

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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December 4, 2009

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. AD09-10-000 - National Action Plan on
Demand Response

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in black ink that reads "David G. Drexler". The signature is written in a cursive style.

David G. Drexler
Assistant Counsel

Attachment

BACKGROUND

Pursuant to section 529 of the Energy Independence and Security Act of 2007, the Commission is charged with developing a National Action Plan on Demand Response (National Action Plan).¹ The National Action Plan is the second stage of a three-stage process that began with a national assessment of the potential for demand response within each state and nationwide that could be achieved within five and ten year horizons. The FERC was required by Congress to make specific policy recommendations that, if implemented, could achieve the estimated potential for demand response. In addition, Congress identified three objectives that should be addressed in the National Action Plan, including:

1. Identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed;
2. Design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support; and,
3. Development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by

¹ Pub. L. No. 110-140, § 529, 121 Stat. 1492, 1664 (to be codified at National Energy Conservation Policy Act, 42 U.S.C. §§ 8241-8287d, 8279).

customers, States, utilities and demand response providers.

As part of the effort to develop a National Action Plan, the Commission hosted a technical conference to solicit input on the possible elements of such a plan, as discussed in the *Discussion Draft on Possible Elements of a National Action Plan on Demand Response* (Discussion Draft). The first part of the Discussion Draft proposes the establishment of a national coalition of stakeholders to implement the National Action Plan. The second part seeks comment on possible strategies and activities that could be included in the National Action Plan to achieve Congress' objectives and to maximize the amount of demand response resources that can be developed and deployed.

DISCUSSION

The NYPSC appreciates this opportunity to provide comments on the Discussion Draft and the discussion at the technical conference. We look forward to working with the Commission to maximize the development and deployment of demand response resources. The following comments relate to the three objectives for demand response outlined by Congress in the Energy Independence and Security Act of 2007, and to the use of a national coalition to carry out those objectives.

As an initial matter, we recommend that the Commission continue to hold further discussions, perhaps on a monthly basis, in order to gather additional input from interested parties and to work toward developing consensus approaches for inclusion in the National Action Plan. While the two-day technical conference was a good first step, further discussion should be devoted to discrete topics so that they may be fully explored and developed.

The Commission should ensure that further discussions are accessible on the internet in their entirety. We note that the second day of the technical conference included roundtable discussions on each of the three objectives, but was not available on the internet. While parties, such as the NYPSC, that were unable to send representatives in person due to budgetary constraints did receive a high-level oral summary of points that were raised at each of the roundtables, that level of detail makes it difficult to respond to the nuances in the discussion.

Objective 1: Identification of Requirements for Technical Assistance to States

In general, the strategies and activities described in the Discussion Draft appear to be valid and are supported by the

NYPSC, such as further development of advanced metering infrastructure and dynamic pricing, sponsoring further research and investigation of the nuances of demand response participation, and evaluating the relationship of demand response to other State energy initiatives. In many instances, the NYPSC already incorporates or advocates the very topics included in the Discussion Draft. For example, we have developed public messages that are used in outreach efforts to New York State consumers. The NYPSC has also encouraged and, assisted with the development of various demand response programs that are offered at the wholesale level by the New York Independent System Operator, Inc. (NYISO). Moreover, the NYPSC has previously approved several demand response initiatives at the retail level (e.g., Consolidated Edison Company of New York, Inc.'s (Con Edison) program for distribution load relief), and more recently approved four new demand response programs for Con Edison to implement in 2010. The NYPSC is continually looking for improvements to these programs.

The Commission should encourage and assist States in taking proactive approaches to developing and refining demand response programs, such as those implemented in New York. For instance, the Commission could provide valuable assistance in formulating a national advertisement campaign, and hosting

workshops that address regional concerns. In addition, the Commission should explore funding opportunities to States to help in encouraging demand response participation.

The NYPSC also supports the establishment of a national forum on demand response, which should be accessible on the internet so that parties have an opportunity to participate. This forum could be held annually after the summer capability period ends to help prepare for program participation during the following year. We have participated in National workshops in the past, and found them to be useful. Regional forums could also be held to minimize travel expenses.

Objective 2: Implementation of a National Communications Program

The NYPSC supports a national communications program, similar to that used for "Energy Star" appliances, to educate customers on ways that they can benefit from demand response programs, and to increase participation in those programs. This effort should be given fairly high priority given that additional efforts are needed in educating and heightening awareness among customers. A nationally recognized slogan or brand name would be helpful in achieving these objectives. For example, the NYPSC has used the slogan "Save-A-Watt" to raise

consumer awareness of the benefits associated with reducing energy usage.

In order to ensure that communications are consistent from state to state, the FERC should oversee a process where stakeholders are allowed to provide input. However, we recommend that any national messages should be generic enough and structured in such a way that all audience groups will at least understand the basic principles of demand response.² Messages should be consumer friendly and be tied to efforts already being advocated by the states. The Commission should not require that a particular state advertise a certain message under specific conditions, since states that are financially constrained may be hard pressed to maintain such a message. Moreover, depending upon the region, many states and utilities may already incur costs in advertising their programs to customers.

² We suspect that there are multiple targets for communication efforts that would include those familiar with the terminology as well as those who have never before heard of demand response. Because "demand response" is a difficult term to appreciate, a national brand may very well provide acceptance and increased participation.

Objective 3: Identification of Tools and Other Support Materials

The development of standards and protocols under the National Action Plan could be a useful tool in evaluating and improving the demand response programs. Standard definitions would also be helpful in the understanding of each state's programs, and would facilitate interpretation for parties that are new to New York that are seeking to participate. Standards and protocols could also be helpful in the development of programs in those areas where little or no demand response currently exists. Such standards and protocols should be located in one concise index to provide assistance to states that wish to improve upon their existing programs. The Commission should build upon the efforts to develop standards and protocols already underway by the North American Energy Standards Board.

Any developed standards and protocols, however, should be for clarification purposes only, and should not be imposed on the states in such a way that requires revisions to existing demand response programs that are successfully operating. An overall mandate that prescribes how demand response programs must operate would infringe upon regional and state regulatory

responsibilities, and could undermine programs that are already in place.

Formation of a National Coalition

In the summary of the roundtables, various concerns were raised regarding a National Coalition that would implement the National Action Plan. These concerns appear to come from the lack of specifics as to how the coalition will operate, who will be allowed to participate, how it will be governed and financed, and what powers it will have. However, we believe that it is premature to decide whether a National Coalition is needed, including the specific details, until a draft National Action Plan is more fully developed based on parties' input on the three objectives discussed above. We note that there are several existing national organizations, such as the North American Energy Standards Board and the Demand Response Coordinating Committee, that could manage demand response efforts and act as a clearing house for information, which could reduce, or even eliminate, the need for a National Coalition.

CONCLUSION

The NYPSC supports the Commission's efforts to develop a National Action Plan on Demand Response in accordance with the

above discussion. We look forward to further discussions and opportunities to develop and improve demand response programs, and welcome the Commission's support in those efforts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter McGowan". The signature is fluid and cursive, with the first name "Peter" being more prominent and the last name "McGowan" following in a similar style.

Peter McGowan
General Counsel
Public Service Commission
of the State of New York

By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: December 4, 2009
Albany, New York

CERTIFICATE OF SERVICE

I, David G. Drexler, do hereby certify that I will serve on December 4, 2009, the foregoing Notice of Intervention and Comments of the New York State Public Service Commission upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Dated: December 4, 2009
Albany, New York


David G. Drexler
David G. Drexler