

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

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

COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

BACKGROUND

On September 18, 2009, the Federal Energy Regulatory Commission (“Commission”) issued a notice scheduling staff technical conferences to support the development of the National Action Plan on Demand Response. The technical conferences were postponed by the Commission on October 7, 2009 and eventually condensed into one conference which was rescheduled on October 28, 2009. The Commission staff (“Staff”) published a discussion draft on the possible elements of the National Action Plan on Demand Response (“Discussion Draft”) on October 28, 2009.

The technical conference was held November 19, 2009 through November 20, 2009 at the Commission offices in Washington, D.C. The technical conference included panel discussions on the first day and concurrent breakout sessions on the second. Staff summarized the breakout sessions during a plenary session before closing the conference on the second day. The purpose of the technical conference was to elicit input from interested stakeholders on the possible elements of the National Action Plan as discussed in the Discussion Draft.

The Commission seeks input in the form of written comments on the Discussion Draft and discussions at the technical conference. Written comments are due Friday,

December 4, 2009. The Public Utilities Commission of Ohio (“PUCO”) hereby submits the following comments on certain sections of the Discussion Draft.

COMMENTS:

Staff prepared the Discussion Draft to seek comment from the public on the proposed content of a National Action Plan as required under section 529 of the Energy Independence and Security Act of 2007 (“EISA”). 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. The Commission was required to make specific policy recommendations in the National Assessment of Demand Response Potential that if implemented can achieve the estimated potential and then to develop a National Action Plan. The National Action Plan has three objectives. First, to identify requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed. Second, to design and identify the requirements for implementation of a national communications program that includes broad-based customer education and support. Finally, to develop or identify analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities, and demand response providers.

The Discussion Draft recommends building upon the successes of existing demand response initiatives by developing and deploying more dispatchable demand response and planning for the deployment of non-dispatchable demand response. The Commission has defined demand response as the ability of customers to respond to either a reliability or

price trigger from their utility system operator, load-serving entity, regional transmission organization/independent system operator (“RTO/ISO”), or any other demand response provider and includes customer actions that can change any part of the load profile of a utility or region, not just the period of peak usage. Dispatchable demand response refers to planned changes in a customer’s consumption in response to direction from an entity besides the customer and includes direct load control of customer appliances. Non-dispatchable demand response refers to programs and products in which the customer decides whether and when to reduce consumption based on a retail rate design that changes over time.

The Discussion Draft focuses on the further development of dispatchable demand response for two reasons. First, it can serve as a resource for a variety of applications besides lowering peak demand. Second, it can bring the benefits of demand response to all consumers by serving as a bridge for states that decide to transition over time to some form of retail rate design such as dynamic pricing. The PUCO believes the Discussion Draft should place more emphasis on removing barriers to and encouraging the development of price responsive demand. Price responsive demand will likely include both behavioral and automated responses to dynamic retail prices. The Discussion Draft should therefore also address how to effectively engage consumers and encourage deployment of enabling technologies. Additionally, FERC policies for resource adequacy and organized markets need to ensure that states which make significant investments in advanced metering and a smarter grid fully realize the anticipated capacity and efficiency

benefits associated with those investments.

1.2 Overarching Strategy: Establish a National Coalition to Implement the National Action Plan

The Discussion Draft contemplates the formation of a National Coalition (“Coalition”) to implement the National Action Plan. The Coalition would be responsible for coordinating the activities and achieving the objectives described in the National Action Plan. Its membership would be made up of various stakeholder groups representing government, industry, interveners, and sundry foundations. The Discussion Draft offers two examples of coalitions that have been used successfully: the National Action Plan for Energy Efficiency and the Airbag and Seatbelt Safety Campaign.

Some argue that the formation of a Coalition is the only way to achieve the objectives discussed in the National Action Plan. Without leadership, staff, and a budget, they argue, the chances of successfully implementing the National Action Plan decrease dramatically. Others suggest that a Coalition is more likely to slow the process than it is to facilitate it and would itself decrease the chances for success. Still others support the formation of a Coalition, but suggest its membership come from existing organizations and groups rather than creating a new coalition from scratch. Doing so, they argue, would provide a driving force behind the National Action Plan, but would mitigate the concerns that some have of crating a brand new coalition.

The PUCO agrees that there needs to be a driving force behind the National Action Plan, but suggests placing more emphasis on ground-level implementation than on

higher-level decision making. As contemplated in the Discussion Draft, the Coalition would serve as the primary messenger between the Initiator and the Initial Targets/Secondary Messengers (*see*: Discussion Draft Figure 1: Illustration of National Action Plan Coalition Strategy). The Initiator is the organization that creates the Coalition, recruits its founding membership, and establishes its budget. The Initial Targets/Secondary Messengers are state and local governments, utilities and load-serving entities, RTO/ISOs, consumer advocates, government, and other stakeholders (*see*: Table 1: Summary of the Coalition Strategy Elements). Because the membership of the Coalition will likely come from the Initial Target/Secondary Messengers group, and because several interests will be represented at both levels, there may be little need to distinguish the two groups. The formation of a Coalition, therefore, may be less important than ground-level demand response research and program implementation.

2.1 Technical Assistance to States

Section 529 of the EISA requires the Commission to identify the requirements for technical assistance to States that allow them to maximize the amount of demand response resources that can be developed and deployed. Technical assistance includes the provision of information, supporting research, and funding. States include governors, state regulators, state energy offices, state legislators, and state consumer advocates.

Staff recommends expanding the definition of states to include publicly-owned and cooperatively-owned utilities for two reasons. First, publicly-owned and cooperatively-owned utilities face challenges similar to those of state officials. Second,

providing technical assistance only to state agencies will not achieve the goals of providing assistance to other governing bodies responsible for overseeing the provision of electric service to all customers. The PUCO agrees that the definition of states should be expanded to include publicly-owned and cooperatively-owned utilities.

2.1.1 Establish a National Forum

The Discussion Draft suggests establishing a national forum as a venue for federal, state and local leaders, and other key stakeholders to discuss implementation of the National Action Plan. The PUCO supports the development of a national forum to share with policymakers and key stakeholders the overall vision of the National Action Plan and to provide an opportunity to share ideas, examine barriers, and explore solutions. The PUCO recommends a two day forum similar to the technical conference in this proceeding. The first day should be devoted to panel discussions and the second to concurrent breakout sessions. It should be held at the Commission Offices in Washington, D.C.

2.1.2 Conduct Informational & Educational Sessions for Policymakers and Regulators

In addition to a national forum, the Discussion Draft suggests holding multiple regional and state workshops targeting a broader set of state employees, regulators, and other key stakeholders. The objective of the workshops is to coordinate and implement activities proposed in the National Action Plan. These workshops would allow more targeted discussion of demand response issues specific to each region.

The PUCO agrees that a targeted training program designed for state employees, regulators, and other key stakeholders is important to achieving the objectives identified in the Discussion Draft. The PUCO recommends, however, that more emphasis should be placed on advancing the collective understanding of demand response than on developing a series of workshops designed to address the training needs of individual regions and states. The PUCO also recommends dividing demand response into discrete topics and further dividing these topics into training modules. Doing so will allow the efficient use of both Staff and state resources as Staff can develop training modules only as needed and states can choose to attend module-based workshops needed to fill in their understanding of demand response. Staff should also consider making these modules available online. These activities should be done in parallel with the activities discussed in subsections 2.1.5 Sponsor Technical Papers and 2.1.6 Establish a Demand Response Assistance Program.

2.1.3 Conduct Communications Training for State and Local Governing Officials

The Discussion Draft suggests that communications training should be provided to states in concert with the National Communications Plan described in Section 2.4. It is recommended that training would focus on sharing findings from consumer research and demand response experts, providing message training, and providing tools to ensure state and local governing officials can begin customer education and outreach. The PUCO agrees that communications training is important and supports this recommendation.

2.1.4 Build a Panel of Demand Response Experts

The Discussion Draft suggests assembling a panel of expert speakers to deliver lectures on social and technical topics related to demand response at national and regional conferences. It is expected that doing so will enhance the knowledge, skills, and attitudes of stakeholders regarding demand response programs, technologies, markets, statutes, costs, and benefits. The PUCO supports this recommendation and suggests including experts from related academic fields as well (e.g., behavioral economics).

2.1.5 Sponsor Technical Papers

The Discussion Draft suggests developing a series of technical papers that could be used to synthesize existing knowledge and to create new knowledge that informs the design of demand response programs, products, technologies, incentives, markets, and legislation. These papers would highlight questions that require new research needed to address barriers and obstacles to demand response. The PUCO supports the development of these technical papers and recommends that they be used to develop an effective and efficient training and education program in parallel with the activities discussed in subsection 2.1.2 and the development of a demand response assistance program discussed in subsection 2.1.6. These papers should also be made available online with the option for interested stakeholders to receive notification whenever a new paper is ready to download (e.g., RSS subscription).

2.1.6 Establish a Demand Response Assistance Program

The Discussion Draft recommends establishing a program to provide technical assistance with demand response implementation. Assistance could range from referring a caller to a website to providing on-site assistance for an extended period of time. The PUCO supports the development of a demand response assistance program and recommends that it should be developed in parallel with the activities discussed in subsections 2.1.2 and 2.1.5.

2.1.7 Establish a Demand Response Grant Program

According to the Discussion Draft, A demand response grant program could be established to provide funding opportunities to entities interested in implementing states' demand response activities. The program would be subject to Congressional authorization and would be administered by an appropriate federal agency, national laboratory, or other entity. The PUCO supports this recommendation with two caveats.

It is unclear in the Discussion Draft whether these funding opportunities would be provided directly to entities or through the states. If the funding opportunities will be made available directly, the PUCO recommends creating an additional and separate funding opportunity for states so they may obtain the resources needed to manage an increase in jurisdictional utility applications and filings. A similar approach was used successfully by the U.S. Department of Energy in distributing Stimulus funds. If the funding opportunities are intended to pass through the states, the PUCO recommends removing the grant program from the Technical Assistance to States section of the

Discussion Draft and creating a stand-alone program. It is important to note that many states are not well structured for distributing grants. The PUCO, therefore, recommends that additional funding be made available to states so they may acquire the resources needed to manage grant applications.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R. § 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Thomas W. McNamee

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Assistant Attorney General

Dated at Columbus, Ohio this 4th day of December, 2009.

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Summary: Comments Comments of the Public Utilities Commission of Ohio electronically filed by Ms. cora g peterson on behalf of Public Utilities Commission of Ohio