

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

SECRETARY

**CONSIDERATION OF SECTIONS 532 and 1307  
OF THE ENERGY INDEPENDENCE AND  
SECURITY ACT OF 2007**

**DOCKET 31045**

**ORDER**

**BY THE COMMISSION:**

The Energy Independence and Security Act of 2007 ("EISA 2007") was enacted on December 19, 2007. Among other things, EISA 2007 adds four new federal standards to the Public Utilities Regulatory Policies Act of 1978 ("PURPA"). State Commissions are required to consider and issue a determination on the new standards within two years of enactment of EISA 2007. These four standards address the following areas of retail electric and gas service:

- (1) integrated resource planning for electric and gas service;
- (2) rate design modifications to promote energy efficiency investments for electric and gas service;
- (3) consideration of smart grid investments for electric service; and
- (4) customer access to smart grid information for electric service.

PURPA does not require the Commission to undertake the mandated consideration of a standard in some circumstances. PURPA provides that prior and pending "proceedings" and "actions" taken before the enactment of the PURPA standards "may be treated as complying with the [PURPA] requirements." Importantly, PURPA provides that in considering whether a standard should be adopted, a State Commission is free to make a "determination that it is not appropriate to implement" any standard.

By Order dated January 26, 2009, the Commission established this docket to consider the four standards set forth in Sections 532 and 1307 of EISA 2007. The Commission issued an order on March 2, 2009 inviting public comments on whether it should adopt these standards.

On April 6, 2009, Alabama Power Company ("Alabama Power") filed comments pursuant to the Commission's March 2<sup>nd</sup> Order. In its comments, Alabama Power contends that the Commission should decline to adopt these four PURPA standards because it had already implemented and established rates, initiatives, and programs that meet the goals of the PURPA standards being addressed in this docket. On April 3, 2009, Alabama Gas Corporation ("Alagasco") filed comments regarding the standards applicable to natural gas utilities. Alagasco contends, like Alabama Power, that the Commission should decline to adopt these standards because it has already implemented and established rates, initiatives and programs that meet the goals of the PURPA standards. No other written comments regarding these four PURPA standards were received by the Commission in this docket. In addition, the Commission had provided that reply comments could be submitted by May 21, 2009. However, no such reply comments were submitted.

### **STAFF RECOMMENDATIONS**

#### **Integrated Resource Planning Standard**

Upon review of the comments filed in this matter, Staff is recommending that the integrated resource planning standards set forth in PURPA § 111(d)(16) and § 532 (b)(5) should not be adopted by the Commission. This standard, if adopted, would require utilities to "integrate energy efficiency resources into utility, State, and regional plans and adopt policies establishing cost-effective energy efficiency as a priority resource."

The Staff agrees that Alabama Power and Alagasco, pursuant to prior Commission orders, have already established an Integrated Resource Planning ("IRP") program that meets the goals of this standard. Under the Commission's supervision, Alabama Power already performs an annual assessment of its supply-side and demand-side options, which includes the consideration of energy efficiency resources. In addition, under the existing IRP process, "cost-effective energy efficiency" is viewed as a "priority resource" in the long-term planning efforts of Alabama Power. The Staff also agrees that Alagasco has developed and implemented a comprehensive set of programs designed to meet the goals of the proposed standard and that

adoption of the standard would offer no benefit over the programs currently in place and would instead increase compliance and administrative costs related to a new layer of regulations. Accordingly, the Staff recommends that the Commission decline to adopt the integrated resource planning standard established by EISA 2007.

**Rate Design Modifications to Promote Energy Efficiency Investments Standard**

Upon review of the comments filed in this matter, Staff is recommending that the rate design modifications standard set forth in PURPA § 111(d)(17) and § 532(b)(6) not be adopted by the Commission. This standard, if adopted, would require that an electric or gas utility's rates "align utility incentives with the delivery of cost-effective energy efficiency and promote energy efficiency investments."

The Staff agrees with Alabama Power and Alagsco that they already offer Commission-approved rates, programs, and initiatives that achieve the goals of this standard. Alabama Power's Rate RSE, time-of-use rates, real-time pricing rates, load control programs, and demand response programs and initiatives already meet the goals of the standard. Likewise, Alagasco's RSE already meets the goals of the standard without subjecting customers to the as yet untested and unproven generic federal rate design modifications set forth in §532 (b)(6). Accordingly, Staff recommends that the Commission decline to adopt the rate design modifications standard.

**Consideration of Smart Grid Investments Standard**

Upon review of the comments filed in this matter, Staff is recommending that the consideration of smart grid investments standard set forth in PURPA § 111(d)(18) not be adopted by the Commission. This standard, if adopted, would require an electric utility to demonstrate that smart grid investments were considered prior to undertaking investments in non-advanced grid technology. Under this standard, in evaluating an investment in a smart grid system, the utility would have to consider the following factors: (1) total costs; (2) cost-effectiveness; (3) improved reliability; (4) security; (5) system performance; and (6) societal

benefit. In addition, the standard would require the Commission to consider authorizing the utility to recover through its retail rates any costs related to deploying the smart grid system.

The Staff agrees with Alabama Power that its investment and continuing deployment of Automated Metering Infrastructure (“AMI”) technology for its system already meets the goals of this standard. In addition, Staff believes it would be premature at this time to adopt this standard due to some of the unresolved issues surrounding smart grid technologies. Accordingly, Staff recommends that the Commission decline to adopt this standard.

**Customer Access to Smart Grid information Standard**

Upon review of the comments filed in this matter, Staff is recommending that the customer access to smart grid information standard set forth in PURPA § 111(d)(19) not be adopted by the Commission. The standard, if adopted, would require utilities to provide customers with smart grid and real-time pricing information, including the following two categories of real-time pricing: “(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.” This standard would also require electric utilities to provide consumers with real-time pricing information on at least a daily basis. Furthermore, utilities would have to provide annual written information on the electric utility’s resource mix by type of generation, including the greenhouse emissions associated with each resource. The standard would require that consumers be able to access, through the Internet, personal electric consumption information as well as electric consumption information not specific to any purchaser.

The Staff agrees with the position taken by Alabama Power in its comments that it already offers its customers a wide range of time-based (TOU) rates and real-time pricing (RTP) rates which meet the goals of the standard. Consistent with the Staff’s concern regarding the smart grid investments standard, Staff believes that it would be premature to define at this time what information must be provided to consumers due to some of the unresolved issues surrounding smart grid technologies. As these technologies continue to be evaluated and implemented, there will likely be increased access to the type of customer usage information

described in this standard. Accordingly, Staff recommends the Commission decline to adopt this standard.

**COMMISSION FINDINGS**

After review of the Staff findings and recommendations, the Commission hereby adopts the Staff recommendations and FINDS that it is not appropriate to adopt the four PURPA standards set forth in Sections 532 and 1307 of EISA 2007. Because it was not clear in the original Order establishing this docket and the Order requesting comments that the Commission would also be considering the proposed standards in §532 for natural gas utilities, the Commission shall provide an additional 45 days for comments on these standards. The Commission retains the discretion to revisit its decision set forth in this Order regarding these standards.

**IT IS, THEREFORE, ORDERED BY THE COMMISSION,** That the integrated resource planning standard set forth in PURPA § 111(d)(16) and § 532(b)(5) is not adopted by the Commission.

**IT IS FURTHER ORDERED BY THE COMMISSION,** That the rate design modifications to promote energy efficiency investments standard set forth in PURPA § 111(d)(17) and § 532 (b)(6) is not adopted by the Commission.

**IT IS FURTHER ORDERED BY THE COMMISSION,** That the consideration of smart grid investments standard set forth in PURPA § 111(d)(18) is not adopted by the Commission.

**IT IS FURTHER ORDERED BY THE COMMISSION,** That the customer access to smart grid information standard set forth in PURPA § 111(d)(19) is not adopted by the Commission.

**IT IS FURTHER ORDERED BY THE COMMISSION,** That this docket shall remain open for an additional 45 days from the date hereof solely for the purpose of accepting comments on the § 532 natural gas standards.

**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 <sup>28<sup>th</sup></sup> day of October, 2010.


ALABAMA PUBLIC SERVICE COMMISSION

  
Lucy Baxley, President

  
Jan Cook, Commissioner

  
Susan D. Parker, Commissioner

ATTEST: A True Copy

  
Walter L. Thomas, Jr., Secretary