

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
East Kentucky Power Cooperative, Inc.  
Docket No. QM22-5-000

Issued: January 5, 2022

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Reference: Termination of Mandatory Purchase Obligation

On October 29, 2021, East Kentucky Power Cooperative, Inc. (East Kentucky) submitted, on behalf of itself and 16 of its members (Filing Members),<sup>1</sup> an application pursuant to section 210(m) of the Public Utility Regulatory Policies Act of 1978 (PURPA)<sup>2</sup> and section 292.310(a) of the Commission's regulations<sup>3</sup> to terminate the requirement under section 292.303(a) of the Commission's regulations<sup>4</sup> to enter into new contracts or obligations to purchase electric energy and capacity from any small power production qualifying facility (QP) with a net capacity greater than five megawatts

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<sup>1</sup> The Filing Members are: Big Sandy Rural Electric Cooperative Corporation, Blue Grass Energy Cooperative Corporation, Clark Energy Cooperative, Inc., Cumberland Valley Electric Inc., Farmers Rural Electric Cooperative Corporation, Fleming-Mason Energy Cooperative, Inc., Grayson Rural Electric Cooperative Corporation, Inter-county Energy Cooperative, Jackson Energy Cooperative, Licking Valley Electric Cooperative Corporation, Nolin Rural Electric Cooperative Corporation, Owen Electric Cooperative, Inc., Salt River Electric Cooperative Corporation, Shelby Energy Cooperative, Inc., South Kentucky Rural Electric Cooperative Corporation, and Taylor County Rural Electric Cooperative Corporation.

<sup>2</sup> 16 U.S.C. § 824a-3(m).

<sup>3</sup> 18 C.F.R. § 292.310(a) (2021).

<sup>4</sup> *Id.* § 292.303(a).

(MW)<sup>5</sup> in PJM Interconnection, L.L.C. (PJM) on a service territory-wide basis (Application). Pursuant to authority delegated to the Director, Division of Electric Power Regulation – Central, under section 375.307 of the Commission’s regulations,<sup>6</sup> the Application is granted, effective October 29, 2021.

East Kentucky states that in 2017, for itself and its Filing Members, the Commission granted its application to terminate, on a service territory-wide basis, the requirement to enter into new contracts or obligations to purchase energy and capacity from small power production QFs and cogeneration QFs with a net capacity greater than 20 MW.<sup>7</sup>

East Kentucky states that it relies on section 292.309(e) of the Commission’s regulations,<sup>8</sup> which provides that PJM qualifies as a market described in section 292.309(a)(1)(i) and (ii) of the Commission’s regulations.<sup>9</sup> East Kentucky asserts that QFs in PJM have nondiscriminatory access to those markets through Commission-approved open access transmission tariffs and interconnection rules. East Kentucky states that, consistent with the requirement in section 292.310 of the Commission’s regulations,<sup>10</sup> it identified potentially-affected QFs in its service territory, listed in Attachments A-1 and A-2 of the Application.

Notice of the filing was published in the *Federal Register*, 86 Fed. Reg. 60,806 (Nov. 4, 2021), with interventions and protests due on or before November 26, 2021. Notice of the Application was mailed by the Commission on November 2, 2021, to the potentially-affected QFs identified in Attachment A-1 of the Application. One Energy

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<sup>5</sup> Order No. 872 revised section 292.309(d) of the Commission’s regulations (18 C.F.R. § 292.309(d)) such that small power production facilities with a net power production capacity greater than five MW will be presumed to have nondiscriminatory access to markets. *See Qualifying Facility Rates and Requirements*, Order No. 872, 172 FERC ¶ 61,041, at P 625, *order on reh’g and clarification*, Order No. 872-A, 173 FERC ¶ 61,158 (2020).

<sup>6</sup> 18 C.F.R. § 375.307.

<sup>7</sup> Application at 1-2 (citing *East Kentucky Power Cooperative, Inc.*, 160 FERC ¶ 61,053 (2017), *order denying clarification and reh’g*, 162 FERC ¶ 61,267 (2018)).

<sup>8</sup> 18 C.F.R. § 292.309(e).

<sup>9</sup> *Id.* § 292.309(a)(2)(i)–(ii).

<sup>10</sup> *Id.* § 292.310.

Enterprises, LLC (One Energy) filed a timely motion to intervene and comments.<sup>11</sup> Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>12</sup> One Energy's timely motion to intervene serves to make it a party to this proceeding.

East Kentucky's Application to terminate the requirement to enter into new contracts or obligations to purchase electric energy and capacity from small power production QFs in PJM with a net capacity greater than five MW, on a service territory-wide basis, is hereby granted, effective October 29, 2021, the date of the filing of the Application.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to Rule 713 of the Commission's Rules of Practice and Procedure.<sup>13</sup>

Issued by: Penny S. Murrell, Director, Division of Electric Power Regulation – Central

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<sup>11</sup> One Energy states that it does not have any projects located in the East Kentucky service area, but reserves the right to rebut the presumption that any behind the meter generator developed by One Energy should be treated similarly to a cogeneration QF under the standards in section 292.309(c)(2) of the Commission's regulations (18 C.F.R. § 292.309(c)(2)). Pursuant to section 292.311 of the Commission's regulations (18 C.F.R. § 292.311), when and as appropriate, One Energy may petition for reinstatement of East Kentucky's mandatory purchase obligation to purchase electric energy and capacity from a One Energy facility. *See Omaha Pub. Power Dist.*, 164 FERC ¶ 61,238 (2018).

<sup>12</sup> 18 C.F.R. § 385.214.

<sup>13</sup> *Id.* § 385.713.