

# Public Utility Regulatory Policies Act Regulations: Federal Energy Regulatory Commission Proposed Revisions



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The Federal Energy Regulatory Commission (“FERC”) proposed on September 19th what it describes as a modernization of its regulations governing small power producers and co-generators under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

The PURPA rules were originally enacted in 1980. Some changes have been enacted since the original promulgation. However, the September 19th proposal is described as the first comprehensive revision.

PURPA was enacted by Congress in 1978 during a period of energy crisis. Goals of the federal statute included:

- Conservation of electric energy
- Increased efficiency in the use of facilities and resources by electric utilities
- Equitable retail rates for electric consumers
- Expeditious development of hydroelectric potential of existing small dams
- Conservation of natural gas while ensuring that rates to natural gas consumers are equitable

The federal statute established a new class of generating facilities that were provided special rate and regulatory treatment. Such generating facilities are classified as qualifying facilities and are encompassed by one of two categories:

- Qualifying Small Power Production Facilities
- Qualifying Co-Generation Facilities

The September 19th proposal is stated to continue the objective of encouraging development of QFs. Concurrently, they are also stated to address concerns regarding the impact of the original regulations on competitive wholesale power markets.

Factors driving the promulgation that are referenced include:

- Technological advancement in renewables
- Increasing sophistication in competitive electric power markets
- Abundant supplies of domestic gas

The proposal is stated to:

- Provide flexibility to state regulatory authorities enabling accommodation of wholesale power market developments
- Streamline FERC’s policies and practices

FERC's proposal allows state regulatory authorities to incorporate market pricing into avoided cost energy rates in various ways. States are allowed to require energy rates (as opposed to capacity rates) to vary during the life of QF contracts. It also proposes to modify what is denominated "the One-Mile Rule" and lower the threshold presumption for nondiscriminatory access to power markets from 20 megawatts to 1 megawatt for small power production. However, this would not include co-generation facilities.

A copy of the FERC notice of proposed rulemaking can be downloaded [here](#).