



ENVIRONMENTAL LAW & POLICY CENTER
ENVIRONMENT MIDWEST

June 13, 2008

Gary Hanson, Chairman
Steve Kolbeck, Commissioner
Dusty Johnson, Commissioner
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

Re: Docket EL06-018, PURPA Standard 12 – Fuel Diversity

Dear Chairman and Commissioners:

This letter is in response to the Commission's Scheduling Order in Docket EL06-018, dated May 13, 2008. In that Order, the Commission set an additional comment period regarding the PURPA fuel diversity and fossil fuel generating efficiency standards, added by the Energy Policy Act of 2005 (EPAAct 2005). The Commission determined that in making its decision regarding these standards, it will take into consideration the comments made at the May 1, 2007 workshop, any previously filed comments and any additional comments filed pursuant to its May 13, 2008 Order.

The Environmental Law & Policy Center has significant experience working with state utility commissions to implement the EPAAct 2005 requirements. We recognize the Commission's thorough and careful study of these important issues and appreciate the opportunity to participate in this docket. These comments will address only PURPA Standard 12, the fuel diversity standard. This standard provides:

- (12) Fuel Sources. Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

16 U.S.C. § 2621(d)(12).

State commissions have considerable flexibility in determining whether and how best to implement the PURPA standards in their state. Staff's submission and recommendation in this

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docket notes that current South Dakota law requires utilities to develop and submit ten-year plans along with “any relevant information as may be requested by the commission.” Staff Memo at 4 (June 11, 2008) (citing SDCL 49-41B-3). These plans must be updated every two years. Staff concludes that “[c]ertainly the diversity contemplated by Standard 12 is relevant and already accessible by this Commission.” Id. Thus, the Commission could use its existing authority under SDCL 49-41B-3 to request information that would describe how utilities plan to diversify their electric supply options, efficiently and at the lowest cost to their customers.

Electric generating plants are generally long-lived and capital intensive, making these investments highly sensitive to forecasts of fuel prices and availability and a changing regulatory environment. The purpose of the planning process is to develop a resource procurement plan that will reliably meet expected future energy demand at least cost, subject to other relevant utility planning factors. Fuel diversity plays an important role within this context.

Many of the potential benefits of fuel diversity come in the form of risk mitigation. Some of the potential benefits of fuel diversity include, but are not limited to, the following:

- Mitigation of fuel price and energy price risk;
- Mitigating regulatory risk associated with individual fuels;
- Increased reliability;
- Increased operational flexibility;
- Reduced environmental impacts.

We recommend that the Commission use its existing authority to ask utilities to identify, in their biennial 10-year plans, how they arrived at the "resource mix" that they propose to use to meet forecasted demand over the planning period. The Commission should encourage utilities to consider variables and risk factors such as fuel price, possible regulatory changes, and externalities such as emissions costs or benefits of fuel and portfolio diversity. Integrated resource planning that includes consideration of diverse generation resources brings benefits to retail consumers in the form of continued system reliability and lower, and more stable, electric prices. The Commission should also request that utility resource plans include discussion of how, and to what extent, the utility will include small scale distributed renewable generation in its portfolio. This would have the associated benefit of furthering the Commission’s goals to “facilitate the development of distributed generation” such as small wind projects. See Docket EL06-018, Commission Order of July 26, 2007 at ¶ 31.

Respectfully submitted,



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