

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE CONSIDERATION )  
OF THE NEW PURPA STANDARDS AS SET )  
FORTH IN THE ENERGY POLICY ACT OF )  
2005 )**

**ORDER FOR AND NOTICE  
OF HEARING**

**EL06-018**

On August 8, 2005, the Energy Policy Act of 2005 ("EPAct 2005") was signed into law. Certain provisions in the EPAct 2005 amend the Public Utility Regulatory Policies Act ("PURPA") of 1978. The EPAct 2005 adds five new federal standards to PURPA. The five standards regard net metering, fuel diversity, fossil fuel generation efficiency, time-based metering, and interconnection for distributed resources. Under the EPAct 2005, the Public Utilities Commission (Commission) has varying timelines within which to consider these standards and determine whether to adopt them.

At its May 23, 2006, meeting, the Commission considered how to proceed with the consideration of the new PURPA standards. The Commission sought comments from interested persons or entities on how to proceed and other issues. Written comments were due on or before June 20, 2006.

At its July 11, 2006, meeting, the Commission considered this matter. With respect to net metering, the Commission found that it will not consider the net metering standard. The Commission noted that the Legislature has already considered the implementation of net metering and has rejected any such implementation in past legislative sessions. Pursuant to section 112(d) (3) of PURPA, the obligation to consider the net metering standard does not apply if "the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility."

The Commission further found that the affected utilities are the rate regulated investor owned utilities. The Commission also decided that this docket will encompass all of the affected utilities and will address all of the remaining standards. In addition, the Commission determined that it would decide what type of hearings to hold and whether to implement any standards through a rulemaking after the intervention deadline.

The Commission set an intervention deadline of August 15, 2006. On August 11, 2006, the Commission received a Petition to Intervene from MidAmerican Energy Company (MidAmerican). On August 14, 2006, the Commission received a Petition to Intervene from Itron, Inc. (Itron). On August 15, 2006, the Commission received Petitions to Intervene from NorthWestern Corporation d/b/a NorthWestern Energy (NWE), Northern States Power Company d/b/a Xcel Energy (Xcel) and Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (MDU). On August 17, 2006, the Commission received a Petition to Intervene from Otter Tail Corporation d/b/a Otter Tail Power Company (OTP) and a Petition for Late Filed Intervention from Black Hills Power, Inc. (BHP). By order dated September 11, 2006, the Commission granted intervention to MidAmerican, Itron, NWE, Xcel, MDU, OTP and BHP.

At its November 14, 2006, the Commission considered how to proceed. The Commission decided to ask for written comments from the parties regarding the standards and then conduct workshops to further study whether to implement the standards. The Commission requested that the parties file the comments on or before January 9, 2007. On January 9, 2007, the Commission received comments from Otter Tail, MidAmerican, and BHP.

The Commission held a workshop on May 1, 2007, to further discuss the standards. At its May 8, 2007, meeting, the Commission again considered how to proceed. The Commission has jurisdiction over this matter pursuant to SDCL chapter 49-34A, specifically 49-34A-93, and the EPAct 2005. After listening to comments from interested parties, the Commission unanimously

voted to hold a hearing regarding the interconnection for distributed generation and time-based metering standards. The Commission also decided to allow participation by teleconference.

A hearing will be held on May 30, 2007, beginning at 9:00 a.m. in the State Capitol Building, Room 412, Pierre, SD. The issue at the hearing is whether the Commission should adopt, modify, or decline to adopt the interconnection for distributed resources and time-based metering standards. In addition to the question of whether the standards should be adopted, the Commission is interested in hearing how the standards could be implemented and what specific standards would work best for South Dakota. For example, if model interconnection procedures were to be adopted, what are the current best practices for such procedures? What types of time-based metering programs are most successful in this region? Should the Commission hold additional proceedings regarding these issues?

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or their representative fails to appear at the time and place set for the hearing, the Final Decision will be based on the testimony and other evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. All persons testifying will be sworn and subject to cross-examination by the Commission Staff, the Commission and other parties. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission may then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission may determine whether to adopt, modify, or decline to adopt standards regarding interconnection for distributed generation and time-based metering standards or whether to conduct additional proceedings. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law.

It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issues as stated above.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Commission at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 14<sup>th</sup> day of May, 2007.

<b>CERTIFICATE OF SERVICE</b>	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Delaine Kolbe</u>
Date:	<u>5/14/07</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Dustin M. Johnson  
DUSTIN M. JOHNSON, Chairman

Gary Hanson  
GARY HANSON, Commissioner

Steve Kolbeck  
STEVE KOLBECK, Commissioner