

PUBLIC UTILITY REGULATORY POLICIES ACT REFORM SUPPORT H.R. 1502

Rep. Tim Walberg (R-Michigan) has introduced H.R. 1502, to make much-needed reforms to the Public Utility Regulatory Policies Act of 1978 (PURPA).

Specifically, the PURPA Modernization Act of 2019 (H.R. 1502) would update PURPA by:

- Establishing certain criteria under which the one-mile rule would be a rebuttable presumption and allow affected utilities to contest one-mile rule abuse; and
- Lowering the mandatory purchase threshold to 2.5 megawatts.

Background

PURPA was enacted in 1978 to promote energy conservation and use of domestic renewable energy. Section 210 of PURPA requires utilities to purchase electricity from co-generation or small power producers that achieve status as a “qualifying facility” (QF) at the utility’s avoided cost, in other words, the assumed cost for the utility to produce the power itself.

Further, PURPA was amended by the Energy Policy Act of 2005 to allow a utility to terminate a mandatory purchase agreement if the Federal Energy Regulatory Commission (FERC) has determined that a QF has non-discriminatory access to wholesale power markets, such as in a Regional Transmission Organization. FERC has since clarified that QFs larger than 20 megawatts (MW) have non-discriminatory access to the relevant wholesale power market, but utilities are still required to purchase power from QFs with a capacity of 20 MW or less. In response to this determination, QFs have sought to take advantage of PURPA’s “one-mile rule” to break up larger generation projects into individual 20 MW projects with a one-mile buffer between them in order to still take advantage of mandatory purchase.

Since PURPA’s implementation, the nation’s power generation sector has experienced significant changes. The rapid deployment of renewable resources in recent years, along with the growth of energy efficiency and demand response practices, has changed the long-standing model of electricity consumption, generation, and delivery. Finally, little to no growth in demand for electricity nationwide and the organization of wholesale power markets have created circumstances where a diverse fleet of generator resources now aggressively compete to supply electricity to a relatively static base of customers. These factors have resulted in near-record low electricity prices around the country.

Given this environment and the fact that Basin Electric and most utilities across the country have voluntarily moved forward with the development of renewable energy resources, the goals and desired outcomes of PURPA have largely been met. Basin Electric believes it is appropriate to review PURPA and evaluate the impacts of this law on utilities and consumers, particularly with respect to the section 210 mandatory purchase requirement.