

Resolution on Legislation to Reform §210 of The Public Utility Regulatory Policies Act of 1978

WHEREAS, In 1978, Congress enacted the Public Utility Regulatory Policies Act (PURPA), §210 of which requires electric utilities to purchase power at wholesale from certain co-generators and small power producers using renewable technologies, otherwise known as "qualifying facilities" or QFs; *and*

WHEREAS, A primary goal of Congress in enacting PURPA was to increase the use of renewable energy resources and cogeneration for wholesale power supply; *and*

WHEREAS, Largely in response to PURPA, the generation portion of the electric power industry has begun to evolve toward more competition; *and*

WHEREAS, Both PURPA and the Energy Policy Act of 1992 (EPACT) seek to further encourage wholesale competition in electric generation; *and*

WHEREAS, Competition in wholesale power markets and development of cogeneration and renewable technologies can be beneficial and should be encouraged where competition and cogeneration and renewable technologies appear to be in the public interest; *and*

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

WHEREAS, The efficient acquisition and management of resources by utilities serving retail customers, including both new utility-owned generation, power purchased from all categories of wholesale generators and measures improving supply and demand-side efficiency are central goals of state regulation; *and*

WHEREAS, The FERC and certain federal courts have recently issued decisions related to state implementation of PURPA that create uncertainty with respect to state regulation of utility resource acquisition and management programs; *and*

WHEREAS, The efficient acquisition and management of electric generation resources serving retail customers, including encouraging wholesale competition and renewable and cogeneration power supply, can best be determined by the individual states which are most knowledgeable concerning their utilities, their states' specific need and potential for development of renewable resources and cogeneration and other factors affecting resource acquisition and management to serve retail consumers; *and*

WHEREAS, It appears that Congress will consider legislation to revise or repeal PURPA; *now, therefore, be it*

RESOLVED, By the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1995 Summer Meetings in San

Francisco, California that PURPA should be reformed consistent with the following principles:

1. The goals encompassed in PURPA and EPACT to encourage wholesale competition and to increase the cost effective use of renewable energy resources and cogeneration for wholesale power supply continue to be important national goals and should be affirmed.
2. PURPA's mandatory purchase requirement shall not be applicable in any state which has made a finding that the acquisition of generating capacity is subject to competition or other acquisition procedures such that the public interest is protected with respect to price, service, reliability and diversity of resources.
3. PURPA's mandatory purchase requirement shall be clarified to provide that:
 - a. where a State commission relies on PURPA to compel a utility to purchase, the purchase price shall be no higher than the cost the utility would have incurred absent the existence of PURPA;
 - b. the avoided cost price may reflect externalities or other costs determined by the State commission which are equally applicable to utility and non-utility generation;
 - c. the present PURPA rule permitting a QF to lock in certain terms for long periods shall be removed prospectively, so that State commissions may make independent decisions as to the appropriate contract terms just as they may make independent decisions with respect to recovery of utility plant investments; and
 - d. the State shall have the right to determine the process by which QFs become entitled to contracts.
4. Each State public service commission should analyze the availability, practicality, need for and cost effectiveness of cogeneration and renewable power supply sources for its state, and to the extent and degree determined by it to be in the public interest, should encourage development of cogeneration and renewable resources and the competitive acquisition of wholesale power supplies.
5. The Federal Power Act shall not limit the authority of a State to regulate, determine or direct the acquisition and management of supply resources by a utility or other retail provider subject to its jurisdiction.

*Sponsored by Energy Conservation and Electricity Committee
Adopted July 26, 1995*