



FACTS

July 16, 2020

FERC Actions Regarding

RM19-15-000, AD16-16-000

Final Rule: Qualifying Facility Rates and Requirements

This Final Rule revises the Commission's regulations implementing the Public Utility Regulatory Policies Act of 1978 to better align those regulations with the modern energy landscape, while continuing to encourage development of qualifying facilities (QFs).

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, and to allow such rates to be based on projected energy prices 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 (LMP) in those markets, subject to a rebuttable presumption that the LMP represents the as-available avoided costs of utilities located 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 conducted pursuant to transparent and non-discriminatory procedures consistent with the Commission's *Allegheny* standard, described in the Final Rule.

One-Mile Rule

- Modify the "one-mile rule" for determining whether generation facilities are considered to be at the same site for purposes of determining whether it is a qualifying small power production facility.
 - There will continue to be an irrebuttable presumption that facilities one mile apart or less constitute a single facility.
 - Parties can show that facilities that are located more than one mile apart, but less than 10 miles apart, constitute a single facility.
 - There will 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 MW do not have nondiscriminatory access to those markets is reduced to 5 MW for small power production facilities (but remains unchanged for cogeneration facilities).

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.
- Protests may be made to new certifications (both self-certifications and applications for Commission certification) but to only self-recertifications and applications for Commission recertifications that make substantive changes to the existing certification.