

qualifying facility (QF) under section 210(h) of PURPA. Moreover, neither PG&E nor CCGS are entities against whom a petition pursuant to section 210(h) of PURPA may be filed. We will accordingly dismiss the petition to enforce PURPA filed by Californians for Renewable Energy, Inc., Michael E. Boyd and Robert M. Sarvey.

2. Section 210(a) of PURPA³ provides that the Commission shall prescribe rules, and from time to time revise those rules, to encourage cogeneration and small power production. The Commission's rules are set forth in Part 292 of the Commission's regulations.⁴ Section 210(f) of PURPA⁵ in turn provides that state regulatory authorities (the California Commission is a state regulatory authority under PURPA) and nonregulated utilities must implement the rules prescribed by the Commission pursuant to section 210(a) of PURPA. Section 210(h)(2)(A) of PURPA⁶ provides that the Commission may enforce the requirements of section 210(f) against any state regulatory authority or nonregulated utility; section 210(h)(2)(B) of PURPA⁷ provides that any electric utility or QF may petition the Commission to enforce the requirements of section 210(f) against any state regulatory authority or nonregulated utility.

3. Petitioners claim that they, as QFs, are petitioning the Commission to enforce the requirements of the Commission's regulations concerning the setting of rates for QFs under PURPA and to require the California Commission to change Decision 12-12-035 in a manner that would comply with the Commission's rate setting regulations under PURPA. However, neither the Amended PSA between PG&E and CCGS nor the California Commission's Decision 12-12-035 involve setting rates for the sale of energy let alone PURPA rates for such sales. Instead, the Amended PSA involves a purchase of generating facilities and is not a power purchase agreement. The California Commission's Decision 12-12-035, approving the Amended PSA, approved PG&E's purchase of power generation facilities and the retail rate recovery of the PG&E's capital costs associated with those power generation facilities; those approvals fall within the California Commission's retail ratemaking authority. Neither of these actions relates to the California Commission's implementation of PURPA pursuant to section 210(f) of PURPA. The Commission finds the requested relief for enforcement of PURPA

³ 16 U.S.C. § 824a-3(a) (2006).

⁴ 18 C.F.R. Part 292 (2012).

⁵ 16 U.S.C. § 824a-3(f) (2006).

⁶ 16 U.S.C. § 824a-3(h)(2)(A) (2006).

⁷ 16 U.S.C. § 824a-3(h)(2)(B) (2006).

meritless;⁸ Petitioners have simply not brought a case that the Commission is authorized to enforce by section 210(h) of PURPA. We accordingly dismiss the petition of CALifornians for Renewable Energy, Inc., Michael E. Boyd and Robert M. Sarvey; the Commission will not initiate an enforcement action pursuant to section 210(h)(2)(A).

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary

⁸ We additionally note that, as described above, the Commission does not have the authority to enforce PURPA pursuant to section 210(h) against PG&E or CCGS; neither PG&E nor CCGS are a state regulatory authority or a nonregulated utility as defined by PURPA.