



FACTS

September 19, 2019
FERC Actions Regarding
RM19-15-000

Notice of Proposed Rulemaking: Qualifying Facility Rates and Requirements

This NOPR proposes reforms to modernize the Commission's regulations implementing the Public Utility Regulatory Policies Act of 1978 (PURPA) to better sync its regulations with the modern energy landscape, while continuing to encourage development of qualifying facilities (QFs).

The Commission's proposed revisions to these regulations would, among other things:

Rates

- Grant states the flexibility to require that energy rates (but not capacity rates) in QF power sales contracts and other legally enforceable obligations vary in accordance with changes in the purchasing utility's avoided costs at the time the energy is delivered.
- Grant states additional flexibility to allow QFs to retain their rights to fixed energy rates, but to base them on projections of what energy prices will be at the time of delivery during the term of a QF's contract.
- Grant states the flexibility to set "as available" QF energy rates for:
 - QFs selling to electric utilities located in organized wholesale power markets at the locational marginal price in those markets, or
 - QFs selling to electric utilities outside of the organized wholesale power markets at competitive prices from liquid market hubs or calculated from a formula based on natural gas price indices and heat rates.
- Allow states to set energy and capacity rates based on competitive solicitations (such as requests for proposals) conducted in a transparent and non-discriminatory manner.

One-Mile Rule

- Modify the "one-mile rule" for determining whether affiliated QFs should be considered part of a single facility for purposes of determining whether it is a qualifying small power production facility.
 - There would continue to be an irrebuttable presumption that facilities one mile apart or less constitute a single facility.
 - Parties could show that facilities that are located more than one mile apart, but less than 10 miles apart, constitute a single facility.
 - There would be an irrebuttable presumption that facilities 10 miles apart or more are separate facilities.

Obligation to Purchase

- Revise the regulations that provide for termination of a utility's obligation to purchase from a QF with nondiscriminatory access to certain markets.
 - The rebuttable presumption that QFs with a net capacity at or below 20 megawatts do not have nondiscriminatory access to those markets would be reduced to 1 MW for small power production facilities (but would remain unchanged for cogeneration facilities).

(over)

Legally Enforceable Obligation

- Require states to establish objective and reasonable criteria to determine a QF's commercial viability and financial commitment to construction before a QF is entitled to a contract or legally enforceable obligation.

Self-Certification

- Allow an entity to protest a QF self-certification or self-recertification without having to file, and pay for, a declaratory order.