

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

IN THE MATTER OF THE CONSIDERATION)	ORDER APPROVING
OF THE NEW PURPA STANDARDS AS SET)	OPENING RULEMAKING
FORTH IN THE ENERGY POLICY ACT OF)	DOCKET; ORDER CLOSING
2005)	DOCKET
)	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, time-based 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 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, meeting, 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 OTP, 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 decided to hold a hearing regarding the interconnection for distributed generation and time-based metering standards. The hearing was held as scheduled on May 30, 2007.

At its July 11, 2007, meeting, the Commission considered the interconnection and time-based metering standards. With respect to the time-based metering standard, the Commission unanimously voted to not adopt the standard. With respect to the interconnection standard, the Commission unanimously voted to adopt the standard. By order dated July 26, 2007, the Commission issued its findings of fact and conclusions of law regarding these standards.

By order dated May 13, 2008, the Commission set an additional comment period regarding the final two standards, fuel diversity and fossil fuel generation efficiency standards. The Commission further determined that when making its decision regarding the fuel diversity and fossil fuel generation efficiency standards, it will take into consideration the comments made at the workshop, any previously filed comments, and any additional comments. The deadline for filing additional comments was June 13, 2008. On June 11, 2008, the Commission received comments from Commission Staff. On June 13, 2008, the Commission received comments from the Environmental Law and Policy Center. On July 29, 2008, the Commission received Letter and Interconnection Policies – Commission Staff Report.

The final two standards, fuel diversity and fossil fuel generation efficiency, must be considered by the Commission and a decision rendered by August 2008. At its April 22, 2008 meeting, the Commission considered how best to proceed. The Commission has jurisdiction over this matter pursuant to SDCL chapter 49-34A, specifically 49-34A-93, and the EPA Act 2005. The Commission decided to set an additional comment period regarding the final two standards. The Commission determined that when making its decision regarding the fuel diversity and fossil fuel generation efficiency standards, it will take into consideration the comments made at the workshop, any previously filed comments, and any additional comments. Parties may file additional comments on or before June 13, 2008. On August 7, 2008, the Commission issued its Decision Regarding Fuel Diversity and Fossil Fuel Generation Efficiency Standards; Notice of Entry of Order.

At its regularly scheduled meeting on September 9, 2008, the Commission considered this matter. Commission Staff recommended opening a rulemaking docket for PURPA Interconnection and closing this docket. Commission Counsel suggested the Commission take comments regarding Staff's proposed rules prior to starting the formal rulemaking process. The Commission voted unanimously to open a rulemaking docket regarding PURPA Interconnection rules, request comments due in three weeks on what rules the Commission should use and close the docket. It is therefore

ORDERED, that a rulemaking docket for PURPA interconnection rules shall be opened and the docket shall be closed.

Dated at Pierre, South Dakota, this 18th day of September, 2008.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>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, electronically.</p> <p>By: <u><i>Amelia Gendle</i></u></p> <p>Date: <u>9-18-2008</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner