

NEWS RELEASES

FERC Affirms, Clarifies PURPA Final Rule

November 19, 2020

Docket No. RM19-15-001, AD16-16-001

Item No. E-3

The Federal Energy Regulatory Commission today affirmed Order No. 872, the final rule that revised its regulations implementing the Public Utility Regulatory Policies Act (PURPA) to address significant changes that have taken place in the nation's energy markets. Today's action dismisses or disagrees with most arguments raised on rehearing but provides clarification of the final rule itself.

Order No. 872 granted flexibility to state regulatory authorities in establishing avoided cost rates for qualifying facilities' (QF) sales inside and outside of the organized electric markets. The July 16 final rule also gave states the ability to require that energy rates, but not capacity rates, vary during the term of a QF contract.

The final rule also modified the "one-mile rule." It also reduced the rebuttable presumption for nondiscriminatory access to power markets, from 20 megawatts to 5 megawatts, for small power production, but not cogeneration, facilities. Finally, for a QF to establish a legally enforceable obligation, the final rule required that the QF must demonstrate commercial viability and financial commitment to build under objective and reasonable state-determined criteria.

Today's order provides clarifications related to:

- States' use of variable energy rates in QF contracts and availability of utility avoided cost data;
- The role of independent entities overseeing competitive solicitations;
- The circumstances under which a small power production QF needs to recertify;
- Application of the rebuttable presumption of separate sites for the purpose of determining the power production capacity of small power production facilities; and
- The PURPA section 210(m) rebuttable presumption of nondiscriminatory access to markets.

R-21-6

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