

PURPA Changes Could Shake Up Clean Energy Market

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For a law originally passed in response to the energy crisis of the 1970s, the Public Utility Regulatory Policies Act has received a lot of recent attention from Congress and advocates for both investor-owned utilities (IOUs), and the renewable energy industry. The renewed interest in the law may result in action by the Federal Energy Regulatory Commission.

Background

PURPA was passed in 1978 as part of the National Energy Act with the goal of encouraging energy conservation and increasing supply of domestic energy development and renewable resources. While the importance of the law has ebbed and flowed since its initial passage, recent market developments have brought it back into prominence as utilities and regulators seek to stabilize the national electric grid with an increasing number of nonutility producers coming online.

The law created a new class of power producers, referred to as qualifying facilities (QFs), which receive special rate and regulatory treatment. QFs include renewable generation utilities — such as hydro, solar, wind and other facilities producing less than 80 megawatts (MW) of power — and cogeneration facilities installed at manufacturing sites, refineries, paper mills and other industrial facilities that utilize excess heat and steam to generate electricity. Historically, the primary QFs were cogeneration operations, but in recent years solar and wind farms have become the predominant class of QFs.

Under PURPA, IOUs are required to purchase all excess power produced at QFs. Congress modified PURPA through the 2005 Energy Bill to reduce the size requirement of such projects to 20-MW facilities in areas serviced by competitive power markets and where grid access is open. But the IOUs complain that solar farms and other renewables are taking advantage of the law by building 20-MW farms one mile apart to skirt the new project size requirements, and that these technologies are mature enough to stand alone as power sources without the PURPA incentive.

Today: Political Pressure and FERC Review

The energy market has again transformed over the past decade, and increased incentives to produce additional sources of renewable energy, combined with continued reduction in production prices of



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utility-scale power, has utilities feeling the pressure that these smaller sources put on their ability to reliably operate the grids. In a November 2015 letter, Republicans in Congress asked FERC to examine how the grid is affected by the addition of small producers and whether the one-mile rule has been subject to abuse, leading FERC to call for a technical conference.

A subsequent letter from Congressional Democrats in February 2016 attempted to push FERC in the other direction, insisting that the current system is adequate and necessary to continue incentivizing development in renewable energy, and encouraged the commission to take no action. In response, FERC Chairman Norman Bay announced the commission would seek input from both sides in a technical review to learn more about the subject.

On June 29, 2016, FERC heard input from utilities, grid operators, small power producers and cogenerators to determine if the current regime works under contemporary market structures. Utilities spoke of the need to overhaul PURPA due to the unsustainably high prices they are obligated to pay renewables developers. They argue that payment above market prices in a competitive electricity marketplace give an unfair advantage and do not adequately cover the IOU's costs for maintaining the grid. Developers insisted that these purchase obligations provide the certainty needed to refund the invested cost of building these small solar and wind facilities.

Additionally, FERC heard testimony regarding small producers "gaming the system" by deliberately staying under the 20-MW threshold at a particular site while building strings of 20-MW installations far enough apart to be considered separate entities — effectively creating utility-scale projects that are not regulated as utilities. The review also considered the role of tax incentives and renewable portfolio standards (RPS). While the traditional cogenerators who turn excess heat and steam into usable power shared their input, it was clear that utilities are not concerned with the arrangement currently in place with these facilities; however, a new wave of cogenerators is coming online as tech companies build massive solar and wind arrays to power their energy-hungry server warehouses, and increasingly show interest in building excess capacity to share with the grid.

Lastly, FERC heard from regulated market grid operators, who still maintain the 80-MW threshold from the original PURPA, and how they can remain stable while contending with larger QFs, as well as operators in deregulated markets who share a border with, and therefore import energy from, the larger facilities in nearby regulated spaces.

What's Next?

While the technical conference had no direct conclusion, it served as an important first step for FERC as they develop a plan to modify PURPA in the public's best interest. FERC has five different policy options that it can use to move this issue forward, and it is expected to do something before the end of this year:

1. They can officially ask for more information from affected parties without signaling their long-term intentions;
2. They can issue a policy statement that signals their intentions to mold the future uses of the provision;

3. They can utilize a pending matter — there are 16 matters before the FERC that touch on these issues — as a means to signal what they would like to see occur;
4. They can enter into a formal rulemaking to redefine the program by regulation; or
5. They can choose to do nothing.

Whatever FERC decides to do, it will have implications on the IOUs, renewable energy producers and advocates, cogeneration facilities such as chemical plants and other manufacturers, and — ultimately — the consumers. It is clear that electricity markets have again transformed themselves as new technology and new players have entered the field. The market for electricity is expanding along multiple lines that affect the grid in different, and sometimes opposing ways, making the overall picture of our energy landscape more complex than ever.

Traditional centrally based generation is increasingly at competitive odds with distributed forms of production, and FERC and Congress will need to navigate carefully to balance the needs of reliably providing electricity while allowing for new innovation to proliferate.

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