

Resolution Regarding the Enforcement of PURPA Standards and Regulations

WHEREAS, In 1978 Congress enacted the Public Utility Regulatory Policies Act (PURPA) in response to a national energy crisis; *and*

WHEREAS, PURPA's purpose was to lessen the country's dependence on foreign oil and to encourage the promotion and development of renewable energy and cogeneration technologies; *and*

WHEREAS, PURPA requires electric utilities to purchase power produced by qualifying facilities (QFs), referred to as a mandatory purchase obligation; *and*

WHEREAS, PURPA requires that the power from QFs be purchased by utilities at avoided cost rates that are just and reasonable to a utility's ratepayers, in the public interest, and not discriminatory to the QFs; *and*

WHEREAS, PURPA mandates power sales at a utility's avoided cost, but otherwise creates a broad and flexible framework for the sale of QF power by leaving the details to be worked out by State regulatory commissions; *and*

WHEREAS, There are significant differences among electric market structures and the penetration of renewable generation throughout the country and, therefore, significant differences in PURPA implementation; *and*

WHEREAS, Since PURPA was enacted, there has been tremendous growth in renewable generation, both inside and outside the mandates of PURPA; *and*

WHEREAS, Because of the significant growth in various forms of renewable generation, PURPA's mandatory purchase obligation has created unintended consequences in some jurisdictions, including: PURPA generation that is not needed to serve loads; long-term fixed-price PURPA contracts that have resulted in avoided costs detrimental to retail ratepayers; large amounts of intermittent generation that require standby generation; operating and reliability concerns; and planning uncertainties because of the unexpected and unpredictable addition of PURPA projects; *and*

WHEREAS, Such unintended consequences have been compounded by some QF developers that have been able to work around the Federal Energy Regulatory Commission's (FERC) small renewable QF criteria by disaggregating their projects into multiple smaller projects, thereby availing themselves of more advantageous avoided cost calculations to the detriment of retail ratepayers; *and*

WHEREAS, A number of State regulatory commissions have recently been devoting an inordinate amount of time attempting to discern the intent and assess the impact of PURPA, the meaning of FERC regulations, and the parameters of State discretion; *and*

WHEREAS, In light of these developments and concern within a number of States, members of Congress recently asked FERC to conduct a comprehensive review of PURPA Section 210; *and*

WHEREAS, FERC conducted a technical conference on June 29, 2016, regarding issues associated with State commission implementation of PURPA and particularly focused on the mandatory purchase obligation and determination of avoided costs; *and*

WHEREAS, NARUC, through President Travis Kavulla, along with various other State regulatory and energy commissions, participated in the technical conference and submitted comments; *and*

WHEREAS, NARUC and its members have a long history of successfully implementing PURPA and encouraging renewable development that is consistent with FERC regulations and that is in the public interest of each respective State regulatory jurisdiction; *and*

WHEREAS, The availability, practicality, need for, and cost effectiveness of PURPA renewable and cogeneration power supply sources varies from region to region and from State to State; *and*

WHEREAS, Because the ability to efficiently acquire and manage renewable resources varies from region to region, the States are in the best position to analyze the need for, and the availability, practicality, and cost effectiveness of new renewable and cogeneration resources; *and*

WHEREAS, The States are uniquely qualified to measure whether unexpected, large-scale intermittent resources can be added to the electric system without compromising reliability; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 128th Annual Meeting in La Quinta, California, concludes that:

- The State commissions must remain the appropriate bodies to make mandatory purchase and avoided cost determinations, not only because PURPA Section 210 specifies that the State commissions are to implement PURPA and FERC rules, but also because those determinations are subject to local conditions best known at the regional and local level by State commissions;
- The State commissions should continue to be afforded the authority to select an appropriate methodology for calculating avoided costs;
- PURPA's goal of promoting QF development must be balanced with the States' interest in just and reasonable rates;
- FERC should establish criteria that assists States in evaluating whether a project developer has disaggregated a large project into multiple smaller projects in an effort to circumvent FERC's size limitations and undermine PURPA regulations to the retail ratepayers' detriment; *and*
- Each State should retain the full authority and discretion to determine, consistent with the lawful implementation of PURPA, the process by which QFs become entitled to PURPA contracts; the scope of such contracts; the extent to which QFs with a design capacity larger than 100 kilowatts are entitled to standard avoided cost rates; *and* other necessary *and*

proper terms and conditions to ensure that each PURPA contract is consistent with and protects the State's public interest, does not adversely impact retail ratepayers, and fairly calculates the rates paid to the QFs.

Sponsored by the Committee on Electricity

Recommended by the NARUC Board of Directors November 15, 2016

Adopted by the NARUC Committee of the Whole November 16, 2016