
FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

NEWS RELEASE

NEWS MEDIA CONTACT:

Barbara A. Connors
(202) 502-8680

FOR IMMEDIATE RELEASE

January 19, 2006
Docket No. RM06-10-000

PURSUANT TO ENERGY POLICY ACT, COMMISSION PROPOSES REVISIONS IN PURPA MANDATORY PURCHASE OBLIGATION

The Federal Energy Regulatory Commission today proposed changes to its mandatory power purchase obligation rules under the Public Utility Regulatory Policies Act (PURPA) to implement new provisions under the Energy Policy Act of 2005 (EPAAct).

“This proposal is based on a faithful reading of the statutory language, with the goal of providing regulatory certainty and minimizing administrative burdens. The statutory scheme adopted by Congress is a complicated one and the proposed rules seek to provide as much clarity and certainty as possible given the statutory language,” Chairman Joseph T. Kelliher stated.

Section 1253(a) of EPAAct adds a new section 210(m) to PURPA, which provides for termination of a utility’s obligation to purchase electric energy from qualifying facilities (QFs) and sell electric energy to QFs upon a finding that QFs have nondiscriminatory access to:

- independently administered, auction-based day-ahead and real-time wholesale markets for electric energy and wholesale markets for long-term sales of capacity and electric energy; or
- transmission and interconnection services that are provided by a Commission-approved regional transmission entity pursuant to an open-access transmission tariff that affords nondiscriminatory treatment to all customers, and competitive wholesale markets that provide a meaningful opportunity to sell capacity and energy on a short-term and long-term basis; or
- wholesale markets for the sale of capacity and electric energy that are at a minimum of comparable competitive quality as those described above.

While the new law permits electric utilities to file applications for relief from the mandatory purchase obligation, requiring the Commission to act on such applications within 90 days, the Commission has determined that it can better implement the

requirements of section 210(m) through a generic rulemaking.

In a preliminary determination, the Commission in today's proposal finds that electric utilities that are members of the Midwest Independent System Operator, PJM Interconnection, ISO-New England and the New York Independent System Operator qualify for relief from the mandatory purchase obligation. The regional transmission entities that operate the transmission facilities of these utilities administer auction-based day-ahead and real-time markets, and bilateral long-term contracts are available to participants and QFs in these markets, the Commission said. In addition, they provide non-discriminatory open access transmission services and independently administer wholesale markets.

The proposal outlines the procedures for utilities outside these regional transmission entities to file to obtain relief from mandatory purchase obligations on a service territory-wide basis, and provides procedures for affected QFs to file to reinstate the purchase obligation. The Commission also seeks comment on whether the purchase obligation should be retained for certain categories of QFs, such as "small" QFs of 5 megawatts capacity or less.

The proposed rule would protect existing rights under any contract or obligation in effect or pending approval involving QF purchases or sales.

PURPA, enacted in 1978, was designed to overcome obstacles that QFs faced in trying to interconnect their operations with a utility and in finding a market for their power. Under section 201 of PURPA, cogeneration and small power production facilities which meet certain operating and ownership standards may become QFs. Under the Commission's current regulations, a QF's power output must be purchased by an electric utility and the utility is also required to sell power to QF.

Increased competition in wholesale electric markets, the Commission's Open Access Transmission Tariff and interconnection rules, have worked to eliminate undue discrimination in transmission and interconnection services, the Commission noted.

Comments on the proposed rule, *New PURPA Section 210(m) Regulations, Applicable to Small Power Production and Cogeneration Facilities*, are due within 30 days after the NOPR's publication in the Federal Register (www.gpoaccess.gov).

R-06-4