

**BEFORE THE  
GEORGIA PUBLIC SERVICE COMMISSION**

**Provision of Information Concerning         )**  
**Utilities' Filings Before Federal                 )**  
**Regulatory Agencies                                 )**

**Docket Number 22257-U**

**COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)<sup>1</sup> hereby files comments on the Commission's proposed rule pertaining to marketer, utility, company and operator notification of federal and state filings. These Comments are filed pursuant to the Commission's Notice of Proposed Rulemaking issued July 5, 2006. NEM urges the Commission not to adopt the proposed rule. NEM recognizes that in this iteration of the proposed rule that the Commission has attempted to limit the burden of the reporting requirement by seeking an email notice of the entity's filing rather than a copy of the entire filing itself. However, NEM submits that this does not do enough to ensure that the costs and burdens of the reporting requirement are reasonably mitigated. Nor does the revised proposed rule sufficiently or clearly define the scope of the regulatory filings being sought.

---

<sup>1</sup> NEM is a non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial 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, electronic trading exchanges and price reporting services, advanced metering, demand side management and load management firms, billing, back office, customer service and related information technology providers. NEM members are global leaders in the development of enterprise solution software for energy, advanced metering, telecom, information services, finance, risk management and the trading of commodities and financial instruments.

NEM members also include inventors, patent holders, systems integrators, and developers of solar, thin-film, building-integrated photovoltaics, fuel cells, advanced Broadband over Power Line (BPL) as well as new and innovative electrical encoding, applications or decoding known as Smart Electricity.™ NEM and its members are committed to a consumer-focused, value-driven transition to a reliable, price and technology competitive market for energy and related products, services, information and technologies.

## **1. The Proposed Reporting Requirement is Overbroad and Not Clearly Defined**

The Commission issued this proposed rule because of a perceived “need to more closely monitor and participate in those proceedings before federal regulatory agencies that may have an impact on Georgia utilities and their ratepayers.” (NOPR at 2.) The Commission’s proposed means of accomplishing this objective, “is to require companies, utilities, marketers and operators to file via email, a notice with the Commission of any filing it makes, or that is made on its behalf, with any federal or state government agency, department, board, or bureau.” (Id.) On its face, the Commission’s stated need for information does not comport with its proposed means of obtaining it. The proposed reporting requirement is overbroad and unclearly undefined. For example, the Commission’s stated interest is in federal regulatory proceedings, and yet it asks for notice of filings made with state regulatory bodies as well.

The proposed rule fails to clearly delineate what type of filings are implicated. Reporting entities are to submit notice of “any filing.” Given the sheer volume of reporting associated with a broad interpretation of the term “any filing,” NEM questions whether the Commission intends that literally. For instance, filings of an administrative nature may have little or no usefulness to the Commission and should be excluded. Moreover, because of the lack of clarity as to the scope of filings sought by this Commission, entities will likely err on the side of providing too much information – inundating the Commission Staff with so much information that it becomes impossible to attend to and manage in a meaningful and timely manner.

Additionally, reporting entities are required to include with their email notice, “a description of the purpose of said filing(s), including, but not limited to, the impact, if

any, upon its operations within the state of Georgia of the granting of requested approval or actions requested of any petition for agency, department, board or bureau.” Again, because of the broad scope of the quoted language, marketers erring on the side of caution would likely provide more information than is necessary, useful or capable of being responded to in a timely fashion.

Additionally, a reporting entity would be required to submit notice of “any filing it makes, or that is made on its behalf.” (emphasis added.) NEM is concerned about the reach of this requirement. As a national, non-profit trade association of energy marketers and providers of energy related products, services, information and technology, NEM participates in multiple proceedings across the country. NEM is concerned that the language not be interpreted to require marketers to submit notice of filings made by trade associations of which they are a member. NEM’s pleadings are openly available on its website to anyone that wishes to view them.

## **2. Competitive Marketers Will Bear a Disproportionate Cost Burden**

Because the information sought is overbroad and unclearly defined, the reporting requirement would pose a costly burden on effected entities, in particular, competitive marketers that operate on razor thin margins. As noted earlier, it is conceivable and even likely that entities will err on the side of caution and provide the Commission with notice of more filings than are needed or relevant. This overabundance of caution will come at a price. Valuable personnel hours will have to be devoted to ensuring compliance with the reporting requirement. Whereas regulated utilities will recover these costs from captive ratepayers, marketers bear these costs themselves without guaranteed recovery.

Competitive marketers, as they strive to build economies of scale and scope, almost by definition seek to do business in multiple jurisdictions. The reporting burden as proposed would fall disproportionately on these entities as they would be required to submit notice of any filing with the multiple federal and state regulatory bodies that they come before in the course of doing business in the multi-state deregulated marketplace. Reporting entities with a more limited geographic focus would not face the same burdens.

### **3. The Costly Burden of the Proposed Reporting Requirement Can Be Avoided By Reference to Freely Available Information from Public Websites**

NEM suggests that the Commission consider that the information it is seeking is largely publicly available for free on the internet through FERC's website and the websites of other state Public Service Commissions. It is NEM's experience that FERC and most state PUCs have online docket search capabilities similar to that available on the Georgia Public Service Commission website. Given the availability of this information from other sources, NEM would urge that the Commission evaluate whether monitoring of these sites would sufficiently serve its purpose of being apprised of proceedings "that may have an impact on Georgia utilities and their ratepayers." This would avoid imposing a costly burden on competitive marketers that may have the unintended consequence of negatively effecting the pricing of competitive offers.

### **4. Adoption of the Proposed Reporting Requirement Will Set a Harmful National Precedent**

Also of significance to this Commission's ultimate determination in this proposed rulemaking is the potentially harmful national precedent that will be set by imposing this reporting requirement. Georgia is widely heralded as a national leader in implementing a competitive retail natural gas market. The decisions made by this Commission have

ramifications not only for the competitive marketers seeking to serve the consumers of the state of Georgia but also have a broader national impact on the stakeholders of the deregulated energy community. NEM urges the Commission to consider the far-reaching consequences of its decision.

## **5. Conclusion**

For the foregoing reasons, NEM urges the Commission not to impose the proposed regulatory reporting requirement. The proposed rule is overbroad and suffers from a lack of clear and objective parameters. Additionally, the costly and burdensome reporting requirement is particularly unwarranted given the availability of the information from other sources.

Respectfully submitted,

Craig G. Goodman, Esq.  
President  
National Energy Marketers Association  
3333 K Street, NW  
Suite 110  
Washington, DC 20007  
Tel: (202) 333-3288  
Fax: (202) 333-3266  
Email: [cgoodman@energymarketers.com](mailto:cgoodman@energymarketers.com)  
Website-[www.energymarketers.com](http://www.energymarketers.com)

Dated: August 17, 2006.