STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to
Consider Regulatory Policies Regarding Smart Grid Systems and the Modernization of the Electric Grid) Case 10-E-0285

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association (NEM) hereby submits comments on the Questions for Smart Grid Policy set forth in the Commission’s Order Instituting Inquiry into Smart Grid, issued July 16, 2010. The Commission opened the instant proceeding to examine regulatory policies going forward that will support the utilities reasoned investment in smart grid technologies. Specifically, this inquiry is intended to, "to determine to what extent further development of regulatory policies should be made to encourage electric utilities to develop smart grid systems that can facilitate the integration of new technologies while optimizing their efficient use of facilities and resources, and producing equitable rates for electric consumers.” (Order at 1-2). NEM’s membership is comprised of a diverse group of energy industry participants, including wholesale and retail energy marketers as well as energy technologists. As such, NEM can offer a unique perspective for the record in this proceeding, in particular the role of competitive retail energy marketers as demand response providers to the consumers they serve across multiple utility service territories and multiple states. Competitive retail energy marketers have and will play a critical role in educating consumers about demand response products and in implementing innovative demand response solutions across the country.
NEM and its members are committed to serving as the primary Demand Response (DR) delivery channel to help consumers achieve DR benefits both before and after the smart grid is fully implemented. These comments are intended to highlight the critical role that competitive energy marketers will play in providing smart grid-enabled products and services to consumers and to provide recommendations that can smooth the transition for consumers as they are provided with improved, timely pricing signals. Specifically, NEM’s recommendations for “Achieving Significant, Near-Term Demand Response by Residential and Small-Commercial Customers”1 through the availability of transitional DR load profiles is attached hereto and incorporated by reference herein.

NEM’s comments respond to the following specific issues raised in the Order: Implementation Priorities; Engaging Customers; and Consumer Data Privacy Access. In summary, NEM’s comments recommend that:

- Utility bill ready billing systems should be assigned a top priority in the smart grid implementation process to enable competitive, time-of-use pricing options;

- Education will be key to readying consumers for the smart grid and that education process should include the introduction of innovative rate designs premised on transitional demand response load profiles; and

- Market participants should be provided with open access to the smart grid infrastructure in a manner that avoids the creation of new information and/or demand or demand response-related monopolies, including the HAN market.

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1 This document is available on the NEM Website at: http://www.energymarketers.com/Documents/ACF82C.pdf
I. Implementation Priorities – Bill Ready Billing is a Prerequisite to the Competitive Rollout of the Smart Grid

As the Commission is setting smart grid implementation priorities, NEM suggests that upgraded utility billing systems that permit bill ready billing should be assigned a top priority. Bill ready billing refers to a billing process wherein the utility provides the marketer with the meter readings and the marketer applies the contracted for billing rate and calculates the customer bill. The marketer transmits this information to the utility for inclusion on the customer bill. Time-of-use billing is simply incompatible with the utilities rate ready billing systems. The value of smart meter installations will be significantly diminished without better utility billing systems. Bill ready billing systems must be accompanied by real-time, equal access to the data by competitive stakeholders.

NEM suggests that upgraded utility billing systems that accommodate bill ready billing should be required in order to ensure that smart grid benefits are fully realized. We note that NYSEG/RGE currently provide the most billing functionality to marketers in this regard. Efforts should be focused initially on bill ready billing at NYSEG/RGE with the other utilities to follow.

II. Engaging Customers – Innovative Rate Designs that Transcend Classic Utility Rate Structures

NEM agrees with the Commission that consumer education is a critical component of a smart grid rollout plan. By consumer education we mean traditional messaging and communications efforts as well as the introduction of innovative rate designs that transcend classic utility rate structures and will prepare consumers for the advent and availability of time and usage-differentiated product options. Clearly, a Commission
mission plan for consumer education on the smart grid is necessary. The mission plan should make clear that communications must be made on a competitively neutral basis. It should delineate affected consumers that will be the target of the communications. This is tantamount to minimizing potential consumer confusion.

A transitional approach to pricing Demand Response via retail DR load profiles, may also be critical to both educating the public about the benefits of demand response as well as the public adoption of modified consumption behavior. NEM appreciates the Commission’s efforts thus far to include the perspective of the competitive energy marketer community in its deliberations on smart grid policy. We strongly support the Commission’s earlier conclusion that,

> We do not support the creation of an information monopoly through our approval of these smart grid projects, and thus, require utilities to take all steps appropriate, including adherence to the AMI minimum functional requirements, to prevent such monopoly from being created. Consequently utilities, unless otherwise waived, shall adhere to the AMI minimum functional requirement that customers or their competitive providers will be able to access meter data in an open, standard, nonproprietary format, as both NEM and EnerNOC suggest.²

Indeed, it is with these considerations in mind that NEM recommends that the Commission start developing DR capability now with a set of first-generation DR load profiles that will allow energy marketers to educate, mass market and aggregate retail DR customers and prepare consumers for a more-refined approach as full smart-grid implementation occurs. Moreover, the implementation of DR load profiles would be the least cost method to leverage existing legacy utility and ISO settlement processes, in

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addition to circumventing the price volatility that dynamic pricing could potentially produce as a first step in delivering the benefits of the smart grid.

Data captured by utilities and NYISO can readily be adapted by the Commission and utilities to develop one or more first generation, transitional retail DR load profiles to start to encourage DR behavior by residential and small-commercial customers as the full implementation of the smart-grid technology and related infrastructure occurs. After decades of average cost pricing of energy consumption, an abrupt switch to full dynamic pricing before all of the requisite hardware and information-related technologies and applications are both in place and consumer-friendly, could cause an unintended backlash of public sentiment against energy efficiency efforts. It is therefore critical to build consumer acceptance and confidence in participation in DR programs. Currently, standard load profiles penalize consumers for efficient energy usage. Consumers should have the ability to be incented for behavior modification. Transitional DR load profiles will enable this to occur.

Marketers are the appropriate conduit to bring demand response products to consumers because they perform a number of functions in the marketplace: 1) development of innovative DR products and services; 2) consumer education about DR benefits; 3) enabling consumer participation in the market, across multiple markets; and 4) providing transparent pricing and incent behavior changes at the mass market level. Marketers have been making demand response offerings in the marketplace for many years, and the smart grid can enhance the quality and quantity of this type of competitive offerings in the years to come. Marketers will be key contributors to creating demand response consumer awareness. With demand response load profiles, marketers can offer consumers with
rates that leverage existing technologies to provide feedback to affect consumption behavior such as providing text messages on peak price events, using smart thermostats, and/or “Google” power meters. This transitional approach will serve to educate and acclimate consumers to the future availability of dynamic pricing.

III. Consumer Data Privacy/Access

Access to the smart grid infrastructure be provided in a manner that avoids the creation of new information and/or demand or demand response-related monopolies. This Commission recently recognized this, and NEM urges the Commission to reiterate its holding that open, non-discriminatory access to the smart grid infrastructure must be provided to competitive energy marketers and other third parties authorized by consumers to receive and manage their energy usage information. The data should be provided to market participants on a real-time basis. By prohibiting the creation of utility information monopolies, the Commission will do much to ensure a competitively neutral playing field when the new generation of smart meters and other smart grid technologies are deployed.

NEM notes that when the Federal Communications Commission released its National Broadband Plan, it similarly recommended that, “Consumers, and their authorized third parties, must be able to get secure, non-discriminatory access to energy data in standardized, machine-readable formats. Customers should have access to their data in the same granular form in which it is collected, and in as close to real-time as possible.”

FCC went on to suggest that, “PUCs should mandate data accessibility as a part of Smart

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3 The Google PowerMeter shows consumers their electricity consumption in a secure Google gadget. See
Grid rate cases, especially smart meter deployments. Consistent with EISA [The Energy Independence and Security Act], these policies should mandate secure consumer accessibility to real-time energy consumption data, time-series consumption and billing data and dynamic pricing data.\(^5\) NEM urges this Commission to adopt a similar requirement with respect to the New York utilities implementation of smart grid infrastructure. Coincident with the availability of real-time access to data, marketers will also require access to utility bill ready billing systems. By offering bill ready billing, it will permit marketers to offer time-of-use and real-time pricing options, as discussed in Section I of these comments.

The Commission asked whether utilities should be provided sole control of the HAN market. (Order at 12). NEM strongly urges the Commission not to allow the utilities to monopolize the HAN market. The HAN is the gateway to the consumer’s home – appliances, in-home displays, are all part of the HAN. By making the HAN a utility-only program, the Commission would discourage the very innovation and new competitive entry in this field that smart grid is intended to yield. Behind-the-meter competition must be allowed to flourish.

**Conclusion**

Marketers can and should be valued contributors to ensure that a diverse and valuable array of smart-grid enabled products and services can be brought to consumers. To realize the benefits of the smart grid, the Commission should assign a high priority to the implementation of utility bill ready billing systems. By providing a transitional path to real

\[^4\] FCC, National Broadband Plan, Energy and the Environment, Chapter 12, at page 274.

\[^5\] Id.
time pricing signals, through the availability of demand response load profiles, the Commission will enable competitive marketers to play a key role in educating consumers about their energy usage. Moreover, as the New York utilities deploy smart grid infrastructure in the coming years, competitive energy marketers and other consumer-authorized third parties must be provided with open, non-discriminatory and real-time access to the infrastructure and the data it generates.

Sincerely,

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