



**STATE OF ALABAMA**  
ALABAMA PUBLIC SERVICE COMMISSION  
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WALTER L. THOMAS, JR.

SECRETARY

**CONSIDERATION OF SECTIONS 1251 AND  
1254 OF THE ENERGY POLICY ACT OF 2005**

**DOCKET 30066**

**ORDER**

**BY THE COMMISSION:**

**BACKGROUND**

By Order dated September 15, 2006, this docket was established to consider the standards set forth in Section 1251 of the Energy Policy Act of 2005 ("EPACT 2005"). By Order of the same date in docket 30068, a similar proceeding was established to consider the standard set forth in §1254 of EPACT 2005. By further Order in docket 30068 dated July 16, 2007, the consideration of §1254 was transferred to this docket for consideration in conjunction with §1251. By Order in this docket dated October 11, 2007, public comments were solicited on the adoption of these standards. By further Order dated March 19, 2008, a workshop was scheduled in this matter.

**WORKSHOP**

Pursuant to the Commission's March 19, 2008, Order in this cause, a workshop was held in the Carl L. Evans Chief Administrative Law Judge Hearing Complex at the Commission's offices on April 14, 2008. The Commission ordered the workshop in order to clarify the technical, financial and other implications of the adoption of standards set forth in PURPA §111(d) (11) (section 1251 of the Energy Policy Act of 2005) and PURPA §111(d) (15) (section 1254 of the Energy Policy Act of 2005) as well as the possible impact of then pending state legislation on the adoption of these standards. Participants in the workshop included representatives of Alabama Power Company ("Alabama Power"); Daryl Berquist of Energize

Alabama and Earth Steward Solar Consulting; Dr. Ed Passerini, University of Alabama Professor Eminentus, Mark Friedline of Gulf Coast Solar, Inc.; Russell "Rusty" Hyde of Hyde Engineering; and Craig Warren, a homeowner with solar PV panels installed in his home. Representatives of the Attorney General were in attendance, but did not make presentations.

**EPACT 2005 §1251-PURPA §111(d)(12)-Net Metering**

The first standard considered at the workshop was PURPA §111(d)(11) as set forth in EPACT 2005 §1251. This standard requires each electric utility to make available upon request net metering service to any electric consumer that the electric utility serves. The statute defines "net metering service" as service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and distributed to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

Alabama Power was opposed to the adoption of the net metering standard. They stated that net metering provided a subsidy to the generator that would be paid by other customers. Alabama Power was in favor of payments based on avoided cost for customer owned generation, stating that this method minimized subsidies. Alabama Power noted that the energy provided by customer owned generation does not include transmission, distribution, and customer service; all of which have a real cost to provide and are included in the retail price for electricity.

The other participants were generally in favor of net metering, citing the ease of administration and the incentive net metering would provide to customers to invest in self-generation technologies. The proponents also noted that customer owned solar generation in particular provided benefits that were not recognized in an avoided cost payment scheme, such as peak load shaving and providing power to the grid when demand and cost were the highest. A discussion amongst the participants of then pending legislation produced a general consensus understanding that, if said legislation passed in its current form, the Commission would not have the authority to require net metering of customer owned generation.

**EPACT 2005 §1254-PURPA §111(d)(15)-Interconnection**

The final standard considered at the workshop was PURPA §111(d)(15) as set forth in EPACT 2005 §1254. This standard requires each electric utility to make available upon request, interconnection service to any electric consumer that the electric utility serves. For the purpose of this provision, the term “interconnection service” means service to any electric consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for interconnecting distributed resources with electric power systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services that are offered shall promote current best practices of interconnection for distributed generation, including but not limited to, practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

Alabama Power stated that the provisions of Rate PAE are generally consistent with the standard and that the insurance requirement in Rate PAE was a reasonable measure to protect their system and other customers. The other participants noted that the high cost associated with the type of insurance required by Rate PAE, combined with its frequent unavailability, were deterrents to customers utilizing Rate PAE.

**STAFF RECOMMENDATION-NET METERING**

Upon review of the comments filed in this matter and the information presented during the workshop, the Staff’s findings regarding the adoption of the Net Metering standard were mixed. The Staff agreed with Alabama Power that net metering tended to provide a subsidy to the generator that would be paid by other customers. The Staff also agreed with proponents of Net Metering that it could provide benefits not recognized in an avoided cost scheme, such as peak load shaving and providing power to the grid when demand and cost were the highest. As

many of the benefits cited by proponents were generally limited to power produced by solar photovoltaic ("Solar PV") systems, Staff concluded that while Net Metering is a useful and important policy tool (particularly with regard to Solar PV systems), its across-the-board adoption for all forms of customer owned generation would not be appropriate.

After reviewing Act 2008-275, the Alternative and Renewable Energy Act of 2008, passed by the Alabama Legislature and signed into law by the Governor on May 8, 2008, Staff determined that the Net Metering standard as set forth in PURPA §111(d)(11) was precluded by Section 3 of Act 2008-275, which, by enacting a new §37-4-140 of the *Code of Alabama*, provides in paragraph (b) (1) that "The Commission shall not require a utility to purchase electrical energy from any distributed generation facility at a price that exceeds the utility's avoided costs."

#### **STAFF RECOMMENDATION-INTERCONNECTION**

Upon review of the comments filed in this matter and the information presented during the workshop, Staff has determined that the Interconnection standard set forth in PURPA §111(d)(15) should be adopted by the Commission. Although Alabama Power argued in favor of their insurance requirement in Rate PAE, the staff found that the record indicated that such insurance was generally unavailable. The Staff also found that Alabama Power was in a better position to insure against risk to its facilities and operations than its customers. The staff found that although such insurance requirements as set forth in Rate PAE may be common amongst electric utilities and large wholesale power generators (and therefore more appropriately priced by the insurance markets to accurately reflect the risk involved), such requirements were not appropriate for small customer owned generators.

#### **COMMISSION FINDINGS**

After review of the Staff findings and recommendations as to both the Net Metering and Interconnection Standards, the Commission hereby adopts the staff findings and recommendations. The Commission also hereby finds that Act 2008-275 does not preclude Alabama Power from adopting a net metering rate and the Commission encourages Alabama

Power to strongly consider adopting a net metering rate for customer owned Solar PV generation.

IT IS THEREFORE ORDERED BY THE COMMISSION, That the Net Metering standard set forth in PURPA §111(d)(11) is not adopted by the Commission.

IT IS FURTHER ORDERED BY THE COMMISSION, That the Interconnection standard set forth in PURPA §111(d)(15) is hereby adopted by the Commission.

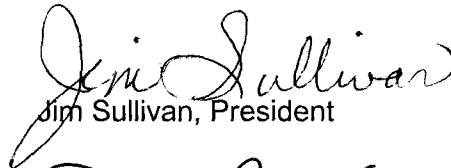
IT IS FURTHER ORDERED BY THE COMMISSION, That Alabama Power Company shall, to the extent that it has not already done so, make filings conforming its rates, terms and conditions of service consistent with PURPA §111(d)(15) within 60 days of the date hereof.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 4<sup>th</sup> day of November, 2008.

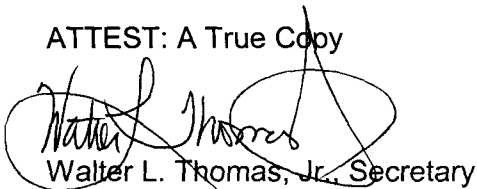
ALABAMA PUBLIC SERVICE COMMISSION

  
Jim Sullivan, President

  
Jan Cook, Commissioner

  
Susan D. Parker, Commissioner

ATTEST: A True Copy

  
Walter L. Thomas, Jr., Secretary