

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Consideration of the )  
Amendment of 16 U.S.C. § 2621 – ) DOCKET NO. 06-999-03  
Consideration and Determination Respecting ) DETERMINATION CONCERNING  
Certain Ratemaking Standards for Electric ) THE PURPA FUEL  
Utilities by the Energy Policy Act of 2005 ) SOURCES STANDARD  
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ISSUED: March 13, 2007

SYNOPSIS

The Commission determines the June 18, 1992, Report and Order on Standards and Guidelines in Docket 90-2035-01 “In the Matter of Analysis of an Integrated Resource Plan for PacifiCorp” constitutes a prior state action with respect to the PURPA Fuel Sources Standard and directs a modification to all future PacifiCorp Integrated Resource Plans.

By The Commission:

**REGULATORY HISTORY AND COMMISSION RESPONSIBILITY**

The Commission has previously examined regulatory standards enacted by the Public Utilities Regulatory Policies Act (“PURPA”).<sup>1</sup> Title 1 Subtitle A of PURPA<sup>2</sup> requires the Commission, with respect to each utility for which it has ratemaking authority, to consider and make a determination whether the standards set forth in PURPA are appropriate to be implemented 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 consumers. The Commission’s consideration must be after public notice and hearing and the

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<sup>1</sup>See 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.

<sup>2</sup>PURPA § 101, 16 U.S.C. § 2611.

Commission's determination must be in writing, based upon findings included in the determination and evidence provided at hearing, and available to the public. The Commission may choose to implement a standard or adopt a different standard from those described in PURPA. And while nothing prohibits the Commission from determining that it is not appropriate to implement a standard,<sup>3</sup> if the Commission declines to adopt a standard it is required to state in writing the reason for its decision and 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 PURPA<sup>4</sup> regarding: 1) net metering, 2) fuel sources ("Fuel Source Standard" or "Standard"), 3) fossil fuel generation efficiency, 4) time-based metering and communications, and 5) interconnection. 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 the determination must be completed by August 8, 2008. Herein we address only the Fuel Sources Standard.

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<sup>3</sup>PURPA § 111(a), 16 U.S.C. § 2621(a).

<sup>4</sup>PURPA § 111(d), 16 U.S.C. § 2621(d).

**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 EPAct and the requirements for consideration and determination of these standards, identifying existing statutes and programs in place which may potentially 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 February 1, 2007, the Division submitted a recommendation to the Commission regarding the PURPA Fuel Sources Standard. In response to this recommendation, on February 5, 2007, the Commission issued a Request for Comments with a filing deadline of February 23, 2007. Comments on the Division’s Fuel Sources Standard recommendation were filed by the Company and the Committee of Consumer Services (“Committee”).

### **FUEL SOURCES STANDARD**

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

(12) Fuel Sources.

Each electric utility shall develop a plan to minimize dependence on 1 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.

The 2005 EAct Fuel Sources Standard must be evaluated not only in terms of the standard itself and the PURPA general requirements, but also with respect to PURPA Section 112(d) Prior State Actions.<sup>5</sup> PURPA Section 112(d) provides that the consideration and determination requirements for the Fuel Sources Standard 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 3) The State

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<sup>5</sup>PURPA § 112(d), 16 U.S.C. § 2622(d).

Legislature has voted on implementation of the Standard or a comparable standard. With respect to the Fuel Sources Standard we address the following questions: 1) Does a prior state action exist, and 2) should the Company include in its Integrated Resource Plan (“IRP”) a specific section addressing the PURPA Fuel Sources Standard and how it is achieved?

## **PRIOR STATE ACTIONS**

### **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 the Commission’s June 18, 1992, Report and Order on Standards and Guidelines (“IRP Order”) in Docket 90-2035-01 “In the Matter of Analysis of an Integrated Resource Plan for PacifiCorp” is an equivalent standard. Specifically, the Division references the following sections from the IRP Order as equivalent to the Standard:

1. Definition:

Integrated resource planning is a utility planning process which evaluates all known resources on a consistent and comparable basis, in order to meet current and future customer electric energy services needs at the lowest total cost to the utility and its customers, and in a manner consistent with the long-run public interest. The process should result in the selection of the optimal set of resources given the expected combination of costs, risk and uncertainty.

4. PacifiCorp’s future Integrated resource plan will include:

- b. An evaluation of all present and future resources, including future market opportunities (both demand-side and supply-side), on a consistent and comparable basis.
  - i. An assessment of all technically feasible and cost-effective improvements in the efficient use of electricity, including load management and conservation.
  - ii. An assessment of all technically feasible generating technologies including: renewable resources, cogeneration, power purchases from other sources, and the construction of thermal resources.
  - iii. The resource assessments should include: life expectancy of the resources, the recognition of whether the resource is replacing/adding capacity or energy,

dispatchability, lead-time requirements, flexibility, efficiency of the resource and opportunities for customer participation.

The Division maintains the IRP Order wording requiring an “optimal set of resources given the expected combination of costs, risk and uncertainty” is superior to the Standard which requires only minimizing dependence on one fuel source.

Both the Company and the Committee agree with the Division’s recommendation that the existing IRP Standards and Guidelines are equivalent to the PURPA Fuel Sources Standard. In light of the company’s very robust integrated resource planning process, the Company asserts adoption of the standard is unnecessary and believes it is meeting and is in compliance with all of the elements of the Fuel Sources Standard. The Company maintains its IRP is developed by evaluating a variety of supply- and demand-side resources on a comparable basis resulting in the selection of an optimal least cost, risk-informed portfolio which includes various technologies and fuel sources in the final resource mix.

**B. Discussion, Findings and Conclusions on Fuel Source Standards**

All parties agree the Fuel Sources Standard is intimately tied to integrated resource planning, a process which has been embraced by the Commission for several decades and which supports the PURPA goals associated with the efficient use of electric utility facilities/resources and equitable rates for customers. Prior to the issuance of the IRP Order in Docket 90-2035-01, the Commission investigated least cost and/or supply- and demand-side issues on several occasions.<sup>6</sup> In addition, integrated resource planning was adopted as a PURPA

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<sup>6</sup>See Dockets 84-999-19, 84-999-20, and 86-035-20

Standard as part of the 1992 Amendments to PURPA.<sup>7</sup> The Commission observes, however, that absent an underlying goal, for example least-cost planning consistent with safe/reliable service and the long-run public interest as specified in our IRP Order, adoption of the Fuel Sources Standard could possibly prevent the selection of an optimal portfolio of resources in the IRP process and conflict with the PURPA goals.

The Commission determines the June 18, 1992, Report and Order on Standards and Guidelines in Docket 90-2035-01 “In the Matter of Analysis of an Integrated Resource Plan for PacifiCorp” is an equivalent standard and constitutes a prior state action with respect to the PURPA Fuel Sources Standard evaluation requirements.

## **MODIFICATIONS TO THE INTEGRATED RESOURCE PLAN REPORT**

### **A. Positions of the Parties**

The Division recommends that the Company include in its IRP Report a section that explicitly details its fuel sources plan. The Division further proposes this plan should address fuel diversity not only in terms of the various fuel types but also fuel technologies and other technologies which help manage load. The Division contends that the requirement to produce an explicit plan will ensure the Company maintains focus on the goal of an optimum diversified portfolio and will allow interested parties to provide feedback on the plan and monitor the Company’s progress toward achieving the goal. With this requirement in place, the Division would use the IRP comment period to evaluate the fuel diversity plan and make further recommendations. The Committee supports the Division’s recommendation regarding the

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<sup>7</sup>PURPA § 111(d)(7), 16 U.S.C. § 2621(d)(7)

addition of a section in the Company's IRP report detailing the Company's fuel sources plan and states that the additional information will be useful for assessing fuel diversity within the Company's resource mix.

During the October 17, 2006, Technical Conference addressing the Fuel Sources and Fossil Fuel Generation Efficiency Standards the Company acknowledged that while the IRP contains significant amounts of information on fuel diversity, previous editions of the IRP may not have presented the information in a way that focused on this Standard. To address this issue, the Company agrees to include a section in the IRP addressing the Fuel Sources Standard with a discussion of how fuel diversity is achieved.

**B. Discussion, Findings and Conclusions on Modifications to the Integrated Resource Plan Report**

We agree with the Company's commitment to include a new section in the IRP to clarify the Company's fuel sources plan in light of this Standard and acknowledges the consensus among parties on this issue. The Commission hereby directs the Company to include a section specifically addressing the PURPA Fuel Sources Standard in all future Integrated Resource Plans.

**DETERMINATION**

NOW, THEREFORE, IT IS HEREBY determined the June 18, 1992, Report and Order on Standards and Guidelines in Docket 90-2035-01 "In the Matter of Analysis of an Integrated Resource Plan for PacifiCorp" constitutes a prior state action with respect to the PURPA Fuel Sources Standard evaluation requirements. As agreed to by the Company, all



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future Integrated Resource Plans will include a section on fuel source diversity as described herein.

DATED at Salt Lake City, Utah, this 13<sup>th</sup> day of March, 2007.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#52672