

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 5, 2007

IN RE:

**APPROPRIATENESS OF IMPLEMENTATION OF PURPA
STANDARD 11 (NET METERING), STANDARD 12 (FUEL
SOURCES), STANDARD 13 (FOSSIL FUEL GENERATION
EFFICIENCY), STANDARD 14 (TIME BASED METERING
AND COMMUNICATION) AND STANDARD 15
(INTERCONNECTION) FOR ENTERGY ARKANSAS, INC.**

**DOCKET NO.
06-00182**

**ORDER REGARDING PURPA STANDARDS IMPLEMENTED
BY ENTERGY ARKANSAS, INC.**

This matter came before Chairman Sara Kyle, Director Eddie Roberson, and Director Ron Jones of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on July 24, 2006 for consideration and determination of the appropriateness of the implementation of certain federal standards for electric utilities set forth in the Public Utility Regulatory Policies Act of 1978 (“PURPA”), as amended by the Energy Policy Act of 2005, for Entergy Arkansas, Inc. (“Entergy”).

BACKGROUND

PURPA was enacted in 1978 to “encourage (1) conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers.”¹ PURPA originally contained six (6) federal standards for electric utilities; four (4) additional standards were added by the Energy Policy Act of 1992. The PURPA requirements apply to electric utilities with total annual retail sales greater than 500 million kilowatt hours using a baseline year of two (2) years before when the standards are being considered.²

¹ 16 U.S.C. § 2611.

² 16 U.S.C. § 2612(a).

PURPA requires a “state regulatory authority (with respect to each electric utility for which it has ratemaking authority)” to “consider each standard” and “make a determination concerning whether or not it is appropriate to implement such standard.”³ If a state regulatory authority declines to implement a standard, the agency must state in writing the reason for the decision and make that statement available to the public.⁴

The procedures for consideration and determination of the appropriateness of the implementation of the standards are established by the state regulatory authority.⁵ The consideration of the standards must be made after public notice and a hearing.⁶ The determination of appropriateness of implementation of the standards must be made in writing; based upon findings and upon the evidence presented at the hearing; and available to the public.⁷

The Energy Policy Act of 2005 amended PURPA by adding five additional standards for which a state regulatory authority must consider and determine the appropriateness of implementation with respect to each electric utility for which the agency has ratemaking authority.⁸ These additional standards are codified at 16 U.S.C. §§ 2621(d)(11) through (15).

At a regularly scheduled Authority Conference held on January 10, 2006, the Directors requested that Authority Staff monitor the proceedings before the Arkansas Public Service Commission (“APSC”) relating to Entergy and compliance with the additional requirements in PURPA. While Entergy’s primary service area lies outside of Tennessee, Entergy serves approximately seventy customers in Tennessee. Entergy’s rates, therefore, fall under the jurisdiction of the TRA as well as the APSC.

JULY 24, 2006 AUTHORITY CONFERENCE

Pursuant to 16 U.S.C. § 2621(b)(1), public notice of a Hearing in this matter was issued by the Authority’s General Counsel on July 12, 2006. At the Hearing held during the July 24, 2006 Authority

³ 16 U.S.C. § 2621(a).

⁴ 16 U.S.C. § 2621(c)(2).

⁵ 16 U.S.C. § 2621(b)(2).

⁶ 16 U.S.C. § 2621(b)(1).

⁷ *Id.*


⁸ The effective date of the Energy Act of 2005 is August 8, 2005.

Conference the panel assigned to this matter voted unanimously that Entergy, through its tariffs on file with the TRA and the APSC, had implemented the Net Metering, Time-based Metering and Communications, and Interconnection standards, required by PURPA and that further review by the TRA was not required. A majority panel found that, because Entergy does not own or operate generation in Tennessee, nor does Entergy have a unit specific contract for generation located in Tennessee, implementation of the Fuel Sources and Fossil Fuel Generation Efficiency Standards was inappropriate.

IT IS THEREFORE ORDERED THAT:

1. For the reasons stated herein, the TRA declines to adopt Standards 12 and 13, codified at 16 U.S.C. §§ 2621 (d)(12) through (13), for Entergy Arkansas, Inc.
2. Entergy Arkansas, Inc. implemented Standards 11, 14, and 15, codified at 16 U.S.C. §§ 2621 (d)(11), (14), (15), prior to August 8, 2005 and further consideration of those standards by the TRA is not required.


Sara Kyle, Chairman


Eddie Roberson, Director


Ron Jones, Director

⁹ Director Jones did not vote with the majority with regard to Standards 12 and 13. He stated that he fully supports initiatives that promote fossil fuel efficiencies and initiatives that aid in curtailing energy shortages or energy price spikes that can result from minimally diversified energy portfolios. Director Jones opined that Standards 12 and 13 do not contain language limiting the application of the standards to particular generation facilities within a state. Instead, the Standards generally require a company to develop plans for diversified fuel usage and increased fossil fuel efficiency. Based on this opinion, Director Jones favored the Authority continuing to monitor the Arkansas proceedings and making a determination within the statutory time periods as to whether to implement the standards.