

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 15, 2009

IN RE:)	
)	
APPROPRIATENESS OF IMPLEMENTATION OF)	DOCKET NO.
PURPA STANDARD 16 (INTEGRATED)	09-00062
RESOURCE PLANNING) AND STANDARD 17)	
(RATE DESIGN MODIFICATION) FOR)	
KINGSPORT POWER COMPANY D/B/A AEP)	
APPALACHIAN POWER)	

ORDER OPENING DOCKET AND APPOINTING HEARING OFFICER

This matter came before Chairman Eddie Roberson, Director Sara Kyle, and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), under section one business, at a regularly scheduled Authority Conference held on May 18, 2009 for consideration of opening a docket to determine 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 Independence and Security Act of 2007 (“2007 Energy Act”), for Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport Power”).¹

¹ The TRA also regulates two other electric companies: Entergy Arkansas, Inc. (“Entergy”) and Kentucky Utilities, Inc. (“KU”). The primary service areas of Entergy and KU lie outside of Tennessee. This docket does not apply to Entergy and KU because their retail sales in Tennessee do not exceed the threshold amount set out in 16 U.S.C. § 2612(a).

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.”² PURPA originally contained six federal standards for electric utilities; four additional standards were added by the Energy Policy Act of 1992. The Energy Policy Act of 2005 added five more standards. The PURPA requirements apply to electric utilities with total annual retail sales greater than 500 million kilowatt hours using a baseline year of two years before when the standards are being considered.³ 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.”⁴ 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.⁵

The procedures for consideration and determination of the appropriateness of the implementation of the standards are established by the state regulatory authority.⁶ The consideration of the standards must be made after public notice and a hearing.⁷ 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 made available to the public.⁸

² 16 U.S.C. § 2611.

³ 16 U.S.C. § 2612(a).

⁴ 16 U.S.C. § 2621(a).

⁵ 16 U.S.C. § 2621(c)(2).

⁶ 16 U.S.C. § 2621(b)(2).

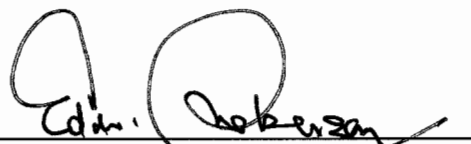
⁷ 16 U.S.C. § 2621(b)(1).

⁸ *Id.*

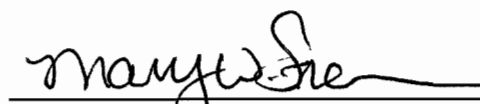
The 2007 Energy Act amended PURPA by adding two additional standards that a state regulatory authority must consider and determine the appropriateness of their implementation with respect to each electric utility for which the agency has ratemaking authority.⁹ These additional standards are codified at 16 U.S.C. § 2621(d)(16) through (17). In addition to the requirements of the 2007 Energy Act, the recently passed American Recovery and Reinvestment Act of 2009 (“Stimulus Act”) requires that state regulatory authorities seek to implement policies similar to those described in the 2007 Energy Act in order to receive stimulus funds.¹⁰

At a regularly scheduled Authority Conference held on May 18, 2009, in order to comply with the 2007 Energy Act and ensure that the State of Tennessee is eligible to receive stimulus funds, the panel voted unanimously to open a docket for the purpose of considering and determining the appropriateness of implementation of the standards contained in 16 U.S.C. § 2621(d)(16) through (17) as they relate to Kingsport Power. The panel further voted to appoint the Authority’s General Counsel or his designee for the purpose of hearing preliminary matters and preparing the matter for a hearing before the panel.

IT IS SO ORDERED.


Eddie Roberson, Chairman


Sara Kyle, Director


Mary W. Freeman, Director

⁹ The effective date of the 2007 Energy Act was December 19, 2007.

¹⁰ Stimulus Act, Title IV Sec. 410 (a)(1): The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.