ORDER

By the Commission:

The Federal Statutory Requirements

On May 2, 2007, this Commission issued an Order commencing the instant docket. In that Order, it noted that the Energy Policy Act of 2005 (the “EPAct”) requires every state commission to consider whether to impose the requirements in 16 U.S.C. Sec. 2621(d)(12). (See, 16 U.S.C. Sec. 2621(a); 16 U.S.C Sec. 2622(b)(5)(B)). The pertinent portion of the statute provides:

(12) Fuel sources. Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

(16 U.S.C. Sec. 2621(d)(12)). In its initiating Order, this Commission noted that the Illinois utilities subject to this portion of the EPAct are Commonwealth Edison Company, MidAmerican Energy Company, and the Ameren Companies. Also, the EPAct requires state commissions, when declining to implement any standard established by subsection (d), to “state in writing the reasons therefore.” Such statement of reasons must be available to the public. (16 U.S.C. Sec. 2621(c)(2)).

Participating in this docket were Commonwealth Edison Company, (“ComEd”) Commission Staff, MidAmerican Energy Company (“MidAmerican”) and the Ameren Illinois Utilities (“Ameren”). The utilities and Commission Staff filed verified Comments on July 9,
2007, and the utilities filed verified Reply Comments on July 30, 2007. In those Comments, the Utilities and Commission Staff unanimously agreed that 16 U.S.C. Sec. 2621(d)(12) (PURPA Standard 12) should not be mandated in Illinois. They note that except with regard to MidAmerican, electric utilities in Illinois no longer generate electricity. Because these utilities (except MidAmerican) do not generate electricity, they cannot determine the fuel source for generating electricity.

The generating plants these utilities once owned were sold or transferred to third-parties after the enactment of the Electric Service Customer Choice and Rate Relief Law of 1997, 2000 ILCS 5/16-101, et seq. Staff, ComEd and Ameren conclude that therefore, it would be inappropriate to impose PURPA Standard 12 on the Ameren utilities and ComEd. (See, e.g., Staff Comments at 2-3 Ameren Comments at 2).

An Administrative Law Judge's Proposed Order issued on September 17, 2007. The parties and Staff filed Briefs on Exceptions on October 9, 2007, in which, they all agreed with the contents of that Order. There are no contested issues in this docket.

**MidAmerican**

The only utility that can be said to be vertically integrated (owning generation facilities) is MidAmerican. However, MidAmerican pointed out that a significant majority of its customers are located in Iowa. MidAmerican also serves South Dakota. MidAmerican’s Illinois generating resources make up only 1.5 percent of generation in Illinois. Adoption of a generation diversity requirement, MidAmerican concludes, would not have a material impact on Illinois consumers. (MidAmerican Comments at 2-3).

Also, the Iowa Utilities Board has considered PURPA Standard 12, in docket No. NOI-071. (MidAmerican Comments at 2). The Iowa Utilities Board concluded that existing Iowa laws promote fuel diversity and encourage a mix of alternative and renewable energy sources. Further, the South Dakota Public Utilities Commission is in the process of considering PURPA Standard 12. MidAmerican further posits that existing regulatory incentives have caused it to diversify its sources of electric generation. MidAmerican presented information establishing that currently, it has a diverse portfolio of sources of electricity. (Id. at 3-5).

Staff notes that Mid-American’s Illinois generation facilities consist of nuclear, natural gas-fueled and hydroelectric facilities. Staff avers that MidAmerican’s Illinois portfolio is already diverse. (Staff Comments at 10). Additionally, MidAmerican’s Illinois resources consist of only a small percentage of its total system. Staff concludes that therefore, this Commission should not impose PURPA Standard 12 on MidAmerican. (Id. at 12).

**Comparable State Standards**
The General Assembly has implemented a standard that is comparable to PURPA Standard 12. SB 1592, which recently became law, requires the newly-created Illinois Power Authority to purchase certain amount of energy on behalf of the people of the state of Illinois that is generated from cost-effective renewable energy sources. (See, 2007 ALS Lexis 481 at 1-75(c)).

ComEd contends that by enacting this new law, the General Assembly has effectively imposed a fuel diversity standard on the procurement of power and energy for Ameren and ComEd. Also, according to ComEd, enactment of this law removes any discretion from Ameren and ComEd in the energy and power procurement process. (ComEd Reply Comments at 1-2).

### Analysis and Conclusions

PURPA Standard 12 promotes energy efficiency among electric utilities that generate electricity. As Staff and the utilities point out, following the enactment of the Electric Service Customer Choice and Rate Relief Law of 1997, the Ameren utilities and ComEd sold or transferred substantially all of their generating facilities to third parties. Thus, of the electric utilities subject to this proceeding, only MidAmerican owns any generating facilities. And, as Staff and MidAmerican note, imposing PURPA Standard 12 solely on MidAmerican would have a negligible impact, at best, upon Illinois consumers.

We additionally note that recently-enacted state legislation requires the newly-created Illinois Power Authority to purchase certain specified percentages of electricity that is generated from cost-effective renewable energy sources. We therefore decline to adopt or implement PURPA Standard 12, 16 U.S.C. Sec. 2621(d)(12).

### Findings and Ordering Paragraphs

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

1) Commonwealth Edison Company, MidAmerican Energy Company, and the Ameren Illinois Utilities are “public utilities” within the meaning of the Public Utilities Act;

2) the Commission has subject-matter jurisdiction and jurisdiction over the parties;
3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law for purposes of this Order;

4) the Commission has considered the new federal energy efficiency standard for diversification of fuel sources, (16 U.S.C. Sec. 2621(d)(12), and has determined that it shall decline to adopt or implement this standard, for the reasons stated in this Order.


IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 29th day of October, 2007.

(SIGNED) CHARLES E. BOX

Chairman