



## RENEWABLE ENERGY COALITION

September 2, 2022

Via Email

President James Brown  
Vice President Brad Johnson  
Commissioners Jennifer Fielder, Tony O'Donnell, Randy Pinocci  
Montana Public Service Commission  
1701 Prospect Ave.  
PO Box 202601  
Helena, MT 59620-2601

RE: The Adoption of New Rules I and II and the Amendment of ARM 38.5.1901, 38.5.1902, 38.5.1903, 38.5.1904, 38.5.1905, 38.5.1907, 38.5.1908, 38.5.1909, and 38.5.1910 pertaining to Public Utility Regulatory Policies Act (PURPA)  
Docket No. 2021.09.118

Dear Commissioners:

The Renewable Energy Coalition (the "Coalition") submits these comments in response to the Notice of Public Hearing on Proposed Adoption and Amendment on the Montana Public Service Commission's ("Commission's") Public Utility Regulatory Policies Act of 1978 ("PURPA") rules. The Coalition fears that adopting the rules as proposed will stifle development in Montana and substantially impair small operating developers. The Coalition urges the Commission to revise the proposed rules before adoption to retain the fixed energy cost option, either in full or at least for qualifying facilities under PURPA ("QFs") that are 5 megawatts ("MW") or smaller in size.

Established in 2009, the Coalition is an unincorporated trade association that is comprised of nearly 40 members who own and operate nearly 50 QFs or who are attempting to develop new QFs in Oregon, Idaho, Washington, Utah, Montana, and Wyoming. REC's members include irrigation districts, water and waste management districts, corporations, small utilities, and individuals with an interest in selling renewable energy to utilities – who, absent PURPA, may have no viable mechanism to develop and sell the output of renewable energy projects.

The proposed rules would severely undermine the ability for small renewable energy facilities to develop and continue to operate. The proposed rules would require that "the avoided cost of energy will be calculated at the time of delivery of the facility's energy" instead of "[a]t

*either the time of delivery or the time the obligation is incurred, at the facility's option, for purchases of firm power over the term of the contract” as the current rules allow.<sup>1</sup>*

The Coalition agrees with and supports the comments previously filed on behalf of Broad Reach Power, LLC, Clēnera, LLC, and Consolidated Edison Development, Inc.<sup>2</sup> In particular, I agree that “[d]evelopers need certainty regarding return on investment” and “an as available/at the time of delivery rate fails to meet that need[.]”<sup>3</sup> The practical results of eliminating this financial need will be that fewer QFs develop in Montana, with the associated lack of economic development, and that existing QFs in Montana will struggle and potentially be forced to shut down.

The Coalition recommends that the Commission retain the fixed energy cost option for all QFs. At minimum, the Coalition urges the Commission to retain this option for QFs 5 MW and smaller. In the Coalition’s experience, QFs 5 MW and smaller tend to be less sophisticated and have less access to capital or other means to manage financial uncertainty. Thus, the proposed rules’ likely financial harms will fall heaviest and fastest upon small QFs. The Coalition urges the Commission to avoid this result and amend the proposed rules.

The Coalition thanks the Commission for the opportunity to comment on the proposed new rules.

Sincerely,

John R. Lowe  
Executive Director  
Renewable Energy Coalition

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<sup>1</sup> Proposed 38.5.1905(2)(b); A.R.M. 38.5.1905(3)(ii) (emphasis added).

<sup>2</sup> Informal Comments of QF Developers at 1 (Dec. 23, 2021). The “QF developers” are Broad Reach Power, LLC, Clēnera, LLC, and Consolidated Edison Development, Inc. *Id.*

<sup>3</sup> Informal Comments of QF Developers at 4.