

What Happens If PURPA Goes Belly-Up?

Cogeneration Will Take Another Hit.

***Here's What You Can Do
To Protect Yourself.***

But You've Got to Move FAST.

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With impending utility deregulation sweeping the nation, the fate of the “official” cogeneration facility may be on unsteady ground (“official” here is referenced as the facility which has obtained the Federal Energy Regulatory Commission’s [FERC] QF—Qualifying Facility status). While the values and protection currently granted a QF under the regulated utility environment may ultimately be insignificant in the fully functional, unregulated environment, the transition between regulated and unregulated markets may prove difficult depending on the exact location and structure of a cogen facility.

The primary reason for this concern will depend on the facility’s ability to quickly and easily access the grid, power suppliers, and power buyers in the transition to the unregulated status environment. **The “systems” controlling the impacting issues are in many cases quite complex, cumbersome, and tied together with an abundance of “red-tape” and bureaucratic processes.**

A question as to legality versus functionality is at the core of this potential problem. While “legal deregulation” may take place immedi-

ately (or systematically over a given time period), some areas could find it takes many years to fully implement and adjust all aspects of this complex system before the markets would be functionally open or, in better words, transparently deregulated.

For instance, the “rules” concerning access to the deregulated market for a cogenerator tied to a grid via a distribution service connection (this definition varies by voltage level and regulatory jurisdiction) may find itself between regulated and deregulated environments, while a transmission-system connected cogenerator may find the process to legally access the grid to transact independent business is too complex and/or costly to facilitate. The lists of potential problems goes on and on and some problems will likely not even surface until after the market is deregulated.

Regardless of the status of deregulation in a given area, whether a facility is currently a cogenerator or may be considering cogeneration, the following information should provide useful insight into potential impacts facing this market.

BRIEF PURPA BACKGROUND

In an effort to protect national energy security, Congress passed the “Public Utilities Regulatory Policy Act,” PURPA in 1978. Among other things, PURPA established a goal for high-energy efficiency standards including the creation of “Qualified Facilities” (QF) which are basically cogeneration facilities that meet certain ownership, fuel utilization and efficiency standards (typically exceeding those of utility power generation plants). When a plant met these QF standards it was granted a classification as a “QF.” The primary values associated with this QF classification are:

- Guarantees the QF “interconnection” to the transmission grid (through the local utility)
- Guarantees the QF a supply of backup power at non-discriminatory rates (fair pricing).
- Guarantees the local utility will purchase power from the QF at the utility’s “avoided cost.” (Avoided cost is roughly defined as the utility’s cost to provide the next increment of power generated).

For the most part, utilities have considered these PURPA QF sites as a direct source of unwelcome competition but were not in a position to argue against their existence since the QFs actually produced power at efficiencies much better than most central station utility generators while simultaneously reducing environmental impacts (in most cases).

HERE'S WHAT WILL HAPPEN TO INDUSTRIAL COGENERATORS IF PURPA'S QF STATUS IS ABANDONED

Since 1978 the benefits of QF status have been enjoyed by hundreds of non-utility generation facilities around the country. While not all benefits are necessarily utilized at each site, the potential impact of these benefits is as follows:

1. Without a guaranteed grid interconnection, an industrial site is at the mercy of the grid interconnection process and associated costs as administered by the local grid agent. This process is typically cumbersome (in most cases involving complex and costly system impact studies), can take many months to years to resolve, and can typically cost a few hundred thousand dollars—up to tens of millions of dollars—depending on the specific circumstances.
2. Without guaranteed fair costs for standby services, industrial sites would be at the mercy of the utility to provide these services at whatever costs deemed appropriate or perhaps NOT to offer these type services at all (prior to PURPA, most utility rate structures did not apply to standby power and very limited, if any, services were readily available). The impact here could cost millions of dollars per year or could actually cause a potential project to be uneconomical to operate, or not even be built.
3. Without a guaranteed purchase for excess power generated, the industrial site would be at the mercy of the available markets. Most likely the same utilities that would consider their projects a competitive threat would control the pricing and market access through their grid. The result is that an industrial site may not be able to

economically sell excess power generated at a profit, which could severely impact any project. The smaller the amount of power to be sold, the less likely the industrial will be able to negotiate a fair price beyond the constraints of the grid controller.

CURRENT SITUATION

Over the past few years, since various forms of a “deregulated market” have been initiated in some states, utilities have been anxious to use this “deregulation activity” as a basis for Congress to justify the repeal of PURPA. These efforts have been well orchestrated and have gained serious momentum recently. **It now appears Congress is seriously considering the complete or partial repeal of PURPA and the associated QF benefits as discussed above.**

Implementation of any such repeal is unclear as to “how” or “when” it would become effective. Apparently, the repeal process would only initiate AFTER a state (or region) has experienced “utility deregulation,” although this process and definition is ambiguous at best. Many industry groups have come out against this repeal including the International Federation of Industrial Energy Consumers (IFIEC)*. However, they are quickly realizing the momentum of the repeal will be difficult to stop at this late stage.

PROTECT YOURSELF: “GET GRANDFATHERED”

In an alternate attempt to preserve some or all of these QF “rights,” it is being suggested that Congress consider extending or even “grandfathering” certain rights to those facilities which have been recognized as QF sites. While there are no guarantees that there would be any extended QF benefits, the process to protect those potentials is fairly inexpensive. Basically, for any industrial site, which has consideration(s) for a power generation project(s), there is the option to move forward with the Self-Certification process as accepted by FERC for obtaining QF status.

*[www.ifiec.org\index.htm](http://www.ifiec.org/index.htm)(geneva,switzerland)

This process requires that the applicant prepare a formatted document referenced as a FERC Form 556 (typically 10 to 12 pages in length) and file it with FERC. There are no filing fees required by FERC for a Self-Certification QF. The standard process is that the FERC will provide the applicant with a QF docket number within 10 days of the filing.

Because a notice of self-certification basically asserts a project's full compliance with the FERC's technical and ownership criteria, the applicant should also provide copies of a completed Form 556 to the utilities with which the QF transacts business as well to the state regulatory commissions of the state(s) in which those utilities and the QF reside.

AN ALTERNATE

The alternate process is to file for a Commission-Certification, which also requires the same Form 556 be prepared and provided along with a filing fee (of approximately \$15,000) for FERC's involvement. In addition, the applicant must prepare an "official notice" to be placed in the Federal Register by FERC as part of the process. In the certification process (which is typically 90 days) the commission may request additional information or question the applicant's filing.

It is important to note that FERC has made no primary distinction between the value of the two certification methods as both retain full rights for QFs. [Typically, 3rd party lenders may require the FERC reviewed process as a matter of prudence or the applicant may deem the Commission-Certification of value in negotiating project issues.]

Regardless of the QF filing process used, the establishment of QF status for a project could very well serve to "protect" certain rights and values of a power generation project. Among these values are the three detailed above as well as any potential to circumvent or reduce exposure to "exit fees" (including stranded cost obligations) applied to such projects by the original utility. While these "exit fees" are still not well defined as to form or application, consideration "could" be extended to certain facilities that meet various standards, qualifications, or documented operational conditions.

SUMMARY

In summary, protecting QF benefits for an existing or potential cogenerator could provide considerable value while the costs associated with protecting that potential is relatively minimal. The risk-reward structure suggests that any potential generation facilities aggressively explore QF status NOW, before any deadlines for benefits are imposed.

ABOUT THE AUTHOR

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