

June 7, 2016

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Technical Conference Concerning Implementation Issues Under the Public Utility Regulatory Policies Act of 1978 (“PURPA”), Docket No. AD16-16-000.

Prepared Written Remarks of Kendal Bowman, Vice President Regulatory Affairs and Policy, on behalf of the Duke Energy Corporation.

Good morning Chairman and Commissioners, I am Kendal Bowman, Vice President Regulatory Affairs and Policy, speaking on behalf of Duke Energy Corporation.

Thank you for the opportunity to be a part of this panel to discuss some issues associated with PURPA implementation.

Duke Energy’s regulated utilities directly serve over 7.4 million retail customers across our service territories, and we also serve several million more customers indirectly via long-term wholesale power sales.

The costs and reliability impacts of PURPA purchases impact all of these customers.

This is why today’s technical conference is so important. I respectfully ask the Commission and your staff to keep these millions of customers in mind as you consider the implications that an unconditional mandatory purchase obligation has on customer rates and on reliability.

Duke Energy shows in its filed comments that even four decades later, the foundational principles of PURPA, in the statute, in the Congressional Record, and in this Commission’s Order No. 69, hold the key to an implementation that best serves customers.

These foundational principles are:

- (i) Conservation of energy.
- (ii) Efficiency in use of facilities.
- (iii) Equitable rates for customers, and
- (iv) Improvement in reliability of electric service.

Congress intended PURPA to be implemented based on an *actual* need for energy and new capacity. Furthermore, in Order No. 69, the Commission said that determining avoided cost rates required taking into account “the relationship of energy or capacity from a qualifying facility to the *purchasing electric utility’s need for* such energy or capacity.”

Unfortunately these principles and the needs-based application of PURPA have been lost or forgotten by many in the industry.

With the passage of time, the implementation of PURPA seems to have morphed into a development tool for qualifying facilities with an unconditional mandatory purchase obligation on utilities – without regard to actual needs.

The implementation of PURPA should return to its founding principles of energy conservation, resource efficiency, just rates for customers, and improving – not impairing - system reliability. Specifically:

- (i) QFs should be incorporated into utility generation portfolios based on actual needs – not unconditional purchases.
- (ii) The obligation to incorporate QFs into the system should arise *after* the utility has identified and committed itself to a need for energy or capacity.

- (iii) Like all other generators, QFs should also contribute to system reliability and parallel operations with utilities, and
- (iv) Rates should be established through bona fide offers in a non-discriminatory process.

Some of Duke Energy's utilities also operate in the PJM and MISO organized markets. For those markets, the Commission should remove the 20 MW purchase obligation threshold. All generators have barrier-free access to those organized markets and direct access to sales into those markets. Selling into organized markets based on signals the markets are providing promotes rational decision-making and beneficial siting of generating capacity. By removing the 20 MW threshold, the Commission can ensure that no generator receives preferential treatment – just as other generators must offer their output into the market, all QFs should be required to do so by directly selling into the organized market.

The Commission's orders and regulations guide and provide strong signals to state regulatory commissions and markets. We respectfully ask the Commission to propose and issue regulations and orders that reassert the founding principles of PURPA and the application of a needs-based approach.

Again, thank you for the opportunity to participate in this important technical conference.

This concludes my opening remarks.