the plan that it files with the state, it will treat its wholesale customers in the event of a shortage of electric energy. The Commission does not consider this requirement burdensome, and the requirement will satisfy the Commission's obligation to ensure that a public utility will treat its wholesale customers in a fair and non-discriminatory manner in the event of a shortage of electric energy. Accordingly, the Commission adopts the changes to part 294 as proposed in the NOPR.

H. Part 382—Annual Charges

The proposed rule would modify §§ 382.102 and 382.201, which pertain to the requirement that public utilities report total annual adjusted sales for resale megawatt-hours and total annual coordination sales megawatt-hours for the purposes of computing annual charges. Under the proposed rule, public utilities that are exempt from filing Form 1 would be subject to the annual charge regulations and would be assessed annual charges.99 The proposed rule also would change definitions in the annual charge regulations to allow for calculation of annual charges consistent with the classification of transactions volumes as reported on Form 1. The proposed rule would also revise the regulations to state how the Commission proposes to calculate annual charges.

Comments: EEI requests a fuller explanation of the Commission's proposed changes in the calculation of annual charges and of how those contemplated changes will interact with the elimination of certain filing fees proposed in Docket No. RM92–17–000. 100 EEI also recommends that the Commission bill applicants directly for filings that are unusually extensive or that require an extraordinary amount of the Commission's time and effort to process.

NEP expresses concern that the proposed change in the formula for calculating utilities' annual charges may produce dramatic increases in the assessments on individual public utilities. NEP asks the Commission to defer adoption of the proposed change in the annual charge formula until the utilities have an opportunity to assess the likely effect of the change.

Southern Companies comments that public utilities, whether or not they file a Form 1, should pay annual charges.

Commission's Response: With respect to EEI's comments, the rule eliminating certain filing fees does not affect the fact that utilities are assessed annual charges. With respect to EEI's and NEP's comments, the proposed rule changed some definitions and explained how transaction volumes would be reported. However, the proposed rule does not change the formula for calculating annual charges. The proposed rule is clarifying in nature, linking the reporting of transaction volumes to specific statistical classifications on Form 1.

We will deny NEP's request that we defer adopting the change in the annual charge regulations. Public utilities have had approximately two years since the issuance of the NOPR to assess the effect of the change. Further deferral of action is unwarranted.

Accordingly, we will adopt the final rule as proposed.

I. Part 385—Rules of Practice and Procedure

The proposed rule deleted Rule 717, § 385.717, which expired by its own terms on May 21, 1986, and deleted cross-references to Rule 717 contained in other rules. EEI supports the deletion of Rule 717, and there were no comments opposing the deletion of Rule 717. Accordingly, we will adopt the final rule as proposed.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.¹⁰¹ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. 102 No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended or applies to accounting orders, the establishment of just and reasonable rates, the issuance and purchase of corporate securities or corporate regulation.¹⁰³ The final rule is clarifying and procedural in nature. It merely makes clerical and clarifying

changes and deletes reporting requirements and regulations that the Commission has decided are no longer necessary or that refer only to: (a) The establishment of just and reasonable rates; or (b) the issuance and purchase of corporate securities.

Section 201 of PURPA includes "waste" as an allowable primary energy source for qualifying small power production facilities. To the extent the Commission is revising the definition of "waste," incorporating an illustrative list of waste energy sources, this action merely codifies current Commission practice; it does not substantially change the effect of the underlying legislation.

Accordingly, neither an environmental assessment nor an environmental impact statement is necessary.

V. Regulatory Flexibility Certification

The Regulatory Flexibility Act 104 requires rulemakings to either contain a description and analysis of the impact the proposed rule will have on small entities or to certify that the rule will not have a substantial economic impact on a substantial number of small entities. The final rule removes unnecessary and obsolete regulations. The only additional reporting requirements that the Commission is adopting will serve to reduce discovery burdens and improve processing of filings. The Commission's newly adopted regulations governing QFs merely clarify and codify Commission precedent. Finally, since the final rule is designed to reduce regulatory burdens, the Commission expects that any impact on small entities affected by the final rule will be beneficial. Accordingly, the Commission certifies that these proposed rules, if adopted, will not have 'a significant economic impact on a substantial number of small entities."

The Small Business Administration supports the substance of the proposed rule and, specifically, agrees that the proposed rule will be beneficial to QFs. However, the Small Business Administration maintains that the Commission should perform a regulatory flexibility analysis under the Regulatory Flexibility Act. According to the Small Business Administration, unless the Commission can demonstrate that the beneficial effects of the rule will not be significant, the Commission must prepare a final regulatory flexibility analysis pursuant to section 604 of the Regulatory Flexibility Act. The Small Business Administration contends that such an analysis may lead to further

⁹⁹ The Commission has determined that the annual charge obligation also applies to all public utility power marketers. Morgan Stanley Capital Group, Inc., 69 FERC ¶ 61,175 (1994), reh'g pending.

¹⁰⁰ Subsequent to the filing of EEI's comments, the Commission issued a final rule in Docket No. RM92–17–000 revising its filing fee structure. See Elimination of Filing Fees, Order No. 548, 58 FR 2968 (Jan. 7, 1993), III FERC Stats. & Regs. ¶ 30,960 (1993).

¹⁰¹ Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1987–1990, ¶ 30,783 (1987).

^{102 18} CFR 380.4.

^{103 18} CFR 380.4(a)(2)(ii), 380.4(a)(15)-(16).

^{104 5} U.S.C. 601-612.