

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S)	
CONSIDERATION OF FOUR)	CASE NO. GNR-E-08-04
AMENDMENTS TO SECTION 111 OF THE)	
PUBLIC UTILITY REGULATORY)	
POLICIES ACT OF 1978 (PURPA))	
CONTAINED IN THE ENERGY)	ORDER NO. 30966
INDEPENDENCE AND SECURITY ACT OF)	
2007)	

On December 19, 2007, the President signed into law the Energy Independence and Security Act of 2007 (EISA, the Act). EISA amends the Public Utility Regulatory Policies Act of 1978 (PURPA) by adding four new federal standards that address: (1) integrated resource planning (IRP); (2) rate design modifications to promote energy efficiency investments; (3) consideration of smart grid investments; and (4) smart grid information. 16 U.S.C. § 2621(16), (16), (17), and (17).¹ EISA also adds a new section (374) to the Energy Policy Conservation Act (EPCA) establishing a standard for the disposition of excess power from waste energy recovery projects.

The EISA generally requires the Commission to review the new federal standards and decide whether to adopt the standards by December 19, 2009. EISA § 1307(b)(1). Pursuant to the mandates prescribed within the Act, the Commission initiated this proceeding to consider the four new PURPA standards.² The new section of the EPCA added by the EISA will be addressed in separate proceedings.

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 electric utility facilities and resources; and (3) equitable rates for electric consumers. PURPA § 101, 16 U.S.C. § 2611. The 1978 regulatory standards included: (1) cost of service; (2) declining block rates;

¹ A technical error occurred in the drafting of the Act that caused the creation of two subsection 16's and two subsection 17's.

² The EISA provision amending the Energy Policy and Conservation Act regarding waste energy recovery does not require an implementation proceeding by a specified date. On the contrary, the new EPCA provision requires that the state hold a separate proceeding for each request made by a project owner or sponsor. EPCA § 374(a)(1).

(3) time-of-day rates; (4) seasonal rates; (5) interruptible rates; and (6) load management techniques. 16 U.S.C. § 2621(1) through 2621(6). The Energy Policy Act of 1992 added four more standards. 16 U.S.C. § 2621(7) through 2621(10). Finally, the Electricity Modernization Act of 2005 added five more federal ratemaking standards for electric utilities. 16 U.S.C. § 2621(11) through 2621(15). In response to PURPA, the 1992 Energy Policy Act, and the Electricity Modernization Act of 2005, this Commission initiated proceedings to review the federal standards. Order Nos. 17586, 16611, 24729, 30108.

The Commission invited our three applicable utilities,³ interested stakeholders, and the public to participate in this review process. Wal-Mart was the only party to request placement on the Commission's service list. After the utilities filed an initial response to our inquiry, the Commission convened a public workshop wherein all interested parties were invited to participate. Additional comments followed the workshop.

A. The Commission's Responsibilities

Although the Act requires the Commission to undertake a review of the 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 any determination that it is not appropriate to implement any such standard. . . ." 16 U.S.C. § 2621(a) (emphasis added). The Act also recognizes that a State regulatory commission may have already 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 (or 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).

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

³ The three regulated utilities are Avista Utilities, Idaho Power Company and PacifiCorp dba Rocky Mountain Power. 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).

B. Procedural History

In its Notice of Inquiry issued December 16, 2008, the Commission directed the three largest electric utilities (Avista, Idaho Power and Rocky Mountain Power (RMP)) to address what steps, if any, they had considered and/or implemented regarding each new standard. The Commission's questions are contained in prior Order No. 30705. Besides inviting public participation, the Notice required that the utilities serve their comments on a service list of interested persons.

1. The Public Workshop. A Notice of Public Workshop was issued by the Commission on April 9, 2009. The workshop was convened on May 6, 2009, at the Commission's office. 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) should adopt the federal standards or comparable standards; (2) had already adopted the standards; or (3) should not implement the federal standards.

The following parties attended and participated in the public workshop: Avista, Idaho Power, Rocky Mountain Power, and the Commission Staff. The participants reviewed each of the four federal standards and the utilities' responses to the questions. As set out in greater detail below, the participants generally reached consensus that the Commission had already implemented the same or comparable standards to those set out in the EISA.

2. Further Comments. Along with the Notice of Public Workshop, the Commission invited any person to file a written comment regarding the federal standards no later than May 20, 2009. No public comments were filed with the Commission.

THE NEW PURPA STANDARDS AND THE COMMENTS

The Commission noted in its initial Notice that many of the concepts embodied in the four new federal standards are not new to this Commission. Order No. 30705 at 3. The Commission, the three electric regulated utilities and other interested parties have previously addressed the issues encompassed in the new standards. Indeed, the utilities and the workshop participants agree that the Commission has already essentially adopted the four new PURPA standards. The federal standards and comments for each standard are discussed below.

A. Integrated Resource Planning

- (16) INTEGRATED RESOURCE PLANNING.—Each electric utility shall—
- (A) Integrate energy efficiency resources into utility, State, and regional plans; and
 - (B) Adopt policies establishing cost-effective energy efficiency as a priority resource.

Utilities' Responses. All three utilities noted that the Commission has already adopted comparable standards. Avista asserted that its resource acquisition policies “fundamentally pursue all cost-effective electric and natural gas efficiency resources that can be realistically achieved or facilitated by utility intervention.” Avista Comments at 1. Idaho Power acknowledged that it has implemented energy efficiency and demand-side measures in every Integrated Resource Plan since the Commission’s directives in the late 1980s. IPC Comments at 2. Rocky Mountain Power stated that it has been conducting integrated resource planning for nearly two decades guided, in part, by the Resource Management Requirements stated by the Commission. RMP Comments at 1.

Commission Findings: On January 9, 1987, the Commission initiated a case to determine the direction, future, and scope of electric utility conservation and weatherization programs in Idaho. Order No. 22299. The Commission determined that “electric utilities under its jurisdiction, when formulating resource plans, should give consideration to appropriate conservation and demand management measures equivalent to the consideration given generating resources.” *Id.* at 8. Since that time, electric utilities in Idaho have filed integrated resource plans with the Commission every two years. *See also* 2007 Idaho Energy Plan § 4.3.1, E-1. Ongoing review of utilities’ resource planning assures that reasonable, balanced consideration is being given to conservation and energy efficiency measures and resources.⁴ Therefore, we find that the integrated resource planning standard has already been adopted by this Commission.

B. Rate Design Modifications to Promote Energy Efficiency Investments

- (17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—
- (A) IN GENERAL.—The rates allowed to be charged by any electric utility shall—

⁴ In 2009 our Legislature enacted Idaho Code § 61-541 which, among other things, allows “non-traditional ratemaking treatment” for certain generation or transmission facilities. Before a facility is eligible for such ratemaking treatment, the utility must have “a commission accepted integrated resource plan.”

- (i) align utility incentives with the delivery of cost-effective energy efficiency; and
 - (ii) promote energy efficiency investments.
- (B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—
- (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;
 - (ii) providing utility incentives for the successful management of energy efficiency programs;
 - (iii) including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;
 - (iv) adopting rate designs that encourage energy efficiency for each customer class;
 - (v) allowing timely recovery of energy efficiency related costs; and
 - (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

Utilities' Responses. The three utilities noted that they each have separate and distinct programs that they believe meet the federal standards for rate design modifications that promote energy efficiency. Avista utilizes a two-block inverted residential electric rate structure in Idaho to encourage energy efficiency and provide a pricing signal regarding the higher cost of new generating resources. Although Avista does not have inverted rate structures for its other customer classes, it has been increasing the demand charges for commercial and industrial customers in an effort to improve load factors and reduce peak demand. Avista Comments at 2. The Company is also considering a time-of-use rate structure for its largest industrial and institutional customers. *Id.* Avista recently increased customer incentives and implemented a comprehensive customer outreach effort to support new and existing programs. *Id.* at 3.

Idaho Power maintains that it is committed to providing customers cost-based price signals which encourage the efficient use of energy. Idaho Power Comments at 4. In the Company's last several general rate cases the Commission approved seasonal rates for all metered service schedules, tiered summer rates for residential and small business customers, and two-tiered blocked rates for large general service customers taking secondary service. In its

most recent general rate case (IPC-E-08-10) the cost-based rate proposals were designed to encourage increased energy efficiency among the Company's residential, large general service, and irrigation customer groups. *Id.* Idaho Power asserts that it manages an active customer education program through which it promotes the financial and environmental benefits associated with making home energy efficiency improvements. *Id.* at 5.

Rocky Mountain Power offers seasonal rates to residential, general service, and large general service customers in Idaho. Rocky Mountain Power Comments at 3. RMP also offers (among other programs) optional time of use rates to residential and general service customers. The Company maintains that these rates give customers clear signals about the cost of energy which promotes energy efficiency and allows customers to mitigate the cost of their energy bills. *Id.* RMP has also committed to filing a tiered rate design proposal as part of its next general rate case.

Commission Findings: This Commission has or is presently considering energy efficiency programs such as fixed-cost adjustments, tiered rates, time of use rates, seasonal rates, and decoupling. In addition, the Commission has approved tariff riders for Avista, Idaho Power and Rocky Mountain Power to offset the costs of offering energy efficiency and demand response programs on a sustained basis. All three electric utilities offer varied rebates and low cost/no cost suggestions for greater energy efficiency. Therefore, we find that this Commission has already adopted comparable standards for rate design modifications to promote energy efficiency investments by the utilities.

C. Consideration of Smart Grid Investments

(16) CONSIDERATION OF SMART GRID INVESTMENTS.—

(A) IN GENERAL.—Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

- (i) total costs;
- (ii) cost-effectiveness;
- (iii) improved reliability;
- (iv) security;
- (v) system performance; and
- (vi) societal benefit.

(B) RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to

the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

- (C) OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

Utilities' Responses. Avista and Idaho Power are presently deploying advanced metering technology throughout their Idaho service territories. Rocky Mountain Power maintains that it has investigated and considered the merits of smart grid technology, but ultimately determined that smart grid programs and projects are still in the developmental stages and were not currently in the best interests of the Company or its customers. RMP Comments at 4. However, RMP acknowledged that it would continue to evaluate the viability of smart grid technology as it continues to develop. *Id.*

Commission Findings: Avista began deployment of advanced meter reading in 2005. In February 2009, the Commission issued Idaho Power a Certificate of Public Convenience and Necessity to install Advanced Metering Infrastructure (AMI) technology. With regard to Idaho Power, this Commission specifically found that “the deployment of AMI technology will also offer substantial future benefits by providing an essential platform for remote connect-disconnect capabilities, time-of-use pricing and other ‘smart grid’ operations.” Order No. 30726 at 8. Moreover, the Commission authorized Idaho Power to depreciate its existing meter reading equipment over an accelerated three-year period. *Id.* While Rocky Mountain Power has declined to make smart grid investments presently, it has committed to monitoring the development of smart grid technologies. Based on the foregoing, we find that this Commission has already adopted and implemented the consideration of smart grid investment standards.

D. Smart Grid Information

- (17) SMART GRID INFORMATION.—

(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

- (B) INFORMATION.—Information provided under this section, to the extent practicable, shall include:
- (i) PRICES.—Purchasers and other interested persons shall be provided with information on—
 - (I) time-based electricity prices in the wholesale electricity market; and
 - (II) time-based electricity retail prices or rates that are available to the purchasers.
 - (ii) USAGE.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.
 - (iii) INTERVALS AND PROJECTIONS.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.
 - (iv) SOURCES.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost effective basis.
- (C) ACCESS.—Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

Utilities' Responses. Avista states that while it does not have any specific plans to implement systems that could provide interval data to its customers, it continues to monitor these types of rate structures and the impact of providing customers access to their interval data. Further, the advanced meter reading technology that Avista is currently deploying has the capabilities to provide interval data addressed by this new PURPA standard. Avista Comments at 3. Idaho Power's AMI technology will also have the ability to measure the usage information specified in this standard. Idaho Power Comments at 6. Residential and commercial customers who currently have AMI installed have the ability to access their hourly and daily usage information through the Company's web site. *Id.* at 7. Rocky Mountain Power asserts that while it does not utilize smart grid technology, its customers receive usage information in monthly billing statements. In addition, usage information is available to customers electronically through the Company's web site.

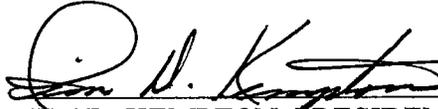
Commission Findings: Smart grid technology is developing at a rapid pace. Idaho's electric utilities and this Commission are committed to investigating and implementing smart grid programs that are cost-effective and that offer benefits to both the utility and its customers. While smart grid technology will allow for greater flexibility in the type of information available, the utilities already provide price, usage, and energy source data to their customers. 2007 Idaho Energy Plan § E-18. Consequently, we find that this Commission has adopted comparable standards for providing information to the utilities' customers as the federal smart grid information standard.

ORDER

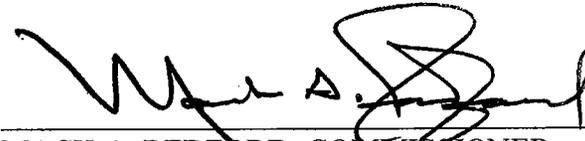
IT IS HEREBY DECLARED that the Commission has previously adopted the same or comparable standards contained in 16 U.S.C. § 2621(16), (16), (17), and (17) of PURPA as amended by the Energy Independence and Security Act of 2007. Accordingly, this case is hereby closed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. 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 18th
day of December 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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