

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD**

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<b>IN RE:</b>	)	<b>DOCKET NO. SPU-2017-0003</b>
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<b>PURPA AVOIDED COSTS</b>	)	<b>COMMENTS</b>
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The Environmental Law & Policy Center (ELPC) and the Iowa Environmental Council (IEC) provide the following comments to the Iowa Utilities Board Orders issued on February 9, 2017 in TF-2016-0290 and TF-2016-0294 and the Gray Memo in SPU-2017-0003 filed on February 16, 2017.

ELPC and IEC have been engaged in avoided cost dockets in Iowa going back to 2012. We have intervened and commented in dockets for MidAmerican Energy Company's (MidAmerican) and Interstate Power and Light Company's (IPL) standard tariff. We participated in INU-2014-0001 and NOI-2014-0001. Our concerns have been consistent throughout our involvement in these dockets. Avoided cost rates in Iowa are not currently set at a level that captures the full avoided cost rate, and PURPA is not realizing its policy aims in Iowa.

We continue to believe that the avoided cost rates used by Iowa utilities do not capture the full avoided costs of those utilities. The Board should transition to a proxy unit approach that takes into account resource specific avoided costs. A simple step in that direction would be to require the utilities to file avoided costs based on the proxy unit approach in this docket and allow interested stakeholders to explore those filings. In addition, the lack of standard contract terms including term length and the lack of applicability of the PURPA standard tariff to QFs above 100 kW significantly hinder the development of renewable generation in Iowa. The Board

should require all PURPA contracts to be of a term of at least 15 years, and the Board should make the avoided cost standard tariff rate available to QFs up to 20 MW in size.

**I. The Board Should Use an Avoided Cost Methodology such as the Proxy Unit Approach that Captures the Full Utility Avoided Costs.**

Using an avoided cost methodology that sets an appropriate avoided cost rate is important. A rate that is too low will not be sufficient to encourage the addition of QF capacity, even if the QF capacity costs less (in total or to ratepayers) than the utility's planned new generation. As a result, a rate that is too low can also result in ratepayers paying too much. It is important that MidAmerican and IPL's methodology lead to an avoided cost rate that is sufficient to achieve the PURPA policy goal of encouraging the development of cogeneration and small power production. *See* 18 CFR 292.304.

The full avoided cost of energy is not simply the marginal energy cost or price. When a utility generates energy at its own facility or buys it from the market, it must still transport and deliver that energy, supported by capacity and ancillary services, in order to serve ultimate customers. These transportation, distribution, delivery, and system costs are real costs that are or can be avoided when distributed generation operates. Distributed generation, particularly renewable generation, also helps hedge and avoid costs related to resource diversification, risk reduction, resilience, and complying with environmental regulations. To the extent practicable, all of these factors must be taken into account when determining the full and fair avoided cost of QF purchases. 18 C.F.R. 292.304(e). Furthermore, these rates "may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies." § 292.304(c)(3)(ii).

We have consistently raised concerns that avoided cost methodologies applied by Iowa

utilities fail to capture the full avoided costs. Our initial comments and response to the Board's January 19, 2017 and February 9, 2017 Orders in TF-2016-0290 and TF-2016-0294 address these issues and are incorporated by reference here. While the Board seems to be approaching these issues separately for QFs that are a 100 kW or less and QFs that are over 100 kW, the methodologies should be consistent, and as a practical matter, the avoided cost rate in the standard tariff effectively sets the rate for larger QFs in a negotiated contract.

**A. ELPC and IEC Prefer a Resource Specific Proxy Method for Setting Avoided Cost Rates.**

The Environmental Intervenors continue to believe the best methodology for establishing avoided cost rates is the proxy method. A proxy unit approach focuses the determination of avoided costs on the levelized cost of a utility's next planned generating asset or on a generic generating asset such as new wind. The proxy method would reflect a utility's full cost of deploying the next MWh of generation, including capital costs.<sup>1</sup> When IPL and MidAmerican recently made their own cases for the construction of new wind generation, they bundled many of the benefits that PURPA requires into the overall project. The contract price of those projects would fairly and transparently address avoided costs without requiring a breakdown by each avoided cost component. If a utility chooses a proxy that is consistent with its generation goals and plans, then the rate would be cost-neutral for consumers and offer QFs an opportunity to sell their power to utilities at the going market rate, not a disadvantaged rate based on an opaque and highly theoretical modeling process.

The proxy unit approach would also simplify the development of resource-specific

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<sup>1</sup> Carolyn Elefant, *Reviving PURPA's Purpose: The Limits of Existing State Avoided Cost Ratemaking Methodologies in Supporting Alternative Energy Development and a Proposed Path for Reform*, at 17 (2011). States using the proxy unit approach include Oregon, Idaho, Montana, and Utah.

avoided costs. Where a utility's purchase from a renewable QF allows it to satisfy customer demand for renewable energy or a utility specific goal, the proper measurement of avoided cost is the cost to the utility of providing that renewable energy. MidAmerican and IPL have both noted that they expect to provide additional renewable energy options to customers in the future as a way to help justify the approval of their recent wind projects. Where purchase from a renewable QF satisfies customer demand for renewable energy or the utility's own generation goals, avoided cost should be set no lower than the cost to the utility of providing that renewable energy to customers. Furthermore, a standard rate for wind would be different than a standard rate for solar, and both would be different than a standard rate for a methane digester. The different rates would reflect that each resource provides different benefits that are useful to the utility and customers. Without resource-specific standard rates, utility avoided cost rates will not reflect the same value that utilities place on the various resources when it makes investments.

**B. The Board Should Explore Alternative Avoided Cost Methodologies**

During INU-2014-0001 and in our filings in TF-2016-0290 and TF-2016-0294, ELPC and IEC recommended that avoided cost information and rates be filed using existing and alternate methodologies. We still believe this exploration should be done, and the Board should require MidAmerican and IPL to file a comparison of its current methodology and other methodologies such as the Board's proposed methodology and the proxy unit approach to be evaluated in this docket. This approach would be similar to the approach Michigan recently took in requiring utilities to file avoided costs using multiple methodologies after an investigation similar to Iowa's had concluded. *See* Michigan Public Service Commission, Order (May 3, 2016) available at <http://efile.mpsc.state.mi.us/efile/docs/18089/0001.pdf>.

**II. To Prevent Discrimination Against Qualifying Facilities, the Board Should Set Contract Terms of at Least 15 Years for all Qualifying Facilities.**

PURPA's dual policy goals are to promote "the development of cogeneration and small power production facilities" and to reduce "reliance on fossil fuels." *Am. Paper Inst.*, 461 U.S. at 417. Standard contract terms for qualifying facilities are essential to put these small power producers in an equal bargaining position with utilities. Under the current standard tariffs in Iowa, standard terms such as the required length of a contract are not addressed. Outside of the tariff, the length of the contract is subject to negotiation with no recourse for the QF other than to file a complaint with the Board.

Adequate term length prevents discrimination against QFs and furthers the goals of PURPA. A standard offer tariff that provides an adequate term length for QFs to recover costs increases the utilization of cogeneration and small power production facilities and reduces reliance on fossil fuels. *Am. Paper Inst.*, 461 U.S. at 417. Term length must put the QF in a position that approximates the position of the utility in resource planning. A standard offer term that is too short prejudices QF projects when competing at avoided cost rates which are based on non-QF projects that are amortized over 20 years or longer.

Many projects will not be able to secure financing without a sufficiently long contract term. Debt providers will typically finance QF projects for the length of a PPA or less. A longer standard offer term length allows more debt to be secured by the contract. With more debt secured, the ability to finance the QF project is not hindered by a too-short standard offer term.

To prevent prejudice against QFs through inadequate contract terms, the standard offer term should be comparable to a utility's term used to finance its now-avoided capacity additions. In the past, IPL's standard tariff has included the option for a five year contract term. MidAmerican's tariff has been silent. A contract term of only five years is inconsistent with

traditional utility cost recovery, which is based on recovering costs over 20 years or more. Recent utility wind projects in Iowa have used 30 to 40 year project life. Furthermore, a contract term of only five years is significantly less than the length of the life of renewable generation projects. Providing the utilities with lengthy useful life assumptions while the utilities have no obligation to provide a QF with a similar term is discriminatory against the QF. A standard offer term that is too short prejudices QFs when competing at avoided cost rates because utilities adding their own capacity would be based on financing models that are amortized over 20 years or longer, and avoided costs are supposed to be considered with, in part, the deferral of capacity additions. *See* 18 C.F.R. 292.304(e).

Adding a standard contract term of sufficient length in the standard offer tariff or for all QFs under PURPA will reduce transaction costs, further PURPA's goals, and benefit the public interest by promoting renewable energy generation. Long-term standard contract lengths prevent discrimination against QFs, because a contract term of sufficient length puts the QF in a position that approximates the position of the utility in resource planning. *See Windham Solar LLC and Allco Finance Limited*, 157 F.E.R.C. P61,134, ¶ 8 ("[A] legally enforceable obligation should be long enough to allow QFs reasonable opportunities to attract capital from potential investors.").

Courts have found that PURPA entitles QFs to long-term fixed rate contracts, even where the actual costs deviate from the contract costs. A federal district court in Massachusetts recently found that:

FERC has stated that the purpose behind PURPA [is] furthered by allowing a QF to establish a fixed contract price for its energy and capacity at the outset of its obligation. A Fixed contract price provides a potential investor in a QF with reasonable certainty about the expected return on a potential investment... FERC has consistently affirmed the right of QFs to long-term avoided cost contracts or other legally enforceable obligations with rates determined at the time the obligation is incurred, even if the avoided costs at the time of delivery ultimately differ from those calculated at the time the obligation is originally incurred.

*Allco Renewable Energy, Ltd*, U.S. Dist. LEXIS 130617, at \*23.

The standard offer should be at least 15 years to ensure fairness to QFs and to promote the purpose of PURPA's dual goals of increasing "small power production facilities" and reducing "reliance on fossil fuels." *Am. Paper Inst.*, 461 U.S. at 417.

**III. To Encourage the Development of Renewable Generation and Reduce Unnecessary Transaction Costs, the Board Should Expand Access to the Standard Offer Tariff to QFs up to 20 MW.**

PURPA regulations require electric utilities to establish standard rates for purchases from QFs with capacity of 100 kilowatts ("kW") or less, and explicitly give state commissions the authority to develop standard rates for larger projects. 18 C.F.R. §§ 292.304(c)(1), (2). The availability of a standard rate reduces transaction costs for individual projects, avoiding the cost and burden of establishing an individualized avoided cost rate and reducing barriers to entry. While a larger cap on the standard offer would be expected to result in more projects by QFs, those projects would be in the public interest and by definition their cost would not exceed the utility's avoided cost. This would further PURPA's goals of encouraging the development of renewable energy and reducing reliance on fossil fuels.

FERC gave states the discretion to establish standard rates for larger QFs precisely because standard rates reduce transaction costs and significantly encourage cogeneration and small power production. 45 Fed. Reg. 12214, at 12223. Furthermore, extending the standard offer capacity to 20 MW will mitigate the transaction costs that often make wind and solar projects more difficult to finance for all QFs up to 20 MW. Negotiation of a contract can be costly, and the only resolution for a negotiation that a QF believes to be unfair is an even more time intensive and expensive complaint procedure in front of the Board. For smaller projects that cost can result in what amounts to a significant percentage reduction in avoided capacity

payments or in many cases is simply enough to derail the project altogether.

If the avoided cost is appropriately set, customers will benefit when the contracting and transaction costs for both the utility and the QF are reduced through the use of the Standard Offer tariff. The Board should extend the Standard Offer to projects up to 20 MW because it reduces transaction costs, benefits customers, and is consistent with PURPA's goals.

Respectfully submitted this 27th day of February, 2017.

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