

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Implementation Issues Under the Public Utility Regulatory Policies Act of 1978) Docket No. AD16-16-000
)

**ANSWER OF THE AMERICAN PUBLIC POWER ASSOCIATION AND
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION TO
MOTION TO LODGE OF THE EDISON ELECTRIC INSTITUTE**

In its February 4, 2019 motion to lodge, the Edison Electric Institute (“EEI”) asks the Federal Energy Regulatory Commission (“Commission” or “FERC”) to undertake “a holistic review of its rules and regulations” implementing the Public Utility Regulatory Policies Act of 1978 (“PURPA”).¹ EEI encourages the Commission to “institute broader reforms to ensure that PURPA’s implementation is aligned with today’s energy landscape.”² The American Public Power Association (“APPA”) and the National Rural Electric Cooperative Association (“NRECA”) support these requests. Like EEI, APPA and NRECA were pleased by the announcement at the May 17, 2018 open meeting that the Commission intends to reenergize its PURPA policy review, and we urge the Commission to promptly recommence the review of its PURPA policies that it initiated in this proceeding in 2016.

The energy industry has undergone significant changes since PURPA was enacted in 1978, driven in no small part by the Commission’s implementation of policies to promote open access transmission, and the development of organized wholesale electricity markets. There has been a meaningful evolution in the generation resource mix, including significant growth in renewable resources and use of new and improved technologies. As EEI notes, “[i]t is within

¹ EEI Motion to Lodge at 4.

² *Id.*

this environment of new technologies and access to markets that [qualifying facilities] operate.”³ APPA and NRECA agree wholeheartedly with Chairman Chatterjee, therefore, that “better aligning PURPA with our modern energy landscape” should be a Commission priority.⁴

Implementation of PURPA’s mandatory purchase obligation is of particular concern to public power and electric cooperative utilities, as it can require these utilities to buy power from qualifying facilities (“QFs”) they do not need, at rates that may be higher than what can be obtained from the market. The mandatory purchase obligation also impacts long-term generation capacity planning when electric utilities are unexpectedly required to purchase power not accounted for in their integrated resource plans. APPA and NRECA recognize that the mandatory purchase obligation is a statutory requirement. As EEI observes, however, the Commission retains significant discretion in adopting regulations to implement this and other PURPA provisions.⁵ Updating the Commission’s rules on matters such as calculation of avoided costs, implementation of PURPA section 210(m), and small power production QF qualification criteria (including the one mile rule under 18 C.F.R. § 292.204(a)(2)), could result in more reasonable outcomes for electric utilities and their customers without contravening PURPA’s statutory requirements.

APPA and NRECA support EEI’s request that the Commission undertake a holistic review of its PURPA’s rules and regulations, and we share the view that the Commission should “institute broader reforms to ensure that PURPA’s implementation is aligned with today’s energy landscape.”⁶ APPA and NRECA appreciate the Commission’s interest in conducting such an

³ *Id.*

⁴ *End of Year Review with Chairman Neil Chatterjee*, FERC Podcast Transcript (Dec. 20, 2018), available at: <https://www.ferc.gov/media/podcast/2018/12-20-transcript.pdf?csrt=16241441919453397476>.

⁵ EEI Motion to Lodge at 2.

⁶ *Id.* at 4.

appraisal, and we look forward to working with the Commission as its review proceeds.

Respectfully submitted,

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