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MEMORANDUM

To: Public Service Commission
From: Division of Public Utilities
Constance White, Director
Artie Powell, Manager, Energy Section
Judith Johnson, Technical Consultant

Subject: EAct 2005 Amendments to PURPA – Energy Efficiency Standard - Docket 06-999-03

Date: May 18, 2007

ISSUE

On August 8, 2005, the President signed into law the Energy Policy Act of 2005 (EAct2005) which included amendments to the Public Utility Regulatory Policies Act (PURPA) and added five new federal standards to PURPA section 111(d) for state commissions and utilities to consider. PURPA states that “each state regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard” and “make a determination concerning whether or not it is appropriate to implement such standard”¹ The standards are regarding the following: Net Metering, Fuel Diversity, Fossil Fuel Generation Efficiency, Time-Based Metering and Communication, and Interconnection.

According to a reference manual produced by EEI and NARUC, and others, the law requires that state commissions and unregulated utilities consider the standards; they are not required to implement them. They may:

...implement any standard, decline to implement any standard, or adopt a different or modified standard from those described in the statute (PURPA section 117(b)). However, if they decline they are required to state in writing the reason for their decision and make that statement available to the public (PURPA section 111(c)). State commissions and utilities

¹ PURPA section 111(a)

may also take into account prior determination of the standards if it complies with the requirement of Title I of PURPA (PURPA section 112(a)).²

This memo is the Division of Public Utilities' recommendation regarding the Energy Efficiency Standard which is reproduced in the following section.

PURPA Energy Efficiency Standard

Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

RECOMMENDATION

The DPU recommends adoption of the standard as written. This recommendation does not assume any specific plan.

The DPU recommends that a specific fossil fuel efficiency 10 year plan be included in each IRP. According to information given during the PURPA Standard technical conferences, we believe that PacifiCorp's 2006 IRP will contain information on its fossil fuel efficiency plan. We will use the IRP comment period to evaluate the section on RMP's fuel diversity plan and make further recommendations as to the report.

The DPU would further recommend that, if the PSC should find that the proposed PURPA standard be adopted and a plan included in the IRP, the PSC either keep this docket open to inform the IRP process or could request specific comments on the 10-year fuel efficiency plan as part of the IRP review.

ANALYSIS

During the August technical conference, the Integrated Resource Plan proceeding (Docket 90-2035-01) and resulting standards and guidelines was suggested as a possible equivalent standard. The following is a quote from the Integrated resource plan (IRP) Standard and Guidelines:

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**

² Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Policy Act of 2005, March 22, 2006. Sponsored by American Public Power Association (APPA); Edison Electric Institute (EEI); National Association of Regulatory Utility Commissioners (NARUC); National Rural Electric Cooperative Association (NRECA). Prepared by Kenneth Rose and Karl Meeusen.

should result in the selection of the optimal set of resources given the expected combination of costs, risk and uncertainty.

The highlighted section certainly supports the goal of energy efficiency. However, the DPU analysis does not find where the IRP standards and guidelines call for an explicit 10 year plan with implementation. Therefore, the DPU recommends the PURPA standard be adopted to make explicit planned increases in fossil fuel efficiency.

The DPU does not think that adoption of the standard requires that every year show an increase in fossil fuel generation efficiency without taking into account environmental and cost benefit analysis. Any plan should include a cost benefit analysis that supports it and include environmental improvements and obligations that could affect efficiency. The value of requiring an electric utility to produce an explicit plan derived from the IRP process will keep the utility's focus on working towards this goal and allow the public and regulators to provide feedback and to monitor the progress towards optimal fuel source diversity.

In response to a technical conference working document, PacifiCorp made the following comment: "The overall emphasis should be on having a plan and on obtaining continuous improvement over a ten year period. The emphasis should not be on an exact execution of a plan on a year to year basis because flexibility is needed to respond to changing market and system conditions." The DPU agrees with this suggestion.

Copy: Committee of Consumer Services
Dave Taylor, PacifiCorp