

**BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**National Action Plan on Demand Response )**

**Docket No. AD09-10-000**

**COMMENTS OF THE  
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)<sup>1</sup> hereby submits comments on the Commission Staff’s Draft National Action Plan on Demand Response [hereinafter “National Action Plan”]. The National Action Plan was required under Section 529 of the Energy Independence and Security Act of 2007. It sets forth a strategic vision in which a Coalition would be formed to assist a federal government agency in implementing the National Action Plan. (Plan at 2). In order to maximize U.S. cost-effective demand response resources, the National Action Plan recognizes two paths of action, namely, enabling price-responsive demand response and facilitating market penetration of emerging smart grid technologies and resources. (Plan at 11). The National Action Plan then delineates strategies and activities for achieving those two paths through: 1) technical assistance to the states; 2) a national communications program; and 3) identification or development of tools and materials for use by customers, states and demand response providers. (Plan at 2, 11). NEM strongly supports the goals and activities recommended in the National Action Plan for facilitating

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<sup>1</sup> NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

the increased availability of demand response resources. We commend the Staff for its inclusive approach to stakeholder input throughout the development of the National Action Plan and for its comprehensive Plan as a whole.

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. In order to effectuate this, we request that the National Action Plan recognize the following:

- Competitive retail energy marketers and representative organizations should be explicitly included in the list of coalition participants;
- Transitional retail demand response load profiles should be included amongst the demand response estimation tools and methods enumerated in the National Action Plan; and
- The role of competitive retail energy marketers in providing both dispatchable and non-dispatchable demand response programs in the marketplace should be acknowledged and supported in the National Action Plan.

**1. Competitive Retail Energy Marketers and Representative Organizations Should Be Explicitly Included in the List of Coalition Participants**

The National Action Plan relies heavily on the formation of a Coalition to assist in its implementation. The National Action Plan sets forth a list of Coalition volunteer groups such as federal, state and local governments; utilities, LSEs and other demand response

providers; RTOs/ISOs; commercial and industrial customers; consumer advocates; and interest groups and other stakeholders. (Plan at 18). In reviewing this list, NEM believes that competitive retail energy marketers could be interpreted to be included in the Coalition participants. However, we request that the National Action Plan explicitly include competitive retail energy marketers and representative organizations in the list of Coalition members. We believe this is appropriate because even when the marketer is acting as a demand response provider in the marketplace, the experience, perspective and value proposition of the competitive retail energy marketer offering demand response products coupled with commodity service offerings would differ from an entity that is operating in the marketplace and solely offering demand response products.

We urge that the National Action Plan recognize the importance of the competitive retail energy marketer community as valued stakeholders in effectuating national and state demand response policies. Indeed, marketers are the entities best suited to deliver the innovative products and services that will be enabled by a truly “smart” grid. Marketers perform a unique role in the marketplace by: 1) enabling consumer participation in the market; 2) providing transparent pricing; and 3) fostering demand response. Marketers have been making these types of offerings in the marketplace for many years. As such, the experience of competitive retail energy marketers must be brought to bear in the implementation of the National Action Plan. This is the best way to ensure that the National Action Plan does not inadvertently foster the creation of new information and/or demand or demand response-related monopolies.

## **2. Transitional Retail Demand Response Load Profiles Should be Included Amongst the Demand Response Estimation Tools and Methods Enumerated in the National Action Plan**

Amongst the “tools and materials” for use by customers, states and demand response providers identified in the National Action Plan, is included the development or enhancement of demand response estimation tools and methods. (Plan at 68). The Plan notes that these tools and materials, “would be tailored to circumstances in wholesale and retail markets, and tailored to restructured and non-restructured markets with vertically integrated utilities, so as to capture the differing sets of incentives and rules for pursuing demand response.” (Plan at 68). The Plan specifically recommends that, “A tool to help retail electricity consumers assess the net financial benefits of participating in demand response programs would be valuable, particularly for commercial and industrial consumers.” (Plan at 74). Similarly, the plan advocated development of “decision tools” to allow end-use customers to better understand how to modify their consumption to achieve bill savings and effectuate system benefits through participation in a demand response program. (Plan at 74). NEM strongly agrees with the recommendations in this section of the National Action Plan and would only suggest that the “tools and materials” not be limited in scope to the impact on large consumers. All consumers, including mass market consumers, can benefit from participation in a demand response program and this consumer group should not be excluded from the benefits to be realized from improved pricing signals.

Of particular interest to NEM in the area of demand response estimation tools and methods is the development of transitional retail demand response load profiles. These new demand response load profiles could use current utility metering systems and

historical usage data combined with the sophistication and statistical reliability of data developed by utility “smart grid” pilot programs, as well as on-going RTO/ISO Demand Response capacity purchasing, measurement, verification and settlement processes and protocols. The development of retail demand response load profiles will facilitate the participation in demand response programs by mass market consumers before the full implementation of the smart grid is achieved.

Establishing new retail demand response load profiles in addition to current “standard” load profiles would also give the mass market consumer a “glide path” to full time-of-use (TOU) pricing. After more than fifty years of average cost pricing of energy consumption, an abrupt switch to full TOU 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.

A transitional approach to pricing Demand Response via retail DR load profiles, may be critical to both educating the public about the benefits of demand response as well as the public adoption of modified consumption behavior. Energy marketers are uniquely situated to bring both the education as well as the modified behavioral benefits of DR to the mass market consumer. Retail demand response load profiles can fill a critical role in the transition to a fully operational “Smart Grid.” We request that Staff consider including the development of retail demand response load profiles amongst the demand response estimation tools and methods included in the National Action Plan. NEM has released a more detailed explanation of this tool in its White Paper entitled, “Achieving

Significant, Near-Term Demand Response by Residential and Small-Commercial Customers” (attached hetero).<sup>2</sup>

**3. The Role of Competitive Retail Energy Marketers and New Retail DR Load Profiles in Providing both Dispatchable and Non-Dispatchable Demand Response in the Marketplace Should be Recognized and Supported in the National Action Plan**

The National Action Plan discussed at length the definition of the term “demand response,” including the differentiation between dispatchable and non-dispatchable demand response. Dispatchable DR programs have been available to large consumers for some time. Dispatchable DR programs can produce the desired system benefits, and depending on the technology used to achieve the demand response, a consumer may or may not get the full benefit of the investments made to reduce consumption of conventional fossil energy sources. Care should be taken that the full system benefits, as well as any renewable energy credits or tax advantages, are available to and retained by the marketer or consumer that implements the technology needed to produce the dispatchable DR. An important point to the ultimate goal of implementing a “Smart Grid” is to ensure that infrastructure and reliability benefits are realized by the regulated delivery service providers, but the financial and cost-savings benefits of new energy products, services information and technologies including RECs and tax savings should be permitted to be captured by the competitive energy industry to then inure to the ultimate benefit of the consumer. Again, the competitive energy marketing industry will play a key role in both educating and implementing these benefits to consumers in the marketplace.

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<sup>2</sup> The full text is available at: <http://www.energymarketers.com/Documents/ACF82C.pdf>

As explained in the National Action Plan, “non-dispatchable demand response” constitutes, “programs and products in which the customer decides whether and when to reduce consumption based on a retail rate design that changes over time. This is sometimes called retail price-responsive demand and includes dynamic pricing programs that charge higher prices during high-demand hours and lower prices at other times.” (Plan at 7). The pricing of Negawatts (i.e., a reduction of demand in response to a new rate design) is a critical piece of the ultimate implementation of demand response generally as well as in DR programs specifically. Indeed, this facet of the transition to a DR pricing model is perhaps the most sensitive to ultimate public confidence and acceptance. NEM urges that the implementation of a DR pricing model be made in steps and that transitional retail DR load profiles be used as an intermediate step in the implementation of full TOU pricing.

Dispatchable Demand Response should qualify for the highest DR price under any new DR rate structure regime, as it envelops full system benefits as well as avoided environmental detriments, particularly in locations in which new generation would be difficult or impossible to build. However, non-technology or partial technology-enabled demand response which is either fully manual or consumer optional and therefore not fully “dispatchable” on demand is a critically important and highly undervalued perhaps even penalized part of the DR portfolio of the future. While price induced demand response does, in fact exist and indeed may exist in large quantities according to recent pilot studies, it is precisely this non-dispatchable demand response that the development of transitional retail demand response load profiles would enable at a very low cost for residential and small consumers, and be provided to the mass markets by competitive

retail energy marketers. Manual or consumer optional demand response (i.e., non-dispatchable DR) if properly implemented could yield significant consumer savings as well as overall system benefits. Indeed, the incremental DR savings available from mandatory, fully technology enabled DR (i.e. dispatchable DR) may equal in quantity the Negawatt supplies available from “non-dispatchable” DR. However, the **rate/rebate designs** and means of enabling non-dispatchable DR must be handled with more caution given its manual and consumer optional character. The potential “rate shock” that could follow a transition to time of use rates before one or more transitional retail demand response load profile(s) have been designed and fairly implemented may cause both hardships on the consumer and undermine the full potential that DR and ultimately a fully functional “Smart Grid” represents.

NEM members are poised to become primary demand response delivery channels and will be better able to develop beneficial, innovative programs for consumers in the restructured retail energy marketplace. In addition to progressive, full and fair prices for dispatchable DR, NEM urges the use of transitional retail demand response load profiles as an interim step to full TOU pricing for non dispatchable DR.

### **III. Conclusion**

NEM supports and commends the Staff’s efforts to develop a comprehensive National Action Plan on Demand Response. We submit these comments to highlight the unique manner in which competitive retail energy marketers can facilitate the availability of demand response products and programs to consumers of all sizes, and how it can be achieved in the near-term. As such, the specific inclusion of competitive retail energy

marketers and representative organizations in the work of the National Action Plan Coalition should ensure that this goal is achieved.

Respectfully submitted,

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