

FERC Decision on Conveyance of RECs Under PURPA Contracts

In an October 1, 2003 ruling, the FERC declared that “... contracts for the sale of QF capacity and energy entered into pursuant to PURPA do not convey RECs to the purchasing utility (absent an express provision in a contract to the contrary). While a state may decide that a sale of power at wholesale automatically transfers ownership of the state-created RECs, that requirement must find its authority in state law, not PURPA.”

105 FERC ¶ 61,004
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
Docket No. EL03-133-000
ORDER GRANTING PETITION FOR DECLARATORY ORDER
(Issued October 1, 2003)
<http://www.ferc.gov/whats-new/comm-meet/100103/E-1.pdf>

On April 15, 2004, the FERC denied a request for rehearing of the October 1 Order.

107 FERC ¶ 61,016
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
Docket No. EL03-133-001
ORDER DENYING REHEARING
(Issued April 15, 2004)
<http://www.ferc.gov/whats-new/comm-meet/041404/E-28.pdf>

On May 17, 2005, the U.S. Court of Appeals for the District of Columbia Circuit refused to consider a petition for review of the FERC Order.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
Submitted on the Briefs May 6, 2005
Decided May 17, 2005
No. 04-1182
XCEL ENERGY SERVICES INC.,
PETITIONER
v.
FEDERAL ENERGY REGULATORY COMMISSION,
RESPONDENT
WHEELABRATOR TECHNOLOGIES INC., ET AL.,
INTERVENORS
On Petition for Review of Orders of the
Federal Energy Regulatory Commission
<http://pacer.cadc.uscourts.gov/docs/common/opinions/200505/04-1182a.pdf>