

Legally Enforceable Obligation Stakeholder Process: Overview, Timeframe, and Goals

January 11, 2019



Merideth Hadala

- Staff is to initiate stakeholder processes on the following:
 - interconnection rules
 - distributed generation & legacy net metering rules
 - establishment of a legally enforceable obligation under the Public Utility Regulatory Policies Act of 1978
 - third party community renewable energy

- Develop a ruleset at meetings scheduled every two months in 2019.
 - This will be new set of rules
- Unresolved issues will be noted.
- MPSC Staff will consider input from all stakeholders.

- Meetings will be held every other month
- Expected to go from 9:00 to 11:45 am.

- Verbal comments during meeting.
- Email comments or presentations to Merideth for posting on MPSC website:
 - hadalam@michigan.gov

- Next Meeting: March 18, 2019, 9 – 11:45 am
- Third Meeting: May 29, 2019, 9 – 11:45 am
- Final Meeting: July 18, 2019, 9 – 11:45 am

- March - August 2019: Continue to work through and develop rules.
 - Final Draft Version of LEO Rules Completed by August
- August 2019 – 2020: Formal rulemaking phase.

- Staff will produce a draft ruleset by August 2019.
 - We would like to have a draft ruleset from participants prepared for our next meeting on March 18
- Rules will address relevant issues mentioned in the November 8, 2018 Order in Case No. U-20344.
- Maximum amount of consensus without sacrificing content.

Legally Enforceable Obligation: Commission Comment Case No. U-20095 and Beyond

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- February 22, 2018 Commission Order issued requesting comments from interested parties on seven topics.
- What criteria should the Commission use in determining whether an LEO has been created?

- The Commission received 13 comment filings pertaining to the LEO from interested parties.

Energy Michigan, Inc.

Northwoods Hydropower, Inc. DTE

Consumers Energy sPower

ELPC Geronimo Energy

Tradewind Energy Ranger Power

MEGA MiEIBC

Cypress Creek Renewables, LLC MPSC Staff

A few issues where there might be agreement:

1. QF Certification/FERC Registration
2. Interconnection
3. Location Issues

1. QF Certification/FERC Registration

Consensus?

A qualifying facility must be certified as a QF.

A QF must be registered as such with FERC.

2. Interconnection

The QF must file an interconnection application with the utility.

- Request only?
- Partially executed agreement?
- Payments?

3. Location

Location of project is an important piece of information.

Related information includes:

- Site control
- Permitting and zoning?

Many other issues were raised by commenters.
They fall into three subcategories:

1. Monetary Concerns
2. PURPA Queue Concerns
3. Other Issues

1. Monetary Concerns

Many commenters cited various monetary concerns that would effect establishing an LEO.

- A. Financeability of the project/Creditworthiness of the QF
- B. Interconnection fee/deposit
- C. Distribution study
- D. Engineering study

2. PURPA Queue Concerns

Many commenters cited concerns regarding the queue that would also effect establishing an LEO.

A. First come/First served?

B. Milestones to maintain PURPA queue position?

3. Other Issues

1. Debate over whether or not a PPA is required to establish an LEO?
 - FERC Rulings
2. Debate over whether or not there needs to be a “formal offer” of a project or a “commitment to sell” in order to establish an LEO.

“In other words, a legally enforceable obligation for a utility to purchase QF power would require, at a minimum, the QF and the utility to reach an agreement where the QF is compensated no more than its full avoided costs and the QF obligates itself to sell its power to the utility as of a set date and for a set term. The proper forum for such a determination that a legally enforceable obligation exists would be at the state commission. The state commission in determining whether a legally enforceable obligation exists might require the QF to demonstrate its viability and hence its ability to sell its power to the utility. State commissions might balance the desirability of requirements for a QF to demonstrate its viability against PURPA’s purpose of encouraging efficient QF power development, keeping in mind that the existence of a legally enforceable obligation might be required for the QF to obtain necessary financing.” Page 87

Staff has looked to other states for guidance on the LEO issue, however, not much information is available

- North Carolina
 - Notice of Commitment to Sell the Output of a Qualifying Facility form
 - One version of the form for QFs with nameplate capacity of 1 MW (ac) or less
 - Another version of the form for QFs with nameplate capacity greater than 1 MW (ac)

- Vermont
 - In 2018, upheld its rule that a LEO cannot be formed until regulatory approval of a proposed power purchase agreement by the Vermont PUC
- Colorado
 - In 2018, changed its regulations to ensure that a QF could obtain a LEO without winning a competitive solicitation
- Montana
 - Has a completed ruleset
<http://www.mtrules.org/gateway/RuleNo.asp?RN=38%2E5%2E1909>

What's next?

- Our next meeting is Monday, March 18, 2019
- Staff would like to have several drafts of LEO rules to discuss
- Please prepare a draft ruleset and email to hadalam@Michigan.gov by February 15 for review and discussion at the next meeting
 - Drafts will be posted on the website

- www.michigan.gov/renewables

Thank you!