

ORDINANCE NO. 82-2

An ordinance implementing Section 210 of the Public Utility Regulatory Policies Act relating to arrangements between electric utilities and qualifying co-generation and small power production facilities.

WHEREAS, the City of Newton purchases all of its wholesale power requirements from Gulf States Utilities Company of Beaumont, Texas (GSU) under a written contract dated to February 1, 1974; and

WHEREAS, the GSU contract imposes certain restrictions and obligations on the City of Newton; and

WHEREAS, the Federal Energy Regulatory Commission (FERC) adopted rules on February 25, 1980 implementing Section 210 of the Public Utility Regulatory Policies Acts (PURPA) providing that not later than one year after the rules became effective, each state regulatory authority and non-regulated electric utility shall file with the commission a report describing the manner in which it will implement the arrangements required by their rules; and

WHEREAS, the Public Utility Commission of Texas (PUC) has promulgated substantive rule number 58 which establishes rules and conditions concerning the implementation of Section 210 of PURPA (Attachment "1"), and,

WHEREAS, the City of Newton has reviewed PUC rule no. 58 and has no objections to those parts applicable to this city as long as they do not conflict with the contract arrangements the City has with GSU and the distinct understanding that adoption of PUC rule 58 does not constitute a waiver of the City's original jurisdiction over the matter; and

WHEREAS, the City is required to make available data from which avoided costs may be derived not later than June 30, 1983 and not less often than every two years thereafter and maintain such data for public inspection in City offices; and

WHEREAS, the terms of the contract the City has with GSU provides the basis for determining its avoided costs, and a copy of this contract and monthly CSU bills are on file to determine these costs; and

Now, therefore, the City of Newton adopts the applicable parts of PUC Rule no. 58 as its method of implementing Section 210 of PURPA.

Passed and approved this the ___ day of ___ 1982.

**Attest:
Mertice Jacks
City Secretary**

**Steve Bean
Mayor**

ATTACHMENT #1

12). unless otherwise provided by the Commission, no dwelling unit may be sub metered unless all dwelling units in the apartment house are sub metered.

13). All sub meters in an apartment house which are served by the same master meter shall be of the same type, such as induction or electronic.

52.02.05.58 Arrangements between Qualifying Facilities and Electric Utilities

(a) Definitions for this section:

1. **“Qualifying Facility”** means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of the Federal Energy Regulatory Commission’s Regulations under Section 201 of the Public Utility Regulatory Commission’s Regulations under Section 201 of the Public Regulatory Policies Act of 1978, as enacted on the date of adoption of this rule, with regard to cogeneration and small power production.
2. **“Purchase”** means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.
3. **“Sale”** means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.
4. **“System Emergency”** means a condition on a utility’s system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.
5. **“Rate”** means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale, purchase or transmission of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.
6. **“Avoided Costs”** means the incremental costs to an electric utility or capacity or both, which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.
7. **“Interconnection costs”** means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, engineering and administrative costs incurred by the electric utility

directly related to the installation of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs that the electric utility would have incurred if it has not engaged in interconnected operations, but instead generated an interconnected operations, but an equivalent amount of electric energy or capacity from other sources. Interconnection cost does not include any costs included in the calculation of avoided costs.

8. **“Supplementary Power”** means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.
9. **“Back-up Power”** means electric energy or capacity supplied by an electric utility to replace energy or capacity ordinarily generated by a qualifying facility’s own generation equipment during an unscheduled outage of the qualifying facility.
10. **“Interruptible Power”** means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.
11. **“Maintenance Power”** means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.
12. **“Firm Power”** from a qualifying facility is power or power producing capacity that is available to the electric utility pursuant to a legally enforceable obligation for scheduled availability over a specified term.
13. **“Non-firm power”** from a qualifying facility is power provided under an arrangement that does not guarantee scheduled availability, but instead provided for delivery as available.
14. The **“cost of detrimental energy”** is the cost savings to a utility associated with the utilities ability to back-down some of its units or to avoid firing units, or to avoid purchases of power from another utility because of purchases of power from qualifying facilities.
15. The **“quality of firmness”** of a qualifying facilities power is the degree to which the capacity offered by the qualifying facility is an equivalent quality substitute for the utilities own generation or firm purchased power. The following factors should be considered in determining quality of firmness.
 - a) Reliability of generation and interconnection;
 - b) Forced outage rate;

- c) Availability during peak periods;
- d) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirements, and sanctions for non-compliance.
- e) Maintenance scheduling;
- f) Availability for system emergencies, including the ability to separate the qualifying facilities load from its generation;
- g) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utilities system; and
- h) Other dispatch characteristics.

B) Scope

1) Applicability

This section of the Commissions Substantive Rules applies to the regulations and purchases between qualifying facilities and electric utilities.

2) Negotiated Rates or Terms

Nothing in this Rule

- a) **Shall limit the authority if ay electric utility or any qualifying facility to agree to a rate for any purchase or terms or conditions relating to any purchase, which differ from the rate or terms or conditions tat would otherwise be required by this rule; or**
- b) **Shall affect the validity of any contract entered into between a qualifying facility and an electric utility for any purchase either before or after the adoption of these rules.**

3) Filing of Rates

All rates for sales to qualifying facilities, contractual or otherwise shall be contained in the schedule of rates of the electric utility filed with the Commission in accordance with the Public Utility Regulatory Act.

C) Availability of Electric Utility System Cost Date

1) Applicability

This section applies to electric utilities whose total sales of electric energy for purposes other than resale exceeded 500 million kilowatt hours during any calendar year beginning after December 31, 1975 and before the immediately preceding calendar year. By June 30, 1982 and at least every two years thereafter, each of these utilities shall file with the Commission and shall maintain for public inspection the following date.

- a) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of 100 megawatts. The avoided cost shall be stated on a cents per kilowatts hour basis, during daily and seasonal peak and off-peak periods, by year, for the current peak and off peak periods, by year for the current calendar year and each of the next five years;
- b) The electric utilities plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding 10 years; and
- c) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt hours. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases. Accompanying each filing pursuant to this rule shall be detailed explanation of how the date was determined, including sources and assumptions employed.

2. Small Power production Load Research

Each electric utility shall evaluate the usefulness of energy and capacity from small power systems which are interconnected with that utility. This evaluation should be directed toward determining the aggregate capacity value of intermittence energy producers. The status of this evaluation including any information that is developed shall be filed with the Commission by June 30, 1982, and at least every two years thereafter.

3. Special Rules for Small Electric Utilities

Each electric utility (other than any electric utility to which section (c) (1) of this rule applies shall, upon request:

- a) Provide comparable data to that required under section (c) (1) to enable qualifying facilities to estimate the electric utilities avoided costs; or
- b) With regard to an electric utility that is legally obligated to obtain all its requirements for electric energy and capacity from another electric utility, provide the date of its supplying utility and the rates at which it currently purchases such energy and capacity.

c) Electric Utility Obligations

1) Obligations to purchase from qualifying Facilities

a) In accordance with sections (e), (f), (g), and (h), each electric utility shall purchase any energy and capacity that is made available from a qualifying facility:

(i) Directly to the electric utility; or

(ii) Indirectly to the electric utility in accordance with section (d) (4).

b) Each qualifying facility shall have the option of providing firm or non-firm power.

2. Obligation to Interconnect

A) Subject to section (d) (3) (B), any electric utility shall make such interconnections with any qualifying facility within its service area as may be necessary to accomplish purchases or sales under this rule. The obligation to pay for interconnection costs shall be determined in accordance with section (k).

B) 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, as enacted on the date of adoption of this rule.

3. Transmission to other Electric Utility Companies

If a qualifying facility agrees, an electric utility that 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 under this paragraph 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 the costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility. The rate paid by the purchasing utility shall not include any charges for transmission; however, the transmitting utility shall be paid a reasonable, transmission charge, including consideration of line losses, by the qualifying facility. Charges for wheeling within the meaning of this rule shall apply only to transmission from the qualifying facility to the purchasing utility.

4. Parallel Operation

Each electric utility shall offer to operate in parallel with a qualifying facility within its service area.

(e) Rates for Purchases from Qualifying Facility

- 1. Rates for purchases of energy and capacity from any qualifying facility shall be just and reasonable to the consumer's of the electric utility and in the public interest, and shall not discriminate against qualifying cogeneration and small power production facilities.**
- 2. Rates for purchases of energy and capacity from any qualifying facility shall not exceed avoided cost.**
- 3. Rates for purchases satisfy the requirements of section (e) (1) if they equal avoided cost.**
- 4. If rates for purchases are based upon estimates of avoided costs over the specific term of a contract or other legally enforceable obligation, the rates for such purchases do not violate these rules if they differ from avoided costs at the time of delivery.**
- 5. Rates for purchases from qualifying facilities shall be UN accordance with section (e) (1)-(e) (4) regardless of whether the electric utility making such purchases is simultaneously making sales to the qualifying facility.**

(f) Standard Rates for Purchases from Small Power Production Facilities

- 1. No later than June 30, 1982, there shall be included in the tariffs of each electric utility standard rate for purchases from qualifying facilities with a design capacity of 100 KW or less. The rates for purchases under this paragraph:**
 - a) Shall be consistent with sections (e) and (g) (Rates for Purchases from a Qualifying Facility and Rates for Purchase of Non-Firm Power from a Qualifying Facility);**
 - b) Shall consider the aggregate capacity value provided by dispersed small power production systems. If an aggregate capacity credit shall be included in the standard rates provided there is an avoided capacity cost; and**
 - c) May differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.**
- 2. Terms and conditions unique to small power production customers such as metering arrangements, safety equipment requirements, liability for injury or equipment damage, and access to equipment shall be included in a standard tariff.**
- 3. The terms and conditions contained in the standard tariff for small power production shall be subject to review and revision by the commission.**

4. Until a standard tariff has been approved by the commission the rate for purchases shall be not less than the current monthly fuel cost factor.

(G) Rates for Purchases of Non-Firm Power from a Qualifying Facility

Rates for purchases on non-firm power from qualifying facilities shall be based on one of the following two approaches:

1. Rates for purchases of non-firm power may, by agreement of both the utility and the qualifying facility, be based on the utilities average avoided energy costs. A utility may use its fuel adjustment charge until it has developed and appropriate avoided energy cost rate but may not do so after June 30, 1982. Administrative, billing, and metering costs shall be recovered through a monthly customer charge to the qualifying facility.
2. Rates for purchases of non-firm power may, at the option of the qualifying facility, be based on the full cost at the time of delivery of discretionary energy that would have been generated by the utility had the qualifying facility not been in operation.

(A) The following factors should be considered in the calculation of the cost of detrimental energy;

1. Fuel costs;
2. Variable operating and maintenance costs;
3. Line losses;
4. Heat rates;
5. Cost of purchases from other sources;
6. Other energy-related costs;
7. Capacity costs, if, as a call, qualifying facilities providing non-firm energy offer some predictable capacity; and
8. For short term energy purchases, the time and quantity for energy furnished.

(B) If practical, the avoided cost should be determined by calculating by time period, using the utility's economic dispatch model (or comparable methodology) the difference between the cost of the total energy furnished by both the qualifying facility and the utility computed as though the energy furnished by the qualifying facility and the utility computed as through the energy furnished by the qualifying facility had been furnished by the utility, and the actual cost of energy furnished by the utility.

(C) The economic dispatch model should take into consideration the following factors:

- i. Fuel costs;

- ii. Variable operating and maintenance costs;
- iii. Line losses;
- iv. Heat rates;
- v. Purchases power opportunity;
- vi. System stability; and
- vii. Operating characteristics.

D) Time periods should be hourly if the utility has an automated economic dispatch model available; otherwise the shortest reasonable time period for which costs can be determined should be used.

E) Administrative, billing, and metering costs shall be recovered through monthly customer charge to the qualifying facility.

H) Rates for Purchases of Firm Power from a Qualifying Facility

1. Rates for firm purchases from qualifying facilities shall be based upon the avoided cost of energy and capacity.

2. in determining the avoided cost of capacity, the utility's expected additional construction to meet the projected load requirements and the quality of firmness of the qualifying facilities power shall be considered.

3. Rates for firm purchases from qualifying facilities may be calculated using the differential Revenue Requirement Approach or any other reasonable method of determining the avoided cost of energy and capacity associated with the purchase of firm power from qualifying facilities. Under the Differential Revenue Requirement Approach, the utilities avoided cost is the difference between the utility's revenue requirement (total cost of meeting a specified demand including a reasonable return) with and without qualifying facilities.

I) Periods during which purchases not required

1. Any electric utility which gives notice to each affected qualifying facility in time for the qualifying facility to cease delivery of energy or capacity to the electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs great than those which the utility would incur if it did not make such purchases, but instead generated and equivalent does not override contractual obligations of the electric utility to purchase from a qualifying facility.

2. Any electric utility which fails to give notice to each affected qualifying facility in time for the qualifying facility to cease the delivery of energy or capacity to the electric utility will be required to pay the same rate for such purchase of energy or capacity as would be required had the period of greater costs not occurred.

3. A claim by an electric utility that such a period has occurred or will occur is subject to such verification by the commission either before or after the occurrence.

J) Rates for Sales to Qualifying Facilities

1. General Rules

- A) Rates for sales shall be just and reasonable and in the public interest, and shall not discriminate against any qualifying facility in comparison to rates for sales to other customers service by the electric utility.
- B) Rates for sales which are based on accurate data and consistent system wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates shall apply to the utilities other customers with similar load or other cost-related characteristics.

2. Additional Services to be provided to qualifying facilities

- a) upon request of a qualifying facility within its service area, each electric utility shall provide:
 - i. Supplementary power;
 - ii. Back-up power;
 - iii. Maintenance power;
 - iv. Interruptible power.
- b) An electric utility shall not be required to provide supplementary power, back-up power, maintenance power, or interruptible power to a qualifying facility if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the Commission finds that provision of such power will:
 - i. Impair the electric utilities ability to render adequate service to its customers; or
 - ii. Place an undue burden on the electric utility

3. Rates for Sales of Back-up Power and Maintenance Power

The rate for sales of back-up power or maintenance power:

- a) Shall not be based upon assumption (unless supported by factual date) that forced outages or other reductions in electric output by all qualifying facilities on an electric utilities system will occur simultaneously, or during the system peak, or both, and
- b) Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

(K) Interconnection Costs

(1) Interconnection Plan

Each utility shall establish, and make available for inspection, guidelines for assuring safe and reliable operation of interconnected qualifying facilities. It may also require an interconnection plan from the qualifying facility to facilitate qualifying facility/utility negotiations. Upon receipt of the interconnection plan, the utility shall provide the qualifying facility with a cost proposal identifying the interconnection costs and a list of contract issues to be addressed in the negotiations.

(2) Reimbursement of Interconnection Costs

Each qualifying facility shall be obligated to pay any interconnection costs. The utility's methods for determining and billing interconnection costs shall be consistent and shall be applied on a non-discriminating basis to all qualifying facility applicants for service.

SYSTEM EMERGENCIES

1. Qualifying facility obligation to provide power during system emergencies.

A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

A) Provided by agreement between such qualifying facility and electric utility; or

B) Ordered under Section 202© of the Federal Power Act, an enacted on the date of adoption of these rules.

2. Discontinuance of Purchases and Sales during System Emergency. During system emergency, an electric company may discontinue:

a) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

b) Sales to a qualifying facility provided that such discontinuance is on a nondiscriminatory basis.

Enforcement:

A proceeding to resolve a dispute between a utility and a qualifying facility arising under this rule may be instituted by the filing of a petition with the Commission. If the petition complies with the Rules of Practice and Procedure of the commission, the director of hearings shall docket it in accordance with Procedural Rule 052.01.00.041. The institution, conduct, and determination of the proceeding shall be in full accordance with the Rules of Practice and Procedure of the Commission.