Public Utility Regulatory Policies Act (PURPA): December 18th National Association of Regulatory Utility Commissioners Letter Advocating Changes

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The National Association of Regulatory Utility Commissioners ("NARUC") sent a December 18th letter to the Chairman and Members of the Federal Energy Regulatory Commission ("FERC") advocating changes to the Public Utility Regulatory Policies Act of 1978 ("PURPA").

The NARUC letter acknowledges comments by former FERC Chairman Neil Chatterjee about pursuit of PURPA reform and expresses hope that the new Chairman will have a similar objective.

PURPA was enacted by Congress in 1978 during a period of energy crises. 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 NARUC letter notes significant changes in the energy industry since the enactment of PURPA. These are stated to include:

- Creation of wholesale markets
- Widespread adoption of qualifying facilities technologies as sources of power
- Open-access regulation of the transmission system
- Use of competitive methods to select projects throughout the states

NARUC believes that FERC has the statutory authority to enact comprehensive reforms and identifies three potential actions that could be undertaken:

1. Adopt regulations that move away from the use of administratively determined avoided costs, and encourage the use of competitive solicitations for PURPA compliance and project selection.
2. Lower or eliminate the 20 MW threshold for the rebuttable presumption that qualifying facilities with a capacity at or below that size do not have nondiscriminatory access to the market, which would increase competition and reduce transaction costs to state commissions.
3. Address the disaggregation problem where qualifying facilities have gamed state and federal regulation by making changes to the "one-mile rule" and other related reforms.

A copy of the letter can be downloaded here.