

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE CONSIDERATION)
OF THE "FOSSIL FUEL GENERATION)
EFFICIENCY" STANDARD 16 U.S.C.)
§ 2621(d)(13) RELATING TO A UTILITY'S) PSC DOCKET NO. 07-248
EFFICIENCY PLAN FOR ITS FOSSIL FUEL)
GENERATION PLANTS)
(OPENED SEPTEMBER 18, 2007))

ORDER NO. 7323

This 4th day of December, 2007, the Commission determines and Orders the following:

1. By Order No. 7279 (Sept. 18, 2007), the Commission opened this docket to consider adoption of the "Fossil Fuel Generation Efficiency" standard set forth in 16 U.S.C. § 2621(d)(13), (as added by the Energy Policy Act of 2005),¹ as that standard would be applied to Delmarva Power & Light Company ("DP&L"), the sole electric utility still rate-regulated by this Commission. In that Order, the Commission outlined several reasons why it questioned whether it would be useful to adopt an efficiency standard for fossil fuel generation when DP&L neither owns nor controls any generation assets and when DP&L currently procures electric supply in a manner that does not link the supply to any particular generation asset, let alone any generation asset located in Delaware.

2. Also by Order No. 7279, the Commission directed publication of notice of its opening of this docket and set a deadline of

¹Energy Policy Act of 2005, Pub. L. No. 109-58, §§ 1251-1252, 1254, 119 Stat. 594, 962-67, 970-71 (2005) ("EPAct 2005").

October 31, 2007 for comments and requests for intervention as a party in the docket. The Commission received no comments nor intervention requests.

3. On November 21, 2007, Commission Staff submitted a Memorandum recommending that the Commission decline to adopt the fossil fuel efficiency standard at this time. As grounds, Staff indicated that DP&L is the only electric provider that would be subject to the efficiency standard and that DP&L neither owns nor self-leases any electric generation facilities that would be covered by the standard. In addition, Staff stated that DP&L procures its supply either from the wholesale market operated by PJM Interconnection, LLC or via "full requirements" bilateral contracts with multiple wholesale electric providers. As a practical matter, the purchases under either of these procurement methods cannot easily be traced to a particular generation asset. Staff also noted that in PSC Docket No. 06-241, the Commission and three other state agencies have yet to decide whether to require DP&L to enter into a long-term contract with a supplier that would build a fossil fuel power plant in Delaware. Staff concluded that it would not be practical at this time to implement the federal standard in Delaware and recommended closing this docket.

4. For these reasons, the Commission now finds that it would not be useful at this time to adopt the federal "Fossil Fuel Generation Efficiency" standard from EPCAct 2005 for DP&L.

Now, therefore, **IT IS ORDERED:**

1. That the Commission at this time declines to adopt the "Fossil Fuel Generation Efficiency" standard set forth in 16 U.S.C. § 2621(d)(13), (as added by the Energy Policy Act of 2005), for electric utilities under the Commission's ratemaking jurisdiction.

2. That this docket, PSC Docket No. 07-248, is therefore closed.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders relating to efficiency standards for fossil fuel generation as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary