

Suedeen Kelly's statement on PURPA final rule

This Final Rule implements Congress' directive, under section 1253 of EPA Act 2005, that the Commission issue revised rules to ensure:

- (1) that new qualifying cogeneration facilities are using their thermal output in a *productive and beneficial* manner;
- (2) that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used *fundamentally* for industrial, commercial, residential or institutional purposes; and
- (3) that there is continuing progress in the development of efficient electric energy generating technology.

It also makes other required changes including eliminating the ownership limitations on qualifying facilities and modifying the exemptions available to qualifying facilities from certain regulatory requirements.

In his State of the Union address two nights ago, the President spoke about our nation's over-reliance on fuel sources from foreign countries and the need to reduce that reliance.

I completely agree and, in my opinion, qualifying facilities have quietly represented, and continue to represent, one important component of a strategy to accomplish that goal.

As the overall strategy is to reduce our reliance on foreign energy sources, the particular component of that strategy I refer to here is the effort to have our nation use its resources more efficiently; to get more work out of each Btu of fuel energy in other words.

QFs, especially cogenerators, almost by definition use their input energy more efficiently than other generators.

More efficient use of energy means lower demand for foreign energy sources than you would have otherwise.

PURPA has long helped to foster investment and development work on more efficient use of energy and it is my hope that this final rule will help continue that vital effort.

Now I would just like to highlight several key provisions of this rule:

First, upon further review of the issue and the comments to the NOPR, the Final Rule abandons the NOPR proposal to require QF applicants to make a showing that their projects use technology that demonstrates continuing progress in the development of efficient electric energy generating technology.

Such a requirement on individual applicants could have had adverse consequences, unintended by Congress in EAct 2005, such as causing a bias toward new technology even where it would not be an improvement over existing technology.

Instead, the Final Rule finds that the Commission is meeting *its* burden under EAct 2005 to ensure continuing progress in the development of efficient electric energy generating technology through the particular rules put in place by this final rule.

I support this change from the NOPR as being more consistent with Congress' intent and with the nation's goals for QF generation and for energy use in general.

Also, until now the Commission has relied on a presumptively useful standard that was essentially irrebuttable to determine whether a cogeneration facility's thermal output was useful.

EAct 2005 essentially directs us to make a greater effort to ensure that such output is productive and beneficial and this Final Rule meets this requirement by placing the burden on most QF applicants to show that their thermal output meets the standard.

The Final Rule, however, also makes an exception for small facilities (5 MW and under) and cogeneration facilities built to serve the thermal needs of a pre-existing thermal host.

The Final Rule finds that the purposes of EAct 2005 are served by rebuttably presuming that the thermal output of these two types of facilities will be productive and beneficial.

The Final Rule makes a similar rebuttable presumption for small QFs (5 MWs and under) with respect to the fundamental use requirement.

I think all of these provisions are appropriate and I hope they will help relevant QF developers continue to do their part to reduce the nation's dependence on foreign fuel sources.