

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Arkansas Electric Cooperative Corporation)

Docket No. QM15-____

**APPLICATION OF ARKANSAS ELECTRIC COOPERATIVE CORPORATION
ON BEHALF OF ITSELF AND ITS MEMBERS TO TERMINATE MANDATORY
PURPA PURCHASE OBLIGATION IN THE SOUTHWEST POWER POOL, INC.**

Pursuant to Section 292.310(a) of the regulations of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. § 292.310(a), implementing Section 210(m) of the Public Utilities Regulatory Policies Act of 1978 (“PURPA”), 16 U.S.C. § 824a-3(m), Arkansas Electric Cooperative Corporation (“AECC”), on behalf of itself and its seventeen members,¹ hereby submits this Application to be relieved of the requirement to enter into new contracts or obligations to purchase energy and capacity made available by qualifying facilities (“QFs”) that have a net capacity greater than 20 megawatts (“MW”) and are located within the Southwest Power Pool, Inc. (“SPP”),² effective the date of this Application, April 15, 2015.

¹ Of AECC’s seventeen electric distribution cooperative members, six are located within SPP: Arkansas Valley Electric Cooperative Corp. (Ozark, Arkansas); Carroll Electric Cooperative Corp. (Berryville, Arkansas); Ozarks Electric Cooperative Corp. (Fayetteville, Arkansas); Rich Mountain Electric Cooperative, Inc. (Mena, Arkansas); South Central Arkansas Electric Cooperative, Inc. (Arkadelphia, Arkansas); and Southwest Arkansas Electric Cooperative Corp. (Texarkana, Arkansas) (referred to collectively as “SPP Members”). AECC’s members not located within SPP are: Ashley-Chicot Electric Cooperative, Inc. (Hamburg, Arkansas); C&L Electric Cooperative Corp. (Star City, Arkansas); Clay County Electric Cooperative Corp. (Corning, Arkansas); Craighead Electric Cooperative Corp. (Jonesboro, Arkansas); Farmers Electric Cooperative Corporation (Newport, Arkansas); First Electric Cooperative Corp. (Jacksonville, Arkansas); Mississippi County Electric Cooperative, Inc. (Blytheville, Arkansas); North Arkansas Electric Cooperative, Inc. (Salem, Arkansas); Ouachita Electric Cooperative Corp. (Camden, Arkansas); Petit Jean Electric Cooperative Corp. (Clinton, Arkansas); and Woodruff Electric Cooperative Corp. (Forrest City, Arkansas) (collectively, “Members”).

² AECC is not seeking relief in this application from its PURPA purchase obligation with respect to QFs in the service territory of AECC Members located outside the SPP footprint. AECC is concurrently filing today a separate application seeking termination of its PURPA purchase obligation with respect to QFs in the service territory of AECC Members located within the Midcontinent Independent System Operator, Inc. (“MISO”).

I. DESCRIPTION OF AECC

AECC is an electric generation and transmission cooperative incorporated under Arkansas law with its principal place of business in Little Rock, Arkansas. AECC provides wholesale electricity to its seventeen electric distribution cooperative Members.³ These distribution cooperatives in turn provide electricity at retail to approximately 500,000 consumers, primarily in Arkansas. The certified service territories of AECC's member distribution cooperatives extend into 74 of Arkansas's 75 counties and cover approximately 60% of the state's geographic area.

The loads and resources of AECC and its Members are located in balancing authority areas operated by three entities: SPP for transmission owned by American Electric Power Company's Southwestern Electric Power Company ("AEP/SWEPCO") and by Oklahoma Gas & Electric Company ("OG&E"); MISO for transmission owned by Entergy Corporation's Entergy Arkansas, Inc. ("EAI"); and the Southwestern Power Administration ("SPA"). As relevant to this application, AECC relies on the transmission systems of AEP/SWEPCO and OG&E in the SPP to serve its SPP Members' loads on each entity's transmission system. AECC is a Transmission Using Member of SPP.

On March 3, 2009, the Arkansas Public Service Commission ("Arkansas Commission") filed, on behalf of AECC and its 17 Members, a petition for partial waiver of the Commission's regulations implementing PURPA Section 210. Specifically, AECC's Members sought waiver of their obligation, as individual electric utilities under Section 292.303(a) of the Commission's regulations, to purchase power directly from QFs. AECC sought waiver of its obligation, as an electric utility under Section 292.303(b) of the Commission's regulations, to sell power directly to

³ See note 1, *supra*.

QFs. As part of this petition, AECC submitted its Joint PURPA Implementation Plan that described the provisions by which AECC and its Members planned to implement the requirements imposed on them under PURPA Section 201 and the rules adopted by the Commission thereunder. AECC's Joint PURPA Implementation Plan is appended in Attachment 1 to this Application.⁴

Under the Commission's regulations and the Joint PURPA Implementation Plan, each Member is generally obligated to interconnect and operate in parallel with a QF, while AECC is required to purchase electricity from those QFs who qualify under Commission standards. The Commission granted the petition by letter order dated April 30, 2009.⁵

II. COMMUNICATIONS AND CORRESPONDENCE

Service in this proceeding should be made upon and all communications regarding this Application should be directed to the following persons:

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⁴ AECC's Joint PURPA Implementation Plan does not cover AECC Member Arkansas Valley Electric Cooperative Corporation to the extent that Arkansas Valley serves customers in Oklahoma.

⁵ *Arkansas Public Service Commission, et al.*, Docket No. EL09-37-000, Letter Order (April 30, 2009).

III. APPLICATION

Pursuant to Section 292.310(a) of the Commission's regulations, an electric utility seeking termination of its PURPA purchase obligation is required to file an application that sets forth the factual basis upon which relief is requested, and describes why the conditions set forth in Section 292.309(a)(1), (2) or (3) have been met. In accordance with Section 292.310, AECC provides the following information required by Section 292.309(d):

1. Reliance on Section 292.309(a)(1), (2) or (3)

AECC relies in this application on Section 292.309(a)(2) of the Commission's regulations. Section 292.309(a)(2) provides that an electric utility shall not be required to purchase electric energy from a QF if the Commission finds that the QF has nondiscriminatory access to:

- (i) Transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and
- (ii) Competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

2. Factual Basis Upon Which Relief Is Requested

AECC is relying on the rebuttable presumption in Section 292.309(g), which states that the SPP satisfies the criteria of Section 292.309(a)(2)(i), which, as noted above, demonstrate that QFs in the SPP have nondiscriminatory access to transmission and interconnection services pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers.

AECC submits that Section 292.309(a)(2)(ii) is satisfied as well. On January 22, 2008, the Commission issued an order granting in part and denying in part the application of several transmission owners in the SPP to terminate on a service territory-wide basis the requirement that these utilities purchase energy and capacity from QFs with net capacity in excess of 20 MW. *Xcel Energy Services, Inc., et al.*, 122 FERC ¶ 61,048 (2008) (“January 2008 Order”), *order on reh’g*, 124 FERC ¶ 61,073 (2008). Specifically, the Commission found that OG&E and AEP/SWEPCO met the statutory standard and granted the request of OG&E and AEP to terminate the requirement that they enter into new obligations or contracts with QFs with net capacity in excess of 20 MW. In the January 2008 Order, the Commission squarely addressed the issue “as it applies to OG&E and AEP” of “whether QFs interconnected to these utilities have access to markets which satisfy section 201(m)(1)(B)(ii),” which the Commission explained, meant that QFs in OG&E’s and AEP/SWEPCO’s service territories had to have nondiscriminatory access to competitive wholesale markets, as articulated in Section 292.309(a)(2)(ii). January 2008 Order at P 31.

After consideration of protests, the Commission addressed each of the components of this provision, concluding that “evidence in the record shows that there is an active wholesale market activity in SPP, which provides QFs and potential and future QFs a meaningful opportunity to sell their electric output to purchasers other than the interconnected utility.” *Id.* at P 33. The Commission found that SPP’s Energy Imbalance Services (“EIS”) market provided a “meaningful opportunity for affected and potential QFs to sell real-time energy.” *Id.* at P 35. The Commission examined actual wholesale market transactions, Electronic Quarterly Reports data, requests for proposals (“RFPs”) conducted by various utilities in SPP, and transactions by QFs and independent power producers, and determined that its review indicated that QFs in SPP had “nondiscriminatory access to competitive markets that provide a meaningful opportunity to sell

short-term energy within SPP.” *Id.* at P 37. The Commission evaluated evidence presented by OG&E and AEP/SWEPCO regarding the percent of their peak load that was met through short-term capacity sales and the number of RFPs requesting short-term capacity and found that OG&E and AEP/SWEPCO demonstrated a competitive market in which QFs had a meaningful opportunity to sell short-term capacity in the SPP region. *Id.* at P 38. The Commission found persuasive evidence that there was a competitive market providing QFs a meaningful opportunity to sell long-term energy in SPP. *Id.* at P 39. The Commission noted that independent generators cited by OG&E and AEP/SWEPCO were involved in long-term capacity and energy sales agreements. *Id.* at P 40. Based on these various findings, the Commission concluded that these markets within SPP’s footprint satisfied Section 201(m)(1)(B)(ii) of PURPA. *Id.* at P 44.

Because AECC is dependent on the transmission systems owned by OG&E and AEP/SWEPCO, the Commission’s findings in the January 2008 Order relating to access by QFs to SPP’s markets apply to AECC as well. Moreover, since the issuance of that order, the Commission accepted SPP’s filing to revise its Open Access Transmission Tariff to implement its Integrated Marketplace, effective March 1, 2014. *Southwest Power Pool, Inc.*, 141 FERC ¶ 61,048 (2012), *order on reh’g and clarification*, 142 FERC ¶ 61,205 (2013). SPP’s Integrated Marketplace, which began functioning on March 1, 2014, includes the following major market-design components:

- (1) day-ahead energy and operating reserve markets; (2) day-ahead and intra-day Reliability Unit Commitment (RUC) processes; (3) a real-time balancing market; (4) price-based co-optimized energy and operating reserve procurement; (5) a market-based congestion management process including a market for transmission congestion rights and allocation of auction revenue rights; (6) consolidation of 16 Balancing Authority Areas in the SPP footprint into a single Balancing Authority Area operated by SPP; (7) a Multi-Day Reliability Assessment performed prior to the day-ahead market to manage the commitment of long-start resources; and (8)

market monitoring and mitigation with an internal Market Monitoring Unit (Market Monitor).

Southwest Power Pool, Inc., 147 FERC ¶ 61,212, at P 2 (2014).

The expansion of SPP's EIS market to its Integrated Marketplace only serves to provide QFs with even greater access to wholesale competitive markets than they had in 2008 when the Commission made its findings with respect to OG&E and AEP/SWEPCO. For these reasons, AECC submits that the transmission systems of OG&E and AEP/SWEPCO in the SPP, in which AECC's SPP-area loads are embedded, provide nondiscriminatory access to competitive wholesale markets that provide a meaningful opportunity to QFs to sell short-term and long-term energy and capacity and real-time energy.

3. Transmission Studies and Related Information

Section 292.310(d)(3) of the Commission's regulations requires an applicant to submit certain transmission studies and related information when seeking to be relieved of its PURPA Purchase Obligation. AECC submits the following information to satisfy § 292.310(d)(3):⁶

i. Long-Term Transmission Plan:

The Commission's regulations require applicants to provide information about their long-term transmission plans, whether conducted by the applicant, regional transmission organization, independent system operator, or other relevant entity. 18 C.F.R. § 292.310(d)(3)(i). The relevant long-term transmission plan in this case is that conducted through the Commission-approved transmission planning process of SPP. SPP's Integrated Transmission

⁶ In Order No. 688-A, the Commission confirmed that utility applicants may provide hyperlinks to relevant studies on the internet rather than submitting copies of documents attached to the applications for relief from PURPA Purchase Obligations. *New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, Order No. 688-A, 119 FERC ¶ 61,305, at P 112 (2007) ("We clarify, moreover, that an applicant can provide a hyperlink to the relevant studies, if available, rather than submitting complete studies and reports").

Planning (“ITP”) process was approved by the Commission more than four years ago. *Southwest Power Pool, Inc.*, 132 FERC ¶ 61,042 (2010), *order on reh’g*, 136 FERC ¶ 61,050 (2011). SPP’s ITP process is an iterative three-year process that includes 20-Year, 10-Year, and Near-Term Assessments. The ITP integrates three SPP processes: the Extra High Voltage Overlay, the Balanced Portfolio, and the SPP Transmission Expansion Plan Reliability Assessment.

Documents related to SPP’s 20-Year Assessment are available at <http://www.spp.org/section.asp?group=1940&pageID=27>.

Documents related to SPP’s 10-Year Assessment are available at <http://www.spp.org/section.asp?group=2013&pageID=27>.

Documents related to SPP’s Near-Term Assessment are available at <http://www.spp.org/section.asp?group=2042&pageID=27>.

The 2015 SPP Transmission Expansion Plan Report is available at http://www.spp.org/publications/2015_STEP_Report.pdf.

ii. Transmission Constraints:

The Commission’s regulations require applicants to provide information about known and anticipated transmission constraints on their respective transmission systems, as well as any proposed mitigation, including transmission construction plans. 18 C.F.R. § 292.310(d)(3)(ii). As part of its Commission-approved regional transmission planning process under Order No. 890 and Order No. 1000, SPP and its stakeholders utilize a comprehensive planning approach, which includes performing various studies to identify transmission issues, such as transmission constraints, and evaluating projects in the context of addressing these issues. The State of the Market Report Winter 2015 December 2014 – February 2015 of the SPP Market Monitoring Unit (dated March 24, 2015) provides recent information on transmission constraints and congestion in

SPP. Available at http://www.spp.org/publications/QSOM_2015Winter.pdf, at 25-30.

iii. Congestion:

The Commission's regulations require applicants to provide information regarding the levels of congestion on their transmission systems, if available. 18 C.F.R. § 292.310(d)(3)(iii). As part of the transmission planning process of SPP, SPP performs several congestion-based studies, which include in-depth analyses of the most congested flowgates in the SPP footprint, and identify transmission investments that would be required to address chronic congestion. In its 2013 State of the Market (dated May 19, 2014), the SPP Market Monitoring Unit identified the most congested transmission corridors and their associated flowgates in the SPP footprint. Along with this information, the 2013 State of the Market Report includes a list of transmission projects that are proposed or under construction that will help alleviate the congestion. SPP Transmission Planning reports posted on the SPP web page provide detailed information on each of the individual projects.

As noted in the 2013 State of the Market Report, the regions experiencing the most congestion in SPP are the Texas Panhandle corridor; the Omaha-Kansas City corridor; western Nebraska; eastern Oklahoma; and the Tulsa areas, not areas within AECC's SPP footprint. Information on congestion in SPP is available at <http://www.spp.org/publications/2013%20SPP%20State%20of%20the%20Market%20Report.pdf>, 81-82.

iv. System Impact Studies:

The Commission's regulations require applicants to provide information concerning relevant system impact studies for the generation interconnections for the applicant's transmission

systems that are already completed. 18 C.F.R. § 292.310(d)(3)(iv). Because SPP is the transmission provider for AECC for its load within the OG&E and AEP/SWEPCO footprint, all system impact studies for generation interconnections to the AECC transmission system are performed under the direction of SPP. Information on generation interconnections is available from SPP at <http://sppoasis.spp.org/documents/swpp/transmission/GENInterPAGE.CFM>.

v. Available Transfer Capability and OASIS

The Commission's regulations require applicants to provide information pertinent to showing whether the applicant has available transfer capability ("ATC"), 18 C.F.R. § 292.310(d)(3)(v), and to provide a link to the applicant's OASIS from which a QF may obtain the applicant's ATC information. 18 C.F.R. § 292.310(d)(3)(vi). SPP is the transmission provider for AECC and its six SPP Members. Information about ATC can be found at SPP's OASIS: <https://www.oasis.oati.com/SWPP/index.html>.

4. Process for QFs to Arrange Transmission Service

Section 292.310(d)(4) of the Commission's regulations requires the applicant to describe the process, procedures, and practices that QFs interconnected to the applicant's system must follow to arrange for transmission service to transfer power to purchasers other than the applicant. A QF directly interconnected to AECC or a SPP Member's system must follow SPP's procedures for interconnecting and requesting transmission service to transfer power to purchasers other than AECC. AECC notes that its Joint PURPA Implementation Plan, accepted by the Commission in 2009,⁷ does not require any Member to transmit QF purchases for a utility other than AECC and its other Members.⁸

⁷ See *supra* note 5.

⁸ See Attachment 1 at 9.

Information on obtaining transmission service from the SPP is available at <http://sppoasis.spp.org/documents/swpp/transmission/TRPAGE.CFM>.

Information on interconnecting to the SPP is available at <http://sppoasis.spp.org/documents/swpp/transmission/GENInterPAGE.CFM>.

5. Interconnection Agreements

Section 292.310(d)(5) of the Commission's regulations requires that, if QFs will be required to execute new interconnection agreements or to renegotiate existing agreements so that they can effectuate wholesale sales to third-party purchasers, the applicant must explain the procedures for obtaining such new agreements, detail any applicable charges, and explain any differences in these two factors for QFs as compared to other generators or applicant-owned generation.

Any generator seeking to engage in wholesale sales to third-party purchasers must follow the SPP procedures for interconnecting and requesting transmission service. However, it should be noted that AECC's Joint PURPA Implementation Plan, accepted by the Commission in 2009,⁹ provides that "[n]either AECC nor any Member is required to interconnect with any QF if, solely by reason of purchase or sale using the interconnection, AECC or the Member would become subject to regulation as a public utility under Part II of the Federal Power Act."¹⁰

The SPP generation interconnection page is available at: <http://sppoasis.spp.org/documents/swpp/transmission/GENInterPAGE.CFM>.

6. Notice to Known or Potential Purchasers

Sections 292.310(b) and (c) of the Commission's regulations provide that a utility seeking

⁹ See *supra* note 5.

¹⁰ Joint PURPA Implementation Plan at 11-12, citing to Arkansas Commission Cogeneration Rule §3.3(c)(2).

to terminate its PURPA purchase obligation must identify in its application all potentially affected QFs,¹¹ including names and addresses of such QFs, as well as certain other information.¹²

Attachment 2 to this Application includes the information required by the Commission's regulations for potentially affected QFs that may be subject to this Application. To the extent certain information is not included in Attachment 2, AECC seeks a waiver of the requirement to provide that information, inasmuch as AECC has engaged in extensive efforts and gone to considerable lengths to gather the information required by the Commission's regulations. AECC is unaware of any other potentially affected QFs over 20 MW. AECC does not have any power purchase contracts with QFs over 20 MW; is not purchasing the output of QFs over 20 MW; has not agreed to enter into any power purchase contracts with developers of generating facilities; and is unaware of any developers of facilities that have pending state avoided cost proceedings, as of the date of this application. AECC has used due diligence to ascertain whether there are any other potentially affected QFs over 20 MW including having extensively searched FERC's e-library.

AECC will provide a copy of the Application to the potentially affected QFs listed in Attachment 2 and the state commissions listed in Attachment 3. Notice of the Application will

¹¹ 18 C.F.R. § 292.310(c)(1)-(5) defines all potentially affected QFs to include: "(1) Those qualifying facilities that have existing power purchase contracts with the applicant; (2) Other qualifying facilities that sell their output to the applicant or that have pending self-certification or Commission certification with the Commission for qualifying facility status whereby the applicant will be the purchaser of the qualifying facility's output; (3) Any developer of generating facilities with whom the applicant has agreed to enter into power purchase contracts, as of the date of the application ..., or are in discussion as of the date of the application filed pursuant to this section, with regard to power purchase contracts; (4) The developers of facilities that have pending state avoided cost proceedings, as of the date of the application ...; and (5) Any other qualifying facilities that the applicant reasonably believes to be affected by its application filed pursuant to 18 C.F.R. § 292.310(a)."

¹² Pursuant to 18 C.F.R. § 292.310(c), an electric utility seeking to terminate its PURPA Purchase Obligation must submit the following information in its application for each potentially affected QF: (1) the docket number assigned if the QF filed for self-certification or an application for Commission certification of QF status; (2) the net capacity of the QF; (3) the location of the QF depicted by state and county, and the name and location of the substation where the QF is interconnected; (4) the interconnection status of each potentially affected QF, including whether the QF is interconnected as an energy or a network resource; and (5) the expiration date of the energy and/or capacity agreement between the applicant utility and each potentially affected QF.

be posted to the AECC OASIS, available at <http://www.oasis.oati.com/AECC>.

7. Signature of Authorized Individual

Section 292.310(d)(7) of the Commission's regulations requires applicants to provide the signature of an authorized individual evidencing the accuracy and authenticity of information provided by the applicant. AECC has provided the required signature and verification of Lori L. Burrows, Vice President and General Counsel, in Attachment 4 to this Application.

V. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, for the foregoing reasons, AECC respectfully requests that the Commission grant this application to relieve AECC from its PURPA purchase obligation within SPP with respect to QFs with a capacity greater than 20 MW in the service territory of its six Members or interconnected to AECC's transmission system, effective April 15, 2015.

Respectfully submitted,

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Dated: April 15, 2015

ATTACHMENT 1

AECC's Joint PURPA Implementation Plan

ARKANSAS ELECTRIC COOPERATIVE CORPORATION

JOINT PURPA IMPLEMENTATION PLAN

I. Overview of Plan

This Joint PURPA Implementation Plan ("Plan") sets forth the manner in which Arkansas Electric Cooperative Corp. ("AECC") and its member-owner electric distribution cooperatives ("Members") plan to implement the requirements imposed upon them under Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA") and the rules adopted by the Federal Energy Regulatory Commission ("FERC") thereunder. AECC's Members joining in this Plan are: Arkansas Valley Electric Cooperative Corp., Ashley-Chicot Electric Cooperative, Inc., C&L Electric Cooperative Corp., Carroll Electric Cooperative Corp., Clay County Electric Cooperative Corp., Craighead Electric Cooperative Corp., Farmers Electric Cooperative Corp., First Electric Cooperative Corp., Mississippi County Electric Cooperative, Inc., North Arkansas Electric Cooperative, Inc., Ouachita Electric Cooperative Corp., Ozarks Electric Cooperative Corp., Petit Jean Electric Cooperative Corp., Rich Mountain Electric Cooperative, Inc., Southwest Arkansas Electric Cooperative Corp., South Central Arkansas Electric Cooperative, Inc., and Woodruff Electric Cooperative Corp.

AECC's Board of Directors, which consists of representatives from each of the Members, directed AECC on behalf of itself and the Members to develop and coordinate implementation of a plan for meeting the obligations imposed on AECC and the Members under Section 210 of PURPA and FERC's Regulations thereunder. Each of the Members also has authorized AECC to adopt this Plan on its behalf.

AECC and the Members are electric utilities subject to the purchase and sale obligations under PURPA. AECC is a generation and transmission cooperative that was organized for the

purpose of providing wholesale electricity and power to its distribution cooperative Members on a non-profit basis. AECC's Members are all electric distribution cooperatives serving retail customers in their service territories, which are located in every county except one in Arkansas, and in the surrounding states.¹ The Members have no generation resources of their own. With two exceptions, members are obligated, pursuant to long-term wholesale power supply contracts, to purchase all of their power and energy requirements from AECC. As of the commencement date of the Plan, Ozarks Electric Cooperative Corp. and Arkansas Valley Electric Cooperative Corp. each purchase additional wholesale electricity at discrete delivery points from a secondary source.

AECC and each of the Members are regulated by the Arkansas Public Service Commission ("Arkansas Commission"). Thus, in addition to compliance with Section 210 of PURPA and FERC's Regulations thereunder, the Plan also complies with the Arkansas Commission Cogeneration Rules with respect to all arrangements it enters into with qualifying cogenerators and small power production facilities (collectively "QF").²

The Plan reflects the policy of AECC and the Members that has been developed to provide for the joint implementation of a program to encourage cogeneration and small power production. The Plan is intended to advise the public of the basic approach and general guidelines for allowing QFs to interconnect with the electric utility systems of AECC and the Members, to sell electric energy and capacity to AECC, and to purchase retail electric service

¹ Service Areas Map, Attachment 2. The following Member cooperatives also serve load outside of Arkansas: Arkansas Valley Electric Cooperative Corp. (Oklahoma), Ashley-Chicot Electric Cooperative, Inc. (Louisiana), Carroll Electric Cooperative Corp. (Missouri), Clay County Electric Cooperative Corp. (Missouri), Ozarks Electric Cooperative Corp. (Oklahoma), Rich Mountain Electric Cooperative, Inc. (Oklahoma), and Southwest Arkansas Electric Cooperative Corp. (Texas).

² Arkansas Commission Cogeneration Rules § 3.2(a) (1983).

from the Members. The Plan addresses only purchases from and service to QFs in Arkansas areas supplied with power purchased from AECC.

Under the Plan AECC will purchase energy and capacity offered by QFs to AECC or any of the Members, and Members will sell, at retail, energy and capacity to QFs. AECC will offer a standard purchase rate or a negotiated rate for energy and capacity (if avoided) produced by QFs interconnected with AECC or a Member. This standard purchase rate is AECC's "avoided cost" or the costs to AECC of the electric energy, which AECC would otherwise generate or purchase from another source if not purchased from the QF.³ AECC's avoided cost data and methodology are on file with the Arkansas Commission. The rate and methodology will be reviewed at least biennially, as provided in AECC's methodology on file with the Arkansas Commission and are subject to revision based on future changes to AECC's delivered cost of fuel, plant generation characteristics, capacity needs, cost of purchased power, transmission costs, operating experience with QFs, AECC's ability to dispatch to the QF, the expected or demonstrated reliability of the QF, the terms of any legally enforceable obligation, the extent to which the QF's scheduled outages can be usefully coordinated with those of AECC, the usefulness of the QF's energy and capacity during system emergencies and the QF's ability to separate its load from its generation, the individual and aggregate value of energy and capacity from QFs, the smaller capacity increments and shorter lead times available with additions of capacity from QFs or other factors influencing AECC's costs avoided as a result of purchases from QFs.⁴ AECC reserves the right to analyze each QF's cost impact and adjust rate provisions to reflect power supply characteristics.

³ Methodology for Calculating Avoided Cost Rate, Attachment 1.

⁴ AECC may adjust its avoided costs based on the factors listed in Arkansas Commission Cogeneration Rule 3.4(e).

Upon request by a QF, each Member shall offer supplemental, back-up, and maintenance power on a firm or interruptible basis. The Members will sell energy and capacity to QFs under their applicable retail tariffs or at rates equal to the rates to the Members' other customers with similar load and other cost-related characteristics. Each Member has undertaken to so sell energy and capacity at rates that are nondiscriminatory, just and reasonable, and in the public interest.

By implementing the purchase and sale requirements in this manner, the QFs will have a market for their power at rates comparable to the rates the Members could offer and will meet the needs of QFs for supplementary, back-up, and maintenance power in a manner consistent with the retail functions of the Members.

AECC has not included a form of contract in the Plan since the purchases and sales rates will be calculated pursuant to the methodology set forth in Attachment 1, identified by tariff, or negotiated on a case-by-case basis. However, AECC and the Members intend to require a contract be executed by each QF. Such contract will provide detailed terms and conditions including interconnection requirements, metering, rates, and those terms necessary to accommodate safety and reliability concerns. If required by the Arkansas Commission, AECC will file the terms and conditions of each agreement with a QF to interconnect, buy and sell services.⁵

AECC intends to request the Arkansas Commission to file with FERC, on behalf of AECC and the Members, a Petition seeking waiver of Sections 292.303(a) and 292.303(b) of FERC's Regulations⁶ to permit the Plan to be placed in effect as proposed. Section 292.402(a)

⁵ Arkansas Commission Cogeneration Rule § 3.2(d).

⁶ 18 CFR §§ 292.303(a) and (b) (2007).

of FERC's Regulations provides that "[a]ny State regulatory authority (with respect to any electric utility over which it has ratemaking authority)...may...apply for a waiver from the application of any of the [PURPA] requirements..."⁷ Since the Arkansas Commission regulates AECC and each of its Members⁸, AECC and the Members must pursue such a waiver by means of a petition addressed, in the first instance, to the Arkansas Commission.

FERC has granted waivers of its rule in other similar situations.⁹ AECC and its Members have promulgated the Plan similar to those adopted by other cooperatives and members, with such additions as were deemed necessary to meet the PURPA requirements, FERC regulations, and the Arkansas Commission Cogeneration Rules. If the requested waivers are not granted, AECC and the Members will take such other actions, if any, as may be required to comply with PURPA, the rules adopted thereunder by FERC, and the Arkansas Commission Cogeneration Rules.

AECC and the Members believe that the integrated approach to PURPA implementation as described herein will not adversely affect QFs. Indeed, AECC and the Members believe the proposed approach will provide additional encouragement to the development of QFs.

⁷ 18 CFR §292.402(a) (2007).

⁸ <http://www.arkansas.gov/psc/electric.htm> (accessed November 20, 2007). *See also*, Arkansas Commission Cogeneration Rule § 3.2.

⁹ *See Oglethorpe Power Corp.*, 32 FERC ¶61,103 (1985), *reh'g granted in part and denied in part*, 35 FERC ¶61,069 (1986), *aff'd sub nom. Greensboro Lumber Co. v. FERC*, 825 F.2d 518 (D.C. Cir. 1987); *Seminole Electric Cooperative, Inc.*, 39 FERC ¶61,354 (1987); *Missouri Basin Municipal Power Agency*, 69 FERC ¶62,250 (1994); *Corn Belt Cooperative*, 68 FERC ¶62,249 (1994); *Southern Illinois Power Cooperative*, 66 FERC ¶62,010 (1994); *Northwest Iowa Power Cooperative*, 57 FERC ¶62,079 (1991); *Soyland Power Cooperative, Inc.*, 50 FERC ¶62,072 (1990); *Western Farmers Electric Cooperative*, 115 FERC ¶ 61,323 at n. 8 (2006).

II. Introduction

A. Intent of Plan

The Plan is intended to set forth the basic approach and general guidelines for allowing QFs to interconnect with the electric utility systems listed below in accordance with rules adopted by FERC implementing PURPA Section 210 and in accordance with the Cogeneration Rules implemented by the Arkansas Commission.

B. Utilities Subject to Plan

The Plan has been adopted by AECC and the following electric distribution cooperative Members of AECC:

Arkansas Valley Electric Cooperative Corp.
Ashley-Chicot Electric Cooperative, Inc.
C&L Electric Cooperative Corp.
Carroll Electric Cooperative Corp.
Clay County Electric Cooperative Corp.
Craighead Electric Cooperative Corp.
Farmers Electric Cooperative Corp.
First Electric Cooperative Corp.
Mississippi County Electric Cooperative, Inc.
North Arkansas Electric Cooperative, Inc.
Ouachita Electric Cooperative Corp.
Ozarks Electric Cooperative Corp.
Petit Jean Electric Cooperative Corp.
Rich Mountain Electric Cooperative, Inc.
Southwest Arkansas Electric Cooperative Corp.
South Central Arkansas Electric Cooperative, Inc.
Woodruff Electric Cooperative Corp.

The Plan addresses only purchases from and sales to QFs within Arkansas areas supplied with power purchased from AECC.¹⁰

AECC presently obtains electric energy for resale to the Members from a variety of sources:

¹⁰ Service Areas Map, Attachment 2.

<u>Plant</u>	<u>Owner</u>	<u>AECC Capacity</u>
Thomas B. Fitzhugh Generating Station NG/CT	AECC	171 MW
Carl E. Bailey Generating Station	AECC	122 MW
John L. McClellan Generating Station	AECC	134 MW
Fulton NG/CT Plant	AECC	153 MW
Harry L. Oswald Generating Station NG/CT Plant	AECC	548 MW
Flint Creek Power Plant	Co-Owner	264 MW
White Bluff Steam Electric Station	Co-Owner	580 MW
Independence Steam Electric Station	Co-Owner	588 MW
Clyde T. Ellis Hydroelectric Generating Station	AECC	17 MW
Carl S. Whillock Hydroelectric Generating Station	AECC	17 MW
Electric Cooperatives of Arkansas Hydropower Generating Station		35 MW
Preference Capacity Entitlement (Southwestern Power Administration)		189 MW
EPV Purchase (purchase contract expires 31 December 2008)		150 MW

AECC has a 50% ownership share in the Flint Creek Power Plant and a 35% ownership share in the White Bluff and Independence Steam Electric Stations. AECC capacity numbers shown represent AECC's ownership share of plant capacity.

III. Statement of Policy

A. The Joint Policy

It is the policy of AECC and the Members: (i) to permit any QF to interconnect with the electric systems of AECC or any Member; (ii) to permit any QF to sell energy and capacity to AECC at rates equal to AECC's full avoided costs or as negotiated under Section 3 of the Commission's Cogeneration Rules; and (iii) to permit any QF to purchase supplemental, back-up and maintenance power from a Member on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest. In order to effectuate this policy, AECC and the Members expressly undertake the following obligations as a condition to the joint policy: (a) AECC will be ready and willing to purchase power from any QF from which

a Member would otherwise be required to purchase; (b) no QF will be subject to duplicative interconnection charges or duplicative charges for wheeling power to AECC across the lines of a Member; (c) no QF will be subject to duplicative charges or additional fees as a result of AECC's purchase of QF power that would otherwise be purchased by a Member; (d) no QF will be subject to duplicative interconnection charges or duplicative charges for wheeling of supplemental, back-up, or maintenance power from a Member; and (e) no QF interconnected directly with AECC and purchasing supplemental, back-up, or maintenance power from a Member will be charged for the cost of facilities required to receive such power other than the cost of such facilities had the QF purchased such power from AECC. AECC and the Members' undertakings expressed above are, in each case, subject to the other express and implied terms and conditions of the Plan and the other requirements imposed by law.

Because this Plan outlines the basic approach that AECC and the Members intend to use to fulfill their separate obligations under PURPA, AECC and/or a given Member may modify it to the extent authorized by law if such utility determines that the modification is reasonably necessary. In addition, this Plan shall be modified as necessary or appropriate to comply with requirements imposed by FERC, the Arkansas Commission, any other governmental entity having jurisdiction over AECC and/or the Members, or any other entity with authority to establish reliability requirements applicable to, or impose such requirements on, AECC and/or the Members.

This Plan reflects an integrated approach to implementing AECC's and the Members' obligations under PURPA and the FERC Rules. This approach recognizes the function of AECC as the wholesale supplier to the Members and the retail service function of the individual Members, while assuring each QF of both a market for its power and any necessary back-up,

maintenance, and supplemental service, on either a firm or interruptible basis. Pursuant to Section 292.303(a) of FERC's Regulations¹¹ an electric utility is obligated to purchase only the energy and capacity which is "made available" from a QF. Section 292.304(d) of FERC's Regulations¹² clarifies that each QF shall have the option to determine the amount of energy or capacity "available" for purchase. Accordingly, the Plan does not require a QF to sell all of its energy and capacity to AECC, but rather just the amount the QF wishes to make "available" for such purchases.

No QF will be permitted to interconnect and operate in parallel with the electric system of AECC or a Member without the prior knowledge and approval of such utility and without entering into a satisfactory written contract. A QF interconnecting with a Member and selling to AECC will not be subject to duplicative interconnections or wheeling charges. Thus, except for the construction of new transmission facilities or the expansion of existing transmission facilities to accommodate the interconnection of a QF, the QF will not be required to pay for additional costs of wheeling on the Member's facilities when the QF sells to AECC; to the extent any such costs are necessitated by AECC's purchases of the QF's power (rather than the Member's purchases), such costs will be borne by AECC (rather than the QF). The Plan does not require any Member to transmit QF purchases for a utility other than AECC and its other Members.

Purchase of capacity and energy by a QF will be made pursuant to separate arrangements between the QF and a Member and shall be in accordance with applicable law and the Member's applicable rates, rules, and regulations governing retail service. The terms of the arrangement between AECC, the Member, and the QF shall be consistent with the Member's tariff or

¹¹ 18 CRF § 292.303(a).

¹² 18 CFR § 292.304(d).

consistent with rates to the Member's other customers with similar load or other cost-related characteristics.

B. Metering Requirements

AECC and the Members require as a condition to the purchase of capacity and energy from a QF the installation of proper metering equipment to permit inclusion of the quantities in AECC's monthly energy and capacity accounting. The amount of energy and capacity purchases from the QF by AECC shall not normally be netted against the energy and capacity purchased by the QF from the Members, unless required by applicable rules and regulations adopted by entities having jurisdiction over AECC and the Members. However, AECC and the Members must provide a QF with less than 100 kW capacity the option of selling its net output or simultaneously selling its entire output to and purchasing its requirements from the utility.¹³

AECC shall adopt nondiscriminatory policies and procedures concerning metering requirements applicable to QFs as required. AECC shall make such policies and procedures available to QFs for review.

C. Additional Interconnection Requirements

The following additional requirements shall apply to all purchases from QFs under the Plan:

- (i) The operator of the QF shall be responsible for all costs associated with electric interconnection of the QF to AECC's or the Member's system, including such automatic relaying and system protection which AECC or the Member believes necessary for safety reasons, electric wiring and apparatus, protective equipment

¹³ Arkansas Commission Cogeneration Rule § 3.4(c)(5).

and an interconnection switch.¹⁴ AECC and the Members have the right to refuse to interconnect or to discontinue its connection if wiring and apparatus do not meet the safety requirements as described in Arkansas Commission Cogeneration Rule 3.8(c).¹⁵

- (ii) AECC or the Members shall own, install and maintain the required metering equipment to integrate the input quantities into AECC's monthly source energy and power accounting. The operator of the QF shall be responsible for all reasonable costs for purchase, installation and maintenance of such metering equipment and shall provide adequate access to its premises so that AECC or the Members may install and maintain such metering equipment. AECC or the Members may assess interconnection costs against a QF on a nondiscriminatory basis with respect to other customers with similar load characteristics and shall determine how such payments are to be made (Cogeneration Rule § 3.6(a) and (b)).
- (iii) Neither AECC nor any Member will permit interconnection between its system and a QF unless the QF meets the applicable standards and/or regulations, rules and policies for interconnection, safety, and operating reliability, as the same may be amended from time to time. Further, in order to remain interconnected, the QF must continue to satisfy appropriate safety and reliability standards.
- (iv) Neither AECC nor any Member is required to interconnect with any QF if, solely by reason of purchase or sale using the interconnection, AECC or the Member

¹⁴ Arkansas Commission Cogeneration Rules § 3.8(c) and (e).

¹⁵ Arkansas Commission Cogeneration Rule § 3.8(d).

would become subject to regulation as a public utility under Part II of the Federal Power Act.¹⁶

- (v) AECC and the Members reserve the right to adopt additional nondiscriminatory policies and procedures concerning interconnection requirements applicable to QFs. AECC shall make such policies and procedures available to QFs for review.

IV. Request for Waiver

The FERC Rules require each wholesale electric utility, such as AECC, and each retail electric utility, such as the Members, to buy energy and capacity from, and to sell energy and capacity to, QFs. As stated above, AECC and the Members have adopted an integrated approach to implementing their obligations under PURPA, the FERC Rules, and Arkansas Commission Cogeneration Rules, in which AECC would purchase energy and capacity from QFs and the Members would provide retails service to QFs.

In order to adopt this integrated approach, AECC and the Members will request waivers of certain of the FERC Rules implementing PURPA and the Arkansas Commission Cogeneration Rules in order to allow AECC and the Members to continue to operate, for wholesale supply purposes, as a single integrated entity. AECC and the Members have concluded that, given the benefits of the proposed integrated approach to PURPA implementation, requiring the Members to purchase from QFs and AECC to sell to QFs is not necessary to encourage cogeneration and small power production. AECC and the Members have determined that purchases by AECC on behalf of the Members will adequately encourage cogeneration and small power production in part because each Member's avoided costs should be equal to AECC's avoided costs.

¹⁶ See *also* Arkansas Commission Cogeneration Rule § 3.3(c)(2).

Therefore, by centralizing purchases from QFs, QFs will be afforded a greater market for their power while at the same time receiving the same price for their power as they would have by selling to an individual Member.

This Plan is written on the assumption that the waiver of AECC's obligation to sell energy and capacity to QFs will be granted. Because this integrated approach will not adversely affect QFs and may, in fact, provide additional encouragement to cogeneration and small power production, AECC and the Members intend to operate under this Plan during the pendency of the waiver request. If the waiver of AECC's sale obligation is denied, this Plan may be revised, as necessary, to provide for sale by AECC to QFs. Likewise, if the waiver of the Members' purchase obligations is denied, these guidelines may be revised, as necessary, to provide for purchases by the Members from QFs. Any revision required as a result of a denial of the waiver request, or upon order of FERC as a condition to the waiver, will be made available as soon as practicable. AECC and the Members do not contemplate that an additional notice and comment period will be conducted prior to making such changes.

Persons desiring information about this waiver request, including a copy of the waiver request filed by AECC and the Members with FERC, may contact:

Stephen P. Williams
Senior Staff Attorney
Arkansas Electric Cooperative Corp.
1 Cooperative Way
Little Rock, Arkansas 72209
Tel: 501/570-220069
Fax: 501/570-2264
E-mail: swilliams@aecc.com

V. Additional Information

Persons requiring additional information concerning the interconnection of a QF with AECC or a Member, or the rates, terms and conditions of purchases from or sales to QFs, should contact the representatives of AECC or any Member listed below.

Arkansas Electric Cooperative Corp.

Forest Kessinger
Manager, Rates and Forecasting
1 Cooperative Way
Little Rock, Arkansas 72209
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Fax: 501/570-2485
Email: fkessinger@aecc.com

Mississippi County Electric Cooperative, Inc.

Larry H. Hellums
President / Chief Executive Officer
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Arkansas Valley Electric Cooperative Corp.

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Chief Executive Officer
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North Arkansas Electric Cooperative, Inc.

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Chief Executive Officer
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Ashley-Chicot Electric Cooperative, Inc.

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C & L Electric Cooperative Corp.

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Carroll Electric Cooperative Corp.

Rob Boaz
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Clay County Electric Cooperative Corp.

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Craighead Electric Cooperative Corp.

Brian Duncan
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Ozarks Electric Cooperative Corp.

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Petit Jean Electric Cooperative Corp.

Dave Fugitt
Chief Executive Officer / General Manager
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Rich Mountain Electric Cooperative, Inc.

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Southwest Arkansas Electric Cooperative Corp.

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Farmers Electric Cooperative Corp.

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E-mail: gsweat@farmersecc.com

First Electric Cooperative Corp.

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South Central Arkansas Electric Cooperative, Inc.

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General Manager
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Woodruff Electric Cooperative Corp.

Billy C. Martin, III
President / Chief Executive Officer
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E-mail: bmartin@woodruffelectric.com

ATTACHMENT 2

List of Potentially Affected QFs

18 C.F.R. § 292.310(c)

Potentially Affected QFs

Facility Name	Dragonfly Industries International, LLC: Arkansas One
FERC Docket Number	QF15-38-000
Net Capacity (MW)	80 MW
County	Washington County
State	Arkansas
Substation for Interconnection	Unknown
Energy or Network Resource	Unknown
Expiration Date of Energy/Capacity Agreement	N/A
Address (including contact name)	Nadine R. King-Mays, Dragonfly Industries International, LLC c/o The King-Mays Firm, 1122 North Bishop Avenue, Suite E, Dallas, TX, 75208

ATTACHMENT 3

State Public Service Commission Contacts

State Public Service Commission Contacts

Arkansas Public Service Commission:

Randolph Hightower
Chief Counsel
Arkansas Public Service Commission
1000 Center Street, P.O. Box 400
Little Rock, AR 72203-0400
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Oklahoma Corporation Commission:

Judith Johnson
Deputy General Counsel for Public Utilities/Consumer Services
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ATTACHMENT 4

Signature and Verification of Authorized Individuals

18 C.F.R. § 292.310(d)(7)

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Arkansas Electric Cooperative Corporation)

Docket No. QM15-____

APPLICATION PURSUANT TO SECTION 292.310(A) FOR AUTHORIZATION TO
TERMINATE THE MANDATORY PURCHASE OBLIGATION FROM
QUALIFYING FACILITIES WITH NET CAPACITY OVER
TWENTY MEGAWATTS ON A SERVICE TERRITORY-WIDE BASIS

Verification

I, Lori L. Burrows, being duly sworn, depose and say that I am Vice President and General Counsel of Arkansas Electric Cooperative Corporation and have authority with respect thereto. I have read the foregoing Application, and based on my knowledge, information and belief, all of the statements contained therein pertain to the Arkansas Electric Cooperative Corporation are true and accurate.



Lori L. Burrows
Vice President and General Counsel

SUBSCRIBED AND SWORN to before me on this 13th day of April, 2015.

Kathy Bayte

Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon the representatives listed in Attachments 2 and 3 to this application.

Dated at Washington, D.C., this 15th day of April, 2015.

By: /s/ Phyllis G. Kimmel

Phyllis G. Kimmel
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