

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Consideration of the)
Amendment of 16 U.S.C. § 2621 –)
Consideration and Determination Respecting) DOCKET NO. 06-999-03
Certain Ratemaking Standards for Electric) DETERMINATION CONCERNING THE
Utilities by the Energy Policy Act of 2005) PURPA NET METERING AND
) INTERCONNECTION STANDARDS
)

ISSUED: May 8, 2007

SYNOPSIS

The Commission determines Utah Code Title 54 Chapter 15 - Net Metering of Electricity constitutes a prior state action with respect to the PURPA Net Metering Standard, no standard comparable to the PURPA Interconnection Standard exists, and it is appropriate to adopt the PURPA Interconnection Standard. Implementation of the PURPA Interconnection Standard and a review of net metering will be addressed jointly in a new docket.

By The Commission:

REGULATORY HISTORY AND COMMISSION RESPONSIBILITY

The Commission has previously examined regulatory standards enacted by the Public Utilities Regulatory Policies Act ("PURPA").¹ Title 1 Subtitle A of PURPA² requires the Commission to consider and make a determination, with respect to each utility for which it has ratemaking authority, whether implementation of the standards set forth in 16 U.S.C. § 2621(d) is appropriate to carry out the purposes of PURPA, namely: 1) conservation of energy; 2) the efficient use of facilities and resources by electric utilities; and 3) equitable rates to electric

¹See Dockets 80-999-09, 81-999-01, 81-999-02, 81-999-03, 81-999-04, 81-999-05, 93-999-03, and 93-999-04.

²PURPA § 101, 16 U.S.C. § 2611.

consumers. The Commission's consideration must be after public notice and hearing and the Commission's determination must be in writing, based upon findings included in the determination and evidence provided at hearing, and made available to the public. The Commission may choose to implement a standard or adopt a different standard from those described in PURPA. While nothing prohibits the Commission from determining that it is not appropriate to implement a standard,³ if the Commission declines to adopt a standard it is required to state in writing the reason for its decision and to make that statement available to the public.

The 2005 Energy Policy Act ("2005 EPAct"), signed into law on August 8, 2005, amended PURPA by adding five new standards to Title 1 Subtitle B of PURPA⁴ regarding: 1) net metering ("PURPA Net Metering Standard" or "Net Metering Standard"), 2) fuel sources, 3) fossil fuel generation efficiency, 4) time-based metering and communications, and 5) interconnection ("PURPA Interconnection Standard" or "Interconnection Standard"). The 2005 EPAct requires the Commission to begin consideration and make a determination for each new standard according to specified dates. For the time-based metering and communications and Interconnection standards, the consideration must begin by August 8, 2006, and the determination must be completed by August 8, 2007. For the Net Metering, fuel diversity, and fossil fuel generation efficiency standards, the consideration must begin by August 8, 2007, and

³PURPA § 111(a), 16 U.S.C. § 2621(a).

⁴PURPA § 111(d), 16 U.S.C. § 2621(d).

the determination must be completed by August 8, 2008. Herein we address only the Net Metering and Interconnection Standards.

PROCEDURAL HISTORY

On June 14, 2006, the Commission issued a Notice of Scheduling Conference to be held on June 26, 2006. On July 20, 2006, the Commission issued a Notice of Technical Conference to be held on August 30, 2006, with the purpose of discussing the five new standards applicable to electric utilities enacted by the 2005 EPA Act and the requirements for consideration and determination of these standards, identifying existing statutes and programs which may adequately address the standards, and setting a further procedural schedule.

On July 17, 2006, the Commission filed a letter with the U.S. Department of Energy indicating that PacifiCorp, doing business in Utah as Rocky Mountain Power (“the Company”), is the only PURPA-covered utility over which the Commission has ratemaking authority.

Informal work group meetings were then held on September 19 and October 6 to further determine the approach to evaluating the new PURPA standards. A Notice of Technical Conference was issued on October 10, 2006, announcing a technical conference addressing the fuel sources and fossil fuel generation efficiency standards scheduled for October 17, 2006; a Notice of Technical Conference was issued on October 30, 2006, announcing a technical conference addressing the smart metering standard scheduled for November 9, 2006; and a Notice of Technical Conferences was issued on November 17, 2006, announcing a technical conference addressing the Interconnection Standard scheduled for December 18, 2006, and the

Net Metering Standard scheduled for January 10, 2007. During these technical conferences the Division of Public Utilities (“Division”) provided a working document recommendation for each standard and requested informal comments.

Based upon these comments and further research, on March 1, 2007, the Division submitted a recommendation to the Commission regarding the Net Metering Standard and on March 2, 2007, the Division submitted a recommendation to the Commission regarding the Interconnection Standard. In response to these recommendations, on March 6, 2007, the Commission issued a Request for Comments with a filing deadline of March 28, 2007.

Comments on the Division’s Net Metering Standard recommendation were filed by the Company, the Committee of Consumer Services (“Committee”), Wasatch Clean Air Coalition (“Wasatch CAC”), Utah Rural Electric Association (“Utah REA”), Mt. Wheeler Power, Wells Rural Electric Company (“Wells REC.”), and jointly by Utah Clean Energy and Intermountain Combined Heat and Power Application Center (“UCE & CHP Center”). Comments on the Division’s Interconnection Standard recommendation were filed by the Company, the Committee, Utah Industrial Energy Consumers (“UIEC”), Mr. James French, and jointly by UCE & CHP Center.

THE NET METERING AND INTERCONNECTION STANDARDS

Section 1251 of the 2005 EPAct amends Section 111(d) of PURPA and U.S.C. § 2621(d) by adding the following standard:

(11) Net Metering.

Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term “net metering service” means service to an electric consumer under which electric energy

generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

Section 1254 of the 2005 EPAct amends Section 111(d) of PURPA and U.S.C. § 2621(d) by adding the following standard:

(15) Interconnection.

Each electric utility shall make available upon request interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term “interconnection service” means service to an electric consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

Absent prior state actions, the Net Metering and Interconnection Standards must be evaluated in terms of the standards themselves and the PURPA general requirements. PURPA Section 112(d) and (f),⁵ addressing prior state actions for the Net Metering and Interconnection Standards respectively, provide that the consideration and determination requirements for the Net Metering and Interconnection Standards are satisfied under the following scenarios: 1) the Standard or comparable standard has been implemented; 2) the Commission has conducted a proceeding to consider implementation of the Standard or a comparable standard; or 3) the State Legislature has voted on implementation of the Standard or a comparable standard. With respect to the Net Metering and Interconnection Standards we

⁵PURPA § 112(d), 16 U.S.C. § 2622(d) and PURPA § 112(f), 16 U.S.C. § 2622(f).

address the following issues: 1) Whether a prior state action exists; 2) if no prior state action exists, whether the standard in question should be adopted, and if so, how the standard should be implemented.

PRIOR STATE ACTION ADDRESSING NET METERING

A. Positions of the Parties

In the determination of whether to adopt a standard, the provisions of PURPA enable prior state actions to be taken into consideration. Based upon these provisions, the Division maintains Utah Code Title 54 Chapter 15 - Net Metering of Electricity (“Utah’s Net Metering Statute”) is equivalent to the PURPA Net Metering Standard and satisfies the prior state action provisions of PURPA. The Division also recommends a review of Utah’s net metering program to identify improvements and address recommendations contained in the Division’s February 2007, report entitled “Utah’s Net Metering Program: Best Practices, Program Barriers, and Recommendations.” The Company concurs with the Division’s conclusion regarding prior state action. And while it is not opposed to evaluating the costs and benefits of removing barriers to participation, the Company believes the primary barrier to both interconnection and net metering is the underlying economics of self-generation for smaller customers. The Committee and UCE & CHP Center support the Division’s recommendations regarding the equivalency of Utah’s Net Metering Statute to the PURPA Net Metering Standard and the opening of an investigative docket to review the current net metering program. UCE & CHP Center propose the net metering investigation include an examination of interconnection and smart metering as well.

Utah REA, Mt. Wheeler Power, and Wells REC concur with the Division's recommendation that Utah's Net Metering Statute is equivalent to the PURPA Net Metering Standard. Utah REA, Mt. Wheeler Power, and Wells REC maintain, given the relatively favorable electric rates in Utah, the electric cooperatives ("Co-Ops") have not experienced a high demand for net metering. They contend it is difficult for customers to justify the expense of self-generation given the Co-Ops' existing rate structures. These Co-Ops state they will continue working with their members in those situations where net metering is an appropriate and desirable option.

Wasatch CAC, however, states Utah's Net Metering Statute is not equivalent and does not satisfy the requirements of PURPA because under the Utah statute customers that generate more than 25 kilowatts ("kW") are not eligible to participate in net metering and customers who generate electricity not requiring an inverter to translate their power to grid quality (e.g., small hydro) are effectively removed from eligibility. In addition, Wasatch CAC contends Utah's Net Metering Statute is not equivalent because it includes a cap of 0.1% of an affected utility's peak demand during 2001 above which the affected utility may discontinue making net metering available to customers not already participating in the program. Wasatch CAC agrees with the Division's recommendation regarding a net metering investigative docket and further recommends the docket address interconnection and smart metering as well. In support of its recommendations, Wasatch CAC cites the advantages of net metering and distributed generation with respect to the goals of PURPA, the importance of net metering installations in shaving super-peak energy consumption, the contribution of net metering

installations to the efficient use of the distribution grid and the reduction of transmission line losses, and the limitations contained in Utah's Net Metering Statute. In light of the identified advantages, Wasatch CAC requests the Commission provide clear, strong guidance to the Company that net metering is in the public interest.

B. Discussion, Findings and Conclusions on Prior State Actions Relating to the PURPA Net Metering Standard

The majority of the parties agree Utah's Net Metering Statute promulgated during the 2002 Legislative session as embodied in Utah Code Title 54 Chapter 15 and translated into the Company's Commission-approved Schedule 135, "Net Metering," is comparable to the PURPA Net Metering Standard.⁶ Wasatch CAC, however, identified several discrepancies between the PURPA Standard and Utah's Net Metering Statute, including limitations regarding the size of applicable facilities, inverter requirements, and capacity limitations. While these limitations may warrant further examination, they do not negate the fact that net metering was evaluated in Utah prior to the PURPA 2005 EAct amendments and Utah's Net Metering Statute reflects the law as determined appropriate by the Utah State Legislature. While not identical to the PURPA Net Metering Standard, we view Utah's Net Metering Statute as comparable in intent to the PURPA Net Metering Standard as it supports the same goals of PURPA. As such, we determine Utah Code Title 54 Chapter 15 Net Metering of Electricity constitutes a prior state action with respect to the consideration and determination requirements as PURPA. We also determine net metering requires additional review as described below.

⁶See June 24, 2002, Tariff Approval letter in Docket 02-035-T05

PRIOR STATE ACTION ADDRESSING INTERCONNECTION

A. Positions of the Parties

The Division maintains that while interconnection is generally addressed in Utah's Net Metering Statute and supported by Utah Code Title 54 Chapter 12 – Small Power Production and Cogeneration, there is no equivalent to the PURPA Interconnection Standard in Utah. The Company does not explicitly address prior state actions, but states that it currently offers interconnection services in compliance with IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power System (“IEEE 1547”). The Company maintains its interconnection agreements and procedures are just and reasonable and, in support, provides seven principles applicable to successful interconnection requirements. The Committee agrees the Company has provisions in place to “. . . make available, upon request, interconnection service to any consumer that the electric utility serves,” however the Committee concurs with the Division's analysis there is no equivalent PURPA Interconnection Standard in Utah. UIEC maintains the Company's existing procedures and tariffs satisfy the requirements of a great many interconnections and the Company provides some type of on-site generation interconnection service, the provisions of which are available on the Company's website, for all electric customers desiring to install self-generation facilities, but is silent on whether these procedures and tariffs constitute a prior state action.

B. Discussion, Findings and Conclusions on Prior State Actions Relating to the PURPA Interconnection Standard

There is no question the Company offers interconnection services to electric consumers wishing to install on-site generating facilities on their premises which would connect to local distribution facilities (“self-generation,” or “distributed generation”) based upon IEEE 1547. In addition, Sections 54-15-103 and 106 of Utah’s Net Metering Statute address interconnection generally. In turn we ask if existing statutes, rules, and/or tariffs cover the universe of applicable customers desiring to install self-generation facilities connecting to local distribution facilities.

While Utah’s Net Metering Statute is applicable to self-generators up to 25 kW, the Commission concurs a regulatory gap exists regarding distributed generation facilities greater than 25 kW requiring interconnection to the Company’s distribution facilities as there exists only the procedures listed on the Company’s website. Therefore, we determine a standard addressing interconnection comparable with the PURPA Interconnection Standard does not exist in Utah. We next address adoption of the PURPA Interconnection Standard.

THE INTERCONNECTION STANDARD

A. Positions of the Parties

The Division recommends the PURPA Interconnection Standard be adopted stating that facilitating distributed generation would be particularly beneficial in managing peak growth and meeting the growing energy needs of Utah. The Division also cites the potential benefits for electricity providers, electrical customers, distributed generation-providers and the environment. The Division recommends an interconnection docket be opened, in coordination with a net metering investigation, to define terms such as “best practices,” explore opportunities

and identify barriers for small, medium, and large distributed generation projects, and evaluate model interconnection codes to determine if the adoption of any would be beneficial to Utah. The Company agrees with the Division's recommendation that the Interconnection Standard should be adopted as written with the reservation that the phrases "current best practices" and "model codes" are not sufficiently defined. The Company is also not opposed to examining interconnection issues which are barriers to distributed generation and agrees the examination of interconnection and net metering barriers should be coordinated. The Company affirms its belief that the primary barrier to both interconnection and net metering is the underlying economics of self-generation for smaller customers. The Committee, UCE & CHP Center, and Jim French concur with the Division's recommendation that the Interconnection Standard be adopted as written, also citing benefits associated with distributed generation, and support opening an interconnection docket.

UIEC disagrees with the Division's recommendation, arguing a new standard should not be adopted when only a small group of customers need to be addressed. In addition, UIEC counters the language of the Interconnection Standard is vague and ambiguous as written and its adoption could result in harmful unforeseen consequences. UIEC points out the PURPA Interconnection Standard mandates that interconnection services shall be offered based on IEEE 1547 but that IEEE 1547 is only applicable to systems below 10 megawatts ("MW"). UIEC questions what happens to the generators greater than 10 MW that are connected to the distribution system in light of the limitations of IEEE 1547. UIEC also notes, during the December 18, 2006, technical conference, the Company explained if an installation is not

inverter-based, even more study than usual is required to ensure safety and reliability. UIEC further contends, absent a better understanding of the wording of or applicability of the phrases “current best practices” and “practices stipulated in model codes adopted by associations of state regulatory agencies,” a standard imposing such practices and agreements should not be adopted. UIEC states it was noted in the technical conference that, due to the ambiguities in the Interconnection Standard itself, many states are declining to adopt it; rather, these states are assessing whether rules and tariffs would more appropriately address the interconnection needs specific to their states. UIEC recommends a similar course of action be taken in Utah and suggests if the Commission determines the process for interconnection of on-site generators greater than 25 kW but less than 10 MW needs to be streamlined, the Commission should order an investigation and rulemaking for this select group.

B. Discussion, Findings and Conclusions Pertaining to Adoption of the PURPA

Interconnection Standard

The majority of the parties support adoption of the Interconnection Standard with varying provisions for further evaluation and/or reservations regarding ambiguous wording. The Commission recognizes distributed generation’s potential contribution to managing future load growth in Utah and views the interconnection process as integral to encouraging distributed generation in Utah while ensuring a reliable distribution grid. We are also aware of the importance of approved tariffs which clearly identify responsibilities and time lines for all parties involved in the interconnection process. While the PURPA Interconnection Standard supports safety, process, and regulatory requirements, we note the limitations of IEEE 1547 with

respect to interconnection of any facility greater than 10 MW and the concerns regarding vague and ambiguous language relating to the wording “current best practices” and “model codes adopted by associations of state regulatory agencies.” In light of the regulatory gap relating to facilities larger than 25 kW desiring to connect to the Company’s local distribution facilities, the existence of numerous studies identifying barriers to and practices for facilitating interconnection, and our ongoing support for efforts to increase on-site renewable energy generation in Utah, we adopt the PURPA Interconnection Standard as written with the intent of identifying the best practices which have specific benefit and application to the Company and its customers. We next address implementation of the Interconnection Standard.

C. Implementation of the Interconnection Standard

In adopting the Interconnection Standard it is our intent to evaluate and remove barriers where appropriate, streamline and clarify processes, and ensure all levels of interconnection to the local distribution system are adequately addressed. To achieve these ends we open a docket to provide a venue for in-depth evaluation and open communication relating to our stated objectives and comments provided by the parties in this process. We view the final outcome of this effort being, among other things, a complete set of Company tariffs addressing interconnection to distribution facilities for all sizes of distributed generation. We believe the Interconnection Standard provides not only a foundation and a direction for commencing work on these issues but also the latitude to craft tariffs specific to the needs of the Company and its customers. We are also well aware of the interrelationship between net metering and interconnection and determine net metering will also be examined in the referenced docket in the

context of examining the costs and benefits of removal of barriers and increasing program participation, as well as inverter requirements and other concerns voiced by the Parties.

DETERMINATION

NOW, THEREFORE, IT IS HEREBY determined that Utah Statue Title 54 Chapter 15 - Net Metering of Electricity constitutes a prior state action with respect to the PURPA Net Metering Standard consideration and determination requirements for a comparable standard, no comparable Interconnection Standard exists, and it is appropriate to adopt the PURPA Interconnection Standard. Implementation of the Interconnection Standard and a review of net metering will be addressed in a new docket as described herein.

DATED at Salt Lake City, Utah, this 8th day of May, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#53281