

Artificially Low Coop Buyback Rates – The FERC Connection



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The Problem

- ❖ Example: Woodbury County REC, Merville, IA
 - ❖ Retail Electric Rate: 17¢/kWh
 - ❖ Buyback Rate: 1.35¢/kWh
- ❖ Coop makes 15.65¢/kWh selling to turbine owners neighbor with no investment on their part
- ❖ Turbine owners return on investment is reduced – longer payback
- ❖ Important because when there is no net-metering provision 20 – 50% on the turbines production will be instantaneously excess to the local load.

The Cause

- ❖ Most Coop's are not regulated by their state Public Utility Commission
- ❖ They must follow federal law – PURPA Section 210
 - ❖ Must purchase excess energy at “avoided cost”
 - ❖ Avoided Cost: The cost the utility would otherwise pay for energy
- ❖ The Federal Energy regulatory Commission (FERC) has jurisdiction
- ❖ In 18 C.F.R. §§ 292.101(b)(6), .303, and .304, FERC determined that for distribution coops under “all requirements” contracts with their G&T energy supplier, the avoided cost for the distribution coop was the avoided cost of the G&T, not the distribution coop

The “Reasoning”

- ❖ The distribution coop does not avoid generation costs because they have no generators – therefore the avoided cost should be that of the G&T coop
- ❖ This twisted logic has survived appeals at FERC, federal court, and state court (Sweckers – IA turbine owners)
 - ❖ These cases were on a technical issue not directly related to the erroneous FERC interpretation of PURPA 210
- ❖ Looking at typical annual statements, 70% of distribution coops expenses are energy purchases and 70% of G&T expenses are fuel costs
 - ❖ Simple math would indicate the minimum buyback, based on direct fuel savings should be $0.7 \times 0.7 = 0.49\%$ of the distribution coop’s retail rate

What Do We Do About It

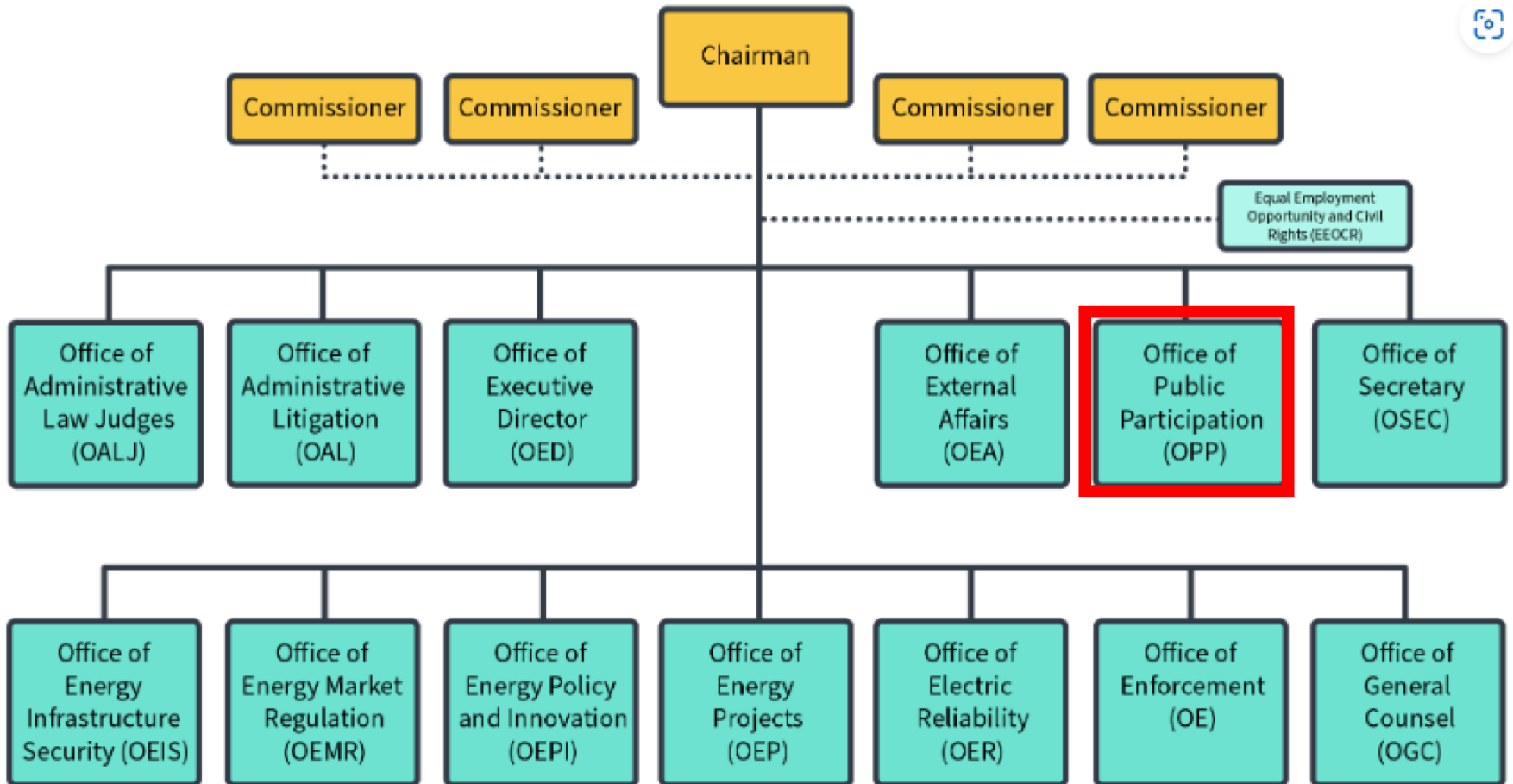
- ❖ Must appeal to FERC first – can't go directly to federal court
- ❖ FERC appeals are essentially court cases – conducted by expensive lawyers with complex filings and a full range of legal maneuvering.
- ❖ Opinion: Unaffordable by the DW industry at this time
- ❖ However, we can get started at little to no cost:



OFFICE OF PUBLIC PARTICIPATION

FEDERAL ENERGY REGULATORY COMMISSION

FERC Program Offices



OPP - Outreach

- Select proceedings in Infrastructure or Electric Markets for expanded outreach
 - Evolving criteria include
 - Community Impact
 - Policy Impact
 - Communities with Environmental Justice Concerns
- Non-Decisional staff means no *Ex Parte* issues

The Plan

- ❖ DWEA will create a working group on FERC issues
- ❖ The working group will engage with FERC OPP to help determine how best to appeal and gauge the efficacy of such an appeal
- ❖ The working group will seek pro bono or reduced fee legal support
- ❖ And then decide if and how to attack this erroneous interpretation of PURPA 210