

Article 2. Cogeneration and Small Power Production.

Section

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3 AAC 50.750. Application, purpose, and waiver.

(a) 3 AAC 50.750 – 3 AAC 50.820 apply to all electric utilities subject to the regulatory jurisdiction of the commission under AS 42.05.361 – 42.05.441. These sections govern interconnection and purchases and sales of electric power between an electric utility and a qualifying facility.

(b) The purpose of 3 AAC 50.750 - 3 AAC 50.820 is to encourage cogeneration and small power production by setting out guidelines for the establishment of reasonable, nondiscriminatory charges, rates, terms, and conditions under which interconnection and purchases and sales of electric power will occur between an electric utility and a qualifying facility.

(c) Any requirement in 3 AAC 50.750 - 3 AAC 50.820 may be waived, in whole or in part, or be modified by order of the commission upon application and a showing of good cause. An entity shall file and the commission will consider an application in accordance with 3 AAC 48.805.

3 AAC 50.760. Interconnection and Integration.

(a) An electric utility shall make interconnection with a qualifying facility as may be necessary to accomplish purchases or sales under 3 AAC 50.750 - 3 AAC 50.820.

(b) Notwithstanding (a) of this section, an electric utility is not required to interconnect with a qualifying facility if

- (1) the electric utility, solely because of purchases and sales over the interconnection, would become subject to federal regulation under Subchapter II of the Federal Power Act, 16 U.S.C. § 824; or

- (2) a qualifying facility does not comply with the safety and reliability standards prescribed for interconnection by the commission.

(c) An electric utility may assess a qualifying facility interconnection charges which are reasonable and nondiscriminatory with respect to other customers that have similar load characteristics.

(d) Interconnection charges may include the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, administration, and other costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent these costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric power from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(e) An electric utility may assess a qualifying facility integration fees based on the costs of integrating the qualifying facility into the electric utility's system. Such fees are subject to the following limitations:

(1) Integration fees must be just and reasonable, must not discriminate against qualifying facilities, and must not adversely affect consumers or the public interest.

(2) Integration fees may include costs that are reasonably necessary under accepted industry standards for maintaining the safety, integrity, and reliability of the electric utility's system; provided, however, that such costs must be:

(A) directly related to and necessary for the operation of the qualifying facility within the electric utility's system;

(B) in excess of the corresponding costs which the electric utility would have incurred if it had not received power from the qualifying facility, but instead had generated an equivalent amount of electric power from other sources; and

(C) not duplicative of the costs associated with facilities or measures utilized by the utility for reasons other than the integration of the qualifying facility.

(3) To the extent facilities or measures support the integration of more than one qualifying facility or any other type of generation facility, the costs shall be allocated appropriately between or among such facilities.

(4) Integration fees shall not include any costs already accounted for in the calculation of avoided costs or interconnection costs.

(5) Integration fees shall be offset by definable and quantifiable integration benefits that accrue to the utility as a result of interconnection with the qualifying facility. To the extent that the benefits of integration exceed the costs of integration, the difference shall be paid to the qualifying facility.

[(e)f] An electric utility shall offer a qualifying facility the option of reimbursing the electric utility for interconnection charges over a reasonable period of time. The electric utility may charge reasonable interest, to be prescribed in its tariff or special contract, for the financing of the interconnection costs.

[(f)g] If a dispute arises under 3 AAC 50.810, an electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing the charges assessed to a qualifying facility for interconnection.

[(g)h] An electric utility shall offer to operate in parallel with a qualifying facility.

[(h) AN ELECTRIC UTILITY SHALL OFFER A QUALIFYING FACILITY THAT HAS A GENERATING CAPACITY OF 10 KILOWATTS OR LESS THE OPTION OF USING A SINGLE DETENT METER DURING PARALLEL OPERATION.]

3 AAC 50.770. Purchases.

(a) An electric utility shall purchase, in accordance with (c) – (fg) of this section, any electric power which is made available from a qualifying facility.

(b) Notwithstanding (a) of this section, an electric utility is not required to purchase electric power from a qualifying facility if

(1) due to operational circumstances, purchases from a qualifying facility result in costs greater than those which the electric utility would have incurred if it had not made such purchases but had instead generated or purchased an equivalent amount of power; if purchases have started, an electric utility seeking to stop purchase under this paragraph shall notify in writing the commission and each affected qualifying facility in time for the qualifying facility to stop the delivery of electric power to the electric utility, or the electric utility shall pay the expense it would have incurred had power continued to be purchased from the qualifying facility at established rates during the same period; a claim by an electric utility that such a period has occurred or will occur is subject to verification by the commission either before or after the occurrence, upon the commission's own motion or upon complaint by a qualifying facility.

- (2) during a system emergency, purchases from a qualifying facility would further contribute to the emergency; or
- (3) with the agreement of the qualifying facility, the electric utility transmits the electric power to another electric utility which is obligated to purchase that electric power as if it were supplied directly by the qualifying facility.
- (c) Rates for purchases of electric power must be just and reasonable and must not discriminate against qualifying facilities or adversely affect the consumers of the electric utility.
- (d) For purchases from a qualifying facility [WHICH SUPPLIES NON-FIRM POWER], rates must be based on the cost of energy and capacity which the electric utility avoids by virtue of its interconnection with the qualifying facility. [RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:]- The following factors shall, to the extent practicable, be taken into account:

[(1) UNLESS OTHERWISE MODIFIED BY THE COMMISSION, AVOIDED ENERGY COSTS, EXPRESSED IN CENTS PER KILOWATT-HOUR, MUST BE DETERMINED FROM THE SUM OF FUEL AND VARIABLE OPERATION AND MAINTENANCE EXPENSES AND THE ENERGY PORTION OF PURCHASED-POWER EXPENSE FOR A 12-MONTH PERIOD, APPROVED BY THE COMMISSION, UPDATED BY SUBSEQUENT FUEL COSTS, AND DIVIDED BY THE NUMBER OF KILOWATT-HOURS SOLD FOR THE SAME TIME PERIOD. EXPENSES AND KILOWATT-HOURS SOLD ASSOCIATED WITH HYDROELECTRIC GENERATION MUST BE SPECIFICALLY EXCLUDED FROM THE COMPUTATION OF AVOIDED COSTS FOR AN ELECTRIC UTILITY WHICH RELIES ON HYDROELECTRIC GENERATION FOR 25 PERCENT OR MORE OF ITS TOTAL POWER REQUIREMENTS.

(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE FOLLOWING INFORMATION FOR THE CALENDAR OR FISCAL YEAR PRECEDING THE DATE OF FILING, OR A MORE RECENT 12-MONTH PERIOD, TO SUPPORT RATES FOR PURCHASES OF NON-FIRM POWER:

- (A) THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS SPECIFIED IN (D)(1) OF THIS SECTION;
AND
(B) AT ITS OPTION, THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS BASED ON ANY OTHER METHODOLOGY DEEMED APPROPRIATE AND JUSTIFIABLE BY THE ELECTRIC UTILITY.
- (3) RATES FOR PURCHASES OF NON-FIRM POWER MUST BE ADJUSTED CONTEMPORANEOUSLY WITH FUEL-COST RATE ADJUSTMENTS AND WITH CHANGES IN AVOIDED ENERGY COSTS IN GENERAL RATE REVISIONS.]

(1) The data provided pursuant to 3 AAC 50.790(e);

(2) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

- (A) The ability of the utility to dispatch the qualifying facility;
(B) The expected or demonstrated reliability of the qualifying facility;
(C) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
(E) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
(F) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
(G) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and
(H) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (d)(2) of this section, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased and equivalent amount of electric energy or capacity.

(5) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for purchase power based on avoided energy and capacity costs.

[(E) FOR PURCHASES FROM A QUALIFYING FACILITY WHICH SUPPLIES FIRM POWER, RATES MUST BE BASED ON THE COSTS OF ENERGY AND CAPACITY WHICH THE ELECTRIC UTILITY AVOIDS BY VIRTUE OF ITS INTERCONNECTION WITH THE QUALIFYING FACILITY. RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:

(1) IN DETERMINING AVOIDED ENERGY AND CAPACITY COSTS, TO THE EXTENT PRACTICABLE, THE FOLLOWING FACTORS MUST BE TAKEN INTO ACCOUNT:

(A) THE ESTIMATED AVOIDED ENERGY COSTS STATED ON A CENTS PER KILOWATT-HOUR BASIS FOR THE CURRENT CALENDAR OR FISCAL YEAR AND EACH OF THE NEXT FIVE YEARS;

(B) THE ELECTRIC UTILITY'S PLAN FOR THE ADDITION OF CAPACITY BY AMOUNT AND TYPE, FOR PURCHASES OF FIRM ENERGY AND CAPACITY, AND FOR REQUIREMENTS FOR EACH YEAR DURING THE NEXT 10 YEARS;

(C) THE ESTIMATED CAPACITY COSTS AT COMPLETION OF THE PLANNED CAPACITY ADDITIONS AND PLANNED-CAPACITY FIRM PURCHASES, ON THE BASIS OF DOLLARS PER KILOWATT AND THE ASSOCIATED ENERGY COSTS OF EACH UNIT, ON THE BASIS OF CENTS PER KILOWATT-HOUR; THESE COSTS MUST BE EXPRESSED IN TERMS OF INDIVIDUAL GENERATING UNITS AND OF INDIVIDUAL PLANNED FIRM PURCHASES;

(D) THE AVAILABILITY OF CAPACITY OR ENERGY FROM A QUALIFYING FACILITY DURING SYSTEM DAILY AND SEASONAL PEAK PERIODS;

(E) THE ABILITY OF THE ELECTRIC UTILITY TO AVOID COSTS DUE TO THE AVAILABILITY OF ENERGY OR CAPACITY FROM THE QUALIFYING FACILITY; AND

(F) THE COSTS OR SAVINGS RESULTING FROM VARIATIONS IN LINE LOSSES DUE SOLELY TO PURCHASES FROM QUALIFYING FACILITIES.

(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE INFORMATION NECESSARY TO SUPPORT THE METHODOLOGY AND CALCULATIONS USED IN DEVELOPING RATES FOR PURCHASE OF FIRM POWER BASED ON AVOIDED ENERGY AND CAPACITY COSTS.]

(e) For purchases of energy from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, the avoided energy costs must be expressed in cents-per kilowatt-hour and determined from the sum of fuel and variable operation and maintenance expenses and the energy portion of purchased-power expense for the period equal to that used in the utility's adjustment clause methodology, approved by the commission, updated by subsequent fuel costs, and divided by the number of kilowatt-hours sold for the same time period. Expenses and kilowatt-hours sold associated with generation that is not avoided by virtue of purchases from qualifying facilities with a design capacity of 100 kilowatts or less must be specifically excluded from the computation of avoided costs.

(2) An electric utility shall submit to the commission the following information for the same period used in support of the utility's adjustment clause filing, to support rates for purchases of energy:

(A) the data and computation of avoided energy costs specified in (e)(1) of this section; and

(B) at its option, in addition to the information required in (A) of this section, the data and computation of avoided energy costs based on any other methodology deemed appropriate and justifiable by the electric utility.

(3) The utility's request to use an alternate methodology in (2)(B) of this section is subject to review and approval by the Commission.

(4) Rates for purchase of energy must be adjusted contemporaneously with fuel-cost rate adjustments or cost of power adjustments, and with changes in avoided energy costs in general rate revisions.

(f) For purchases of capacity from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, avoided capacity costs must be expressed in cents-per kilowatt and based on the cost of capacity which the electric utility would avoid by virtue of its interconnection with the qualifying facility.

(2) An electric utility shall submit to the commission the relevant information from (d)(2) – (d)(5) from this section and the information specified in 3 AAC 50.790(e), to support rates for purchases of capacity.

(3) Rates for purchase of capacity must be updated every two years.

([f]g) Rates for purchases from a qualifying facility, the construction of which was commenced on or after November 9, 1978, must be set at an electric utility's full avoided costs as determined under (d) or (e) of this section. Rates for purchases from a qualifying facility, the construction of which was commenced before November 9, 1978, may be set at less than full avoided costs, provided that the lower purchase rates are established in accordance with (c) of this section.

([g]h) An electric utility which is legally obligated to obtain all of its requirements for electric power from another electric utility shall submit to the commission the requisite avoided cost data of its supplying utility and the rates at which it currently purchases such energy and capacity. The supplying electric utility shall make the necessary information available to the purchasing electric utility at the time its wholesale power rates are approved by the commission.

([h]i) An electric utility or qualifying facility may agree by special contract, subject to 3 AAC 48.390, to different rates, terms, or conditions for purchases than otherwise required by this section. A contract between an electric utility and a qualifying facility is valid if the commission determines the rates, terms, or conditions for purchases are just and reasonable to the customers of the electric utility and in the public interest. The contract may not be nullified under 3 AAC 50.770(b)(1) without prior commission approval.

(i) Each qualifying facility shall have the option either:

(1) to provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

(2) to provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:

(A) the avoided costs calculated at the time of delivery; or

(B) the avoided costs calculated at the time the obligation is incurred.

(k) All data submitted by an electric utility under this section shall be subject to review by the commission. In any such review, the electric utility has the burden of providing justification for its data.

3 AAC 50.780. Sales.

(a) An electric utility shall provide service to a qualifying facility including, but not limited to, supplementary power, back-up power, maintenance power, and interruptible power.

(b) Notwithstanding (a) of this section, an electric utility is not obligated to provide supplementary power, back-up power, maintenance power, and interruptible power to a qualifying facility upon a showing to and determination by the commission, after reasonable notice and an opportunity for public comment, that compliance with that requirement will either impair the electric utility's ability to give adequate service to its customers or impose an undue burden on the electric utility.

(c) Rates for sales must be just and reasonable and in the public interest and must not discriminate against the other consumers of the utility or against a qualifying facility in comparison to rates for sales to other customers of the electric utility with similar load or other cost-related characteristics.

(d) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for sales of electric power to a qualifying facility in conformance with applicable commission regulations.

(e) Rates for sales of back-up power and maintenance power

(1) must not be based upon an assumption that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously, or during the system peak, or both, unless the assumption is supported by factual data; and

(2) must take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with the scheduled outages of the electric utility's facilities.

(f) During any system emergency, an electric utility may discontinue sales to a qualifying facility, provided that the discontinuance is on a nondiscriminatory basis.

3 AAC 50.790. Implementation.

[(A) THE EFFECTIVE TARIFF OF AN ELECTRIC UTILITY MUST DELINEATE AND AUTHORIZE INTERCONNECTION AND PURCHASES AND SALES OF ELECTRIC POWER BETWEEN AN ELECTRIC UTILITY AND A QUALIFYING FACILITY INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR

(1) THE CHARGES, TERMS, AND CONDITIONS FOR INTERCONNECTION TO A QUALIFYING FACILITY, INCLUDING THE METHOD AND TIMING OF PAYMENT OF INTERCONNECTION CHARGES BY A QUALIFYING FACILITY;

(2) THE RATES, TERMS, AND CONDITIONS FOR PURCHASES OF FIRM AND NON-FIRM POWER FROM A QUALIFYING FACILITY; AND

(3) THE RATES, TERMS, AND CONDITIONS FOR SALES OF POWER TO A QUALIFYING FACILITY.]

[[b]a] Not later than 60 days after receipt of a written request for interconnection from a qualifying facility, an electric utility shall file with the commission for its consideration a tariff for interconnection, purchases, and sales with the requesting qualifying facility in accordance with applicable provisions of AS 42.05.361 - 42.05.441, 3 AAC 48.200 - 3 AAC 48.390, and 3 AAC 50.750 - 3 AAC 50.820.

(b) The tariff of an electric utility filed in accordance with (a) must delineate and authorize interconnection and purchases and sales of electric power between an electric utility and a qualifying facility including, but not limited to, provisions for

(1) the charges, terms, and conditions for interconnection to a qualifying facility, including the method and timing of payment of interconnection charges by a qualifying facility;

(2) the rates, terms, and conditions for purchases of energy and capacity from a qualifying facility; and

(3) the rates, terms, and conditions for sales of power to a qualifying facility.

(c) Notwithstanding (a) and (b) of this section, an electric utility may enter into a special contract with a qualifying facility **in accordance with 3 AAC 50.770(i)** specifying the charges, rates, terms, and conditions of interconnection,

purchases, and sales between an electric utility and a qualifying facility, provided use of a special contract otherwise conforms to applicable commission regulations.

[(d) NOT LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF 3 AAC 50.750 - 3 AAC 50.820, EACH ELECTRIC UTILITY SHALL COMPILE AND MAINTAIN FOR PUBLIC INSPECTION UPON REQUEST THE CURRENT DATA AND INFORMATION SPECIFIED IN 3 AAC 50.770(D)(1) AND (E)(1)(A) - (E)(1)(C) AND A SCHEDULE SETTING FORTH ALL CURRENT TARIFF AND SPECIAL CONTRACT PURCHASE RATES WITH QUALIFYING FACILITIES.]

(d) By NEW DATE, each electric utility shall submit to the commission for inclusion in its tariff, standard rates for the purchase of energy and capacity from qualifying facilities with a design capacity of 100 kilowatts or less in accordance with 3 AAC 50.770(e) and (f).

[(e) BY JANUARY 14, 1983, EACH ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION FOR INCLUSION IN ITS TARIFF, STANDARD RATES FOR THE PURCHASE OF NON-FIRM ELECTRIC POWER FROM QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KILOWATTS OR LESS. THESE PURCHASE RATES MUST BE BASED ON THE UTILITY'S AVOIDED COSTS IS DETERMINED UNDER 3 AAC 50.770(D).]

(e) By NEW DATE, each electric utility shall compile and maintain for public inspection upon request all current tariff and special contract purchase rates with qualifying facilities and the data and information specified in (1) – (3), which shall be updated every two years, contemporaneously with the utility's calculation of the standard offer capacity rate in 3 AAC 50.770(f).

(1) the estimated avoided energy costs stated on a cents per kilowatt-hour basis for the current calendar or fiscal year and each of the next five years; for utilities with retail sales in excess of 500 million kilowatt-hours during the previous calendar year, the costs shall be stated in blocks of not more than 10 percent of the system peak demand and reflect daily and seasonal peak and off-peak periods by year;

(2) the electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the next 10 years;

(3) the estimated capacity costs at completion of the planned capacity additions and planned-capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, on the basis of cents per kilowatt-hour; these costs must be expressed in terms of individual generating units and of individual planned firm purchases.

3 AAC 50.800. Disconnection.

(a) An electric utility has the right to disconnect a qualifying facility without notice if a hazardous condition exists in the equipment of the qualifying facility and immediate action is necessary to protect persons, utility facilities, or other customers' facilities from damage or interference imminently likely to result from the hazardous condition.

(b) Not later than 10 days after disconnection under (a) of this section, the electric utility shall notify the qualifying facility in writing of the reasons for the disconnection.

3 AAC 50.810. Disputes.

Disputes regarding implementation of 3 AAC 50.750 - 3 AAC 50.820 must be filed with the commission for consideration under the complaints procedures prescribed in 3 AAC 48.120 - 3 AAC 48.130.

3 AAC 50.820. Definitions.

Unless the context indicates otherwise, in 3 AAC 50.750 -, 3 AAC 50.820

(1) "avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both, which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate or purchase from another source;

(2) "back-up power" means electric power supplied by an electric utility during an unscheduled power outage of a facility to replace energy ordinarily generated by the facility's own generation equipment;

(3) "cogeneration" means the production of electric energy and forms of useful thermal energy (such as heat or steam), employed for industrial, commercial, heating, or cooling purposes, through the sequential use of energy;

[(4) "DETENT METER" MEANS A WATT-HOUR METER WHICH CAN TURN IN ONLY A FORWARD DIRECTION AND WHICH IS USED TO MEASURE THE NUMBER OF KILOWATT-HOURS SOLD TO A QUALIFYING FACILITY BY AN ELECTRIC UTILITY;]

[(5)4] "electric power" means electric energy or capacity, or both;

[(6)5] "firm power" means electric power [GENERATED BY THE QUALIFYING FACILITY, INDIVIDUALLY OR IN CONJUNCTION WITH ANOTHER QUALIFYING FACILITY OR FACILITIES, WHICH IS] supplied to the electric utility in predetermined and reliable quantities at specific times and intervals, and which will enable the electric utility to reduce, defer, or eliminate planned generating units or purchases of capacity;

(6) "integration fees" mean the ongoing cost of utility operational adjustments necessary to accept the output of a qualifying facility.

(7) "interconnection costs" mean the cost of physical facilities necessary for a utility to connect to and accept the output of a qualifying facility.

[(7)8] "interruptible power," means electric power supplied by an electric utility subject to interruption by the electric utility, under specified conditions;

[(8)9] "maintenance power" means electric power supplied by an electric utility during scheduled power outages of the qualifying facility;

[(9) "NON-FIRM POWER" MEANS THE ELECTRIC POWER GENERATED BY THE QUALIFYING FACILITY WHICH IS SUPPLIED TO THE ELECTRIC UTILITY IN UNPREDICTABLE QUANTITIES AND AT UNSCHEDULED TIMES AND INTERVALS, AND WHICH WILL ENABLE THE ELECTRIC UTILITY TO AVOID ENERGY-RELATED COSTS;]

(10) "parallel operation" means a method of interconnection which enables a qualifying facility to generate electric power to meet its electrical consumption needs first and to automatically transmit any surplus electric power to the electric utility, and which also enables the qualifying facility to automatically purchase power from the electric utility if the qualifying facility cannot generate enough power to meet its electrical demands;

(11) "qualifying facility" means a cogeneration facility or a small power production facility which meets the criteria prescribed by Part 292, Subpart B of the Federal Energy Regulatory Commission Regulations, 18 C.F.R. Part 292, as effective [JUNE 30, 1982] **NEW DATE** [INCLUDING SIZE, FUEL USE, OWNERSHIP, AND EFFICIENCY STANDARDS];

(12) "supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

(13) "system emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

ATTACHMENT D

149 FERC ¶ 61,234
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Alaska Power & Telephone Company
City of Saxman, Alaska

Docket Nos. EL15-12-000
QF98-54-001

NOTICE OF INTENT NOT TO ACT

(December 18, 2014)

1. On October 30, 2014, Alaska Power & Telephone Company (Alaska Power), in its capacity as agent for the City of Saxman, and owner of the Mahoney Lake Hydroelectric Project, filed a petition for enforcement against the Southeast Alaska Power Agency (SEAPA), pursuant to section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA).¹ Alaska Power contends that SEAPA has not made available avoided cost data as required by section 292.302(b) of the Commission's regulations implementing PURPA,² and requests that the Commission issue an order instructing SEAPA to produce the avoided cost data pursuant to section 292.302(c)(2) of the Commission's regulations.³ In the alternative, Alaska Power requests that the Commission initiate an enforcement action against SEAPA pursuant to section 210(h)(2)(A) of PURPA for failure to implement regulations for making available cost data available.

2. Notice is hereby given that the Commission declines to initiate an enforcement action pursuant to section 210(h)(2)(A) of PURPA. Our decision not to initiate an enforcement action means that the Petitioner may itself bring an enforcement action against SEAPA in the appropriate court.⁴

By direction of the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹ 16 U.S.C. § 824a-3(h)(2)(A) (2012).

² 18 C.F.R. § 292.302(b) (2014).

³ 18 C.F.R. § 292.302(c)(2) (2014).

⁴ 16 U.S.C. § 824a-3(h)(2)(B) (2012).