

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**January 5, 2007**

<b>IN RE:</b>	)	
	)	
<b>APPROPRIATENESS OF IMPLEMENTATION</b>	)	
<b>OF PURPA STANDARD 11 (NET METERING),</b>	)	<b>DOCKET NO.</b>
<b>STANDARD 12 (FUEL SOURCES), STANDARD</b>	)	<b>06-00183</b>
<b>13 (FOSSIL FUEL GENERATION EFFICIENCY),</b>	)	
<b>STANDARD 14 (TIME BASED METERING</b>	)	
<b>AND COMMUNICATION) AND STANDARD 15</b>	)	
<b>(INTERCONNECTION) FOR KENTUCKY</b>	)	
<b>UTILITIES COMPANY</b>	)	

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**ORDER REGARDING PURPA STANDARDS IMPLEMENTED  
BY KENTUCKY UTILITIES COMPANY**

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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 August 23, 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 Kentucky Utilities Company (“KU”).

**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.”<sup>1</sup> PURPA originally

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<sup>1</sup> 16 U.S.C. § 2611.

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.<sup>2</sup> 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.”<sup>3</sup> 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.<sup>4</sup>

The procedures for consideration and determination of the appropriateness of the implementation of the standards are established by the state regulatory authority.<sup>5</sup> The consideration of the standards must be made after public notice and a hearing.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> These additional standards are codified at 16 U.S.C. §§ 2621(d)(11) through (15).

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<sup>2</sup> 16 U.S.C. § 2612(a).

<sup>3</sup> 16 U.S.C. § 2621(a).

<sup>4</sup> 16 U.S.C. § 2621(c)(2).

<sup>5</sup> 16 U.S.C. § 2621(b)(2).

<sup>6</sup> 16 U.S.C. § 2621(b)(1).

<sup>7</sup> *Id.*

<sup>8</sup> The effective date of the Energy Act of 2005 is August 8, 2005.

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

**AUGUST 23, 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 August 11, 2006. At the Hearing held during the August 23, 2006 Authority Conference, the panel assigned to this matter voted unanimously that KU, through its tariffs on file with the TRA and the KPSC, 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 of the panel found that, because KU does not own or operate a generation source in Tennessee, nor does KU 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. PURPA standards for Net Metering, Time Based Metering and Communications, and Interconnection, codified at 16 U.S.C. §§ 2621 (d)(11), (14) and (15), have been implemented by Kentucky Utilities Company and further consideration of the standards is not necessary pursuant to 16 U.S.C. §§ 2622(d) through (f).

2. Implementation of the Fuel Sources and Fossil Fuel Generation Efficiency Standards, codified at 16 U.S.C. §§ 2621 (d)(12) and (13), for Kentucky Utilities Company is inappropriate.



Sara Kyle, Chairman



Eddie Roberson, Director



Ron Jones, Director

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<sup>9</sup> Consistent with his decision in Docket No. 06-00182, Director Jones did not vote with the majority with regard to Standards 12 and 13. In Docket No. 06-00182, 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 and that the standards generally require a company to develop plans for diversified fuel usage and increased fossil fuel efficiency. Based on this opinion, Director Jones concludes that the Authority should continue to monitor the Kentucky Public Service Commission proceedings and make a determination within the statutory time periods as to whether to require the adoption of the fuel sources and fossil fuel generation efficiency plans.