



**FEDERAL ENERGY REGULATORY COMMISSION  
NATIONAL ACTION PLAN ON DEMAND RESPONSE  
DOCKET NO. AD-09-10  
TECHNICAL CONFERENCE – NOVEMBER 19, 2009  
WASHINGTON, DC**

**STATEMENT OF JAY L. KOOPER  
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PRESIDENT, RETAIL ENERGY SUPPLY ASSOCIATION**

Good afternoon. My name is Jay Kooper and I am the Director of Regulatory Affairs for the Hess Corporation (“Hess”) and the President of the Retail Energy Supply Association (“RESA”). Let me first thank the Commission for this opportunity to comment on the Staff’s Discussion Draft on a National Action Plan on Demand Response (“Discussion Draft”) and to offer a perspective from the competitive retail electric industry, which is playing a critical increasing role in the provision of demand response to end-use customers.

**Background on Hess and RESA**

Hess is a Fortune 100 global energy company with over \$28 billion in worldwide assets and serving more than 44,000 locations on the East Coast. In addition, Hess is a licensed retail supplier of electricity to commercial and industrial (“C&I”) customers in eleven states throughout the Mid-Atlantic, New York and New England regions. Since January 2008, Hess has offered a suite of additional innovative energy products that includes *Hess Green* (enabling customers to acquire Green-e certified renewable energy credits), *Hess Demand Response* (enabling customers to participate in an incentive program to curtail their demand during peak usage periods) and *Hess C-Neutral* (enabling

businesses to reduce their carbon footprint from 1% to 100% through carbon reduction credits). These green energy services, which comprise the fastest growing segment of Hess' electric marketing business, are value-added products that were specifically requested from C&I customers ranging from hospitals to schools and universities to retail superstores. With respect to *Hess Demand Response*, as of November 2009 Hess is serving 350 MW across three ISOs (New York, New England and PJM) comprised of 281 customers on 511 meters.

RESA is a 12-member trade association of a broad and diverse group of retail energy suppliers who advocate for vibrant and sustainable competitive retail energy markets across the United States. RESA's members include the some of the largest of Fortune 500 companies and substantial mid-sized companies.<sup>1</sup> RESA member companies serve customers ranging from the largest C&I businesses in the world, to mid-sized companies such as retail, restaurant, hotel, sports arenas, stadiums, universities and municipalities to residential customers. RESA members, like Hess, market and provide traditional commodity pricing products such as fixed-price, variable-price and block-and-index products and innovative new green-related products such as demand response, renewable energy and energy efficiency products.

### **Comments on the Discussion Draft**

Turning to the Discussion Draft, it should be said at the outset that it represents an important step in the right direction towards a National Action Plan on Demand Response that enables develop and deployment of demand response resources that can maximize real and tangible benefits for customers. First, the three sets of possible strategies and

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<sup>1</sup> RESA members include Con Edison Solutions, Inc; Direct Energy Services, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Gexa Energy; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; RRI Energy; and Sempra Energy Solutions LLC.

described in the Draft (Technical Assistance To States, National Communications Program and Tools and Materials To Support Demand Response) are both appropriate for inclusion and critical to the ultimate success of the National Action Plan. Second, all of the possible activities described in the Discussion Draft are worthy of consideration for inclusion in the final National Action Plan and nothing need to be withdrawn from the table at this stage. Third, the strategy of using a coalition, if structured effectively, is not only consistent with the Energy Information and Security Act of 2007 but will likewise be critical to the ultimate success of the final National Action Plan. While, as discussed further herein, more elements should be considered, the Discussion Draft represents a good start for achievement of a comprehensive and effective National Action Plan and FERC Staff should be congratulated for the breadth and quality of the Draft.

Focusing on the proposed coalition approach and the three sets of strategies identified in the Discussion Draft, both the Commission and all stakeholders should consider the following recommendations for strengthening the solid foundation developed in the Draft:

**1. The Coalition Approach**

The coalition approach is by far the most effective approach for achievement of a comprehensive and effective National Action Plan because it brings together the major stakeholders in this industry and provides the Commission with the benefit of their input and experience in the evolving demand response industry. Consistent with this approach, it is essential for the Commission to include within the coalition the competitive retail energy industry as the engagement of this sector in the marketing and provision of demand response products and services has grown exponentially. The ability of this sector to draw on in-the-field experience and identify challenges and

barriers to market entry and participation will be critical for development of best practices for maximization of deployment of demand response resources. The inclusion of the competitive retail energy industry in this process up to this point has been an encouraging development and one that should and must continue through implementation of a final National Action Plan.

## **2. Technical Assistance To States**

Achievement of an effective National Action Plan will require constant focus and attention to education of what demand response is, what it means for consumers and what it means for state and local governments in terms of the benefits demand response can provide. The Discussion Draft's proposed strategies for providing technical assistance to state and local governments, if properly executed, can maximize the chances for effective implementation of demand response resources. Methods for ensuring proper execution of these strategies should be a central focus of the work of the proposed coalition.

An additional element that should be incorporated is education for state and local governments on deployment of demand response through the competitive energy industry. For nearly a century and up to a relatively short time ago in states that have restructured their energy industries, demand response and energy efficiency were the sole province of regulated utilities and the state agencies overseeing their activities. For some regions of the nation, this regulated utility structure still exists today. Achievement of the ambitious demand response deployment goals set forth in the *National Assessment of Demand Response Potential* will require the harnessing of demand response resources from every sector possible inclusive of the competitive industry. Inclusion of education on retail choice and the competitive energy industry's evolving role in the provision demand response should be included in any strategy for technical assistance to states.

### **3. National Communications Program**

Communicating with customers nationwide about the opportunities and benefits of demand response is perhaps the single most important element of any ambitious National Action Plan for three reasons. First, customers need to know exactly what demand response is and how it benefits them. Second, customers need to know what demand response is not so as to avoid confusion that can hinder deployment and development. Third, communications and messaging must be as simple as possible to minimize customer confusion and misinformation.

The nine elements identified in the Discussion Draft are all critical elements for addressing these three concerns and their inclusion in a final National Action Plan is critical. Focusing on the ninth element listed—Develop Corporate and Organizational Partnerships – inclusion of the competitive energy industry in the development of messaging of demand response programs is essential for educating consumers that there are many venues, outlets and choices for engaging in meaningful, beneficial and value-added demand response. Both Hess and RESA engage in constant messaging on the value of customer choice and deployment of products and services and can serve as valuable resources for crafting and implementing effective demand response messaging.

### **4. Tools and Materials To Support Demand Response**

With respect to tools and materials to support demand response, these activities and the specific elements listed in the Discussion Draft are worthy of inclusion in a National Action Plan. Achievement of a successful National Action Plan will, however, require deeper analysis into these elements than what the Discussion Draft currently provides and inclusion of new elements that the Discussion Draft does not expressly contain. Specifically, some of the largest potential barriers to optimal deployment of

demand response resources arise from three concepts not discussed in depth in the Discussion Draft – competitive neutrality, customer flexibility and consistency.

For example, competitive neutrality when it comes to access to advanced meter data by a customer’s demand response provider is an essential element for optimal deployment of demand response. Likewise, developing policies and rules that enable maximum customer flexibility in participating in the demand response program of a customer’s choosing is an essential element for optimal deployment. Finally, consistency of demand response rules and programs across ISOs/RTOs based on the best practices across the different regions is an essential element for optimal deployment of demand response. Inclusion of these elements as part of a final National Action Plan can only help to ensure that the right and complete mix of tools to support demand response is truly deployed.

Hess and RESA stand ready to draw upon their industry experience and serve as both active participants and resources as this National Action Plan process moves forward into the collaborative phase. Again, thank you for this opportunity and I will be happy to answer any questions you may have.