

ITEM NO. CA9

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 9, 2008**

REGULAR CONSENT EFFECTIVE DATE _____ N/A

DATE: November 21, 2008

TO: Public Utility Commission

FROM: George Compton and Bonnie Tatom

THROUGH: Lee Sparling, Ed Busch, Marc Hellman and Steve Storm

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: Request to open an investigation to consider whether to adopt new federal standards contained in the Energy Independence and Security Act of 2007.

STAFF RECOMMENDATION:

We recommend the Commission open an investigation to commence consideration of the new federal standards related to integrated resource planning, rate design policies, smart grid investment and incentives related to industrial waste energy.

DISCUSSION:

The Energy Independence and Security Act of 2007 (EISA 2007) requires each state commission to consider whether to adopt four new federal standards added to PURPA Section 111(d). These standards are shown on Attachment A.

In addition, EISA 2007 added a stand-alone “standard” that is not an amendment to PURPA. This standard, “Additional Incentives for Recovery, Use, and Prevention of Industrial Waste Energy” is not reproduced here, but has specific options and implementation procedures that are similar to the PURPA procedures, but not identical. Unlike Title I of PURPA, where the standards apply to utilities with total annual retail sales greater than 500,000 MWh, no minimum size has been specified. This means the standard must be considered by state commissions for all their jurisdictional utilities.

Finally, EISA 2007 requires each state commission to consider whether to adopt two new federal standards added to PURPA Section 303(b). These standards are shown on Attachment B.

The Commission is not obligated to adopt these seven standards. The Commission may decline to implement any or all of these standards or adopt different or modified standards from those included in the Act. EISA 2007 only mandates that the Commission consider whether to adopt the standards and prescribes certain procedural requirements for that consideration. Those procedural requirements are that the Commission's determination on whether to adopt a standard comes after public notice and a hearing and that the Commission's determination is to be made, "(A) in writing, (B) based upon findings included in such determination and upon the evidence presented at the hearing, and (C) available to the public." (PURPA section 111(b)(1).)

The requirement that the determination come after public notice and a "hearing" does not mean that the Commission has to hold a contested-case hearing on this matter. Instead, the investigation can be conducted by allowing interested persons opportunity to provide written comments followed by an opportunity for oral presentations to the Commission. (Kenneth Rose and Mike Murphy, *Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Independence and Security Act of 2007*, August 11, 2008 at page 3.)

In choosing whether to adopt these standards, the Commission should consider whether implementing the standards is necessary to further the purposes underlying the first PURPA standards, which are: (1) conservation of energy supplied by electric utilities; (2) optimal efficiency of electric utility facilities and resources; and (3) equitable rates for electric consumers. The *Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Independence and Security Act of 2007* referred to other considerations the Commission could weigh in making its determination for the standards.

Under EISA 2007, the Commission has until December 19, 2008, to commence consideration of these standards. The Commission has until December 19, 2009, to issue its determination, although the law is unclear in the timing of several of the standards. Several of the standards may not have any specific time limitations and it is generally understood that if the standards are not considered and a determination made by December 2009, states would have to complete their determinations in the first rate case proceeding three years after enactment, or December 19, 2010. Staff expects that once a docket is opened, the administrative law judge will adopt a procedural schedule and that the procedural schedule may just contemplate a "paper proceeding." Staff

expects to conduct at least one workshop with interested stakeholders to assess what actions the Commission might take with regard to its determination. For example, it may be that the standard relating to integrated resource planning, although not eligible for a prior state action waiver under the statute, will be largely uncomplicated because Oregon has already implemented similar requirements which can be considered in making a decision on whether or not to adopt the new federal standard. No matter the process, Staff expects to make recommendations for the Commission's determination in advance of the December 19, 2010, deadline to comply with the statute's requirements.

PROPOSED COMMISSION MOTION:

An investigation to commence consideration of the new federal standards contained in the Energy Independence and Security Act of 2007 be opened.

Attachment A

1. 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.*

2. Rate Design Modifications to Promote Energy Efficiency Investments

(A) IN GENERAL. – the rates allowed to be charged by any electric utility shall—

- 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.*

3. Consideration of Smart Grid Investments [truncated version]

(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.*

4. Smart Grid Information [truncated version]

(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 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.*

Attachment B

1. Integrated Resource Planning

Each natural gas utility shall

- (A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and*
- (B) adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility.*

2. Rate Design Modifications to Promote Energy Efficiency Investments

- (A) IN GENERAL. – the rates allowed to be charged by a natural gas utility shall align utility incentives with the delivery of cost-effective energy efficiency.*
- (B) POLICY OPTIONS. – In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—*
 - i. Separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;*
 - ii. providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;*
 - iii. promoting 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; and*
 - iv. adopting rate designs that encourage energy efficiency for each customer class.*