

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

MINNKOTA POWER COOPERATIVE, INC.; AND
NORTHERN MUNICIPAL POWER AGENCY

DOCKET No. EL18-__-000

**PETITION FOR PARTIAL WAIVER OF
THE FEDERAL ENERGY REGULATORY COMMISSION'S
PURPA REGULATIONS PURSUANT TO 18 C.F.R. SECTION 292.402**

Pursuant to Section 292.402 of the Regulations of the Federal Energy Regulatory Commission ("the Commission"),¹ Minnkota Power Cooperative, Inc. ("Minnkota") and Northern Municipal Power Agency ("Agency") file this Petition for Waiver ("Petition") on behalf of themselves and Minnkota's 11 rural electric cooperative member-owners (collectively, the "Members"),² and 10 of Agency's 12 municipal members (collectively, the "Municipals")³, and respectfully petition the Commission for partial waiver of certain obligations imposed on Minnkota, Agency, the Members and the Municipalities under Sections 292.303(a) and 292.303(b)

¹ 18 C.F.R. § 292.402 (2016).

² Minnkota's Member-owners joining in this petition are Beltrami Electric Cooperative, Inc., Cass County Electric Cooperative, Inc. Cavalier Rural Electric Cooperative, Inc., Clearwater-Polk Electric Cooperative, Inc., Nodak Electric Cooperative, Inc. North Star Electric Cooperative, Inc., PKM Electric Cooperative, Inc. Red Lake Electric Cooperative, Inc., Red River Valley Electric Cooperative Power Association, Roseau Electric Cooperative, Inc. and Wild Rice Electric Cooperative, Inc.

³ Agency's participating municipal members in Minnesota are Bagley, Baudette, Fosston, Halstad, Hawley, Roseau, Thief River Falls and Warroad. The participating municipal members in North Dakota are Grafton and Park River. This Petition will be amended should the other two municipal members elect to join in the requested waiver.

of the Commission’s Regulations⁴ implementing Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended (“PURPA”).⁵

I. APPLICANTS

Minnkota is a member-owned rural electric cooperative corporation headquartered in Grand Forks, North Dakota. Agency is a Municipal Power Agency established under Minnesota Statute 453 and is headquartered in Thief River Falls, Minnesota. Together Minnkota and Agency are operated as a “Joint System”. The Joint System electric transmission facilities include approximately 3,340 miles of electric transmission lines and 249 substations. The Joint System has approximately 1,300 megawatts within its generation portfolio. Minnkota has 11 distribution cooperative member-owners in North Dakota and Minnesota, each purchasing all their needed energy and capacity from Minnkota under long term agreements. Additionally, Minnkota serves as operating agent for the Agency through 2041. Agency serves all of the energy and capacity needs of the 10 Municipalities (as well as Agency’s two additional municipal members).

Minnkota, Agency, the Members and the Municipalities (collectively, the “Applicants”) make up the “Joint System”. The Joint System serves approximately 150,000 consumer accounts in a 34,500 square-mile area. Minnkota and Agency are each exempt from the Commission’s “public utility” regulations by virtue of Section 201(f) of the Federal Power Act.⁶

⁴ 18 C.F.R. §§ 292.303(a) and (b).

⁵ 16 U.S.C. § 824a-3.

⁶ 16 U.S.C. § 824(f). Minnkota has financing from the Rural Utilities Service (“RUS”), and Agency is a municipal electric utility.

II. COMMUNICATIONS

Please direct all communications to the persons identified herein and place them on the Commission's official service list:

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Minnkota requests, to the extent necessary, that the Commission waive the requirements of Rule 203(b) to permit each person named above to be placed on the official service list in order to avoid delays in responding to official documents and communications.

III. PETITION FOR WAIVER

A. INTRODUCTION

The Commission's PURPA Regulations generally require all electric utilities,⁷ including Minnkota, Agency, the Members and the Municipalities, to purchase power from, and to sell power to, qualifying facilities ("QFs").⁸ On behalf of the Joint System, Minnkota seeks a waiver to enable the Joint System to comply with the Commission's Regulations in an integrated and efficient manner. Specifically, a waiver is sought of the Members' and Municipalities' obligations to make purchases from QFs, and of Minnkota's and Agency's obligations to make retail sales to those same QFs. In lieu of Minnkota's and Agency's retail sales to QFs, the Members and Municipalities will make such sales; similarly, in lieu of the Members' or Municipalities' purchases from QFs, Minnkota or Agency will make such purchases (as applicable), at Minnkota's or Agency's respective avoided cost. As a result, QFs interconnecting with the Joint System will continue to have a market for the capacity and energy that they make available for sale, and will continue to be assured a source of retail power for the operations. Minnkota seeks the waiver on a prospective basis only, such that it will not impact existing contracts or legally enforceable obligations.

B. PURPA IMPLEMENTATION PLAN

To set forth the basic approach and general guidelines for allowing QFs to interconnect with the utilities that make up the Joint System in accordance with Commission regulations, the

⁷ 16 U.S.C. § 2602(4) ("The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.")

⁸ See 18 C.F.R. §§ 292.303(a)-(b).

Joint System has developed a Joint PURPA Implementation Plan (“Implementation Plan”), attached to the Petition as Exhibit A, which reflects their commitment to encourage cogeneration and small power production. Specifically, the Implementation Plan provides that:

- (i) Any QF may interconnect with a utility within Joint System if they meet the interconnection requirements of the local and high voltage transmission provider;
- (ii) Minnkota or Agency will purchase capacity and energy from QFs at a rate equal to Minnkota’s or Agency’s avoided costs, respectively;
- (iii) The Members or Municipals will sell supplementary, back-up and maintenance power to QFs, upon request, at rates that are nondiscriminatory, just and reasonable, and in the public interest; and
- (iv) No QF will be subject to duplicative charges for interconnection or wheeling as a result of selling to Minnkota or Agency and buying from a Member or Municipal.

The Implementation Plan allows the Joint System to implement the Applicants’ policy of encouraging QFs, while maintaining the functional division of power supply responsibility that is essential to the Applicants’ efficient operation. Granting the requested waiver will thus be consistent with the waiver provision of the Commission’s PURPA Regulations, which authorizes the Commission to waive any of the requirements of its Regulations (other than Section 292.302, requiring submission of avoided cost data) if a non-regulated utility, after giving public notice in the area it serves, “demonstrates that compliance with any of the requirements of subpart C is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.”⁹ As demonstrated in the following section of this Petition, the Commission has granted waivers similar to those requested by the Joint System to other similarly

⁹ 18 C.F.R. § 292.402(b).

situated generation and transmission (“G&T”) electric cooperatives and public power agencies in numerous cases.¹⁰

C. JUSTIFICATION FOR WAIVER

1. THE COMMISSION SHOULD WAIVE THE MEMBERS’ AND MUNICIPALS’ PURCHASE OBLIGATION FOR QFs BECAUSE THE MEMBERS’ AND MUNICIPALS’ PURCHASES ARE NOT NECESSARY TO ENCOURAGE COGENERATION OR SMALL POWER PRODUCTION

The Commission should waive the Members’ and Municipal’s purchase obligation because their obligation will be fully assumed by Minnkota and Agency. The Implementation Plan is consistent with PURPA because it ensures that all QFs will have a market to sell their power at a rate equal to Minnkota’s or Agency’s avoided cost; Minnkota’s or Agency’s avoided costs are what QFs would receive if they sold to the Members or Municipal, because under longstanding Commission precedent the avoided costs of the Members and Municipal are equal to the avoided costs of Minnkota or Agency.¹¹ The Commission has held the granting of waivers to be appropriate where the G&T cooperative or public power agency commits to paying the

¹⁰ See, e.g., *North Carolina Elec. Membership Corp.*, 137 FERC ¶ 62,009 (2011); *Western Farmers Elec. Coop.*, 115 FERC ¶ 61,323 (2006); *Soyland Power Coop., Inc.*, 50 FERC ¶ 62,072 (1990); *Seminole Elec. Coop., Inc.*, 39 FERC ¶ 61,354 (1987); *Oglethorpe Power Corp.*, 32 FERC ¶ 61,103 (1985) (“*Oglethorpe I*”), reh’g granted in part and denied in part, *Oglethorpe Power Corp.*, 35 FERC ¶ 61,069 (1986) (“*Oglethorpe II*”), aff’d, sub nom. *Greensboro Lumber Co. v. FERC*, 825 F.2d 518 (D.C. Cir. 1987); *Heartland Consumers Power District*, 154 FERC ¶ 61,203 (2016).

¹¹ That is, the Members’ avoided costs are those of their G&T supplier, Minnkota; and the Municipal’s avoided costs are those of their supplier, Agency. The Commission has consistently held that the avoided cost of a full requirements customer is the avoided cost of its full requirements supplier because it is the supplier that avoids generation costs when the full requirements customer uses QF output. See, e.g., *Western Farmers*, 115 FERC ¶ 61,323 at P 27; *Wahl v. Allamakee-Clayton Elec. Coop.*, 115 FERC ¶ 61,318, at P 10 (2006); *City of Longmont*, 39 FERC ¶ 61,301 at p. 61,974 (1987).

avoided cost, even in cases where the avoided cost of a member or municipal is higher than the G&T cooperative or power agency.¹²

Implementation of the Plan depends to a large extent on Minnkota's and Agency's ability to purchase power directly from QFs. Accordingly, this Petition seeks a waiver of the Members' and Municipal's obligation to purchase electric capacity and/or energy directly from QFs in order to permit all such purchases to be made by Minnkota or Agency.¹³ A waiver will enable Minnkota and Agency to effectively perform their primary function – the coordination of power supply decisions on behalf of all of their Members and Municipal – in a centralized, efficient manner.

Minnkota and Agency were each formed to meet the power supply needs of the Members and Municipal. To carry out this function, Minnkota and Agency must predict the power supply needs of the Members and Municipal, prepare system-wide load forecasts, coordinate and plan the resources they will use to meet these needs, and perform a series of related functions. The Members and Municipal rely on Minnkota and Agency to perform these functions and do not plan independently for meeting or controlling their power supply needs. Further integration of QF resources into Minnkota's and Agency's power supply function will result in a benefit to the Joint System. The waiver will provide Minnkota and Agency with the necessary tools (including knowledge of the resources available from QFs) to effectively and efficiently coordinate power

¹² “[E]ven if [the G&T cooperative] were able to demonstrate that in a particular case [a distribution cooperative Participating Member's] avoided cost would exceed [the G&T cooperative's] we would still hold that granting this waiver is appropriate.” *Oglethorpe II*, 35 FERC ¶ 61,069 at 61,136.

¹³ Notwithstanding the partial waiver requested herein, Minnkota expects that the Members in Minnesota will continue to purchase from QFs that are less than 40 kW, in accordance with Minnesota's net metering law applicable to QFs. *See* Minn Stat 216b.164 subd 3 (net metering for QFs with less than 40 kW capacity).

supply decisions on behalf of the Members and Municipalities. It is imperative, therefore, given the non-vertically integrated structure of Minnkota, Agency, the Members and the Municipalities, for Minnkota and Agency to deal directly with QFs in purchasing capacity and/or energy.

Moreover, the Implementation Plan makes clear that a QF will not be subject to duplicative charges for interconnection or wheeling as a result of selling to Minnkota or Agency rather than an individual Member or Municipal. QFs wishing to sell to Minnkota or Agency may interconnect with Minnkota, Agency or any Member or Municipal. Minnkota or Agency will buy the power supplied by such QFs at the point of interconnection.¹⁴ To the extent additional metering equipment or other interconnection costs are incurred as a result of Minnkota or Agency, rather than an individual Member or Municipal, being the purchaser, these costs will be borne by Minnkota or Agency to the extent the costs would exceed those that would be incurred had the QF interconnected with and sold to a Member or Municipal. Thus, a QF interconnecting with a Member or Municipal will be subject to the same interconnection charges if it sells to Minnkota or Agency as it would if it were selling to the interconnecting Member or Municipal.

Finally, the Commission previously has granted waivers of the purchase obligation of rural electric cooperatives under almost identical circumstances. In *Oglethorpe I*, for example, distribution cooperatives that were Members of a G&T cooperative were granted a waiver of their purchase obligations under the Commission's PURPA Regulations because the G&T cooperative had undertaken to purchase QF power at its avoided cost level. The Commission

¹⁴ Of course, if the QF were so large that a Member's or Municipal's lines would require modifications to handle the load, reasonable expenses would be included in the interconnection charges. These are the same costs, however, that the QF would incur were it to sell directly to the Member or the Municipal.

reasoned that a waiver was appropriate because, “where [the G&T cooperative] is ready and willing to stand in the shoes of [its distribution cooperative Members], waiving the [Members’] purchase obligation will not frustrate Congress’ intent, because no QF will be deprived of a market for its power and each will receive a rate established as sufficient to encourage QFs.”¹⁵

Here, Minnkota and Agency are similarly ready and willing to stand in the shoes of the Members and Municipalities by each of Minnkota and Agency paying its respective avoided cost for the power produced by QFs. The continued obligation of the Members and Municipalities to purchase from QFs is thus not necessary to encourage cogeneration and small power production. Accordingly, the requested waiver should be granted.

2. THE COMMISSION SHOULD WAIVE MINNKOTA’S AND AGENCY’S SALE OBLIGATION BECAUSE MINNKOTA’S AND AGENCY’S SALES ARE NOT NECESSARY TO ENCOURAGE COGENERATION OR SMALL POWER PRODUCTION

The Commission should similarly waive Minnkota’s and Agency’s QF sale obligation because the obligation will be fully assumed by each of the Members and Municipalities. The Members and Municipalities have undertaken as part of the Implementation Plan to provide supplementary, back-up and maintenance power to QFs, as requested, on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest.¹⁶ As a consequence, under the Implementation Plan, no QF will be denied retail service

¹⁵ See *Oglethorpe I*, 132 FERC ¶ 61,103 at 61,285. See also *North Carolina Elec. Membership Corp.*, 137 FERC ¶ 62,009 at 64,025 (The Commission granted a purchase obligation waiver to Participating Members of a G&T cooperative where the G&T cooperative undertook to purchase the QF power at its avoided cost rate, the result of which was that “no QF will be deprived of an avoided cost sale of its power, and each will receive a full avoided cost rate”).

¹⁶ With respect to sales by electric utilities to QFs under PURPA, both Congress and FERC have determined that these services are all that is necessary to encourage cogeneration and small power production. 16 U.S.C. § 824a-3(c); 18 C.F.R. § 292.305(b).

on reasonable terms. Because the Members and Municipalities are ready and willing to stand in the shoes of Minnkota and Agency and will provide QFs with retail service on reasonable terms and conditions, the Commission should find that the Implementation Plan is consistent with the PURPA mandate to encourage cogeneration and small power production.

The Implementation Plan also provides that QFs will not be subject to duplicative interconnection charges (i.e., as to both the purchase and sale of power) with respect to the same interconnection facilities. Nor will QFs be subject to additional charges associated with building separate facilities to enable the Members or Municipalities to deliver retail service in excess of charges that would also have been incurred had Minnkota or Agency delivered the service. Further, QFs will not incur greater wheeling charges by purchasing from the Members or Municipalities than they would have by purchasing from Minnkota or Agency.

As wholesale power suppliers, Minnkota and Agency do not sell electricity at retail, they have not been assigned a retail service territory, and they lack the organizational and physical structure and the personnel necessary to make retail sales. If a QF were to seek retail service from Minnkota or Agency, each would have to begin performing all of the varied functions associated with providing retail service, including retail rate design, accounting, meter reading, customer billing, and maintenance. To perform these tasks, Minnkota and Agency would either have to hire additional personnel and add facilities and equipment or enter into contracts with the Members or Municipalities to perform these functions. This would involve significant administrative and capital costs that would be allocated to the mere handful of QFs which might be in a position to receive retail service from Minnkota or Agency.

The Members and Municipalities, by contrast, are retail utilities. In addition, they already possess experienced staff, complete distribution facilities, and other attributes necessary to

provide reliable retail service. The incremental administrative costs incurred by the Members or Municipalities in serving QFs at retail are bound to be far less than the incremental costs that would be incurred by Minnkota or Agency. Thus, requiring retail service by Minnkota or Agency is not necessary to encourage cogeneration or small power production because such service (i) would be requested by few, if any, QFs, (ii) would cause Minnkota and Agency to incur significant administrative costs which would then be recoverable solely from QFs, and (iii) would duplicate service already available from the Members or Municipalities at rates that are nondiscriminatory, just and reasonable, and in the public interest.

The Commission has granted waivers of the sales obligation under similar circumstances. In *Western Farmers*, the Commission granted such waivers where the applicants agreed to the following conditions: (i) the G&T cooperative's participating members must offer supplementary, back-up and maintenance service on an interruptible basis to QFs, upon request, at cost justified rates; (ii) no QF may be subject to duplicative interconnection charges or charges for wheeling back-up services from a participating member directly connected to the G&T cooperative; and (iii) QFs may not be required to pay for duplicative interconnection facilities for the local participating members to provide back-up services.¹⁷ Similarly, in *North Carolina Electric Membership Corporation*, the Commission granted a waiver of the sales obligation to a G&T cooperative because "each Participating Member will offer supplementary, backup, maintenance and interruptible power to QFs at rates that are nondiscriminatory, just and reasonable, and in the public interest."¹⁸

¹⁷ *Western Farmers*, 115 FERC ¶ 61,323 at P 5.

¹⁸ *North Carolina Elec. Membership Corp.*, 137 FERC ¶ 62,009 at 64,026.

The Joint System Implementation Plan makes clear that Minnkota, Agency, the Members and the Municipalities will comply with the conditions to obtaining waiver of the sales obligation as set forth in *North Carolina Electric Membership Corporation, Western Farmers, Soyland, Oglethorpe II, Seminole, and Heartland*. Accordingly, as in those cases, the Commission should waive the sales obligation of Minnkota and Agency because compliance with such obligation is not necessary to encourage cogeneration and small power production.

3. MINNKOTA'S AND AGENCY'S REQUEST FOR WAIVER IS PROSPECTIVE ONLY AND WILL NOT IMPACT EXISTING CONTRACTS OR LEGALLY ENFORCEABLE OBLIGATIONS

Minnkota and Agency request waiver of the sale and purchase obligations on a prospective basis only, such that it would be applicable only to new obligations or contracts as of the date of this petition. Therefore, Minnkota's and Agency's request for waiver of the QF sale and purchase obligations will not impact existing contracts between any QF and Minnkota, Agency, a Member or a Municipal. Likewise, Minnkota, Agency, and/or Members or Municipalities will not invoke the waiver with regard to any QF that has initiated actions resulting in a legally enforceable obligation prior to the date of this petition.¹⁹

IV. PROCEDURAL MATTERS

Minnkota requests that the Commission act on this Petition by no later than _____, 2018, which is the first business day that is 60 days after the date of the filing of this petition. This petition raises no new substantive issues and is similar to the applications addressed by the Commission in the cases discussed above. Therefore, prompt Commission action (within 60

¹⁹ According to Order No. 688-A, FERC Stats. & Regs. ¶ 31,250 (2007), at PP 136-137, “the date when an ‘obligation’ under PURPA is established is the date such obligation is established by each state regulatory authority or nonregulated utility,” and “a QF that initiated … a state PURPA proceeding that may result in a contract or legally enforceable obligation would be considered to have triggered an ‘obligation’ with the electric utility....”

days of the date of this filing) is in the public interest and will facilitate the encouragement of QFs in Joint System's region.

Minnkota respectfully requests waiver of any applicable prior notice requirements to permit an effective date for the Joint System Implementation Plan of _____, 2018 – the date of this filing. Good cause exists for granting any required waiver because it will allow the shared responsibilities under the Implementation Plan to begin promptly.

A copy of the Joint System PURPA Implementation Plan is attached as Exhibit A. In accordance with Section 292.402(a) of the Commission's regulations, Minnkota provided public notice of this waiver request in the area served by the Joint System. Specifically, a notice of this filing was published in the local and statewide newspapers between March 14 and March 21, 2018, covering the entire area served by Joint System. The specific local and statewide newspapers are identified in Exhibit B and a copy of the notice published is attached as Exhibit C.

V. CONCLUSION

For the foregoing reasons, Minnkota and Agency request, on behalf of the Joint System, that the Commission grant a waiver of the manner in which Minnkota, Agency, the Members and the Municipals comply with the Commission's QF rules. Minnkota, Agency, the Members and the Municipals have committed substantial time and resources to the development of Joint System PURPA Implementation Plan which furthers the policies of Section 210 of PURPA in a manner consistent with the bifurcated organizational structure of the Joint System's power supply and distribution system.

Furthermore, the Implementation Plan contains all elements that the Commission has determined to be necessary for the grant of similar waivers requested by other generation and transmission cooperatives and public power agencies and thereby ensures that QFs will (i) have a

market for their power at Minnkota's or Agency's full avoided cost rate, as applicable, (ii) be offered back-up, supplementary, and maintenance power, upon request, on either a firm or interruptible basis, at cost-justified rates (rates that are nondiscriminatory, just and reasonable, and in the public interest), and (iii) be protected from duplicative interconnection charges or wheeling charges as a result of dealing with an individual Member or Municipal for retail service and Minnkota or Agency for purchases of QF capacity and energy.

WHEREFORE, Minnkota respectfully requests partial waiver of Sections 292.303(a) and 292.303(b) of the Commission's Regulations implementing PURPA in order to implement the Joint System PURPA Implementation Plan.

Respectfully submitted,

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EXHIBIT A

JOINT SYSTEM PURPA IMPLEMENTATION PLAN

Draft

JOINT SYSTEM PURPA IMPLEMENTATION PLAN

I. OVERVIEW OF PLAN

This Joint System PURPA Implementation Plan (“Implementation Plan”) sets forth the operation plan of Minnkota Power Cooperative, Inc. (“Minnkota”), its member-owned electric distribution cooperatives (“Members”), Northern Municipal Power Agency (“Agency”), and its participating municipal members (“Municipals”) for compliance with the requirements of Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended (“PURPA”) and Part 292 of the Regulations adopted by the Federal Energy Regulatory Commission (“FERC”) thereunder. This Plan is intended to encourage the development of cogeneration and small power production facilities in accordance with the requirements of PURPA.

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

Similarly, Agency’s Board of Directors, which consists of representatives from each of the 12 Municipals whom Agency serves, directed Agency on behalf of itself and the Municipals to develop and coordinate the implementation of a plan for meeting the obligations imposed on Agency and the Municipals under Section 210 of PURPA and FERC’s Regulations thereunder.

Each of the participating Municipalities also has authorized Agency to adopt this Implementation Plan on its behalf.

Minnkota, Agency, the Members and the Municipalities are electric utilities subject to the purchase and sale obligations under PURPA. Minnkota is a generation and transmission cooperative that was organized for the purpose of providing wholesale electricity and power to its Members on a non-profit basis. The Members are obligated, pursuant to long-term wholesale power supply contracts, to purchase virtually all of their power and energy requirements from Minnkota. Agency is a public power agency which was organized for the purpose of providing wholesale electricity and power to its municipal members on a non-profit basis. The Municipalities are obligated, pursuant to long-term wholesale power supply contracts, to purchase all power and energy requirements from Agency.

The Implementation Plan reflects the policy of the Joint System that has been developed to provide for the joint implementation of a program to encourage cogeneration and small power production. The Implementation Plan is intended to advise the public of the basic approach and general guidelines for allowing qualifying cogeneration and small power production facilities (“QFs”) to interconnect with the electric utility systems of the Joint System, to sell electric energy and capacity to Minnkota or Agency, and to purchase retail electric service from the Members or Municipalities.

Under the Implementation Plan, Minnkota or Agency will purchase energy and capacity offered by QFs to any utility in the Joint System.¹ Additionally, the Members and Municipalities will sell, at retail, energy and capacity to all QFs. Minnkota and Agency will each offer a standard purchase rate for energy and capacity purchased from QFs interconnected with Minnkota, Agency, a Member or a Municipal. This standard purchase rate is Minnkota's or Agency's "avoided cost," as applicable, or the costs to Minnkota or Agency of the electric energy, which Minnkota or Agency would otherwise generate or purchase from another source if not purchased from the QF.

Each of the Members and Municipalities will offer QFs supplementary, back-up and maintenance power on a firm or interruptible basis, upon request. The Members and Municipalities will sell energy and capacity to QFs at rates equal to the sale rates to the Members' and Municipalities' other customers with similar load and other cost-related characteristics. Each Member and Municipal has undertaken to 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, if not the same as, the rates the Members and Municipalities could offer and will satisfy their need for supplementary, back-up, and maintenance power in a manner consistent with the retail functions of the Members and Municipalities.

¹ Notwithstanding the terms of the Plan regarding purchases by Minnkota, Minnkota expects that the Members in Minnesota will continue to purchase from QFs that are less than 40 kW, in accordance with Minnesota's net metering law applicable to QFs. *See* Minn Stat 216b.164 subd 3 (net metering for QFs with less than 40 kW capacity).

Minnkota and Agency intend to require that a contract be executed by each QF addressing the terms and conditions of its purchase of the QF's electrical output, and each utility in the Joint System interconnecting QFs to its system will require interconnection agreements providing detailed terms and conditions including interconnection requirements, metering, rates, and those terms necessary to accommodate safety and reliability concerns.

Minnkota intends to file with FERC, on behalf of Minnkota, Agency, the Members and the Municipals, a Petition seeking partial waiver of Sections 292.303(a) and 292.303(b) of FERC's Regulations² to permit the Implementation Plan to be placed in effect as proposed. Section 292.402(a) of FERC's Regulations provides that a "nonregulated electric utility," which includes Minnkota, Agency, the Members and the Municipals, "may...apply for a waiver from the application of any of the [PURPA] requirements."³

FERC has granted waivers of its rule in other similar situations.⁴ The Joint System has promulgated the Implementation Plan similar to those adopted by other utilities, with such additions as were deemed necessary to meet the PURPA requirements and FERC Regulations. If the requested waivers are not granted, the Joint System will take such other actions, if any, as may be required to comply with PURPA and the Regulations adopted thereunder by FERC.

² 18 C.F.R. §§ 292.303(a) and (b) (2016).

³ 18 C.F.R. §292.402(a) (2016).

⁴ See, e.g., *Great River Energy*, 148 FERC ¶ 62,112 (2014); *North Carolina Elec. Membership Corp.*, 137 FERC ¶ 62,009 (2011); *Western Farmers Elec. Coop.*, 115 FERC ¶ 61,323 (2006); *Soyland Power Coop., Inc.*, 50 FERC ¶ 62,072 (1990); *Seminole Elec. Coop., Inc.*, 39 FERC ¶ 61,354 (1987); *Oglethorpe Power Corp.*, 32 FERC ¶ 61,103 (1985) ("Oglethorpe I"), reh'g granted in part and denied in part, *Oglethorpe Power Corp.*, 35 FERC ¶ 61,069 (1986) ("Oglethorpe II"), aff'd, sub nom. *Greensboro Lumber Co. v. FERC*, 825 F.2d 518 (D.C. Cir. 1987).

The Joint System believes that the integrated approach to PURPA implementation as described herein will not adversely affect QFs.

II. INTRODUCTION

A. INTENT OF IMPLEMENTATION PLAN

The Implementation 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 Regulations adopted by FERC implementing PURPA Section 210.

B. UTILITIES SUBJECT TO GUIDELINES

These guidelines have been adopted by Minnkota and all Members of Minnkota: Beltrami Electric Cooperative, Inc., Cass County Electric Cooperative, Inc., Cavalier Rural Electric Cooperative, Inc., Clearwater-Polk Electric Cooperative, Inc., Nodak Electric Cooperative, Inc., North Star Electric Cooperative, Inc., PKM Electric Cooperative, Inc., Red Lake Electric Cooperative, Inc., Red River Valley Electric Cooperative Power Association, Roseau Electric Cooperative, Inc., and Wild Rice Electric Cooperative, Inc.

Furthermore, these guidelines have been adopted by Agency and the participating municipal members of Agency: In Minnesota: Bagley, Baudette, Fosston, Halstad, Hawley, Roseau, Thief River Falls, and Warroad. In North Dakota: Grafton and Park River. Additional municipal members of Agency may elect to participate in the Implementation Plan.

III. STATEMENT OF POLICY

A. THE JOINT POLICY

It is the policy of the Joint System: (i) to permit any QF to interconnect with the electric systems of any utility within the Joint System to the extent such QF is entitled to interconnection

under Part 292; (ii) to permit any QF to sell energy and capacity to Minnkota or Agency at rates equal to Minnkota's or Agency's avoided costs, as applicable; and (iii) to permit any QF to purchase supplemental, back-up and maintenance power from a Member or Municipal 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, the Joint System expressly undertakes the following obligations as a condition to the joint policy: (a) Minnkota and Agency will be ready and willing to purchase power from any QF from which a Member or Municipal would otherwise be required to purchase; (b) no QF will be subject to duplicative interconnection charges or duplicative charges for wheeling power to Minnkota or Agency across the lines of a Member or Municipal; (c) no QF will be subject to duplicative charges or additional fees as a result of Minnkota's or Agency's purchase of QF power that would otherwise be purchased by a Member or Municipal; and (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 or Municipal. The Joint System's undertakings expressed above are, in each case, subject to the other express and implied terms and conditions of the Implementation Plan and the other requirements imposed by law.

Because this Implementation Plan outlines the basic approach that the Joint System intends to use to fulfill the separate obligations of Minnkota, Agency, the Members and the Municipals under PURPA, the Joint System may modify it to the extent authorized by law if any such utility determines that the modification is reasonably necessary. In addition, this Implementation Plan shall be modified as necessary or appropriate to comply with requirements

imposed by FERC, any other governmental entity having jurisdiction over any utility within the Joint System, or any other entity with authority to establish reliability requirements applicable to, or impose such requirements on, the Joint System.

This Implementation Plan reflects an integrated approach to implementing the Joint System's obligations under PURPA and the FERC Regulations. This approach recognizes the function of Minnkota and Agency as the wholesale suppliers to the Members and Municipalities and the retail service function of the individual Members and Municipalities, while assuring each QF 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 Regulations⁵ 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 Regulations⁶ clarifies that each QF shall have the option to determine the amount of energy or capacity "available" for purchase. Accordingly, the Implementation Plan does not require a QF to sell all of its energy and capacity to Minnkota or Agency, 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 a utility within the Joint System without the prior knowledge and approval of such electric utility and without entering into a satisfactory written contract. A QF interconnecting with a Member or Municipal and selling to Minnkota or Agency will not be subject to duplicative interconnections or wheeling charges. Thus, except for the construction of new transmission

⁵ 18 C.F.R. § 292.303(a).

⁶ 18 C.F.R. § 292.304(d)

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 or Municipal's facilities when the QF sells to Minnkota or Agency; to the extent any such costs are necessitated by Minnkota or Agency purchases of the QF's power (rather than the Member's or Municipal's purchases), such costs will be borne by Minnkota or Agency (rather than the QF).

Purchase of capacity and energy by a QF will be made pursuant to separate arrangements between the QF and a Member or Municipal and shall be in accordance with applicable law and the Member's or Municipal's applicable rates, rules, and regulations governing retail service. The terms of the arrangement between Minnkota or Agency, the Member or Municipal, and the QF shall be consistent with rates to the Member's or Municipal's other customers with similar load or other cost-related characteristics.

B. METERING REQUIREMENTS

The utilities in the Joint System 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 Minnkota's or Agency's monthly energy and capacity accounting. The amount of energy and capacity purchases from the QF by Minnkota or Agency shall not normally be netted against the energy and capacity purchased by the QF from the Members or Municipalities, unless required by applicable rules and regulations adopted by entities having jurisdiction over the Members or Municipalities.

Minnkota and Agency shall adopt nondiscriminatory procedures concerning metering requirements applicable to QFs. Minnkota and Agency 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 Implementation Plan:

- (i) The operator of the QF shall be responsible for all costs associated with electric interconnection of the QF to the applicable utility system.
- (ii) Minnkota, Agency, a Member or Municipal shall own, install and maintain the required metering equipment to integrate the input quantities into the Joint System'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 the utility may install and maintain such metering equipment.
- (iii) No utility within the Joint System 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) No utility within the Joint System is required to interconnect with any QF if, solely by reason of purchase or sale using the interconnection, the utility or any other utility within the Joint System would become subject to regulation as a public utility under Part II of the Federal Power Act.
- (v) The operator of the QF shall procure and maintain general and contractual liability insurance in the amount required by the utility with which the QF is interconnecting. The operator shall annually provide the utility with which it is interconnected with proof of insurance, and shall notify the same in writing at least thirty (30) days prior to any termination or modification of insurance coverage. The operator shall cause the interconnected utility to be named as an additional insured under the required insurance policy.

IV. REQUEST FOR WAIVER

The FERC Regulations require each electric utility, such as those within the Joint System, to buy energy and capacity from, and to sell energy and capacity to, QFs. As stated

above, the utilities within the Joint System have adopted an integrated approach to implementing their obligations under PURPA and the FERC Regulations in which Minnkota or Agency would purchase energy and capacity from QFs and the Members or Municipalities would provide retail service to QFs.

In order to adopt this integrated approach, the Joint System will request waivers of certain of the FERC Regulations implementing PURPA in order to allow the Joint System to continue to operate, for wholesale supply purposes, as a single integrated entity. The Joint System has concluded that, given the benefits of the proposed integrated approach to PURPA implementation, requiring the Members or Municipalities to purchase from QFs and Minnkota or Agency to sell to QFs is not necessary to encourage cogeneration and small power production. The Joint System has determined that such purchases by Minnkota or Agency on behalf of the Members or Municipalities will encourage cogeneration and small power production in part because each Member's or Municipal's avoided costs are equal to Minnkota's or Agency's avoided costs, respectively. 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 or Municipal.

This Implementation Plan is written on the assumption that the waiver of Minnkota's and Agency'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, the Joint System intends to operate under this Implementation Plan during the pendency of the waiver request. If the waiver of Minnkota's or Agency's sale obligation is denied, this Implementation Plan may be revised, as necessary.

Likewise, if the waiver of the Members' or Municipal's purchase obligations is denied, these guidelines may be revised, as necessary. 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. The Joint System does 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 Minnkota, Agency, the Members or the Municipal with FERC, may contact:

Joel L. Larson
Staff Attorney
Minnkota Power Cooperative, Inc.
Grand Forks, ND 58201
jlarson@minnkota.com

V. ADDITIONAL INFORMATION

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

Minnkota Power Cooperative, Inc.
Joel L. Larson
Staff Attorney
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Beltrami Electric Cooperative, Inc.
Sam Mason

Director of Member and Energy Services
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Email: smason@beltramielectric.com

Cass County Electric Cooperative, Inc.

Trudy Wanner
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Cavalier Rural Electric Cooperative, Inc.

Charles Riesen
Manager
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Clearwater-Polk Electric Cooperative, Inc.

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Nodak Electric Cooperative, Inc.

Blaine Rekken
Customer/Energy Services Manager
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North Star Electric Cooperative, Inc.

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PKM Electric Cooperative, Inc.

Mike Schmidt
Manager
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Red Lake Electric Cooperative, Inc.

Kelli Brateng
Member Services Director
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Email: kbrateng@minnkota.com

Red River Valley Electric Cooperative Power
Association

Rich Whitcomb
Director of Member Services
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Email: rwhitcomb@minnkota.com

Roseau Electric Cooperative, Inc.

Ryan Severson
Assistant Manager

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Email: rseverson@roseauelectric.com

Wild Rice Electric Cooperative, Inc.

Steven J. Haaven
CEO
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Northern Municipal Power Agency

Darryl Tveitbakk
General Manager
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Email: nmpadt@mncable.net

Municipals:

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Bill Masterson
Manager
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Baudette
Roger Schott
Utility Superintendent
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Baudette, MN 56623
Ph: (218) 634-2432
Email: rogers@ci.baudette.mn.us

Fosston
David Larson
Director of Public Works
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Hawley
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Public Utilities Superintendent
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Hawley, MN 56549
Ph: (218) 483-3331
Email: kberg@ci.hawley.mn.us

Park River
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Public Works Director
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Roseau
David Drown
City Superintendent
1198 Center Street W

Roseau, MN 56751
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Email: cityshop@mncable.net

Thief River Falls
Dale Narlock
Electric Department Superintendent
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Email: dnarlock@citytrf.net

Warroad
Daniel Trosen
Utility Superintendent
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Email: citysup@mncable.net

Draft

EXHIBIT B
LIST OF PUBLICATIONS

Draft

Minnesota City

1. Bagley: Farmers Independent
2. Baudette: The Northern Light
3. Fosston: The Thirteen Towns
4. Halstad: Valley Journal
1. Hawley: Hawley Herald
5. Roseau: Roseau Times Region
6. Thief River Falls: Thief River Falls Index
7. Warroad: Warroad Pioneer

Minnesota County

2. Becker: Detroit Lakes Tribune
3. Beltrami: Bemidji Pioneer
4. Cass: Walker Pilot-Independent
5. Clay: Clay County Union
6. Clearwater: Farmers Independent
7. Hubbard: Northwoods Press
8. Itasca: Grand Rapids Herald Review
9. Kittson: Kittson County Enterprise
10. Koochiching: The Journal
11. Lake of the Woods: Northern Light Region
12. Mahnomen: Mahnomen Pioneer
13. Marshall: Warren Sheaf Publishing Company
14. Norman: Norman County Index

15. Pennington: Thief River Falls Index

16. Polk: Crookston Daily Times

17. Red Lake: Red Lake Falls Gazette

18. Roseau: Roseau Times Region

North Dakota County

1. Barnes: Valley City Times Record

2. Benson: Benson County Farmers Press

3. Cass: The Forum

4. Cavalier: Cavalier County Republican

5. Grand Forks: Grand Forks Herald

6. Griggs: Griggs County Courier

7. Nelson: Lakota American

8. Pembina: Cavalier Chronicle

9. Ramsey: Devils Lake Journal

10. Ransom: Ransom County Gazette

11. Richland: Wahpeton Daily News

12. Steele: Steele County Press

13. Traill: Traill County Tribune

14. Walsh: Walsh County Record

North Dakota City

1. Grafton: Walsh County Record

2. Park River: Walsh County Record

EXHIBIT C

**PUBLIC NOTICE OF JOINT PURPA IMPLEMENTATION PLAN
AND NOTICE OF INTENT TO FILE PETITION FOR WAIVER**

Draft

**NOTICE OF PROPOSED JOINT SYSTEM
PURPA IMPLEMENTATION PLAN
AND
PETITION FOR WAIVER**

Minnkota Power Cooperative, Inc. (“Minnkota”) and its Member-owners (“Members”), namely, Beltrami Electric Cooperative, Inc.; Cass County Electric Cooperative, Inc.; Cavalier Rural Electric Cooperative, Inc.; Clearwater-Polk Electric Cooperative, Inc.; Nodak Electric Cooperative, Inc.; North Star Electric Cooperative, Inc.; PKM Electric Cooperative, Inc.; Red Lake Electric Cooperative, Inc.; Red River Valley Electric Cooperative Power Association; Roseau Electric Cooperative, Inc.; and Wild Rice Electric Cooperative, Inc.; and Northern Municipal Power Agency (“Agency”) and its municipal members (“Municipals”), namely Bagley, MN; Baudette, MN; Fosston, MN; Grafton, ND; Halstad, MN; Hawley, MN; Park River, ND; Roseau, MN; Thief River Falls, MN; Warroad, MN; hereby give notice of their proposed Joint System PURPA Implementation Plan (“Implementation Plan”) to implement jointly their obligations under Section 210 of the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and under Part 292 of the Regulations of the Federal Energy Regulatory Commission (“FERC”). Section 210 was enacted to encourage production of electric energy by qualifying cogeneration and small power production facilities (“QFs”). The Joint System further gives notice that on or after May 1, 2018, they will file with FERC a joint petition for waiver of certain obligations under Section 292.303 of the FERC’s Regulations.

Part 292 of FERC’s Regulations sets forth the requirements regarding arrangements between electric utilities and QFs. Part 292 requires electric utilities to purchase and sell energy and capacity from and to QFs. Under the proposed Implementation Plan (and subject to terms and conditions imposed pursuant thereto), Minnkota, Agency, the Members and Municipalities would agree to (1) permit any QF to interconnect with the transmission or distribution system of any utility within the Joint System to the extent such QF is entitled to interconnection under Part 292; (2) permit any QF to sell energy and capacity to Minnkota or Agency at rates that comply with Part 292; and (3) permit any QF, regardless of capacity, to purchase supplementary, backup, maintenance and interruptible power on either a firm or nonfirm basis from a Member or Municipal at rates that comply with Part 292. The proposed Implementation Plan may be modified based on public comments, FERC’s response to the petition for waiver described below, or otherwise as appropriate.

The proposed Implementation Plan is available for review by interested parties at the offices of Minnkota. Copies will be sent to interested parties upon request. Written comments on the proposed Implementation Plan must be submitted on or before April 17, 2018, to Minnkota Power Cooperative, Inc. Attention: Joel L. Larson, 5301 32nd Avenue South, Grand Forks, ND 58201 or by emailing jlarson@minnkota.com. Copies of written comments will be made available to interested parties. In addition, any interested party may request a public hearing on the proposed Implementation Plan by submitting a written request to the above address no later than April 17, 2018. If timely and properly requested, one or more hearings on the Implementation Plan may take place prior to the FERC filing referenced below. Details regarding the date, time and location of any such hearing(s) will be sent to each person

requesting a hearing. A representative of Minnkota and the Members will be present at the hearing(s).

In connection with the proposed Implementation Plan, and pursuant to Section 292.402 of FERC's Regulations, on or after May 1, 2018, Minnkota, on behalf of itself and the other utilities within the Joint System, intends to apply for a waiver of certain obligations under Section 292.303 of FERC's Regulations which, if granted, would result in all purchases from QFs being made by Minnkota or Agency and all sales to QFs interconnected with the Members or Municipalities being made by the Members or Municipalities. More information on the waiver request is provided in the Implementation Plan. Persons wishing to comment on the waiver request should follow the procedures for written and oral comments on the Joint System PURPA Implementation Plan.

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