

TABLE 1. FERC PURPA ENFORCEMENT AND DECLARATORY JUDGMENT ACTIONS 2012-2013

Docket No.	Case Name	Citation	Issue	Result
EL13-43	Council of City of New Orleans et. al.	145 FERC ¶61,057 (10/17/2013)	Whether Entergy's proposal to use MISO's locational marginal pricing (LMP) as avoided cost for as available QF sales is consistent with PURPA?	FERC defers judgment because state commission has not yet acted on whether LMP is acceptable mechanism and state has authority under PURPA to set avoided cost rates.
N/A	Pioneer Wind Park	Filed October 2, 2013	Petition for Declaratory Action: Whether a utility's refusal to sign a PPA with a wind QF unless the QF agrees to a provision allowing the utility to curtail the QF before other sources of generation is inconsistent with PURPA?	Pending
N/A	Clearwater Paper Corporation	Filed 9/20/2013	Whether Idaho PUC order holding that utility avoided payments to QFs include RECs and allocating 50 percent ownership of RECs to utilities is inconsistent with PURPA?	Pending. See further discussion in accompanying text.
EL13-71	Winding Creek Solar	144 FERC ¶61122 (8/12/2013)	Whether California's renewable market adjusting tariff is inconsistent with PURPA	No declaratory ruling or discussion; notice of intent not to act.
EL12-41	Rainbow Ranch Wind, LLC	144 FERC ¶61,005 (7/2/2013); see also 139 FERC ¶61,077 2012)(earlier version)	Whether contract executed by QF but not utility created legally enforceable obligation (LEO) under PURPA and therefore, Idaho PUC erred in rejecting the agreement?	FERC finds LEO forms where QF indicates commitment to sell by executing contract and rules Idaho PUC's contrary ruling inconsistent with PURPA. FERC issues notice of intent to act issued followed by lawsuit in Idaho district court.

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EL 12-41	Otter Creek Solar, LLC	143 FERC ¶61,282 (6/27/2013)	Whether Vermont's SPEED program, a type of optional feed-in tariff program for small QFs which bases rates on avoided costs of other renewables is inconsistent with PURPA?	FERC finds SPEED program is not inconsistent PURPA because (1) QFs are not precluded from seeking service under Vermont's standard PURPA program and (2) QF participation in SPEED program and is voluntary and nothing in PURPA prevents utilities and QFs from voluntarily agreeing to rates that deviate from avoided costs.
EL13-59	Kootenai Electric Cooperative	143 FERC ¶61,232 (6/14/2013)	Whether an Oregon PUC order finding that an Idaho QF delivering power to a utility in Oregon did not qualify for avoided cost rates in Oregon because the point of delivery (i.e., where power is deemed to change ownership) under the OATT was out of state violates PURPA?	FERC says yes, but declines to enforce. FERC found that Oregon erred in using the Idaho POD to determine eligibility for Oregon avoided cost rates. Irrespective of POD, the OATT gave the QF the right to deliver power across the entire physical transmission system from Idaho into Oregon. FERC reasoned that if the Oregon order were upheld, the QF would be paying for transmission service under the OATT into Oregon but denied the benefit of receiving Oregon avoided cost rates. Thus, FERC concluded that the Oregon order was inconsistent with PURPA.
EL13-73	Hydrodynamics <i>et al.</i>	Filed 6/14/2013	Whether Montana's implementation of PURPA, which requires QFs larger than 10 MW to compete for contracts through capacity auctions is unduly discriminatory because other large generators are not limited to competitive bidding or violates PURPA when Montana has not held an auction in 12 years?	Pending. In response, Montana PUC points out that Hydrodynamics' complaint boils down to an argument that Montana must make standard offer avoided cost rates available to QFs under 10 MW. FERC only requires standard offers for QFs of 100 kw or less so Montana's program complies with PURPA.

Docket No.	Case Name	Citation	Issue	Result
EL13-51	Interconnect Solar Development LLC	143 FERC ¶61,112 (5/10/2013)	Whether Idaho Commission's cancellation of QF's energy sales contract violated PURPA when agreement required QF to pay \$900,000 liquid security deposit that it was destined to forfeit, thereby resulting in contract payments below avoided costs?	FERC declines to bring enforcement action with no explanation provided.
EL13-50	Welch Motel Inc.	143 FERC ¶61,093 (5/3/2013)	Motel brings action asking FERC to bring enforcement action to require coop to provide net metering for motel's behind-the-meter use of wind generation pursuant to PURPA, noting that it does not wish to pursue its own enforcement action.	FERC issues notice of intent not to enforce with no explanation provided.
EL11-39	Swecker v. Midland Power Coop. and State of Idaho	Order Denying Rehearing, 142 FERC ¶61,207 (3/21/2013)	Whether FERC erred in finding that cooperative's disconnection of QF violates PURPA?	FERC affirms initial order finding PURPA violation but declines to bring enforcement action. FERC holds that coop's disconnection of the QF from its system "effectively ceased purchases from the QF" and justification for cessation of purchases does not fall within any of the exemptions to the purchase obligation (e.g., termination of mandatory purchase obligation or curtailment of obligation for emergency reasons).
EL13-39	Grouse Creek Wind Park	142 FERC ¶61,187 (3/15/2013)	Same issue as <i>Rainbow Ranch, supra</i> : Whether contract executed by QF but not utility created legally enforceable obligation (LEO) under PURPA and therefore, Idaho PUC erred in rejecting the agreement?	Same result as Rainbow Ranch: FERC finds Idaho PUC violated PURPA in finding no LEO formed and rejecting contract. Notice of intent to act issued, followed by suit in Idaho district court.

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EL12-108	Murphy Flat Power	141 FERC ¶61,145 (11/20/2012)	Same issue as <i>Rainbow Ranch</i> : Whether contract executed by QF but not utility created legally enforceable obligation (LEO) under PURPA and therefore, Idaho PUC erred in rejecting the agreement?	Same result as <i>Rainbow Ranch</i> : FERC finds Idaho PUC violated PURPA in finding no LEO formed and rejecting contract. Notice of intent to act issued, followed by suit in Idaho district court.
EL12-100	Benjamin Riggs v. Rhode Island PUC	141 FERC 61,033 (10/12/2012)	Unspecified PURPA violations alleged against Rhode Island PUC in connection with its approval of long term offshore wind contracts.	Notice of intent not to act.
EL12-74	Idaho Wind Partners	140 FERC ¶61,219 (2012)	Whether utility's Schedule 74, which allows unilateral curtailment of QFs with long term power agreements if due to operational circumstances, utility would have to dispatch higher cost resources to serve load violates PURPA?	FERC finds that utility's curtailment practices are inconsistent with PURPA because they enable utility to avoid contractual obligations under long-term fixed avoided cost rate PPAs. FERC declines to pursue enforcement.
EL12-82	CARE v. California CPUC et. al.	140 FERC ¶61,154 (8/29/2012)	Unspecified allegations that CPUC actions are inconsistent with PURPA.	Notice of intent not to act.
EL12-80	Exelon Wind LLC et. al.	140 FERC ¶61,152 (8/28/2012)	Whether utility's curtailment practices and avoided cost rates are inconsistent with PURPA?	On curtailment issue, FERC finds no PURPA violation in light of utility's clarification of curtailment practices. But FERC rules that avoided cost pricing based on locational imbalance pricing (LIP) violates PURPA because it reflects price QFs are paid for energy sales into market which is not necessarily the same cost that utility would have paid had it self-supplied or purchased energy but for presence of QFs in the market. .

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EL12-78	Gerry Greenfield	140 FERC ¶61,133 (8/2/2012)	Whether county zoning rules that interfered with wind QF's operation violate PURPA?	FERC finds no PURPA violation, holding that PURPA does not relieve QF from complying with applicable state and local siting requirements. Accordingly, FERC declines to bring enforcement action.
EL12-36	Morgantown Energy Associates	139 FERC ¶61,066, reh'g denied 140 FERC ¶61,223 (2012)	Whether West Virginia order holding that utility is entitled to ownership of RECs under terms of power purchase agreement (PPA) with QF is inconsistent with PURPA?	FERC holds that states create RECs and therefore state law governs REC ownership. Thus, to the extent that the West Virginia PUC relied on state law to find that the PPA entitles utility to ownership of RECs, the order is inconsistent with PURPA. However, in addition to relying on state law, the West Virginia PUC also reasoned that requiring the utility to compensate a QF for RECs and avoided costs would result in rates in excess of avoided cost in violation of PURPA. FERC found that to the extent that the West Virginia Order found that avoided-cost rates under PURPA also compensate for RECs, the West Virginia Commission is inconsistent with PURPA.