



AMERICANS FOR LIMITED GOVERNMENT

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Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Dear Chairman Chatterjee and Commissioners Glick, LaFleur, and McNamee,

The Federal Energy Regulatory Commission (FERC) is responsible for ensuring economically efficient, safe, reliable, and secure energy for consumers. As part of that responsibility, FERC implements the Public Utility Regulatory Policies Act (PURPA). In the wake of a national energy crisis, PURPA was signed into law in 1978 to encourage, among other things, more renewable energy, at “equitable retail rates for electric consumers.” But over four decades since PURPA’s passage, the nation’s energy landscape has changed profoundly, including the development of regional, wholesale, competitive electricity markets, and the fact that the U.S. has reduced oil-fired electric generation, the central motivation behind PURPA, to just 1 percent of all generation in 2015, down from 16.5 percent in 1978. Yet in the face of this, PURPA’s stale, static federal mandates remain in place, distorting markets and harming consumers.

To begin with, 29 states already have renewable “portfolio” energy mandates, which establish significant percentage requirements for renewable energy generation, such as wind and solar. This is on top of longstanding federal taxpayer subsidies boosting renewable energy production. PURPA, then, amounts to another bureaucratic command that requires renewable energy development that many local communities don’t need.

As one utility representative testified to FERC, “utilities with large amounts of [PURPA-required] power on their system often must curtail or even shut down less expensive, more economic generation or be in violation of PURPA.” In Montana, state officials have reported a “crisis,” and explained that, “utilities end up curtailing less expensive wind generation in order to purchase higher cost [PURPA-required] power at sometimes 3 to 4 times the price.”

These unnecessary, costly projects are usually backed by long-term, fixed-price contracts, oftentimes well above market rates, which are a boon for developers at the expense of consumers, who ultimately pay higher utility bills. This can be especially difficult for consumers in rural areas. According to one electric cooperative, “any unnecessary or inefficient costs are passed on directly to our distribution cooperative and ultimately to their member consumers in the rural, often economically challenged areas they serve.” In short, for those stuck with higher electric bills, PURPA is all cost for no benefit.

Under PURPA, states must balance protecting ratepayers while ensuring that so-called “qualifying facilities,” or QFs, which are the renewable energy developers that benefit from PURPA’s mandates, are not discriminated against. But many states have limited tools under FERC’s PURPA regulations to prevent gaming and manipulation by QFs. And according to one state commissioner,

“those benefitting from gaming are often large multi-national corporations – rather than small developers – whose interests in developing their projects are seemingly limited to reaping the federal tax advantages.”

States also lack sufficient flexibility to waive PURPA requirements when determining such basic things as the appropriate mix of generation resources, how additional intermittent resources will affect grid reliability, and potential impacts on consumers.

We were encouraged by FERC Chairman Chatterjee’s statement that aligning PURPA with our modern energy landscape is one of FERC’s 2019 areas of focus. This follows the technical conference convened by FERC on June 29, 2016, to examine FERC’s PURPA policies, as well as Congressional hearings and letters submitted to FERC by various companies and organizations on the topic. Thus, the commission has had ample time to examine the many flaws in its PURPA regulations, so the time for reform is now.

Moreover, to the extent allowable by law, we urge FERC to pursue *comprehensive* PURPA reform, covering not only the so-called “one-mile rule,” but also, among other things, the methods by which states calculate avoided cost for qualifying facilities and PURPA’s outdated mandatory purchase obligation.

In taking these steps, we are confident FERC can help strengthen electricity markets, provide consumers with affordable, reliable energy, and put an end to rent-seeking and government-backed abuses of a law that is hopelessly misaligned with America’s new era of energy dominance.

Sincerely,

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