

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**GRID RELIABILITY AND RESILIENCE PRICING : Docket No. RM18-1-000**

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION  
OF STATE UTILITY CONSUMER ADVOCATES**

The reply comments that follow are submitted by the NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES (NASUCA). NASUCA is a voluntary association of 44 consumer advocate offices in 41 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates for utility ratepayers. Some NASUCA member offices are separately established advocacy organizations while others are divisions of larger state agencies, for example, the state Attorney General's office. NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority. A list of current NASUCA members can be found at <http://nasuca.org/members/>.

NASUCA previously filed a Motion in this proceeding supporting the Energy Industry Association's Motion for Extension of Time and Request for Expedited Treatment. NASUCA did not file Initial Comments in the proceeding; however, herein, NASUCA provides these Reply Comments summarizing and supporting the Initial Comments of NASUCA members.

**I. The proposal violates the Administrative Procedure Act by failing to provide the public with adequate notice or reasonable time for meaningful input.**

The residential and business customers represented by NASUCA member offices have an interest in the outcome of this proceeding. A truncated period for implementation of the rule proposed in the Notice of Proposed Rulemaking (NOPR), which contemplates a 40-day comment period, a 30-day period for Federal Energy Regulatory Commission (FERC) review of and deliberations on those comments and for development of a final rule, and a 15-day period for development and submission of Regional Transmission Organizations (“RTOs”) and Independent System Operators (“ISOs”) compliance filings is extremely short in comparison to other major market reforms undertaken by FERC, and does not allow a meaningful opportunity to be heard. Careful deliberations and vetting by the RTOs/ISOs, consumers and other industry stakeholders of the market rule changes that will be required to implement the NOPR are necessary.

As indicated, the questions raised in this proceeding require an opportunity for meaningful participation by NASUCA members. Given the paramount importance of the questions raised by this proceeding, NASUCA member offices believe that adequate time to both develop an appropriate record and to respond is critical.

In summarizing and supporting member comments, NASUCA respectfully requests that the proposed rule not be promulgated by FERC in the reduced timeline

proposed in the Notice but that a full regulatory proceeding with adequate time to develop a record and review the positions of the stakeholders be provided.

**II. The proposal represents a fundamental and acute departure from FERC's long-held approach of facilitating the development of competitive wholesale markets for setting wholesale electricity prices.**

The proposal to require all FERC-approved RTOs/ISOs to implement a mechanism that would provide above-market revenues to certain resources that have 90-day on-site fuel supplies and that have otherwise become uneconomic in the organized wholesale energy and capacity markets is a fundamental change to competitive wholesale markets. The proposed rules will impact customers through higher costs.

The proposal as it currently exists does not explain how it would affect the wholesale electricity markets, it provides no assessment of the proposal's costs, it makes no attempt to define or quantify the proposal's benefits, and it provides no support for making such a dramatic change on such an expedited basis.

In summarizing and supporting member comments, if FERC believes a new regulatory regime is required that supports certain uneconomic generating resources at their full cost of service requirements, NASUCA respectfully requests FERC initiate a full regulatory proceeding with adequate time to develop a record and review the positions of the stakeholders.

**III. FERC has a longstanding commitment to competitive wholesale electric rates as an essential mechanism for just and reasonable rates under Section 206 of the Federal Power Act.**

Under the FERC's leadership, the bulk power system is reliable today and will continue to be so in the future. The Department of Energy's (DOE's) own recent Staff Report and other independent analyses all confirm that the risks that supposedly justify the proposal are manageable and do not justify emergency action favoring particular fuels, but rather suggest the study of continued development of fuel neutral solutions. Moreover, as independent analyses and state experiences show, there is no evidence supporting the conclusion that retirement of aging resources or fuel supply issues are jeopardizing electric system reliability. To the contrary, clean energy resources and new technologies, coupled with market mechanisms, can serve future needs. There needs to be continued recognition of the division of federal and state authority in the management and selection of generation facilities.

In summarizing and supporting member comments, NASUCA respectfully requests FERC decline the invitation to return to the expensive and inefficient models of the past. Looking forward, NERC, FERC and the RTOs/ISOs (in conjunction with their stakeholders) should continue to explore the nature of system resiliency and continue their ongoing efforts at just and reasonable price formation designed to properly value the aspects of service that are essential to system reliability and resiliency.

## CONCLUSION

The proposal in this proceeding represents a fundamental change in how markets operate and will materially affect the price that millions of residential and business consumers pay for electricity. NASUCA respectfully requests FERC reject the NOPR, and, if it chooses to move forward, to initiate a full regulatory proceeding with adequate time to develop a record and to review the positions of the stakeholders.

Respectfully submitted,

\_\_\_/David Springe/s\_\_\_\_\_

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