

Federal Energy Regulatory Commission

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necessary or appropriate, either before or after the occurrence.

§ 292.305 Rates for sales.

(a) *General rules.* (1) Rates for sales:

(i) Shall be just and reasonable and in the public interest; and

(ii) Shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility.

(2) Rates for sales which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics.

(b) *Additional services to be provided to qualifying facilities.* (1) Upon request of a qualifying facility, each electric utility shall provide:

(i) Supplementary power;

(ii) Back-up power;

(iii) Maintenance power; and

(iv) Interruptible power.

(2) The State regulatory authority (with respect to any electric utility over which it has ratemaking authority) and the Commission (with respect to any nonregulated electric utility) may waive any requirement of paragraph (b)(1) of this section if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the State regulatory authority or the Commission, as the case may be, finds that compliance with such requirement will:

(i) Impair the electric utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the electric utility.

(c) *Rates for sales of back-up and maintenance power.* The rate for sales of back-up power or maintenance power:

(1) Shall not be based upon an assumption (unless supported by factual data) 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; and

(2) Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully co-

ordinated with scheduled outages of the utility's facilities.

§ 292.306 Interconnection costs.

(a) *Obligation to pay.* Each qualifying facility shall be obligated to pay any interconnection costs which the State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics.

(b) *Reimbursement of interconnection costs.* Each State regulatory authority (with respect to any electric utility over which it has ratemaking authority) and nonregulated utility shall determine the manner for payments of interconnection costs, which may include reimbursement over a reasonable period of time.

§ 292.307 System emergencies.

(a) *Qualifying facility obligation to provide power during system emergencies.* A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

(1) Provided by agreement between such qualifying facility and electric utility; or

(2) Ordered under section 202(c) of the Federal Power Act.

(b) *Discontinuance of purchases and sales during system emergencies.* During any system emergency, an electric utility may discontinue:

(1) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

(2) Sales to a qualifying facility, provided that such discontinuance is on a nondiscriminatory basis.

§ 292.308 Standards for operating reliability.

Any State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility may establish reasonable standards to ensure system safety and reliability of interconnected operations. Such standards may be recommended by any electric utility, any qualifying facility, or any

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other person. If any State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility establishes such standards, it shall specify the need for such standards on the basis of system safety and reliability.

Subpart D—Implementation

AUTHORITY: Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, E.O. 12009, 42 FR 46267.

SOURCE: 45 FR 12236, Feb. 25, 1980, unless otherwise noted.

§ 292.401 Implementation of certain reporting requirements.

Any electric utility which fails to comply with the requirements of § 292.302(b) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA.

[45 FR 12236, Feb. 25, 1980. Redesignated by Order 541, 57 FR 21734, May 22, 1992]

§ 292.402 Waivers.

(a) *State regulatory authority and non-regulated electric utility waivers.* Any State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or non-regulated electric utility may, after public notice in the area served by the electric utility, apply for a waiver from the application of any of the requirements of subpart C (other than § 292.302 thereof).

(b) *Commission action.* The Commission will grant such a waiver only if an applicant under paragraph (a) of this section demonstrates that compliance with any of the requirements of subpart C is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.

[45 FR 12236, Feb. 25, 1980. Redesignated by Order 541, 57 FR 21734, May 22, 1992]

Subpart E [Reserved]

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Subpart F—Exemption of Qualifying Small Power Production Facilities and Cogeneration Facilities from Certain Federal and State Laws and Regulations

§ 292.601 Exemption to qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to qualifying facilities, other than those described in paragraph (b) of this section.

(b) *Exclusion.* This section does not apply to a qualifying small power production facility with a power production capacity which exceeds 30 megawatts, if such facility uses any primary energy source other than geothermal resources.

(c) *General rule.* Any qualifying facility described in paragraph (a) of this section shall be exempt from all sections of the Federal Power Act, except:

- (1) Section 1–18, and 21–30;
- (2) Sections 202(c), 210, 211, 212, 213, and 214;
- (3) Sections 305(c); and
- (4) Any necessary enforcement provision of Part III with regard to the sections listed in paragraphs (c)(1), (2) and (3) of this section.

(Energy Security Act, Pub. L. 96–294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 FR 46267)

[Order 135, 46 FR 19232, Mar. 30, 1981, as amended by Order 569, 59 FR 40470, Aug. 9, 1994]

§ 292.602 Exemption to qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

(a) *Applicability.* This section applies to any qualifying facility described in § 292.601(a), and to any qualifying small power production facility with a power production capacity over 30 megawatts if such facility produces electric energy solely by the use of biomass as a primary energy source.

(b) *Exemption from the Public Utility Holding Company Act of 1935.* A qualifying facility described in paragraph