

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSIDERATION OF THE	)	
REQUIREMENTS OF THE FEDERAL	)	
ENERGY POLICY ACT OF 2005	)	CASE NO.
REGARDING FUEL SOURCES AND FOSSIL	)	2007-00300
FUEL GENERATION EFFICIENCY	)	

ORDER

Finding that the issues in this proceeding were related to and dependent upon its investigation in Administrative Case No. 2007-00477,<sup>1</sup> the Commission, on its own motion, ordered this proceeding held in abeyance pending the completion of Administrative Case No. 2007-00477.<sup>2</sup> Having met the General Assembly's directive to examine its statutes and make recommendations relating to certain energy and regulatory issues by developing and delivering to the Legislative Research Commission a report titled "*Electric Utility Regulation and Energy Policy In Kentucky*" ("Section 50 Report"), the Commission closed Administrative Case No. 2007-00477 on July 10, 2008. The Section 50 Report<sup>3</sup> was made a part of the record and served on the parties

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<sup>1</sup> Administrative Case No. 2007-00477, An Investigation of the Energy and Regulatory Issues in Section 50 of Kentucky's 2007 Energy Act, Order dated November 20, 2007.

<sup>2</sup> Administrative Case No. 2007-00300, Consideration of the Requirements of the Federal Energy Policy Act of 2005 Regarding Fuel Sources and Fossil Fuel Generation Efficiency, Order dated February 26, 2008.

<sup>3</sup> This refers to Section 50 of House Bill 1, which became law following the 2007 special session of the Kentucky Legislature and which directed the Commission to undertake the investigation it performed in Administrative Case No. 2007-00477.

to that case on July 3, 2008. The Commission, therefore, finds it appropriate to resume Administrative Case No. 2007-00300 and complete its consideration of the two standards being examined therein.

The Commission initiated Administrative Case No. 2007-00300 on August 2, 2007 to consider the requirements of the Energy Policy Act of 2005 ("EPAAct 2005"), Subtitle E, Section 1251, relating to fuel sources and fossil fuel generation efficiency standards. All six jurisdictional electric generators were made parties to the case, even though Big Rivers Electric Corporation and East Kentucky Power Cooperative, Inc. are not subject to the Public Utility Regulatory Policies Act because they do not make any retail sales. As stated in its initial Order, with regard to fuel sources, the Commission must determine whether to implement the Section 1251(12) Fuel Sources standard, which requires each electric utility to develop a plan to minimize dependence on one 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. As for fossil fuel generation efficiency, the Commission must determine whether to implement the Section 1251(13) Fossil Fuel Generation Efficiency standard, which requires each electric utility to develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

Shortly after initiating this proceeding, Commission Staff held an informal conference ("IC") with the parties to identify major issues and get some sense of the research or other information available. At the IC, the parties were directed to file written comments addressing the adoption of the two standards under consideration.

In their comments, none of the six jurisdictional generating utilities supported

adoption of either standard. In general, they claimed that adoption of the fuel source diversity standard could reduce their use of less expensive Kentucky coal, which would result in higher energy costs. The generators also pointed to the Kentucky Legislature's directive to encourage the state's electric utilities to use Kentucky coal as another reason not to adopt the fuel source standard. Finally, the generators identified existing statutes and rules that grant the Commission current authority to address fuel source diversity as well as fossil fuel generation efficiency.

While nothing directly related to fuel source diversity or fossil fuel generation efficiency was developed in Administrative Case No. 2007-00477, in the Section 50 Report, the Commission indicated its support for generation efficiency as well as for renewable and distributed generation, even though it did not support broader use of (1) incentives beyond those allowed under KRS 278.285 or (2) additional customer surcharges. With that in mind, the Commission believes that the following issues should be addressed in testimony by the electric generators which are parties to this proceeding.

1. Explain whether or not the EAct 2005 fuel source diversity standard should be adopted. If the utility does not believe that the EAct 2005 fuel source diversity standard should be adopted, identify any alternative fuel source diversity standard the Commission should consider.

2. Explain whether or not the EAct 2005 fossil fuel generation efficiency standard should be adopted. If the utility does not believe that the EAct 2005 fossil fuel generation efficiency standard should be adopted, identify any alternative fossil fuel generation efficiency standard the Commission should consider.

In addition to the two issues set out above, the jurisdictional generating utilities' testimony may address any other related issues.

The testimony described in this Order should be submitted no later than November 7, 2008. Following the submission of the testimony, the Commission will develop an appropriate procedural schedule.

IT IS THEREFORE ORDERED that:


1. This proceeding, to consider the requirements of the federal Energy Policy Act of 2005 regarding fuel source diversity and fossil fuel generation efficiency, is hereby removed from abeyance.

2. The jurisdictional electric generating utilities shall submit testimony in accordance with the direction provided in this Order no later than November 7, 2008.

Done at Frankfort, Kentucky, this 14th day of October, 2008.

By the Commission

ATTEST:

  
Executive Director *for Stephanie Strubbs*  
*w/permission*