Remove Federal Barriers to Competition:

Reform the Public Utilities Regulatory Policies Act

PURPA raises costs for consumers and hinders competition.

- The Public Utilities Regulatory Policies Act (PURPA) forces utilities to purchase power they may not need from certain qualifying generating facilities at above-market prices, resulting in billions of dollars of extra costs to consumers and threatening competition. Instead of being subsidized, qualifying facilities should be required to compete with other suppliers on equal terms in a competitive electricity market.
- PURPA is outdated and no longer meets its original objectives of improving power production efficiency and increasing the use of renewables. In fact, PURPA has resulted in only minimal generation from renewable energy resources.
- PURPA's special privileges for one particular class of electricity generator are inconsistent with increasingly competitive wholesale and retail electricity markets. Legislation to reform the Act is needed now.

Enactment of PURPA

PURPA was one of five bills signed into law on November 8, 1978, as the National Energy Act, but is the only one remaining in force. Enacted under the Carter Administration as part of the response to the oil embargo in the 1970s and the perceived shortage of natural gas, PURPA requires utilities to buy power from non-utility generation facilities that use renewable energy sources or "cogeneration," which is the use of steam both for heat and to generate electricity. The Act's goal was to "promote energy independence and diversification of supply, improve the overall efficiency of supply, and conserve electric energy while providing equitable rates for consumers."

After PURPA was enacted, the Federal Energy Regulatory Commission (FERC) required utilities to purchase all the power produced by a qualifying facility at a price equal to that which the utility would otherwise pay if it were to build its own power plant or buy power from another source. Utilities were required to sign long-term (20- to 30-year) contracts to purchase power, at a locked-in price, from such facilities.

Major Provisions of PURPA

PURPA authorizes financial and regulatory incentives to encourage private development of small hydropower, solar, wind, and other alternative energy projects. The Act was amended in 1990 to include waste-to-energy facilities among the renewable technologies encompassed by law and to further encourage alternative power production by removing size limitations placed on these facilities.

PURPA created a special class of power producers, known as qualifying facilities, from which utilities are required to buy power. The two types of qualifying facilities are: small power producers and cogenerators. Small power producers are limited in size to 80 megawatts and must use a renewable energy source to generate at least 75 percent of their total power. Cogenerators must use at least five percent of the steam produced by a fuel source, including fossil fuels, for electricity production and a separate commercial or industrial use.

FERC set the pricing rules for the qualifying facilities. These rules typically resulted in rates (set by the states) intended to reflect a utility's avoided costs—the costs, including the construction of new power plants, avoided by a utility by purchasing power from a qualifying facility.

PURPA Results in Higher Prices for Consumers

To encourage the growth of qualifying facilities, a number of states deliberately set the avoided cost rate artificially higher than the true avoided cost and far above market value today. In addition, projections of utility avoided costs were often based on mistaken assumptions regarding the future cost of fuels. And, FERC's regulations regarding PURPA contracts allow these mistakes to be locked in for long periods of time, magnifying the cost consequences of these mistakes. As a result, PURPA is costing consumers nearly $8 billion a year in excess electricity prices.

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PURPA No Longer Meets Its Original Objectives

Many of the cogeneration qualifying facilities produce only trivial amounts of steam for commercial or industrial use, and are created solely for the purpose of selling power to utilities at above-market rates under long-term contracts. Consequently, they do little to promote PURPA's original objective of improving the efficiency of power production or increasing the use of renewable energy sources.

Furthermore, our nation's current fuel mix does not reflect a significant increase in the use of renewable energy sources. Today, less than one percent of electricity is generated from non-hydropower renewable energy sources. In fact, more than 85 percent of the installed generating capacity of non-utility generators, which would include qualifying facilities, is made up of traditional fuel sources such as coal, gas, and fuel oil.

PURPA Today: A Barrier to Competition

PURPA's price distortions and mandatory purchase obligation continue to place a heavy burden on many utilities and their customers. Qualifying facilities should be required to compete with other suppliers on equal terms in a competitive electricity market. As the electric power industry moves from highly regulated to more open and competitive markets, PURPA remains a barrier to achieving one of the most fundamental goals of competition: the creation of a truly competitive and level playing field on which unsubsidized suppliers compete for customers under one set of market rules.

EEI EDISON ELECTRIC INSTITUTE

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701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
202-508-5000
www.eei.org