

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

IN THE MATTER OF THE CONSIDERATION)	ORDER DETERMINING
OF THE NEW PURPA STANDARDS AS SET)	STANDARDS TO BE
FORTH IN THE ENERGY POLICY ACT OF)	CONSIDERED; ORDER
2005)	SETTING PROCEDURES;
)	ORDER SETTING
)	INTERVENTION DEADLINE
)	EL06-018

On August 8, 2005, the Energy Policy Act of 2005 ("EPAAct 2005") was signed into law. Certain provisions in the EPAAct 2005 amend the Public Utility Regulatory Policies Act ("PURPA") of 1978. The EPAAct 2005 adds five new federal standards to PURPA. The five standards regard net metering, fuel diversity, fossil fuel generation efficiency, smart metering, and interconnection for distributed resources. Under the EPAAct 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. The Commission requested that interested persons or entities comment on the following questions: 1) Which electric utilities operating in South Dakota are affected by the standards and are subject to the Commission's jurisdiction? 2) Should the Commission open a docket for each utility or open a generic docket encompassing all of the affected utilities? 3) Should the Commission combine all of the standards, some of the standards, or have separate dockets for each standard? 4) Should the Commission hold evidentiary hearings with direct testimony and cross-examination? 5) If the Commission decides to implement any of the standards, should it do so through a rulemaking? 6) With respect to the net metering standard, should the Commission find it is not required to consider this standard given that the Legislature has already considered net metering in a past legislative session? Interested persons or entities were also allowed to submit comments on any other issues related to how the Commission should proceed with its consideration of these standards. Written comments were due on or before June 20, 2006.

At its July 11, 2006, meeting, the Commission considered these issues. The Commission has jurisdiction over this matter pursuant to SDCL chapter 49-34A, specifically 49-34A-93, and the EPAAct 2005. 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 will set an intervention deadline for interested persons or entities to intervene. After any interventions have been acted upon by the Commission, the Commission will then decide what type of hearings to hold and whether to implement any standards through a rulemaking. Therefore, it is

ORDERED, that the Commission will not consider the net metering standard; and it is

FURTHER ORDERED, that the affected utilities are the rate regulated investor owned electric utilities; and it is

FURTHER ORDERED, that the Commission will use this docket for all of the affected utilities and will also consider the remaining standards in this docket; and it is

FURTHER ORDERED, that interested persons or entities may file a petition to intervene on or before August 15, 2006.

Dated at Pierre, South Dakota, this 31st day of July, 2006.

CERTIFICATE OF SERVICE	
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 Kalbs</u>
Date:	<u>7/31/06</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner
dk