

PURPA: Tales of My Death Have Been (Somewhat) Exaggerated

PRESENTED AT

16th Annual Renewable Energy Law Institute

January 25-26, 2021

Live Webcast

BY JENNIFER L. KEY

Steptoe & Johnson LLP

Washington, DC

1

Agenda

- Caveat: The Congressional Review Act
- Relevance of PURPA Must-Purchase Obligation to the Renewable Industry
- The Basis for Regulatory Reform
- Avoided-Cost Rates Reform
- SPP QF Eligibility Reform
- Must-Purchase Obligation Reform

2

2

Relevance of PURPA Must-Purchase Obligation to the Renewable Industry

3

3

Overview of Must-Purchase Obligation as Applies to Renewable Resources

- All electric utilities subject to must-purchase obligation under PURPA.
- Purchases from renewable-fueled resources limited to small power production qualifying facilities (SPP QFs).
- SPP QFs defined as 80 MW or smaller facilities fueled no more than 25% by non-renewable fuels.
 - Measurement of 80 MW impacted by location of affiliated QFs under same site rule.
- Electric utilities participating in RTOs/ISOs can eliminate obligation to buy from larger SPP QFs.
- Compelled purchase can be at a rate no higher than the purchasing utility's avoided cost.

4

4

SPP QF Must-Purchase Obligation in Practice

- Early renewable resources largely sited in a very few states with generous avoided-cost rates.
 - Many states had no SPP QFs selling under PURPA for most of its history.
- PURPA was never of much significance to self-regulated utilities (government-owned and cooperative utilities).
- Must-purchase obligation vis-à-vis SPP QFs became relevant to electric utilities and in more states in early 2000s when technology improved, starting with wind technology.
- Nearly all electric utilities eligible to reduce must-purchase obligation to 20 MW in the late 2000s did so.
- State-adopted Renewable Portfolio Standards (RPS) and utility-adopted decarbonization commitments rendered PURPA must-purchase obligation far less significant, even to renewable resources small enough to be SPP QFs.

5

5

SPP QF Must-Purchase Obligation No Longer Significant to Renewable Industry Expansion

- Large renewable resources have become sufficiently efficient, particularly with tax credits, to compete with natural-gas fired generation despite shale gas driving down gas prices.
- Small SPP QFs still typically too inefficient to obtain financing at all-source avoided-cost rates.
- RPS and voluntary decarbonization create opportunities outside of PURPA mandate to sell power.
- Net metering an option for many small SPP QFs.
- Customer-driven interest in renewables presents other opportunities.
- Despite dwindling importance generally, some SPP QFs remain reliant on must-purchase obligation.

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: PURPA: Tales of My Death Have Been (Somewhat) Exaggerated

Also available as part of the eCourse

[2021 Renewable Energy Law eConference](#)

First appeared as part of the conference materials for the
16th Annual Renewable Energy Law Institute session

"PURPA: Tales of My Death Have Been (Somewhat) Exaggerated"