

Hollow Road Solar Project

PJM Queue Reform & PURPA

April 12, 2022

PURPA

- Enacted in 1978 to encourage
 - Energy conservation
 - The addition of certain classes on non-utility generation to the grid
 - Cogeneration facilities
 - Small power production facilities
- PURPA advances these objectives by
 - Requiring utilities to purchase power at special rates and terms from cogenerators and small power producers that are identified as being qualifying facilities (“QFs”) under rules promulgated by FERC
 - Reducing regulation of QFs, including exemption from substantial portions of the FPA and state regulation, other than avoided cost determinations
- Small power production facilities include
 - Maximum capacity of 80 MW
 - Fuel source must be biomass, waste, renewable resources, geothermal resources, or any combination thereof

PURPA (cont')

- PURPA Put (Pre Order 872)
 - QF has the right to put energy and/or capacity to the utility
 - Pricing is selected by the QF as either long-term or time of delivery
 - For long-term, the price is the utility's avoided cost, determined as of the time the legally enforceable obligation arises
 - Avoided cost is the incremental cost of energy and/or capacity on the utility's system

EPAAct 2005 & Order 688

- Allows utilities to avoid the obligation to purchase from QFs in certain circumstances
 - Rebuttable presumption that QFs greater than 20 MW in RTOs have non-discriminatory access to the market
 - A QF could file to rebut the presumption
 - Rebuttable presumption that QFs \leq 20 MW did not have non-discriminatory access to the market
 - But utilities were obligated to make an affirmative filing to obtain this relief
- Historically, many utilities in PJM sought such relief, but some did not
- Any utility that did not obtain relief from FERC retained the obligation to purchase energy and capacity from QFs up to 20 MW at the utility's avoided cost

Order No. 2006

- Acknowledged the need for a more streamlined process for projects \leq 20 MW
- The Commission rejected a lower than 20 MW capacity limitation for small generation projects noting that the 20 MW limitation for SGIA/SGIP would “remove barriers to the development of a greater number of Small Generating Facilities”
- This determination harmonized the FPA with regard to small generating facilities and PURPA

PJM Queue Reform Undermines PURPA

- PJM's Queue Reform process, as currently drafted, undermines PURPA's goal of encouraging the development of renewable resources
- PJM's Queue Reform cannot be at odds with PURPA
 - The FPA and PURPA are both federal statutes- neither has priority/pre-emption over the other
 - Destroys harmonization of FPA and PURPA
 - Has a discriminatory effect on projects that relied on that harmonization
 - Affected projects incur undue delay- adding up to 7 years between the establishment of a Legally Enforceable Obligation and project COD
 - Delay manifests itself in a number of ways, including increased financing costs, which could jeopardize the QF
- Increased Deposits:
 - Purpose is solely to increase financial burden and force projects out of the queue- directly at odds with goal of PURPA

The Number of Affected Projects Likely is Small

- AG-1 is being processed
- Affected projects are those
 - After AG-1 (beginning October 1, 2020)
 - That have established Legally Enforceable Obligations and the right to put energy
- Because of Order No. 872 (effective on December 31, 2020) the number of projects is likely limited to a small subset of post-AG-1 projects

Proposal

- Move Specified QFs to Fast Lane
 - Existing mechanism – PJM does not have to create a new/separate process
 - With the small number of projects affected, the incremental burden on PJM is minimal (if any)
 - There is no adverse effect on other projects in the queue
 - Resolves conflict between PURPA and FPA arising from PJM's current proposal and eliminates potential related challenges to PJM's proposal at FERC
 - Advances PJM's stated intent of advancing lower impact projects first