

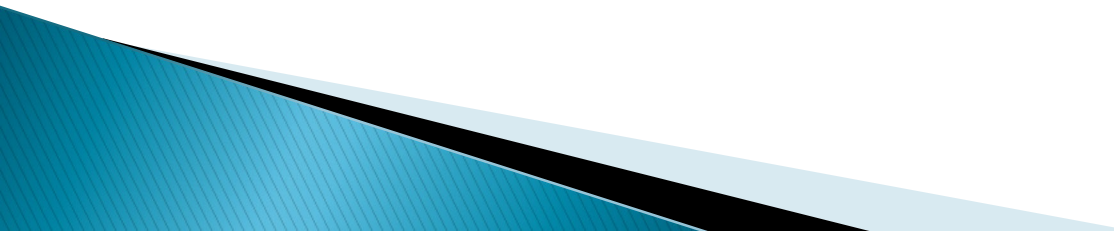
Overview of Avoided Costs Under Order 872



Missouri Public Service Commission | Jefferson City, MO

Disclaimer

The views presented here are my own, and are not necessarily those of the Commission Staff, Staff Counsel, or the Missouri Public Service Commission.



PURPA rates for purchasing utilities:

(b) RATES FOR PURCHASES BY ELECTRIC UTILITIES

The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

Incremental Cost Definition:

(d)“INCREMENTAL COST OF ALTERNATIVE ELECTRIC ENERGY” DEFINED

For purposes of this section, the term “incremental cost of alternative electric energy” means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

States have broad latitude implementing PURPA.

“[A] state commission may comply with [PURPA] by issuing regulations, by resolving disputes on a case-by-case basis, or by taking any other action reasonably designed to give effect to FERC’s rules.”

FERC v. Mississippi, 456 U.S. 742, 751 (1982).

Selling energy prior to Order 872:

(d) Purchases “as available” or pursuant to a legally enforceable obligation.

(1) Each qualifying facility shall have the option either:

(i) To provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the electric utility's avoided cost for energy calculated at the time of delivery; or

(ii) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, except as provided in paragraph (d)(2) of this section, be based on either:

(A) The avoided costs calculated at the time of delivery; or

(B) The avoided costs calculated at the time the obligation is incurred.

Selling capacity prior to and currently with Order 872:

- (ii) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, except as provided in paragraph (d)(2) of this section, be based on either:
 - (A) The avoided costs calculated at the time of delivery; or
 - (B) The avoided costs calculated at the time the obligation is incurred.

Variable rates in Order 872:

(2) Notwithstanding paragraph (d)(1)(ii)(B) of this section, a state regulatory authority or nonregulated electric utility may require that rates for purchases of energy from a qualifying facility pursuant to a legally enforceable obligation vary through the life of the obligation, and be set at the electric utility's avoided cost for energy calculated at the time of delivery.

Current status when avoided costs are determined:

Energy (but not capacity) delivered on an as-available basis  rates are based on utilities' avoided cost at time of delivery.

For energy or capacity delivered pursuant to a LEO/contract  rates are based on utilities' avoided cost at time of delivery or at time the obligation is incurred.

States may require that for energy (but not capacity) delivered pursuant to a LEO/contract, rates be variable set at utilities' avoided cost at the time of delivery.

Idaho PUC:

20 year contracts “exacerbate overestimation to a point that avoided cost rates over the long-term period are unreasonable and inconsistent with the public interest.”

In the Matter of Idaho Power Company’s Petition to Modify Terms and Conditions of PURPA Purchase Agreements, Order No. 33357, Case No. IPC-E-15-01, P. 23, Aug 20, 2015.

North Carolina Utilities Commission:

In shortening QF contracts from 15 years to 10, the North Carolina commission noted “that the implications of the pace and level of QF development continuing unabated poses serious risk of overpayment by utility ratepayers and operational soundness of utility electric systems.”

Order Establishing Standard Rates and Contract Terms for Qualifying Facilities, North Carolina Utilities Commission, Docket No. E-100, Sub 148, P. 34, Oct 11, 2017.

Avoided cost rates within organized wholesale power markets:

(e) Factors affecting rates for purchases.

(1) A state regulatory authority or nonregulated electric utility may establish rates for purchases of energy from a qualifying facility based on a purchasing electric utility's locational marginal price calculated by the applicable market defined in § 292.309(e), (f), or (g), or the purchasing electric utility's applicable Competitive Price. Alternatively, a state regulatory authority or nonregulated electric utility may establish rates for purchases of energy and/or capacity from a qualifying facility based on a Competitive Solicitation Price. To the extent that capacity rates are not set pursuant to this section, capacity rates shall be set pursuant to subsection (2).

Allegheny Energy Supply factors:

1. Open and transparent process;
2. Solicitations are open to all sources;
3. Solicitations are conducted at regular intervals;
4. Oversight by an independent administrator; and
5. Solicitations are certified by the regulatory authority.

Avoided cost rates outside organized wholesale power markets:

(2) To the extent that a state regulatory authority or nonregulated electric utility does not set energy and/or capacity rates pursuant to paragraph (e)(1) of this section, the following factors shall, to the extent practicable, be taken into account in determining rates for purchases from a qualifying facility:

- (i) The data provided pursuant to § 292.302(b), (c), or (d), including State review of any such data;
- (ii) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:
 - (A) The ability of the electric utility to dispatch the qualifying facility;
 - (B) The expected or demonstrated reliability of the qualifying facility;
 - (C) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
 - (D) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the electric utility's facilities;
 - (E) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
 - (F) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and
 - (G) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and
- (iii) The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (e)(2)(ii) of this section, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and
- (iv) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

Summary: Increased State Flexibility

The Fifth Circuit Court of Appeals stated that “is up to the States, not [FERC] to determine the specific parameters of individual QF power purchase agreements.”

Power Resources Group v. PUC of Texas, 422 F.3d 231, 238 (5th Cir. 2005), quoting *W. Penn Power Co.*, 71 FERC 61,153 (May 8, 1995).

Questions or
Comments?

