

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER
(Amends and Supersedes Order No. U-14964)

Docket No. U-22739. In re: Generic Rulemaking Proceeding Concerning Avoided Costs Estimates.

(Decided at the February 18, 1998 Open Session)

This proceeding was initiated in July of 1997 in order to revise and update the regulations and guidelines of the Louisiana Public Service Commission (the "LPSC" or "Commission") concerning the administrative determination of avoided costs. The impetus for this docket was the Commission's review and investigation of issues raised in the administrative hearings for Docket No. U-21384.

The Commission believed that action in this docket would have industry-wide implications and, therefore, it was treated as a rule-making proceeding. All Louisiana electric utilities and qualifying facilities were invited to participate in the docket. Parties taking active roles in this docket included: the Commission through its Legal, Economic, Audit and Utilities Division; representatives of CII, L.L.C. (Calciner), Louisiana Energy Users Group (LEUG), Cajun Electric Power Cooperative, Inc., Southwestern Electric Power Company (SWEPCO) and Entergy Louisiana, Inc. (ELI).

On November 3, 1997, the Commission Staff issued a Notice of Proposed Rulemaking (NOPR) to members of the service list for this proceeding. The NOPR set forth criteria that Staff thought essential in developing an administrative method for determining avoided costs. Additionally, the NOPR contained a discussion of the various methods to be considered by the Staff in its investigation. After receiving comments from the parties regarding the NOPR, Staff further researched the methods under consideration and circulated to the electric utilities and qualifying facilities a proposed set of rules to which additional comments were submitted to the Staff. Thus, this General Order is the product of a collaborative process involving the Commission Staff and all interested industry representatives who chose to participate.

In this docket, the Commission is proposing to amend its regulations governing purchases and sales of electricity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities (QFs) and the purchase of electricity from such facilities as prescribed by Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 210 and 201 of PURPA seeks to encourage the development of cogeneration and small power production facilities. It had as its main objectives the conservation of energy in the generation of electric power and the encouragement of alternative sources of power generators, known as qualifying facilities (QFs), and it required all utilities to buy all electricity that these qualifying facilities wished to sell.

In order to protect consumers from having to subsidize QFs, Congress provided that the maximum price for electricity from these facilities was the cost that the utility would have incurred if it had generated the electricity itself or had purchased it from a source other than the QF. It was assumed that the cost that a utility would have to pay for power from a QF would never be above that utility's "avoided costs" for new supplies of power that it needed.

PURPA established a partnership between the Federal Energy Regulatory Commission (FERC) and the states to implement its terms. The FERC established general guidelines and, subject to those guidelines, the states determined "avoided costs" and other key elements of utilities' power purchase obligations. In accordance with PURPA, the Louisiana Public Service Commission in Docket Number U-14964 adopted rules for the sale of energy by electric utility companies to qualifying cogeneration facilities and qualifying small power production facilities and the purchase of electric energy from such facilities. The attached order would amend sections of Commission Order No. U-14964, by more sharply defining guidelines and criteria for the administrative determination of avoided costs and the regulations of purchases from QFs.

After careful review of the issues presented in this docket, the Commission Staff recommended use of the Economic Dispatch Model (EDM) as a reasonable approach to calculating the costs that are actually avoided by a utility as a result of a purchase from a qualifying cogeneration facility or small power production facility. It was the Commission Staff's belief that using the utility system's actual cost during an hour to calculate the payment to a QF for energy delivered by the QF to the utility during that same hour should ensure that electric utility ratepayers are not adversely affected by the purchase of energy from the QF, while at the same time ensuring that the rate does not discriminate against the QF. The approach set forth in the General Order will produce a result that is consistent with the stated intent of the Public Utility Regulatory Policy Act of 1978, which requires at a minimum, that it be accurate, fair and in the public interest.

Accordingly, at the Commission's February 18, 1998 Open Session, on motion of Commissioner Owen, seconded by Commissioner Field, the Commission voted unanimously to adopt the attached General Order, as amended in Section 201(c) by motion of Commissioner Blossman.

IT IS THEREFORE ORDERED THAT:

1. The Regulations for the determination of avoided costs as attached hereto are hereby adopted.
2. All provisions of these Regulations are hereby ordered by the Commission.
3. All entities subject to the provisions of this Order shall forthwith take all actions required by the regulations found therein.
4. This Order shall be effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
FEBRUARY 27, 1998**

/S/ DON OWEN
DON OWEN, CHAIRMAN
DISTRICT V

/S/ IRMA MUSE DIXON
IRMA MUSE DIXON, VICE-CHAIRMAN
DISTRICT III

/S/ C. DALE SITTIG
C. DALE SITTIG, COMMISSIONER
DISTRICT IV

/S/ JAMES M. FIELD
JAMES M. FIELD, COMMISSIONER
DISTRICT II


SECRETARY

/S/ JACK "JAY" A. BLOSSMAN, JR.
JACK "JAY" A. BLOSSMAN, JR., COMMISSIONER
DISTRICT I

REGULATIONS

Section 101 Definitions.

- (a) General rule. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this rule as they have under PURPA, unless further defined in this rule.
- (b) Definitions. The following definitions apply for purposes of this rule.
 - (1) "Qualifying facility" means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of the Federal Energy Regulatory Commission's Regulations under Section-201 of the Public Utility Regulatory Policies Act of 1978 as in effect on the date of the adoption of these rules except that:
 - (I) A cogeneration facility which utilizes reject heat from a useful thermal energy process for the production of electrical energy and otherwise qualifies under these Rules shall be considered to be a qualifying facility regardless of the source of the energy input to the thermal process and the efficiency standard of Section 201 shall only apply to any such facility utilizing oil or natural gas for supplemental firing.
 - (2) "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.
 - (3) "Sale" means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.
 - (4) "System emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.
 - (5) "Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.
 - (6) "Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.
 - (7) "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility.
 - (8) "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.
 - (9) "Long term contract" means a contract which is for a term of at least one year and can be for a term of up to twenty years.

- (10) "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.
- (11) "Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.
- (12) "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.
- (13) "Firm power" from a qualifying facility is power or power producing capacity that is available to the electric utility pursuant to a legally enforceable obligation for scheduled availability over a specified term.
- (14) "Non-firm power" from a qualifying facility is power provided under an arrangement that does not guarantee scheduled availability, but instead provides for delivery as available.
- (15) "Commission" means the Louisiana Public Service Commission.

Section 201 Scope.

- (a) **Applicability.** This subpart applies to the regulation of sales and purchases between qualifying facilities and electric utilities.
- (b) **Negotiated rates or terms.**
 - (1) Any electric utility and qualifying facility may agree to a rate for any purchases, or terms or conditions relating to any purchase, which differ from the rate or terms or condition which would otherwise be required by this subpart; and
 - (2) Any contract entered into between a qualifying facility and an electric utility for any purchase shall comply with applicable rules, regulations, practices and procedures of the Commission in effect at the date of execution of the contract.
 - (3) No utility may unreasonably refuse to negotiate and enter into a long-term contract for the purchase of energy and/or capacity.
- (c) **Review and Approval of Contracts.** Except as provided in 203 (d), no utility may enter into a contract with a qualifying facility without first obtaining the approval of the Commission. Upon receipt of a filing, the Commission shall review the contract and, if found to be just and reasonable, issue an Order approving the contract.
- (d) **Confidentiality of Qualifying Facility Data.** Any data or information furnished by a qualifying facility to a utility during negotiations which is specified as confidential and privileged shall be regarded by the utility as confidential and privileged.

Section 202 Availability of electric utility system cost data.

- (a) **Applicability.** This section applies to all electric utilities regulated by the Commission.
- (b) Each electric utility shall make available data reporting the actual cost of time of delivery on an hourly basis for each day of the reporting period. The data shall be made available not later than 30 days from the date these rules become effective and quarterly thereafter. The data shall be submitted in an electronic format acceptable to the Commission, both in hard copy and on a 3.5" diskette. The data shall contain the following:

- (1) The actual avoided costs on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of not more than 100 megawatts for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than 10 percent of the system peak demand for systems of less than 1000 megawatts.
 - (2) The actual avoided costs shall be stated on a cents per kilowatt-hour basis.
- (c) Review.
- (1) Any data submitted by an electric utility under this section shall be subject to an annual review for accuracy, adequacy, content and timeliness, by the Commission.
 - (2) In any such review, the electric utility has the burden of coming forward with justification for its data.

Section 203 Electric utility obligations under this subpart.

- (a) Obligation to purchase from qualifying facilities. Each electric utility shall purchase, in accordance with Section 204, any energy and capacity which is made available from a qualifying facility:
 - (1) Directly to the electric utility; or
 - (2) Indirectly to the electric utility in accordance with paragraph (d) of this section.
- (b) Obligation to sell to qualifying facilities. Each electric utility shall sell to any qualifying facility, in accordance with Section 205, any energy and capacity requested by the qualifying facility.
- (c) Obligation to interconnect.
 - (1) Subject to paragraph (c)(2) of this section, any electric utility shall make such interconnections with any qualifying facility that normally would or could be served, under the Commission's Rules, by that utility as may be necessary to accomplish purchases or sales under this subpart. The obligation to pay for any interconnection costs shall be determined in accordance with Section 206.
 - (2) No electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as public utility under Part II of the Federal Power Act.
 - (3) The Commission shall be informed of any request for an interconnection made by a qualifying facility to an electric utility company solely to permit the sale of energy by such qualifying facility to an electric utility other than the one requested to provide the interconnection before an agreement in consummated.
- (d) Transmission to other electric utilities. If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from such qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which such energy or capacity is transmitted shall purchase such energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to such electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect line losses pursuant to Section 204(e)(4). The rate paid by a purchasing utility shall not include any charges for transmission; however, the wheeling utility shall be paid a reasonable

transmission charge, including consideration of line losses, by the selling qualifying facility. Rates for wheeling within the meaning of this rule shall apply only to transmission from the qualifying facility to the purchasing utility. The Commission shall be informed of any proposed agreement between a qualifying facility and an electric utility company other than the electric utility company whose service area includes the location of the qualifying facility before such agreement is consummated. Nothing in this section shall interfere with the right of any qualifying facility to apply to the FERC for an order pursuant to Section 211 of the Federal Power Act (16 U.S.C. § 824(j)) requiring a transmitting utility to provide transmission services to the applicant.

- (e) Parallel operation. Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with Section 208.

Section 204 Rates for purchases.

- (a) Rates for purchases. The Commission hereby sets the following minimum requirements for avoided costs rates. With respect to the rates for purchases, they shall be:
 - (1) Reasonable and just to the electric consumer of the utility and in the public interest.
 - (I) In general, a rate shall be just and reasonable if the rate equals the avoided costs of the utility.
 - (ii) A rate for purchase (other than from "new capacity") may be less than avoided costs if, in the opinion of the Commission, the lower rate is consistent with the minimum requirements and is at a level sufficient to encourage cogeneration and small power production in the market. This section does not apply to purchases of capacity from a Qualifying Facility ("QF"), construction of which was commenced on or after November 9, 1978.
 - (iii) Rates for purchases may be negotiated and, if the parties cannot agree, the parties shall submit the issue to the Commission which will resolve the matter on a case by case basis.
 - (2) Non-discriminatory against qualifying cogeneration and small power production:
 - (3) At a level not to exceed the actual avoided costs of the utility; and
 - (4) Negotiated by the parties, and, in the case such negotiation fails, either party may submit the issue to the Commission which will resolve the matter on a case by case basis.
- (b) Relationship to avoided costs.
 - (1) For purposes of this paragraph, "new capacity" means any purchase from capacity of qualifying facility, construction of which was commenced on or after November 9, 1978.
 - (2) Subject to paragraph (b)(3) of this section, a rate for purchases satisfies the requirements of paragraph (a) of this section if the rate equals the avoided costs determined after consideration of the factors set forth in paragraph (e) of this section.

- (3) A rate for purchases (other than from new capacity) may be less than the avoided cost if the Commission finds that with respect to a particular qualifying facility, avoided costs rates would be unjust or unreasonable to the electric consumers of the electric utility.
 - (4) Rates for purchases shall be in accordance with paragraph (b)(2) and (b) (3) of this section, regardless of whether the electric utility making such purchases is simultaneously making sales to the qualifying facility.
- (c) Standard rates for purchases.
- (1) There shall be put into effect, not later than six months from the date the rules become effective, standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less.
 - (2) The standard rates for purchases under this paragraph:
 - (I) Shall be consistent with paragraphs (a) and (e) of this section; and
 - (ii) May differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies; and
 - (iii) Shall specify terms and conditions of service such as metering, safety, liability and access to equipment, etc.
- (d) Purchases "as available" or pursuant to a legally enforceable obligation. Each qualifying facility shall have the option either:
- (1) To provide non-firm energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or
 - (2) To provide firm energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates shall as agreed upon prior to the beginning of the specified term, be based on either
 - (I) The avoided costs calculated at the time of delivery; or
 - (ii) The avoided costs calculated at the time the obligation is incurred.
 - (3) Nothing in these rules shall restrict the right of a qualifying facility to provide some portions of its energy or capacity upon terms and conditions for purchase by a utility which may differ from the terms and conditions upon which it provides other portions of its energy or capacity for purchase by the utility.
- (e) Elements affecting rates for purchases. In determining rates for purchases from qualifying facilities, the following elements shall, to the extent practicable, be taken into account:
- (1) The data provided pursuant to Section 202(b);
 - (2) The availability of capacity and energy from a qualifying facility during the system daily and seasonal peak periods, including:

- (i) The ability of the utility to dispatch the qualifying facility;
 - (ii) The expected or demonstrated reliability of the qualifying facility;
 - (iii) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
 - (iv) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities.
 - (v) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
 - (vi) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system;
 - (vii) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities.
- (3) The relationship of the availability of energy and capacity from the qualifying facility as derived in paragraph (e) (2) of this section, to the ability of the electric utility to avoid costs, including the avoidance or deferral of capacity additions or portions thereof, the avoidance or deferral of demand charges associated with power purchases from other utilities or pools, and the reduction of fossil fuel use; and
- (4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.
- (f) Factors for consideration. The following factors should be considered in the calculation of avoided costs:
- (1) fuel costs;
 - (2) variable operating and maintenance costs;
 - (3) line losses;
 - (4) heat rates;
 - (5) cost of purchases from other sources;
 - (6) other energy-related costs;
 - (7) capacity costs, if the utility requires additional capacity and if, as a class, qualifying facilities providing nonfirm energy offer some predictable capacity; and
 - (8) for energy purchases, the time and quantity of energy furnished.
- (g) The avoided cost shall be determined for each time period (usually for each hour) by using the utility system's economic dispatch model (or comparable methodology) to calculate the difference between the cost of the total amount of energy actually furnished by the utility system (calculated using the actual costs of the utility system's generation and off-system purchases and assuming zero costs for energy supplied by the qualifying facilities) and the cost the utility system would have been required to incur had energy not been supplied by the qualifying facility(ies).

- (h) The economic dispatch model shall take into consideration the following factors:
- (1) fuel costs;
 - (2) variable operating and maintenance costs
 - (3) line losses;
 - (4) heat rates;
 - (5) purchased power opportunity;
 - (6) system stability; and
 - (7) operating characteristics.
- (i) Time periods shall be hourly.
- (j) Administrative, billing, and metering costs shall be recovered through a monthly customer charge to the qualifying facility.
- (k) For information purposes only, the projections of avoided cost rates by utilities shall be filed on an annual basis with the Commission. The following are a set of minimum standards and data that shall be used for these projections:
- (1) A "state-of-the-art" production costing model should be utilized for projecting fuel expenses.
 - (2) Key input data should reflect historic data with any deviation from historical data clearly explained for the reasonableness of the deviation.
 - (3) Key factors such as generating characteristics and fuel data should be for the same time frame and reflect consistent assumptions. In other words, there should be no double standard for input items.
 - (4) Demand forecasts should utilize weather normalization.
 - (5) Demand forecasts should be current and reflect the economic growth and population changes in the utility's service area.
 - (6) Demand forecasts should take into consideration the elasticity assumptions of electricity in the utility's market. In other words, the sensitivity in the quantity demanded of electricity given income changes and price changes of electricity should be incorporated into the forecast models.
 - (7) Fuel prices should consider such factors as historic fuel costs, world markets, spot markets, current fuel contracts, inventory levels and availability, and purchasing volumes.
 - (8) Major changes from the last fuel projection filed with the Commission should be adequately explained.
 - (9) The projected avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next 5 years.
 - (10) The electric utility's system plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding 10 years.
 - (11) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.

- (12) Additional data may be made available as mutually agreed upon by the electric utility and qualifying facility. In the event of a dispute, the Commission will determine the reasonableness of the request, and issue an appropriate Order, pursuant to the provision of Section 301 of these Rules.
- (l) Periods during which purchase not required.
- (1) Any electric utility which gives notice pursuant to paragraph (l)(2) of this section will not be required to purchase electric energy during any period during which, due to operational circumstances such as light loading problems, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself.
- (2) Any electric utility seeking to invoke paragraph (l)(1) of this section must notify each affected qualifying facility in time for the qualifying facility to cease the delivery of energy to the electric utility.
- (3) Any electric utility which fails to comply with the provisions of paragraph (l)(2) of this section will be required to pay the same rate for such purchase of energy as would be required had the period described in paragraph (l)(1) of this section not occurred.
- (4) A claim by an electric utility that such a period has occurred or will occur is subject to such verification by the Commission as it determines necessary or appropriate either before or after the occurrence.

Section 205 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 to any qualifying facility shall be determined in the same manner as any other sales and 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, cost or other characteristics as deemed appropriate by the Commission.
- (I) Rates for sales of power as described in paragraphs (b) and (c) of this section shall be negotiated by the parties and shall be filed with the Commission to become effective not later than 12 months after the date these rules become effective.
- (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.

On peak loads and off peak rates for Back-Up and Maintenance Power shall be required. The peak period is defined as the summer season from June 1 through September 15 during the hours of 6 a.m. and 12 midnight on weekdays and off-peak period is defined as all other hours of the year unless otherwise defined by the Commission.

- (2) The Commission 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 Commission 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; or
 - (iii) Unreasonably interfere with the operation of existing contracts under which the utility is providing power to its customers.
- (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 coordinated with outages of the utility's facilities.

Section 206 Interconnection costs.

- (a) Obligation to pay. Each qualifying facility shall be obligated to pay any reasonable interconnection costs which electric utility may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics.
- (b) Reimbursement for interconnection costs. The Commission shall determine the options available to the qualifying facility for payments of interconnection costs.

Section 207 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. For billing purposes, purchases shall continue to the extent that a qualifying facility itself is able to use the power it produces; and
 - (2) Sales to a qualifying facility, provided that such discontinuance is on a nondiscriminatory basis.

Section 208 Standards for operating reliability.

The Commission may establish reasonable standards to ensure system safety and reliability of interconnected operations.

Section 301 Resolution of disputes.

- (a) A proceeding to resolve a dispute between an electric utility and a qualifying facility arising under this rule may be instituted by the filing of a petition with the Commission in accordance with the Rules of Practice and Procedure of the Commission.
- (b) Commission Resolution of Disputes Related to Contracts. If a contract has not been successfully negotiated within 90 days after submission of a written proposal by the qualifying facility, or of a written request to the utility for a proposal; or, if there is an alleged breach of an existing contract or a dispute between the parties as to interpretation of an existing contract, the Commission may, in its discretion on a case-by-case basis, provide a resolution of the specific matters at issue according to the following procedures:
 - (1) The qualifying facility or the electric utility may petition the Commission for informal arbitration of the specific matters in dispute, naming the other party as respondent.
 - (2) Upon receipt of a petition from either party, and of a certificate of service of the petition upon the other party, the Commission shall assign the case to one or more members of its staff, who will conduct informal arbitration on an expedited basis and issue a written decision within 30 days, except that:
 - (3) Within 30 days of the issuance of the staff decision either party may bring a formal appeal to the Commission from any part of the decision. If no appeal has been filed within 30 days, the staff decision will become final and binding upon the parties as an order of the Commission.
 - (4) An appeal and Commission proceedings upon the appeal will be conducted according to the Commission's existing rules for the formal adjudications of cases, except that to the extent possible, an expedited schedule will be maintained which will permit issuance of the Commission's final decision within 90 days of the staff decision appealed from. The Commission's decision will be in the form of an Order and will be final and binding upon the parties subject to appeal.

Section 401 Exemptions from regulation.

- (a) Exemption. All qualifying facilities are exempted from Louisiana State laws and regulations, other than those promulgated herein, respecting:
 - (1) The rates of electric utilities; and
 - (2) The financial and organizational regulation of electric utilities.

Section 501 Provisions for Annual Review and Audit

- (a) Any data submitted by an electric utility in accordance with this Order shall be subject to an annual review for accuracy, adequacy, content and timeliness by the Commission.
- (b) In any such review, the electric utility has the burden of proving by clear and convincing evidence that the avoided costs rates for purchases and sales are just, reasonable and in the public interest.
- (c) The Commission Staff, when deemed appropriate by the Commission, shall review the method of calculating avoided cost set forth in this document.

Section 601 Confidentiality Statement.

Pursuant to a standing Commission order, any data or information furnished by a party with respect to avoided costs shall be treated as confidential and subject to review only under the Commission's standard confidentiality agreement.