

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Granite State Hydropower Association, Inc.

Docket No. EL06-26-000

ORDER DISMISSING PETITION FOR RULEMAKING

(Issued February 15, 2006)

1. In this order, the Commission dismisses as moot Granite State Hydropower Association, Inc. and Vermont Independent Power Producers Association's (Petitioners) petition for rulemaking.

Background

2. On December 12, 2005, Petitioners filed a petition for rulemaking seeking Commission action to promulgate regulations governing the procedures by which electric utilities may seek termination of the obligation to purchase energy and capacity made available from qualifying facilities (QF) contained in section 210 of the Public Utilities Regulatory Policies Act of 1978 (PURPA). Termination of the purchase obligation is provided for in section 210(m) of PURPA which was enacted as part of the Energy Policy Act of 2005 (EPA 2005). In addition, Petitioners request that, as part of the rulemaking, the Commission should retain the electric utility purchase obligation for small power production facilities with generating capacity of 5 MW or less and establish a rebuttable presumption that projects with capacity of over 5 MW and up to 20 MW do not have non-discriminatory access to markets.

Notice of Filing

3. Notice of Petitioners' filing was published in the *Federal Register*, 71 Fed. Reg. 595 (2005), with interventions and protests due on or before January 31, 2006. Northeast Utilities Companies¹ (NU Companies) filed a timely motion to intervene.

¹ These companies include: The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire.

Discussion

Procedural Matters

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), NU Companies' timely, unopposed motion to intervene serves to make it a party to this proceeding.

Dismissal of Petition

5. We will dismiss the petition as moot. After Petitioners' filing, the Commission issued a Notice of Proposed Rulemaking (NOPR) addressing section 210(m) of PURPA in Docket No. RM06-10-000.² In the NOPR, the Commission, referencing Petitioner's filing, requested comments on the issues that Petitioners raise in their petition *i.e.*, whether the Commission should retain the electric utility purchase obligation for small power production facilities and how the Commission should define small, 5 MW or less, or 20 MW or less.³ The Commission also asked if there were any other categories of QFs that lack nondiscriminatory access to RTO/ISO short-term or long-term wholesale markets for which the Commission should retain the obligation to purchase.⁴ Therefore, because the Commission has already initiated a rulemaking addressing new section 210(m) and the issues raised by Petitioners in their filing, we will dismiss the petition as moot.

The Commission orders:

The petition for rulemaking is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

² *New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, Notice of Proposed Rulemaking, 71 Fed. Reg. 4532 (January 19, 2006), FERC Stats. & Regs. ¶ 32,597 (2006).

³ *Id.* at P 20.

⁴ *Id.*