

## Baldwin, Julie (LARA)

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**From:** chris@circlepowerco.com  
**Sent:** Wednesday, September 25, 2019 3:39 PM  
**To:** Evans, Nicholas (LARA); Baldwin, Julie (LARA)  
**Cc:** Hadala, Merideth (LARA); 'Carlos Hunter'; 'Jordan Roberts'  
**Subject:** Circle Power LEO Suggested Changes  
**Attachments:** DRAFT Interconnection Rules Circle Power Edits 092519.docx

Ms. Baldwin, Mr. Evans:

Attached are the Circle Power suggested edits to the INTERCONNECTION, DISTRIBUTED GENERATION, AND LEGALLY ENFORCEABLE OBLIGATION STANDARDS draft dated August 28, 2019.

Circle Power was primarily focused on the language regarding Legally Enforceable Obligations (LEO) and attended the hearings regarding the LEO. The LEO is important to DER but the LEO is also important to projects that may not be DER or interconnect at the distribution electric system. Qualifying Facility (QF) projects, regardless of the manner of interconnection are entitled to FERC protections outlined in PURPA. The LEO rules do not consider the potential for a transmission level interconnection and the differing requirements of a transmission level interconnection. Language has been added that incorporates transmission level interconnection.

As Circle Power has noted before (see comments dated 2-15-19 sent to the MPSC), a transmission level interconnection is a valid QF interconnection and provides the must take obligation to the electric utility

### **Applicability of a LEO for projects interconnecting at MISO versus the LDC**

*Regarding an electric utility obligation to purchase power if the interconnection is at a transmission voltage versus directly to the LDC, see § 292.303 (a)(2) and § 292.303 (d) which clearly state that an indirect sale is allowed. The QF has the option (“If a qualifying facility agrees...”) and the language is unambiguous (“...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 utility must purchase the power, even with an indirect connection.*

*Cited section below.*

*§ 292.303 Electric utility obligations under this subpart.*

*(a)Obligation to purchase from qualifying facilities. Each electric utility shall purchase, in accordance with § 292.304, unless exempted by § 292.309 and § 292.310, 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 § 292.305, unless exempted by § 292.312, 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 interconnection with any qualifying facility 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 § 292.306.*

*(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 a public utility under part II of the Federal Power Act.*

*(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 § 292.304(e)(4) and shall not include any charges for transmission.*

*(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 § 292.308.*

*[Order 688, 71 FR 64372, Nov. 1, 2006; 71 FR 75662, Dec. 18, 2006]*

The Circle Power comments and edits are principally in the definitions section and in the legally enforceable obligation section. We continue to suggest that any requirement tied to receipt of utility interconnection approvals or agreements is not in compliance with PURPA. Circle Power has recommended the use of the interconnection application in the case of a transmission interconnection because the process is managed by MISO which has demonstrated impartiality in the interconnection process. Circle Power also advocates for standards that are objective versus subjective. In particular, the LEO requirement that a project be “financeable” is very vague and subject to opinion versus factual review.

If you have any questions please feel free to contact me.

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