Similarly, Curran, Corbett & Stiles submits that, since the proposed self-certification process will continue to involve nothing more than file-stamping a submittal, lenders, government agencies and utilities will continue to demand proof of qualifying status for loan approvals and other crucial transactions, and cogenerators and small power producers will continue to apply for Commission certification.³¹

SDG&E suggests that the self-certification process would be more meaningful if it were more like the full Commission certification process. SDG&E urges the Commission to require that a notice of self-certification incorporate the Form 556 information as the Commission has proposed for applications for Commission certification.³² SDG&E also asks the Commission to amend § 292.207 to provide that, unless a person files an objection with the Commission within 90 days, the utility must meet its QF obligations under § 292.303.³³

Arizona Public Service and SDG&E suggest that the Commission require self-certifying cogenerators and small power producers to provide copies of their submittals to electric utilities (a) with which they intend to interconnect for the purpose of transmitting and selling electric power; and (b) from which they intend to purchase supplementary, standby, backup and

monitoring proposals are outside the scope of the instant rulemaking proceeding.

maintenance power.³⁴ Arizona Public Service also suggests that self-certifying cogeneration and small power producers specify their anticipated service needs so that utilities may better plan and prepare their local and system facilities, and obtain any necessary regulatory approvals.³⁵

Commission Response: As the commenters observe, some lenders, regulators and utilities appear to have been unwilling to rely on the self-certification process because they did not think that the process provided them with sufficient information to independently verify the qualifying status of the subject facility. Many of the commenters have argued that simply adding an affidavit to the notice of self-certification would not instill enough confidence to make the self-certification process more authoritative.

The Commission continues to believe that self-certification should be retained as an option; it is unnecessary to conduct a full review of each facility, even in instances where outside lenders and investors will be involved. However, in consideration of the various comments, and in recognition of the various other clarifications being made in this final rule, the Commission will not adopt the proposed affidavit requirement. Instead, the Commission will modify the self-certification process to: (a) Incorporate the Form 556 information requirement that the Commission is also adopting for applications for Commission certification; and (b) require that cogenerators and small power producers provide copies of the notice of selfcertification to each affected state commission and to each affected electric utility.³⁶ The self-certifying cogenerator or small power producer must also specify the utility services that it intends to request (see item 3b of Form 556).

If electric utilities do not agree that a notice of self-certification is valid, they may challenge QF status by filing a petition for a declaratory order. If lenders, etc. are not convinced, they will continue to require that the potential QF facility obtain Commission certification of QF status before financing a project.

The formal completion and submission of Form 556 to demonstrate that a facility conforms with the Commission's QF criteria will not constitute a substantive burden on those selecting the self-certification process. A cogenerator or small power producer submitting a notice of self-certification under the current regulations already must analyze the characteristics of its facility to determine whether it meets the Commission's qualifying criteria. The completion of Form 556 will assist both novice and experienced cogenerators and small power producers. It will serve as a step-by-step guide to determining whether a proposed facility qualifies for certification. Many notices of selfcertification recently filed with the Commission have incorporated similar documentation.

Through the use of Form 556, the self-certification process will be similar to the Commission certification process, because it will incorporate sufficient substantive information to allow an affected commission or electric utility to challenge the notice of self-certification.

The self-certification process will largely remain a simple, quick and economical procedure. There will continue to be no Commission review or filing fee, and the process should promote discussions between self-certifying cogenerators or small power producers and the affected electric utilities and regulatory commissions. These discussions should provide the parties an opportunity to timely and informally resolve any problems. The final rule revises proposed § 292.207(a)(1)(ii) accordingly.

3. Revocation of Qualifying Status

Proposed § 292.207(d)(1) provided that the Commission may revoke the

³¹ American Forest and Paper maintains that the affected utility also will likely continue to want a Commission certification. Tenaska predicts that lenders will not rely on an affidavit, as long as the alternative, Commission certification process is available. AGA and Utilicorp state that lenders will not assume the risk to finance QF projects that do not undergo a full Commission certification process.

³² Atlantic Electric and EEI also favor a requirement to include Form 556 information. SDG&E contends that, contrary to what the Commission had anticipated when it issued its existing QF regulations, there has not always been a free flow of information between utilities and potential QFs.

SDG&E also maintains that a utility which does not believe that a self-certified facility is qualified does not have to purchase the electrical output from the facility.

³³ Curran, Corbett & Stiles asks the Commission to state that a notice of self-certification constitu prima facie evidence that the facility is a QF. Curran, Corbett & Stiles also suggests that the Commission either indicate that the application conforms to the requirements of § 292.203 or, within a certain time period, issue a specific finding to the contrary. American Cogen and Electrical Generation Association suggest that the Commission reinforce the self-certification process by stating in the preamble to this rule and/or in § 292.207 that self-certification has the equivalent legal effect of a Commission certification. Independent Energy Producers suggests that the Commission delineate what situations call for Commission certification, in order to convince lenders to rely more on self-certification.

³⁴ Florida P&L notes that the Commission's current regulations at § 292.207(c)(1) require that a cogenerator or small power producer that chooses to self-certify must provide the electric utility purchaser with at least 90 days' advance notice of the transaction.

³⁵ Detroit Edison suggests that a notice of selfcertification include a notice, suitable for publication in the ${\bf Federal\ Register},$ that sets out the pertinent data regarding the application. Detroit Edison submits that publication of such a notice would allow interested parties to bring errors in the application to the Commission's attention. Detroit Edison also suggests that the applicant provide the appropriate state commission and the affected utility with a copy of any notice of self-certification, or application for Commission certification or recertification filed with the Commission Similarly, Atlantic Electric, Arizona Public Service, EEI, Florida P&L, LILCO, NEP and SDG&E suggest that either the Commission or the applicant apprise affected parties (including the regulatory commission of each state where the QF and the affected utility is located) of any QF submittal or any Commission deficiency letter, through Federal Register notice and/or by sending each a copy of the document.

³⁶ Affected state commissions are the regulatory commissions of the states where the QF and any affected electric utilities are located. An affected utility is an electric utility to which the QF intends to interconnect, transmit and sell electric energy, or from which the QF intends to purchase supplementary, standby, back-up or maintenance power.