

146 FERC ¶ 61,071
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Maryland Solar, LLC

Docket No. EL14-10-000
QF11-171-003

ORDER GRANTING LIMITED WAIVER AND EXEMPTION

(Issued February 6, 2014)

1. In this order, the Commission grants a limited waiver request by Maryland Solar, LLC (Maryland Solar) of section 292.601(c)(1) of the Commission's regulations,¹ and also finds Maryland Solar's qualifying small power production facility (QF) is exempt from sections 205 and 206 of the Federal Power Act² (FPA).

I. Background

A. Maryland Solar's Petition

2. On November 7, 2013, Maryland Solar filed a petition for a limited waiver of section 292.601(c)(1) of the Commission's regulations and for an exemption. Maryland Solar requests that the Commission find: (1) Maryland Solar is entitled to a limited waiver of section 292.601(c)(1) of the Commission's regulations for those instances during which its production inadvertently exceeded 20 MW by a fractional amount; and (2) that its QF qualifies prospectively for continued exemption from sections 205 and 206 of the FPA, for QFs as set forth in Order No. 671.³

¹ 18 C.F.R. § 292.601(c)(1) (2013).

² 16 U.S.C. §§ 824d and 824e (2012).

³ *Revised Regulations Governing Small Power Production and Cogeneration Facilities*, Order No. 671, FERC Stats. & Regs. ¶ 31,203 (2006), *order on reh'g*, Order No. 671-A, FERC Stats. & Regs. ¶ 31,219 (2006), *order on clarification*, 114 FERC ¶ 61,128 (2006).

B. Maryland Solar's QF

3. Maryland Solar self-certified its QF on March 15, 2011 in Docket No. QF11-171-000. Maryland Solar's QF uses solar photovoltaic technology to generate electricity, and is designed to produce a maximum safe and reliable net output of 20 MW under normal operating conditions. However, Maryland Solar states that, during startup and testing, and prior to commercial operation, the QF's output exceeded 20 MW for several hours on various days beginning in May 2013 and ending in September 2013.

4. Maryland Solar states that most of the overproduction was *de minimis* because it was within the margin of error for meter tolerances. Maryland Solar adds that over-generation was twice inadvertently caused by plant controller failure. On these two occasions, Maryland Solar states that the plant controller could not reduce the plant's output for several hours between June 6, 2013 and June 13, 2013, and on July 23, 2013. Maryland Solar states that steps, including the installation of upgraded software and fail safe devices that activate if communication to the plant controller is lost, have been taken to ensure that generation does not exceed 20 MW in the future. In addition, the QF now has an alarm system that alerts personnel when plant capacity reaches 20 MW.

II. Notice of Filing and Responsive Pleadings

5. Notice of Maryland Solar's petition was published in the *Federal Register*, 78 Fed. Reg. 68,834 (2013), with interventions or protests due on or before November 27, 2013. None was filed.

III. Discussion

A. Request for Limited Waiver

6. Maryland Solar requests a limited waiver of section 292.601(c)(1) of the Commission's regulations for those periods from May 2013 through September 2013 during which the QF's net electric output exceeded 20 MW for certain hours. The Commission grants the limited waiver because, as explained by Maryland Solar, the instances of production over 20 MW and the amount of energy produced over 20 MW were *de minimis* and inadvertent, and Maryland Solar has implemented systems to ensure future compliance with the regulation.⁴

⁴ The Commission has previously granted a similar waiver in similar circumstances. *See Lyonsdale Biomass, LLC*, 116 FERC ¶ 61,133, at PP 4, 8 (2006).

B. Request for Exemption

7. Section 292.601(c)(1) of the Commission's regulations provides that a QF that is 20 MW net capacity or smaller is exempt from sections 205 and 206 of the FPA.⁵ Maryland Solar requests that the Commission find that Maryland Solar's QF, with the waiver granted in this order, qualifies for continued exemption from sections 205 and 206 of the FPA. In Order No. 671, the Commission amended its regulations governing qualifying cogeneration and small power production facilities to provide that sales of energy or capacity from QFs 20 MW or smaller would be exempt from sections 205 and 206 of the FPA.⁶ The Commission finds that Maryland Solar's QF is, and, based on the limited waiver granted in this order, has continuously been, a 20 MW or smaller net capacity facility; Maryland Solar accordingly is exempt from sections 205 and 206 of the FPA.

The Commission orders:

(A) Maryland Solar is hereby granted limited waiver of section 292.602(c)(1) for certain hours during the period of May 2013 through September 2013, as described in the body of this order.

(B) Maryland Solar's QF qualifies for exemption from sections 205 and 206 of the FPA for sales of energy or capacity, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵ 18 C.F.R. § 292.601(c)(1) (2013).

⁶ Order No. 671, FERC Stats. & Regs. ¶ 31,203 at P 98 n.24; 18 C.F.R. § 292.601(c)(1) (2013).