

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

On August 8, 2005, President George W. Bush signed into law the Energy Policy Act of 2005 ("EPAAct 2005"). EPAAct 2005 amends the Public Utility Regulatory Policies Act of 1978 ("PURPA") by adopting new standards for electric utilities regarding net metering, fuel source diversity, fossil fuel generation efficiency, smart metering, cogeneration and small power production, and interconnection. EPAAct 2005 requires that certain actions be taken by each electric utility and each state regulatory authority regarding the EPAAct 2005 amendments.

With this Order, the Commission initiates an administrative proceeding to consider the requirements of EPAAct 2005, Subtitle E, Section 1251 relating to fuel sources and fossil fuel generation efficiency standards. The Commission believes that prior action regarding another Section 1251 standard, net metering, wherein the Kentucky Legislature passed a law authorizing net metering in Kentucky subject to certain conditions satisfactorily meets the exemption provided by the Prior State Actions of EPAAct 2005 and it is relieved from the requirement to address net metering by the exemption.

The Commission has previously considered Section 1252 standards regarding time-based metering and demand response, and Section 1254, interconnection, in

Administrative Case No. 2006-00045¹ which was completed in December 2007. Those sections were addressed first because EAct 2005 required the Commission to consider them within either 18 or 24 months of the enactment of EAct 2005.

The Commission has until two years after enactment (August 8, 2007) to begin and three years after enactment (August 8, 2008) to complete its consideration of whether to implement the remaining standards, fuel sources and fossil fuel generation efficiency which are noted below:

Fuel Sources. The Commission must determine whether to implement Section 1251(12), fuel sources, 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.

Fossil Fuel Generation Efficiency. The Commission must determine whether to implement Section 1251(13), fossil fuel generation efficiency, which requires each electric utility to develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

Other than what has been set forth in EAct 2005, there has been limited public discussion regarding these standards. The American Public Power Association, Edison Electric Institute, the National Association of Regulatory Utility Commissioners, and the National Rural Electric Cooperative Association have jointly developed a manual to aid state commissions in the implementation of the new PURPA standards; however, other industry groups such as the National Regulatory Research Institute, the Regulatory

¹ Administrative Case No. 2006-00045, Consideration of the Requirements of the Federal Energy Policy Act of 2005 Regarding Time-Based Metering, Demand Response, and Interconnection Service.

Assistance Project, the Federal Energy Regulatory Commission, or the Department of Energy have not, as yet, issued any studies or papers addressing these standards. The “PURPA” manual may be accessed through the Commission’s Web site by accessing <http://psc.ky.gov/pscscf/2007%20cases/2007-00300/>.

The status of the review of the fuel sources and fossil fuel generation efficiency standards by other regulatory commissions is attached as Appendix A to this Order.² Several agencies show that a review has been initiated but adoption of the standards is still under consideration. Most of the agencies that have completed the review determined that the standards or similar standards had previously been implemented as part of their Integrated Resource Plan process.

Kentucky with its low cost coal may be in a different position than other states that have restructured or where there is more competition from fuel oil or gas generation as well as greater reliance on energy conservation and demand-side management. In addition, on a regular basis the Commission has been directed to encourage the use of Kentucky coal by the Legislature. In fact, the preamble to the legislation enacting KRS 278.183,³ the environmental surcharge law, stated that it was the policy of the General Assembly to foster and encourage the use of Kentucky coal by electric utilities serving the Commonwealth.⁴

Therefore, the Commission plans to initiate this proceeding with an informal conference with the parties. Once again, all Kentucky jurisdictional electric generators will be made parties even though Big Rivers Electric Corp. and East Kentucky Power

² The information reflected in Appendix A is based on informal research of agency Web sites performed by Commission Staff and may not be a true reflection of the activity of a particular agency.

³ Enact. Acts 1992, ch 102, effective July 14, 1992.

⁴ S.B. 341, 1992 Ky. Acts.ch.102 § 1, as cited in 983 S.W.2d 493.

Cooperative, Inc. are not subject to PURPA because they do not make any retail sales. At the informal conference, staff can identify the major issues to discuss with the parties and get some sense of the research or other information available. Following the informal conference, the parties may be asked to file testimony outlining the issues that need to be addressed as well as setting forth the manner in which they expect the Commission to proceed.

As previously noted, all of Kentucky's jurisdictional electric generators will be made parties to this case and required to appear at the informal conference. A procedural schedule for this proceeding will be developed at a later date.

IT IS THEREFORE ORDERED that:

1. This proceeding to permit the Commission to consider the requirements of the federal Energy Policy Act of 2005 regarding fuel sources and fossil fuel generation efficiency is opened. All jurisdictional electric generators are made parties to this proceeding.

2. All jurisdictional electric generators shall appear at an informal conference at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, at 9:30 a.m., Eastern Daylight Time, on August 13, 2007.

3. All requests for intervention shall be made within 30 days of the date of this Order. Anyone who wishes to participate but not intervene will be given the opportunity to file written comments or offer comments at any public hearing.

Done at Frankfort, Kentucky, this 2nd day of August, 2007.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2007-00300 DATED August 2, 2007

Status of Review at other Regulatory Agencies of Section 1251 (12),
Fuel sources and (13), Fossil Fuel Generation Efficiency as of July 16, 2007

<u>Commission</u>	<u>Status</u>
Alabama	Docket 30066 initiated on 9/15/06. Ongoing.
Alaska	Track B Docket R-06-5 initiated on 4/4/07. Ongoing.
Arizona	No specific information found.
Arkansas	Docket 06-105-U initiated on 7/28/06 to consider fossil fuel generation efficiency. Completed on 12/20/06 – IRP guidelines proceeding will best guide Commission. Initiated Docket 06-028-R on 2/8/06 to address fuel source diversity. Ongoing – staff to complete a study.
California	No specific information found.
Colorado	Docket C06-1423 initiated 3/29/06. Ruled its regulations were in accord with fuel diversity and fossil fuel generation efficiency standard was not appropriate on 12/6/06.
Connecticut	No specific information found.
Delaware	Found information on consideration of advanced metering and interconnection only.
Florida	None found. Only addressed time-based metering.
Georgia	To be addressed in Georgia Power Co. IRP to be filed by 1/1/07. No other information found.
Hawaii	No specific information found.
Idaho	Initiated GNR-E-06-02 on 7/28/06. In Order No. 30229 found that fuel diversity and fossil fuel generation efficiency had already been adopted in that they were part of the IRP process.
Illinois	Initiated 07-0291, fuel sources and 07-0292, fossil fuel generation efficiency on 5/2/07. Still under consideration.
Indiana	Initiated 43321. Still under consideration.

Iowa	Docket No. NOI-07-1 issued 5/1/07. Found fuel sources standard was previously adopted. Opened inquiry into adoption of fossil fuel generation efficiency.
Kansas	Docket No. 07-GIME-578-GIE opened 12/11/06. Still under consideration. Comments due 9/15/07.
Kentucky	Administrative Case No. 2007-00300 initiated August 1, 2007.
Louisiana	No specific information found.
Maine	No specific information found.
Maryland	No specific information found.
Massachusetts	No specific information found.
Michigan	No specific information found.
Minnesota	Docket E-999/CI06-159 initiated on 7/22/06. Found that fuel source standard was previously implemented as part of IRP process. Still considering fossil fuel generation efficiency.
Mississippi	No specific information found.
Missouri	Dockets EO-2006-0494, fuel sources and EO-2006-0495, fossil fuel generation efficiency initiated on 6/22/06. Found standard had been previously adopted into IRP process on 7/22/07.
Montana	Docket N2006.5.0 issued on 12/6/06 found that fuel diversity and fossil fuel generation efficiency were addressed in the IRP process and found it not appropriate to implement either standard.
Nebraska	No specific information found.
Nevada	No specific information found.
New Hampshire	Review planned but not yet under consideration.
New Mexico	No specific information found.
New Jersey	No specific information found.
New York	No specific information found.

North Carolina	In February 2007, in Docket No. E-100 Sub 108, staff submitted a draft Order declining to implement the new standards. Still pending.
North Dakota	On 7/26/06, Case No. PU-06-290 was opened. Hearing scheduled for 5/1/07. Still under consideration.
Ohio	Case No. 07-648-UNC opened on 3/28/07. Workshop to be scheduled. Still under consideration.
Oklahoma	No specific information found.
Oregon	No specific information found.
Pennsylvania	No specific information found.
Rhode Island	Docket 3759 opened to consider. Not sure of status.
South Carolina	No specific information found.
South Dakota	Docket EL06-018 established on May 23, 2006. Still under consideration.
Tennessee	Initiated Docket No. 06-00010. On 8/10/06 determined that Kingsport, the only regulated electric utility, had no generating facilities and the standards were not adopted.
Texas	No specific information found.
Utah	Initiated Docket No. 06-999-03 in 2006. On 3/13/07, determined not to adopt the fuel sources standard which was included in IRP process. Still considering the fossil fuel generation efficiency standard.
Vermont	In a 2/23/06 memorandum, Vermont decided not to adopt the fuels source and fossil fuel generation efficiency standard because they were covered in the IRP process.
Virginia	No specific information found.
Washington	Docket UE-060649 initiated on 6/7/06. Comments due 8/8/07 and a hearing set for 8/15/07. Still considering.
West Virginia	Established a case to review other EPAAct standards and stated it would review fuel source diversity and fossil fuel generation efficiency later. Still not considered.
Wisconsin	No specific information found.

Wyoming Initiated Docket No. 90000-95-XR-06, Record No.10719 on 8/4/06. Found that standards were implemented as part of the IRP process and don't need to adopt.

Tennessee
Valley Authority Initiated consideration of fuel sources and fossil fuel generation efficiency through notice in the Federal Register on January 22, 2007. TVA Staff recommends adoption of both standards. Review is still ongoing.