

**BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**TESTIMONY OF THE HONORABLE MARSHA H. SMITH,  
COMMISSIONER, IDAHO PUBLIC UTILITIES COMMISSION  
ON BEHALF OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

**ON**

**“Technical Conference on Demand Response in Organized Electric Markets”**

**Docket No. AD08-8-000**

**May 21, 2008**



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

Conference on Demand Response in	)	
Organized Electric Markets	)	Docket No. AD08-8-000
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**Technical Conference  
May 21, 2008**

**Testimony of Marsha H. Smith on Behalf of  
The National Association of Regulatory Utility Commissioners**

Good morning. My name is Marsha H. Smith. I am a Commissioner on the Idaho Public Utilities Commission. I am also President of the National Association of Regulatory Utility Commissioners (“NARUC”) as well as a member of the Association’s Committee on Energy Resources and the Environment. On behalf of NARUC, I would like to thank you for this opportunity to address the Commission.

I ask that my testimony be made a part of the record and I will summarize our views.

NARUC is a quasi-governmental, non-profit organization founded in 1889 focused on improving the quality and effectiveness of public utility regulation. Our members include the State utility commissions regulating the retail rates and services of electric, gas, water, and telephone utilities in all fifty United States territories and the

District of Columbia. These commissions are obligated by State law to ensure such utility services as may be required by the public convenience and necessity are established and maintained with rates and conditions of service that are just, reasonable, and non-discriminatory.

## **Introduction**

I would like to commend the Federal Energy Regulatory Commission (“Commission” or “FERC”) for having this Technical Conference on Demand Response in Organized Electric Markets. This topic is timely. As the Commission’s 2008 Summer Market and Reliability Assessment notes: Demand Response has increased in importance both as a means to reduce peak demand and to provide ancillary services for operating flexibility. But Demand Response, which has traditionally been under State jurisdiction, has always been an important regulatory strategy. For years, NARUC has supported and promoted demand-side management as a means of making the most efficient use of electricity. NARUC’s members and FERC serve the same constituents—the ratepayers—and although we have different responsibilities and authorities to do so, we all must keep that in mind moving forward. After all - wholesale market structures are a means to an end – providing benefit to those end-use customers.

My statement focuses on two topics: NARUC Initiatives in the Area of Demand Response and FERC’s Implementation of Demand Response Proposals.

## **NARUC Initiatives in the Area of Demand Response**

When I became President of NARUC last November, I challenged our members on three key items: Innovation, Efficiency, and Leadership. All three of these challenges relate to demand-side management. In this country we have been blessed with natural resources. As those resources diminish, we need to be good stewards and demonstrate real leadership to carefully balance demands for energy with environmental needs. I believe NARUC, through its various Committees and strong Commissioner participation, *has* been a leader.

For example, along with my responsibilities as NARUC president, I also co-chair the National Action Plan for Energy Efficiency with Jim Rogers, CEO of Duke Energy. This Action Plan is collaboration in the truest sense of the word. Members of this effort include policy leaders from State government and industry. It is focused upon making energy efficiency a priority and recognized as a key resource. This effort is also bolstered by strong federal participation, including both the Environmental Protection Agency and the Department of Energy.

The Action Plan examines energy efficiency from a broad, grass-roots perspective, and recognizes the importance of energy savings at peak times. Last November, the Action Plan released a guidebook titled: *Implementation Framework for the National Action Plan: The Vision for 2025*. This release offers recommended State-specific policies and programs designed to overcome barriers preventing greater

investment in energy efficiency and assure the acquisition of widespread cost-effective energy efficiency by 2025.

The Action Plan is also working on a paper about coordinating Demand Response and energy efficiency programs. This paper should be completed this summer, and will be an important document as this discussion moves forward.

Additionally, as most people in this room are well aware, NARUC's members are fully engaged with our FERC colleagues in two other ongoing collaboratives that deal with, either explicitly or broadly, demand-side management issues.

The Demand Response Collaborative, initiated in November 2006, was the first collaborative effort between NARUC and FERC. It has convened at every NARUC Meeting since its inception. This effort is co-chaired by (i) FERC Commissioner Jon Wellinghoff, (ii) the Chair of the NARUC Electricity Committee - Connecticut Department of Public Utility Control Commissioner Anne George and (iii) the past Chair of the NARUC Energy Resources and the Environment Committee - Minnesota Public Utilities Commissioner Phyllis Reha.

This Collaborative is exploring how State and federal policymakers can better coordinate our respective electricity Demand Response policies and practices. We released a Request for Proposal ("RFP") for a research project to publish a report called: *Overcoming Barriers to Customer Demand Response through Coordinated Retail and*

*Wholesale Regulatory Policies.* The Report will identify regulatory and market disconnects and barriers in coordination between retail and wholesale policies. It will also outline options to coordinate retail and wholesale regulatory policies that would reduce or eliminate barriers and stimulate greater participation. The RFPs were due on May 16 so we are on track with the Report.

The other relevant partnership was just announced in February of this year - the Smart Grid Collaborative. This effort is co-chaired by FERC Commissioner Suedeen Kelly and NARUC First Vice President Frederick F. Butler of the New Jersey Board of Public Utilities. Although it is still in its formative stages - there is a high level of interest among NARUC's members in this group, as it touches on grid modernization and possibly empowering consumers to make real-time decisions to curb their energy use. In this era of uncertain energy resources and rising costs, the Smart Grid has the potential to make the electricity system as efficient as possible.

Commissioners Butler and Kelly, along with State Commission, NARUC and FERC staff, have held informal discussions and are planning their first formal meeting at the NARUC Summer Committee Meetings this July in Portland, Oregon.

As with other the other collaborative, we genuinely appreciate FERC's effort to examine these issues closely with NARUC's members.

Finally, States participated in the surveys to implement the annual FERC Demand Report under Section 1252 of the Energy Policy Act of 2005. We anticipate providing

input to the Commission as it undertakes the National Assessment Report for Demand Response under the Energy Independence and Security Act of 2007.

### **FERC Implementation of Demand Response Proposals**

Efforts to increase efficiency are laudable. Properly implemented demand response initiatives can help to hold down wholesale power prices, increase awareness of energy usage, increase market efficiencies, enhance reliability; and encourage new technologies that support the use of renewable energy resources, distributed generation and advanced metering. However, FERC's implementation of any proposals *should not* result in overly prescriptive generic rules as "one size does not fit all". This is an area of particular sensitivity as Demand Response traditionally falls under State jurisdiction and new initiatives should not undermine existing State programs.

This Commission has recognized and respected that significant differences exist between regions, including differences in industry structure, mix of ownership, sources for electric generation, population densities and weather patterns. We appreciate that recognition. We believe any new Demand Response initiative should follow the same pattern - and be incorporated into the organized electric markets in a way that recognizes differences in market design as well as proposed or ongoing regional demand response programs. Any issues with regard to any particular organized market structure should be addressed separately in a specific proceeding.

States have traditionally done an excellent job of overseeing distribution systems, planning, siting approval, reliability assurance and consumer protection. This responsibility has also included, of course, jurisdiction over Demand Response policies. The advent of organized electric markets did not change the States' authority in this area. State Demand Response programs were designed before organized markets were established for the purpose of achieving goals defined by individual State policy makers. Federal policies should not interfere with the States' authority over all aspects of retail service, including establishing just and reasonable retail rates, assuring retail rates are designed to encourage reductions in peak demand and encouraging demand-side management options. Indeed, even FERC's 2007 Demand Response Report noted that the actions of several States to introduce greater Demand Response into retail markets partially address the need for wholesale-retail coordination identified in the 2006 FERC Demand Response Report.

It appears that facilitating cost-effective Demand Response is one of the many areas where the interests of federal and State regulators overlap. The Demand Response Collaborative is a good first step to coordinate federal and State efforts. Future FERC policy in this area should be implemented in the same spirit of cooperative federalism embodied by this Collaborative. Displacing State authority and policy decisions is a bad idea. Demand Response cannot achieve its full potential without the support of State regulators.

The coordination of federal and State initiatives offers both the most promising approach to managing the jurisdictional intersection in organized electric markets and the best way to assure the full benefits of Demand Response are delivered to consumers. Wasteful and unnecessary litigation at taxpayer and ratepayer expense is the only likely outcome from a lack of coordination.

Thank you for the opportunity to appear before you today. I will be happy to answer any questions you may have.