement ballot may be re-issued. The Member must notify United Power prior to April 1, 2023, and SBS will mail a replacement ballot to the requesting Member at the direction of United Power staff. Members also have the option of requesting a replacement ballot at the Annual Meeting of Members during the registration process prior to the meeting start.

SBS will thoroughly monitor the process to ensure that no duplicate ballots are counted. In the unlikely event that duplicate ballots are received, the first ballot received will be processed as a legitimate ballot. In the event that a paper ballot and an electronic ballot are submitted, the paper ballot will be the vote of record. The duplicate ballot will be handled pursuant to section 6.ii. of this document.

5. **Receipt and Collection of Ballots**: SBS is hereby appointed as the responsible entity for the receipt and collection of the mailed return envelopes containing the ballots as hereafter provided, and for electronic ballots collected via their secure portal. SBS will ensure that all mail ballots received were continuously in its possession or control. A procedure for security will be established by SBS whereby all mailed envelopes and their contents received are maintained in a secure place, preferably under lock. No person, other than authorized SBS personnel, will be permitted access to the ballots.

The last day and time to receive ballot returns by SBS will be 11:59 a.m. on April 11, 2023, either through the electronic portal in SmartHub or at its post office box in Eden Prairie, MN.

- a. SBS will sort the unopened return envelopes, with their contents, into three (3) separate categories:
  - i. Returns apparently valid and timely received.
  - ii. Any return which is questionable on its face.
  - iii. All late returns.
  
- 6. **Counting Procedures:** The Election and Credentials Committee, appointed by the Board in advance of the meeting, will be responsible for reviewing any questionable ballots. They will meet remotely according to a schedule determined by the Election and Credentials Committee with representatives of SBS and under the guidance of United Power's legal counsel. The validity of questionable ballots or returns will be ruled upon by the Election and Credentials Committee, on advice of legal counsel.
  - a. Possible invalidities could include, but are not limited to:
    - i. Unsigned return envelope.
    - ii. Duplications, including duplicate submissions from a joint member of an electronic and paper ballot.
    - iii. Apparently improper signature on the return envelope.
    - iv. Failure to provide title or representative capacity on the return envelope, if voting for a business organization, trust, or estate of a deceased person.
    - v. Any condition noted on the ballot or other improper vote (e.g., vote for two (2) candidates in the same district; write in for individual not nominated).
  
  - b. All return envelopes and ballots will be separately tabulated, sealed, and stored by the following categories and maintained in a secure location for at least one year:
    - i. Valid return envelopes for Members voting by mail.
    - ii. Valid ballots.
    - iii. Invalid ballots.
    - iv. Invalid return envelopes together with their contents.
    - v. Undeliverable return envelopes together with their contents.
    - vi. Late return envelopes together with their contents.
  
  - c. SBS will prepare a written report to include the following:
    - i. Result of the elections by director district from the ballots determined to be valid.
    - ii. A tabulation of the return envelopes and ballots, in combination with electronic ballots received and tabulated by SBS, and any ballots returned via ballot boxes or at the annual meeting, as follows:
      - 1. Ballots received
      - 2. Invalid ballots

3. Valid ballots

d. SBS will continue to collect and secure late returns delivered from April 12, 2023 and until May 12, 2023, and make the late return count available upon request.

7. **Close Vote Requiring a Recount:** A recount of any election contest in a particular district or districts will be held if the difference between the highest number of votes cast in the election contest and the next highest number of votes cast in that contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. The recount will commence within two business days of the election and will be conducted under the supervision of the Election and Credentials Committee, with the advice of United Power’s legal counsel.

SBS will conduct the recount and will coordinate with the Election and Credentials Committee to allow any candidates of said race to watch the recount process remotely.

-----

**APPROVE 2023 MEET THE CANDIDATES SCHEDULE**

Following discussion, **Director Vigesaa made a motion**, which was seconded, and carried, to direct Staff to arrange the 2023 Meet the Candidate forums for the week of March 13, 2023 instead of the dates proposed, which was initially presented as the week of March 20, 2023.

The meeting recessed for lunch at 11:55 a.m.

The meeting reconvened at 1:00 p.m.

**2023 BOARD MEETING SCHEDULE**

Following calendar review and discussion, **Director Vigesaa made a motion**, which was seconded, and carried, to adopt the following resolution:

**RESOLUTION ESTABLISHING 2023 BOARD MEETING DATES AND LOCATIONS**

WHEREAS, United Power’s Bylaws require that at least one Regular Board Meeting shall be held each month within the service area of the Cooperative at such time and place as the Board may provide by motion; and

WHEREAS, it has been customary for the Board to establish the Board Meeting dates annually in advance so that all Board Members can plan their schedules accordingly; and

WHEREAS, the Board wishes to meet on the fourth Wednesday of the month, unless scheduling conflicts arise; and

WHEREAS, the Board wishes to meet once in the mountain area, once per quarter at United Power’s Carbon Valley Service Center, holding the remainder of the meetings at United Power headquarters in Brighton; and

WHEREAS, the Board wishes to set aside the following dates, times, and places for the 2023 Board Meetings:

Wednesday, January 18, 2023, 9:00 a.m.	Carbon Valley Service Center
Wednesday, February 22, 2023, 9:00 a.m.	Brighton Headquarters
Wednesday, March 22, 2023, 9:00 a.m.	Brighton Headquarters
Wednesday, April 26, 2023, 9:00 a.m.	Carbon Valley Service Center
Wednesday, May 24, 2023, 9:00 a.m.	Brighton Headquarters
Wednesday, June 28, 2023, 9:00 a.m.	Mountain Area (CCCIA Hall)
Wednesday, July 26, 2023, 9:00 a.m.	Carbon Valley Service Center
Wednesday, August 23, 2023, 9:00 a.m.	Brighton Headquarters
Thursday, September 21, 2023, 9:00 a.m.	Brighton Headquarters
Wednesday, October 25, 2023, 9:00 a.m.	Carbon Valley Service Center
Wednesday, November 15, 2023, 9:00 a.m.	Brighton Headquarters
Wednesday, December 20, 2023, 9:00 a.m.	Brighton Headquarters

NOW, THEREFORE, BE IT RESOLVED by motion adopting this resolution, that the Board meeting dates, times, and places for 2023 are hereby established as set forth herein.

-----

**2023 STRATEGIC PLANNING SESSION DATES**

Following discussion, **Director McCormick made a motion**, which was seconded, and carried, to adopt the dates of May 9-11, 2023 as the 2023 Strategic Planning Session dates, and hold the dates of June 6-8, 2023 as backup and/or additional SPS dates.

**STAFF REPORTS**

President & CEO Gabriel and Staff answered the Board’s questions.

**POLICY C-07, DIRECTOR EDUCATION REQUIREMENTS**

Following discussion during the review of CMO Fugate’s report, **Director Buczek made a motion**, which was seconded, and carried, to amend paragraph F.8. thereby requiring rather than recommending new Directors obtain their CCD level of education within the first three years of serving on the United Power Board of Directors. Director Erickson voted against the motion. The new language is underlined in the paragraph below:

Director certification through attendance at NRECA sponsored seminars is a valuable way to meet the Director’s Bylaw responsibility of actively participating in the affairs of United Power. Directors are required to achieve Credentialed Cooperative Director Certificate (CCD) within the first three

successive years as a Director and Board Leadership Certificate (BLC) within six successive years.

A brief recess was called at 1:50 p.m., with the meeting reconvening at 2:00 p.m.

Attorney Mark Williams of Sherman & Howard, LLC joined the meeting in person at this time.

#### **EXECUTIVE/LITIGATION SESSION**

At 2:01 p.m., **Director Vigesaa made a motion**, which was seconded, and carried, to enter Executive Session for the purposes of governance and legal advice. The entire Board and Attorney Williams were present; all Staff members were excused.

At 2:45 p.m., Directors Case and Rose were excused from the meeting.

A brief recess was called at 3:48 p.m., with the meeting reconvening into Executive Session at 3:54 p.m. All Directors returned to the meeting, including Directors Case and Rose.

**Director Alquist made a motion**, which was seconded, and carried, to end Executive session at 4:00 p.m. Staff returned to the meeting at this time and Attorney Williams left the meeting.

At 4:22 p.m., **Director Morgan made a motion**, which was seconded, and carried, to enter Executive Session for budget analysis. Assistant Controller Carmen Lozano joined the meeting at this time. Directors Case and Rose were excused from the meeting at this time and did not return.

CAA Pollack left the meeting at 5:08 p.m.

AC Lozano left the meeting at 5:19 p.m.

Director McCormick was excused from the meeting at 5:23 p.m.

At 6:12 p.m., **Director Alquist made a motion**, which was seconded, and carried, to end Executive Session.

#### **ADJOURNMENT**

Chairman Martin declared the meeting adjourned at 6:14 p.m.

#### **MEETING SCHEDULE**

The next regular Board meeting is scheduled Wednesday, Nov. 16, 2022, at 9:00 a.m., at United Power Headquarters, 500 Cooperative Way, Brighton, CO.



Cheri Simmons, Recording Secretary