

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S)
CONSIDERATION OF THE FIVE) **CASE NO. GNR-E-06-02**
AMENDMENTS TO SECTION 111 OF THE)
PUBLIC UTILITY REGULATORY)
POLICIES ACT OF 1978 (PURPA)) **ORDER NO. 30229**
CONTAINED IN THE ENERGY POLICY)
ACT OF 2005)

On July 28, 2006, the Commission issued a Notice of Inquiry to consider the five “new” PURPA standards contained in the Energy Policy Act of 2005 (the “Act”). The Act amended Section 111 of the Public Utility Regulatory Policies Act of 1978 (PURPA) by adding five new federal ratemaking standards for electric utilities. The Act also amended PURPA Sections 112 and 115 to require that state regulatory commissions determine whether they should adopt the five PURPA standards as requirements for regulated electric utilities. 16 U.S.C. § 2621(a). The five new PURPA standards are: Net metering; fuel source diversity; fossil fuel generation efficiency; time-based metering and communications (“Smart Metering”); and interconnection services to customers with on-site generating facilities. After examining the two sets of written comments and public workshop comments, we issue this Order.

BACKGROUND

This is not the first time that Congress has required state commissions to examine national regulatory standards. In 1978 Congress enacted PURPA to encourage: (1) the conservation of energy supplied by electric utilities; (2) the optimum efficiency of utility resources; and (3) equitable rates for electric customers. PURPA § 101; 16 U.S.C. § 2611. In response to both PURPA and the Energy Policy Act of 1992, this Commission initiated proceedings to review the prior federal standards. *See* Order Nos. 17586, 16611, 24729. The five new standards that are the subject of this review generally address energy efficiency, advanced metering, and customer generation.

A. The Commission’s Responsibilities

Although the Act requires the Commission to undertake a review of the five new federal standards, the Act does not compel the Commission to adopt the standards. PURPA recognizes that nothing “prohibits any State regulatory authority . . . from making a

determination that it is not appropriate to implement any such standard. . . .” Order No. 30108 at 2 *citing* 16 U.S.C. § 2621(a) (emphasis original). The Act also recognizes that a state regulatory commission already may have implemented the new federal standards or comparable standards in prior proceedings. 16 U.S.C. § 2622(d)-(f). If a State commission has already “reviewed” a new standard – by implementing the standard/a comparable standard or has considered the standard but declined implementation – then no further action is necessary. *Id.*; 16 U.S.C. § 2621(c)(1).

In undertaking the review of the five federal standards, PURPA outlines the procedural requirements that the Commission must follow. The Commission shall issue a public notice of its review proceeding and make its determination regarding each of the five standards for each regulated utility: (1) in writing; (2) based upon findings and evidence presented in the proceeding; and (3) make its findings available to the public. 16 U.S.C. § 2621(b).

B. Procedural History

In its initial Notice of Inquiry the Commission directed the three largest electric utilities (Avista Utilities, Idaho Power Company, and PacifiCorp dba Rocky Mountain Power)¹ to answer a series of questions about each new standard. The Commission’s questions are contained in prior Order Nos. 30108 and 30146. Besides inviting public participation, the Notice required that the utilities serve their comments on a service list of interested persons.

1. The Public Workshop. The Commission’s initial Notice also scheduled a public workshop that was convened on September 13, 2006. The purpose of the workshop was to review the utilities’ responses to the Commission’s questions set out in its initial Notice. The Commission also sought to determine whether there was consensus among the participants about whether the Commission: (1) had already adopted the standards; (2) should adopt the federal standards or comparable standards, if not already adopted; or (3) should not implement the federal standards.

The following parties attended and participated in the public workshop: Avista, Idaho Power, Rocky Mountain Power, Hunt Technologies, the Industrial Customers of Idaho Power, Distribution Control Systems, John Weber, Jay Blackhurst, and the Commission Staff. The participants reviewed each of the five federal standards and the utilities’ responses to the

¹ Atlanta Power does not meet PURPA’s threshold requirement of retail sales of 500 million kilowatt hours in a calendar year. 16 U.S.C. § 2612(a).

questions. As set out in greater detail below, the participants generally reached consensus that the Commission had already implemented the federal standards except for Smart Metering.

2. Further Comments. On October 6, 2006, the Commission issued another Notice of Modified Procedure inviting a second round of public comments regarding the five PURPA standards. The Notice required that comments be filed with the Commission no later than October 27, 2006 and permitted the three utilities opportunity to file reply comments, if necessary, no later than November 10, 2006. In response to the Commission's second Notice, comments were filed by the Commission Staff, a member of the public, and the Network for New Energy Choices. Rocky Mountain Power filed timely reply comments.

THE FIVE FEDERAL STANDARDS AND THE COMMENTS

The Commission observed in its initial Notice that many of the basic concepts embodied in the five "new" federal standards are not new to this Commission. Order No. 30108 at 3. The Commission, the three electric regulated utilities and other interested parties have previously addressed the efficiency and energy resource enhancements encompassed in the new standards. Indeed, the utilities and the workshop participants agreed that the Commission has already adopted four of the new PURPA standards. The five federal standards and the comments for each standard are discussed below.

A. Net Metering

Net metering generally refers to customers generating their own electricity with any excess generation being delivered to the utility's distribution system. In essence, the customer's utility meter records the flow of electricity to and from the customer. The Commission approved its first net metering tariff in 1997. Order No. 26750 (approving Idaho Power's Schedule 84). The federal standard provides:

(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.

1. Utilities' Responses. The three utilities responded that they each have a net metering program in place that is available to all customers. The framework of each utility's net metering program is similar in that they: (1) offer net metering to customers using solar, wind, hydropower, biomass or fuel cells to generate energy; (2) limit the program to 0.10% of their retail peak generation; (3) limit residential customers to facilities no greater than 25 kW; and (4) restrict any one customer from generating more than 20% of such generation limit. Avista reported that it had four residential net metering customers in Idaho that produced 16,000 kW during 2005. The Company's net metering Schedule 63 was most recently approved August 1, 2006.

Rocky Mountain Power currently has one residential net metering customer but has several potential projects pending. The Company's net metering schedule is 135 and its net metering generation limit is 714 kW.

Idaho Power has 20 residential customers, 4 small business customers, and 2 large business customers engaged in net metering. The 24 smaller customers generated 397,255 kW in 2005. Idaho Power's net metering Schedule 84 is currently under review in Case No. IPC-E-06-17.

2. Workshop Comments. The utilities and the participants generally agreed that the utilities' net metering programs meet the federal net metering standard. One participant did express a concern that existing net metering customers may be detrimentally affected if they installed generating facilities based upon existing net metering rate structures, and the utility subsequently changes the program.

3. Second Round Comments. Staff commented that this standard has already been implemented by the Commission. Staff also noted that net metering customers with significant and excess generation could participate as PURPA "Qualifying Facilities" and would be entitled to published avoided cost rates. Staff Comments at 4-5.

John Weber recognized that all the utilities have net metering programs but he suggested that a state net metering law is needed to ensure uniformity. He stated that a state law "makes it easier for utilities, business, and people to plan for the future."

The Network for New Energy Choices (NNEC) also submitted general comments regarding net metering. NNEC did not specifically address any Idaho net metering programs but submitted a report rating 34 states (not including Idaho) with existing net metering programs.

NNEC asserted that New Jersey has an outstanding net metering program that is supported in part by a variety of rebates and tax reimbursements to reduce capital costs. NNEC Comments at 6. Among the program elements that made New Jersey's net metering program successful were: allowing renewable energy facilities up to 2 MW; allowing commercial customers to participate in net metering; calculating excess generation on an annual basis based upon established avoided cost rates; removing any limit on the total amount of electricity that can be generated in the program; and prohibiting unnecessary safety requirements to be imposed on the net metering customers. *Id.* at 9-14.

Commission Findings: We find that the federal net metering standard has already been adopted. Avista, Idaho Power, and Rocky Mountain all have net metering programs that comply with the federal standard. For the most part, net metering customers that produce excess energy receive credits or payments not at avoided cost rates but at their tariffed service rates.² This provides a greater incentive than net metering programs that use avoided cost rates.

B. Diversity of Fuel Sources

(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.

In the initial Notice the Commission asked whether diversifying generating fuel sources has already been implemented in Idaho. The utilities and the workshop participants agreed that this standard has already been implemented as a part of each utility's Integrated Resource Plan (IRP) process. Mr. Weber suggested that the utilities should add more renewables to their generating resources. The Staff also commented that the Commission has already implemented this federal standard as evident from each utility's IRP resource stack. Staff Comments at 5.

Commission Findings: We agree with the workshop participants that the diversity of fuel sources standard has already been adopted by this Commission. In January 1989, the Commission issued Order No. 22299 requiring Avista, Idaho Power, and Rocky Mountain (or their predecessors) to biennially prepare and file an Integrated Resource Plan (IRP). The

² If customer-generated energy exceeds the amount supplied by Avista, the "net billing credit" is applied to the following month. Any accumulated billing credits after 12 months are eliminated and the billing cycle starts again. Avista Schedule 63, § 5. *See also* Rocky Mountain Schedule 135 (residential customer credited at retail rate).

Commission required that each IRP describe the utility's expectation for load growth and provide an overview of available resource options, including "conservation resources, demand-side resources and other potentially low, life-cycle cost resources." Order No. 22299. We find that the IRP process minimized dependence on a single fuel source and demonstrates that our utilities employ a diverse array of generating resources.

C. Fossil Fuel Generation Efficiency

This standard promotes the efficiency of fossil fuel generating facilities. In particular, this standard provides:

(13) Fossil Fuel Generation Efficiency. Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

1. Utilities' Responses. Idaho's three electric utilities all have fossil fueled facilities. They asserted that fossil fuel efficiency is already a part of their 10-year IRPs. For example, Avista noted that examining fossil fuel efficiency is a part of the ongoing review process performed by the Colstrip owners committee. Idaho Power noted that since 1995 it has obtained 18 MW of generation efficiency upgrades at its thermal plants.

2. Workshop Comments. The workshop participants did not disagree with the utilities' assessment that generation efficiency is part of their respective IRPs. The Industrial Customers of Idaho Power did note that the Commission may want to require future IRPs to explicitly address this issue instead of being subsumed in the IRP process.

3. Staff Comments. Staff agrees with the utilities that generation efficiency is part of the IRP process. To make generation efficiency more transparent, Staff recommended that the Commission direct that future IRPs explicitly address this issue as part of each utility's IRP. Staff Comments at 6.

Commission Findings: As was the case with fuel source diversity, we find that this standard addressing fossil fuel efficiency is already a part of our IRP process. However, we do agree with the comments of the Industrial Customers that an analysis of fossil fuel efficiency should specifically be addressed in each IRP. Consequently, the Commission directs that each utility specifically include in its IRP a section that addresses increasing the efficiency of its fossil fuel generation. This will make the concept of fossil fuel efficiency more transparent in future IRPs.

D. "Smart Metering"

This standard requires that each utility make available to each customer class time-based rate schedules and, upon request, offer each customer a time-based rate schedule. More specifically, this standard states:

(14) Time-based metering and communications.

(A) Not later than 18 months after the date of enactment of this paragraph,³ each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's cost of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage electric use and cost through advanced metering and communications technology.

(B) The type of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others –

- (i) time-of-use pricing . . .
- (ii) critical peak pricing . . .
- (iii) real-time pricing . . . and,
- (iv) credits for consumers with large [load reductions].

The Commission's initial Notice observed that Avista began installing advanced meter reading (AMR) devices on all of its Idaho electric and gas meters in 2005. Avista is now in the third year of a four-year deployment of AMR meters for its Idaho customers. Rocky Mountain has offered its residential customers time-of-day service (Schedule 36) for many years. For its part, Idaho Power has implemented an AMR pilot program for more than 23,000 residential customers that provides two optional services: Time-variant pricing and air conditioner cycling programs.⁴ When authorizing these Smart Metering programs, the Commission stated that the implementation of the programs should be prudent and cost-

³ The participants agree that the implementation date for this standard is August 8, 2007. Order No. 30146 at note 3.

⁴ The A/C Cycling program uses radio-controlled technology to reduce residential A/C load during the summer peaking period.

effective. Order No. 30146 at 7. The Notice also observed that a recent FERC Staff Report indicated that Idaho ranked fifth (at 16.2%) in the percentage of customers with “advanced metering.” *Id.*⁵

1. Utilities’ Responses. All three utilities recommended the Commission not adopt this standard. Avista indicated that it would not finish installing all of its meters by August 2007 (the PURPA implementation date for this standard). Avista also insisted it did not have implementing tariffs, data storage, and necessary billing changes to support time-based rates. The Company estimated that the billing and data storage costs alone would be approximately \$22 million. Finally, Avista asserted it was not cost effective to offer time-based rates to all classes of customers, but that it might be effective for larger customers. Order No. 30146 at 8.

Rocky Mountain declared that it currently offers optional time-of-day service to all residential and distribution voltage customers. Although 31% of its residential customers and two general service customers are served under Rocky Mountain’s time-of-use tariff, the Company stated it was neither achievable nor reasonable to adopt the federal standard. Rocky Mountain supported the Commission’s statement that all Smart Metering programs should “be prudent and cost effective.” Rocky Mountain Comments at 7 *citing* Order No. 30108 at 7.

Idaho Power commented that it is deploying smart meters so that the costs of deployment are commensurate with the benefits. The Company reported that it has 123 industrial customers (Schedule 19) on time-of-use; 130 large business customers (Schedule 9) on time-of-use; and 117 irrigation customers on time-of-use (but not ARM equipped meters). In summary, all three utilities indicated that adoption of Smart Metering policies should be based upon a company-by-company analysis and implemented in situations where the cost and benefits are reasonable.

2. Staff Comments. Staff also recommended the Commission not adopt this federal standard at this time for several reasons. First, Staff agreed with the three utilities that they would be unable to implement across-the-board Smart Metering within the time period contemplated by the federal standard. Second, Staff argued that AMR technology has not fully developed or reached a state of trouble-free deployment. In particular, Staff pointed to the Commission’s recent review of Idaho Power’s ARM pilot where the Commission recognized that “ARM technology is relatively new and is evolving.” Order No. 30102 at 6. Idaho Power is

⁵ Slide 7 at <http://www.ferc.gov/whats-new/headlines/2006/2006-3/07-20-06-demand-response.pdf>

still attempting to resolve interface issues in its AMR pilot. Third, Staff expressed concern that Smart Metering programs ought to be cost effective and tailored to the circumstances of each utility. Staff Comments at 8-9.

Staff maintained that utilities should continue to take measured, pro-active steps to implement cost-effective AMR programs. Staff recommended that the Commission not adopt the federal standard, but instead, continue to work with utilities to establish AMR systems and rate structures on a schedule that benefits both the utilities and their customers. Consequently, Staff recommended that Avista and Rocky Mountain each address Smart Metering deployment in their next general rate cases. *Id.*

3. Other Public Comments. Mr. Weber urged the Commission to implement Smart Metering programs. He indicated that Smart Metering “will reduce demand during the peak hours because people seem to react to what hits their pocketbooks more than anything else. It also more closely reflects the true cost of power at any given time.”

4. Rocky Mountain Reply Comments. In its reply comments, Rocky Mountain agreed with the Staff’s comments that the Commission has already implemented the four federal standards except for Smart Metering. With regards to Smart Metering, Rocky Mountain did not object to Staff’s recommendation that “the status of [Rocky Mountain’s] time-of-use programs” and “plans to change or upgrades for advanced metering” should be addressed in the Company’s next general rate case. The Company did note that implementation of Smart Metering programs should be in conjunction with a proceeding to address the cost recovery of any advanced metering programs. Reply Comments at 2.

Commission Findings: After reviewing the comments, we find it is not appropriate to adopt this federal standard. While we concur with the intent of the standard, its ubiquitous scope and implementation timeline are unrealistic. In particular, the federal standard requires that a utility make available time-based rates to each and every customer no later than 18 months after the effective date of this standard. We find that requiring smart meters across the board for each utility has not been demonstrated to be cost effective.

Although we decline to adopt this federal standard, we find that the Commission embraces the spirit of the standard. In particular, we have implemented Smart Metering communication programs for all three utilities. For example, nearly a third of Rocky Mountain’s residential customers are subscribers of time-of-day service; Idaho Power has installed power

line carrier AMR meters for more than 25,000 customers; and Avista is installing AMR devices on all of its Idaho meters by 2009. In addition, Idaho Power also offers an Irrigation Peak Reduction program for its large irrigation customers (Schedule 23) and the A/C Cool Credit program for residential (Schedule 1) customers. The Commission remains committed to implementing smart meter programs that are cost effective and that offer benefits to both the utilities and their customers.

We do adopt Staff's recommendation that Avista and Rocky Mountain address the status of their smart meter programs in their next general rate cases. In particular, Avista shall address the status of its current AMR program, its cost recovery proposal, and its plans for implementing time-of-use rates, demand responses, or other appropriate rate structures. For its part, Rocky Mountain shall address the status of its time-of-day program, provide justifications for the existing rate differentials, and advise the Commission of any appropriate changes to its rate structures for its customers or classes of customers.

E. Interconnection

This last federal standard encourages state commissions to adopt "best practices" to promote the interconnection of distributed generation facilities. Distributed generation generally refers to a customer's on-site generating facility that may provide generation (i.e., interconnects) to the local distribution system as opposed to connecting to the utility's transmission system. This federal standard adopts interconnection standard No. 1547 published by the Institute of Electrical and Electronics Engineers (IEEE) and references other model codes adopted by state regulatory agencies, such as NARUC's "Model Interconnection Procedures and Agreement" (the "NARUC Model").

EPA Act Section 1254(a) states:

(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 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.

1. Utilities' Responses. The utilities indicated that they have already implemented this federal standard for the most part. Avista stated that its interconnection requirements are contained in its Schedule 70, Part 28 and on its website. The Company recently amended its Schedule 70 to include the adoption of IEEE Standard 1547 in Case No. AVU-E-06-4. Avista suggested the Commission might adopt the NARUC Model as a "guideline" recognizing that utilities may have particular concerns with certain elements of the Model Agreement. For example, Avista said that it may have difficulty providing notice of interruptions seven days in advance.

Rocky Mountain asserted it did not need to adopt IEEE Standard 1547 because the Company already uses the standard and further noted that it is not applicable to every situation. The Company's interconnection standards are set out in its net metering Schedule 135 and its Open Access Transmission Tariff (OATT) posted on its website. Rocky Mountain also recommended the Commission consider not adopting the NARUC Model because: Its timelines are too restrictive, it may inadvertently limit due diligence for each plant, and Idaho is only one of six states where PacifiCorp operates.

Idaho Power indicated that it is generally in compliance with the federal interconnection standard and has proposed to adopt the IEEE Standard 1547. Idaho Power's interconnection policies and practices are contained in its Schedules 72 and 84; in its Best Practices (website); and in its OATT. Rather than adopting standards for certain sized facilities, Idaho Power currently divides facilities into small, medium, and large interconnecting facilities. Idaho Power also noted that the IEEE standard is not applicable to all situations because it applies to facilities of 10 MVA or less. Turning to the NARUC Model, Idaho Power supported the model in principle but recognizes that "one size does not fit all." It filed a new Uniform Interconnection Agreement Schedule 72 (and Schedule 84 for QFs) in response to FERC's Standards of Conduct. In Order No. 30179 issued November 17, 2006, the Commission found that the new Interconnection Agreement was reasonable and adopted IEEE Standard 1547.

2. Staff Comments. Staff asserted that the utilities generally meet the spirit and intent of this standard by their inclusion of IEEE 1547. Staff recommended that the Commission

find that it has already implemented this recommendation. Staff further suggested that the NARUC Model be used as a “guideline” for interconnection agreements thereby maintaining flexibility in schedule and technical application for the utilities to work with special or unique projects and conditions. Staff Comments at 11-12.

3. Rocky Mountain Reply Comments. In its reply comments, Rocky Mountain questioned the Staff’s recommendation to use the NARUC Model as a guideline for interconnection. While PacifiCorp agrees that the NARUC Model can serve as a tool or reference, the Company urged that the NARUC Model should not be applied as a rule to the Company’s interconnection agreements. Reply Comments at 3.

Commission Findings: We concur with the parties’ comments that the Commission has already implemented this federal standard. The three utilities all have interconnection services and have adopted the IEEE standard 1547 (in those cases where the standard is applicable). More specifically, the Commission has recently approved new interconnection schedules for Avista and Idaho Power. Order Nos. 30111 and 30179, respectively.

In our Notices, we also asked for comment regarding whether the Commission should specifically adopt the NARUC Model. Order No. 30146 at 10. After reviewing the comments, we agree with Staff, Idaho Power and Rocky Mountain that the NARUC Model be used as a “guideline” for interconnection agreements rather than mandated as a rule. As such, we recognize that the NARUC Model can serve as a tool or reference but is not specifically applicable to all interconnection situations.

ORDER

IT IS HEREBY ORDERED that the Commission has previously adopted the net metering, diversity of fuel sources, fossil fuel generation efficiency, and interconnection standards contained in Section 111 of PURPA as amended by the Energy Policy Act of 2005. At this time the Commission declines to adopt the “Smart Metering” standard but will continue to implement cost-effective smart metering programs for each utility on a case-by-case basis.

IT IS FURTHER ORDERED that Avista Utilities, Idaho Power Company and PacifiCorp dba Rocky Mountain Power include fossil fuel generation efficiency as part of their future Integrated Resource Plans.

IT IS FURTHER ORDERED that Avista and Rocky Mountain address the status of their smart metering deployments and programs as set out in the body of this Order in their next general rate cases.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. GNR-E-06-02 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th day of January 2007.



PAUL KJELLANDER, PRESIDENT

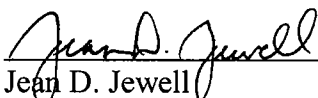


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/GNR-E-06-02_dh3