

# PRICING AND ELIGIBILITY CHANGES TO PURPA

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Assistant Attorney General,  
Colorado Attorney General's Office

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# OVERVIEW

PURPA enacted in 1978, was originally intended to encourage alternative energy sources as part of a broader effort to diversify the U.S. energy mix and reduce reliance on foreign supply. PURPA was intended to foster the development of independent generation by encouraging the deployment of small, distributed energy generators, such as small solar and hydro facilities.

In July this year, FERC finalized its updates to PURPA to try and preserve competition and give states more flexibility in implementing the federal rule. This new ruling allows states to set the rates paid to qualifying facilities (QFs) at a variable wholesale rate rather than a fixed cost, reducing the size of a project that is subject to such rates from 20 MW to 5 MW, and modifying the one-mile rule to prevent aggregation. Utilities in some states view this as a win as they will have to pay QFs less for the avoided cost of power than they did under the previous rules. On the other hand, solar supporters say this ruling could hurt the ability of small solar projects to secure the financing they need.

Join us for this event to learn about how this new FERC ruling affects the different shareholders. The blend of relevant presentations and panel discussions will provide good perspectives and best practices to consider for PURPA moving forward.

# LEARNING OUTCOMES

- Analyze variable energy pricing and the emergence of competitive procurement
- Discuss commission perspectives on the new ruling
- Explore the effect of disaggregation of the 1-mile rule to 10 miles
- Discuss possible PURPA reform initiatives, and whether PURPA can be better aligned with other state and federal policies
- Review battery + solar storage and other types of storage as a qualified facility (QF)
- Discuss ways to ensure that competitive solicitation furthers the goals of PURPA

# WHO SHOULD ATTEND

Individuals working in the following areas will benefit from attending this event:

- Distributed level renewable energy project developers
- Grid level renewable energy project developers
- Utility management
- Technical staff
- Regulators
- RTOs/ISOs
- Consultants
- Equipment manufacturers
- Renewables system
- Solicitation / Procurement staff
- Resource planning staff
- Legal Counsel



***“Getting the perspective from the off-takers point of view was valuable in understanding how best to develop PURPA projects that benefit all parties”***

Sales and Marketing Manager,  
Hannah Solar Government Services

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# AGENDA

TUESDAY, DECEMBER 15, 2020 - CENTRAL TIME

**8:45 – 9:00 am****Login and Welcome****9:00 – 9:15 am****Opening Announcements****9:15 am – 12:30 pm****Session I****Reactions and Considerations from Regulators: A Panel Discussion Led by SD Commissioner Chris Nelson**

The South Dakota Commission submitted comments to FERC during the rulemaking process.

In this session, a panel from the South Dakota Commission consisting of a commissioner, a commission advisor and a staff attorney will provide a commission perspective on the new ruling, specifically how they consider and protect ratepayers throughout the process. This insightful panel discussion will include time for attendees to ask questions of our regulatory experts.

**Chris Nelson, Commissioner, South Dakota Public Utilities Commission**

**Kristen N. Edwards, Staff Attorney, South Dakota Public Utilities Commission**

**Greg Rislov, Commission Advisor, South Dakota Public Utilities Commission**

**Variable Energy Pricing Option**

Until the last few years, solar and wind energy were so expensive that few utilities had to worry about them matching or besting their avoided cost. Circumstances have changed dramatically, thanks to steady declines in the cost of renewables. Notably, the desire to simultaneously contain rising electricity rates, while promoting deployment of renewable energy resources, has led to an evolution in incentives policy for distributed renewable generation. The Final Rule permits states to require variable energy rates. This session will provide an overview of methodologies used for variable energy pricing options and the implications for QF developers and utility ratepayers.

**Metin Celebi, Principal, The Brattle Group**

**Robert Mudge, Principal, Brattle Group**

**The Revised One-Mile Rule**

Because the law was designed to give smaller power players a leg up in entering the energy market, the size of a project — along with its location — determines whether it is a qualifying facility (QF). Independently developed renewable projects need the QF designation to sell power to a host utility at the utility's avoided cost. Under the previous FERC rules, such projects must be a mile apart to be considered a separate facility. Part of FERC's new ruling includes modifying the "one-mile rule" for determining whether generation facilities are at the same site for purposes of determining whether it is a qualifying small power production facility. This session will explore the presumption that facilities 10 miles apart or more are now considered separate facilities.

**Zev Simpser, Partner, Dorsey & Whitney**

**QF Status for Solar + Storage**

Is energy storage a qualified facility? That is the question that people are asking about how energy storage fits in with PURPA. Neither PURPA nor FERC's regulations explicitly mention energy storage as an energy resource type that can make a facility eligible for QF status. The statute provides that QF status is available to a "small power production facility," which is defined as, among other things, a "facility" that produces power from one of a series of enumerated resource types and has a "power production capacity" of not more than 80 MW. This session will provide added guidance to address the QF status for solar + storage, and its impact on future combined technology sizing for QF status.

**John Fernandes, Senior Consultant – Emerging Technologies, Customized Energy Solutions (CES)**

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# AGENDA

12:30 – 1:15 pm

**Lunch Break**

1:15 – 4:15 pm

**Session II**

### **Competitive Procurement**

States have continued to grapple with how to compensate QFs for energy and capacity, with some utilities arguing that they should not have to pay for energy or capacity if they do not forecast needing additional energy or capacity in their planning horizon. The emergence of competitive procurement in different states has presented new challenges and thus a need for new methodologies. Best practices ensure that competitive solicitation furthers the goals of PURPA and how it flows through to impacts on the QF developers. This session will provide an overview of competitive procurement as an explicit option including lessons learned from several states.

***Paul Hibbard, Principal, Analysis Group (former Chairman, Massachusetts DPU)***

***Metin Celebi, Principal, The Brattle Group***

***Robert Mudge, Principal, Brattle Group***

### **Legally Enforceable Obligations (LEO's) and Utility Resource Planning**

Qualified Facilities (QFs) have increasingly sought to enforce their rights under PURPA through Legally Enforceable Obligations (LEOs). A LEO is established when a QF commits itself to sell to a utility. LEOs are set by state utilities commissions and standards vary widely state-by-state. Barriers to Commitment QFs have increasingly sought to enforce their rights under PURPA through LEOs. The new PURPA ruling changes the standards for LEOs thereby changing the process and impact on utilities. This session will include new standards for establishing the date of LEOs, and the implications for utility resource **planning**.

***Nick Smith, Sr. Product Manager Solutions Operations, Interstate Power and Light Company, an Alliant Energy Company***

### **Legal Challenges to FERC's Ruling, and Possible Outcomes**

Although the procedural requirements to challenge a FERC order adopting implementation regulations under PURPA are not entirely clear, the likely next step will be to file Petitions for Rehearing of the Final Rule. Given the controversial nature of the Final Rule, it is likely that significant litigation will follow in the U.S. Courts of Appeal, and it is also possible that litigation will be brought in the U.S. District Courts. Rules carrying out PURPA on the ground must be adopted by state utility commissions and the governing boards of publicly owned utilities. This session will review possible legal challenges to the new FERC ruling as well as possible outcomes.

***Kristen N. Edwards, Staff Attorney, South Dakota Public Utilities Commission***

***Zev Simpson, Partner, Dorsey & Whitney***

4:15 pm

**Conference Adjourns**



***“All speakers were well informed about the issues and are good presenters”***

Manager Resource & Renewable Planning,  
East Kentucky Power Cooperative

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## INSTRUCTIONAL METHODS

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This program will include PowerPoint presentations and panel discussions

## ONLINE COURSE DELIVERY & PARTICIPATION DETAILS

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We will be using Microsoft Teams to facilitate your participation in the upcoming event. You do not need to have an existing Teams account in order to participate in the broadcast – the course will play in your browser and you will have the option of using a microphone to speak with the room and ask questions, or type any questions in via the chat window and our on-site representative will relay your question to the instructor.

- You will receive a meeting invitation which will include a link to join the meeting.
- Separate meeting invitations will be sent for the morning and afternoon sessions of the course.
  - o You will need to join the appropriate meeting at the appropriate time.
- If you are using a microphone, please ensure that it is muted until such time as you need to ask a question.
- The remote meeting connection will be open approximately 30 minutes before the start of the course. We encourage you to connect as early as possible in case you experience any unforeseen problems.

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See page 5 for information

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**OR** Enclosed is a check for \$ \_\_\_\_\_ to cover \_\_\_\_\_ registrations.

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