

FERC's Recent Ruling(s) on PURPA: Competitive Procurement Option

PRESENTED BY
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PRESENTED FOR
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Agenda

- Competitive Procurement in PURPA History
 - Motivation
 - Implementation
- Competitive Procurement in Order 872
 - Overview
 - Core Design Options and Requirements
 - Mandatory Purchase Option
 - Capacity Needed
 - Independent Administrator

Competitive Procurement in PURPA History

Motivation

- ***Determining avoided cost customarily an administrative process***
- ***“But-for” analyses have been challenging from the start***

Method

- Next planned unit
- Marginal capacity and energy (“peaker”)
- Comparative system-wide costs
- Fuel index rates

Pros

- No modeling
- Captures marginal cost
- Comprehensive
- Transparency

Cons

- Scale/ timing mismatch
- May require modeling
- Requires extensive modeling
- Doesn’t capture capacity value



Other hazards can include general errors in avoided cost methodology, such as the inclusion of sunk costs or failure to consider avoidable power purchases

Competitive Procurement in PURPA History

Motivation

This has led to:

- Controversy over methods, *ex ante* and *ex post*.
- With only price rationing, adverse practical outcomes:
 - Over-abundance of offered QF supply.
 - Associated operating and planning problems.

Competitive Procurement in PURPA History

Motivation

Past events of over-supply:

- Early California experience a harbinger of today's challenges.
- Standard Offer 4 (SO4) in the 1980s
- After fostering a large amount of QF capacity, SO4 was suspended in 1985.
- This was repeated elsewhere in the country.
- LBNL reported capacity offered by QFs 10-20 times required amounts.

More recent examples of over-supply:

- Burgeoning solar QFs in North Carolina
- Explosive growth since 2013
- In just five years, grew from 1% to 12% of statewide capacity, or more than 50% annually

Competitive Procurement in PURPA History

Motivation

Competitive bidding under PURPA has been a natural consideration to:

- Replace administrative methods with market process.
- Limit the amount of QF capacity to utility capacity needs.
- Rank QF operating and other characteristics.

Competitive Procurement in PURPA History Implementation

		QF Growth in Period	
		Overall	Renewable
		MW	Portion %
1978	<< PURPA Enacted		
1980			
1985	<< SO4 contracts in CA suspended << 1988 "Bidding NOPR" (RM88-5)	7,253	7%
1990	<< Approximately 10 states had some type of bidding mechanism << "Montana Rule" requiring competitive bidding	19,479	4%
1995	<< Industry restructuring diverts attention from PURPA	15,425	1%
2000		9,451	3%
2005	<< EPCAct 2005	13,760	7%
2010	<< FERC ruled the Montana Rule posed "Unreasonable Obstacles"	2,975	121%
2015	<< FERC repeated concerns raised in MT in Windham Solar LLC and Allco Finance Ltd., << Utility bidding programs in CO, FL, GA, MI, NV, NC, OK, OR	8,430 7,463	105% 130%
2020	<< Orders 872 and 872-A		

Competitive Procurement in PURPA History Implementation



State Bidding Programs Cited as Requiring Reform by Intervenors in Order 872

- | | | |
|----------------|---|---|
| Colorado | - | Utilities can waive competitive solicitation requirements |
| Florida | - | No Independent Evaluator |
| Nevada | - | Too narrow |
| North Carolina | - | Self-build gets preferential treatment |
| Oklahoma | - | Utilities can waive competitive solicitation requirements |

Competitive Procurement in Order 872 (July 2020)

Overview

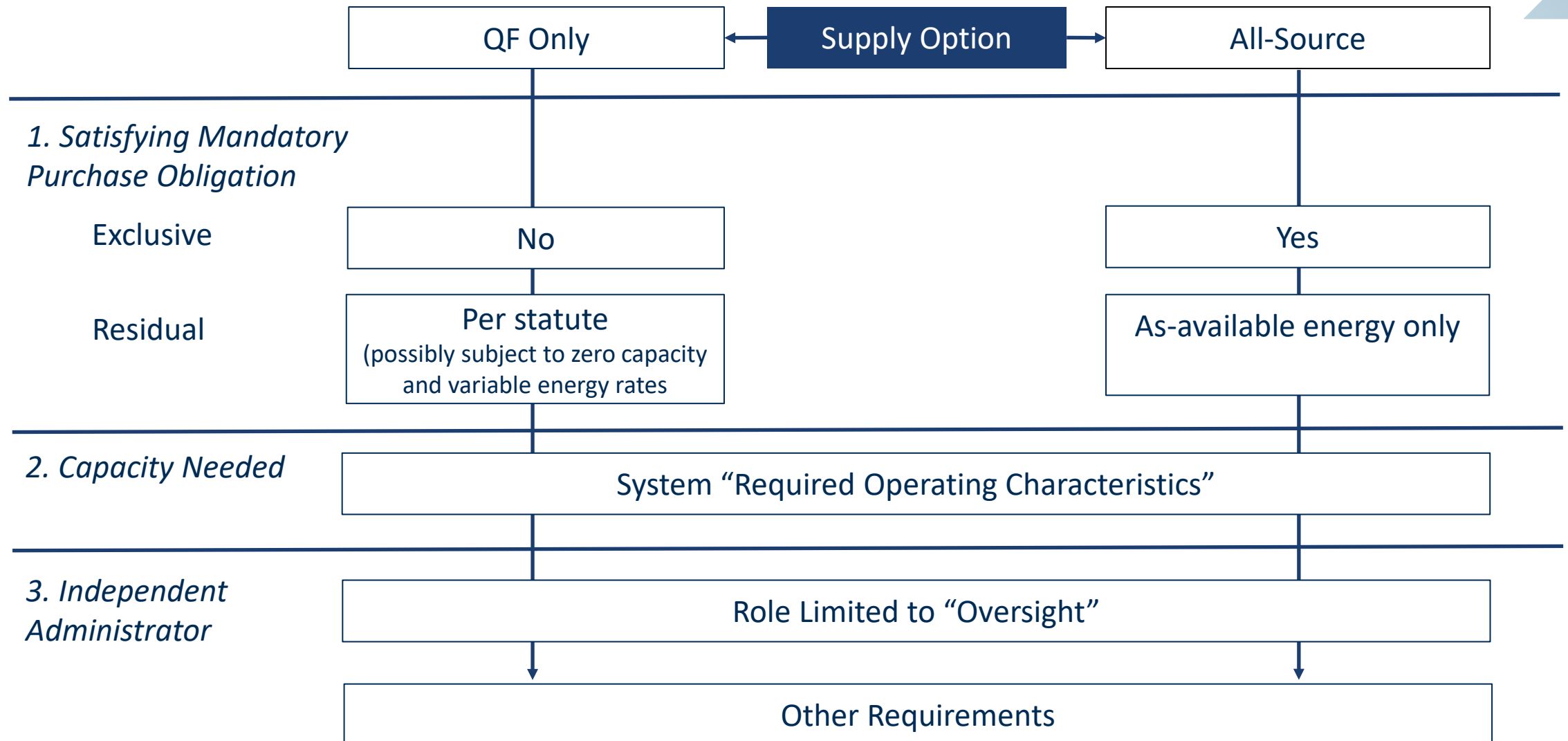
Attempt to codify lessons of past efforts:

- (i) Open and Transparent Processes, including*
 - transmission constraints
 - levels of congestion, and
 - interconnections
- (ii) Option for Full Compliance via All Source Auctions
 - to satisfy identified utility capacity needs
 - accounting for “required operating characteristics of the needed capacity”
- (iii) Regular Intervals
- (iv) Oversight by Independent Administrator
- (v) Post-Solicitation Certification Report

* subject to appropriate confidentiality safeguards

Competitive Procurement in Order 872 (July 2020)

Core Design Options and Requirements



Competitive Procurement in Order 872 (July 2020)

Mandatory Purchase Obligation



QF Concerns

Solicitation process should not be used in any way to curtail or delay a utility’s obligation to purchase from QFs

Utility Concerns

Gaming of residual purchase obligation
(QFs should not be able to force their power on utilities if they lose fair auctions)



Order 872-A
(November 2020)

No revisions on these points

Competitive Procurement in Order 872 (July 2020)

Capacity Needed



QF Concerns

Some QF-only solicitations can be overly limited to meet a small, segregated portion of utility needs.

Complexity of scoring to meet "IRP" criteria

Not clear that small QFs can be competitive

System required operating characteristics should not be defined only for non-QF generation or utility favored generators

Utility Concerns

Rates for purchases should not be based on an avoided cost set by determining the cost of procuring energy and/ or capacity to fulfill a state regulatory...mandate



Order 872-A
(November 2020)

States can recognize non-energy factors such as RPS requirements in "required operating characteristics"

Competitive Procurement in Order 872 (July 2020)

Independent Administrator



QF Concerns

A competitive solicitation should be administered and scored (*not just overseen by an independent evaluator*) by a qualified independent party, not the utility,

Utility Concerns

States are in the best position to determine the need for “oversight by an independent administrator”; this criterion should be deleted.



Order 872-A (November 2020)

A competitive solicitation should be *administered and scored* by an independent entity.

Presented By



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Bob Mudge is a Principal of The Brattle Group in the Washington DC office. A former banker, he has played a central role in developing financeable contract structures for large public and private infrastructure projects, numerous power project financings, utility mergers and acquisitions and bankruptcy restructuring.

Mr. Mudge has provided expert testimony in diverse forums on matters with a bearing on project finance feasibility and/ or impact, including the U.S. District Court for the Southern District of New York, the Massachusetts Superior Court, the Maine Department of Environmental Protection, and the American Arbitration Association as well as the Federal Energy Regulatory Commission and public utility commissions in Massachusetts, Missouri, and Alberta.

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