



N A R U C
National Association of Regulatory Utility Commissioners

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June 22, 2007

The Honorable John D. Dingell
Chairman
Energy and Commerce
Committee
US House of Representatives
Washington, DC 20515

The Honorable Rick Boucher
Chairman
Subcommittee on Energy and
Air Quality
US House of Representatives
Washington, DC 20515

VIA FAX

Dear Chairmen Dingell and Boucher:

On behalf of the National Association of Regulatory Utility Commissioners (NARUC), thank you for your letter dated May 24 requesting our responses to a number of policy questions surrounding the “renewable portfolio standards” issue. We greatly appreciate the opportunity to provide our views on this complicated issue and applaud your efforts to move the debate on this issue forward. We have limited our responses to those questions we believe address policy issues within the regulatory framework and jurisdiction of the State public utility commissions that make up our membership. Therefore, our comments will primarily address the questions found in section 4 – Relationship to State Portfolio Standards and Utility Regulation.

In general, NARUC supports the development of renewable resources as one appropriate approach to meeting the nation’s demand for electricity. Renewable resources should be part of a diverse portfolio of resources, including energy efficiency programs, used to ensure the provision of adequately reliable service to retail electricity customers at a reasonable cost.

At this point, NARUC takes no position on whether Congress should enact legislation establishing a mandatory program requiring electric utilities to meet a national standard—including a credit-trading program that could be used to meet such a requirement in lieu of energy produced or purchased by the utility—establishing a percentage requirement for electric energy produced by renewable energy facilities.

NARUC takes this position because its member commissions have not reached, and may not reach, a consensus on this issue. While NARUC members generally believe that the procurement of generating resources serving retail electric consumers must remain within the exclusive purview of the States, some oppose the adoption of a Federal standard as an

inappropriate intrusion into State resource procurement decisions, while others support a purely voluntary Federal program of incentives (tax provisions, demonstration projects, research investments) to enhance the production of electricity using renewable technologies. Still others believe that there should be a mandatory uniform Federal program, subject to accommodation of existing State programs, to serve as a floor for required purchases of electricity from renewable technologies. As a result, NARUC has not reached consensus on the ultimate issue that must be resolved in connection with the evaluation of proposals for the adoption of a national renewable portfolio standard.

With respect to the specific questions posed in Section "4. Relationship to State Portfolio Standards and Utility Regulation," NARUC responds as follows:

NARUC strongly supports including provisions ensuring that existing State renewable portfolio standard programs are not preempted or disrupted by a Federal program; instead, NARUC believes that any Federal program must provide flexibility in order to accommodate and encourage appropriate State policies.

Additionally, NARUC has consistently taken the position that the acquisition of resources to serve retail consumers, the regulatory oversight associated with the construction and operation of generating facilities to serve retail consumers, and the determination of the appropriate mix of supply, demand, and efficiency resources for use in serving retail consumers should be subject to the exclusive jurisdiction of the State commission or other similar agencies in the jurisdiction where the affected customers are located.

Similarly, NARUC has traditionally asserted that the method by which the retail rates charged for electric service purchased by end-user customers should be subject to exclusive State control. NARUC has taken these positions because the delivery of retail electric service is a complex matter that is not conducive to a National, "one-size-fits-all" approach. As a result, the manner in which and the price at which retail electric service is provided is best handled by State officials and local service providers, who are obligated to take local conditions and preferences into account in deciding how such service is provided in a particular area.

States have already taken the lead in attempting to stimulate the development of renewable generation in a number of ways. For example, a significant number of States have already adopted renewable portfolio standards, while some have adopted tax credits or taken other steps to encourage the development of renewable generation resources. In view of the fact that the availability and cost of renewable generation resources varies widely from State to State, it is appropriate to provide States with considerable flexibility as they attempt to ensure that renewable resources are appropriately utilized in providing retail electric service.

Given the leadership already demonstrated by the States in the development of renewable resources, and given the various and unique issues that need to be analyzed and resolved in making resource procurement decisions, it is NARUC's position that any Federal

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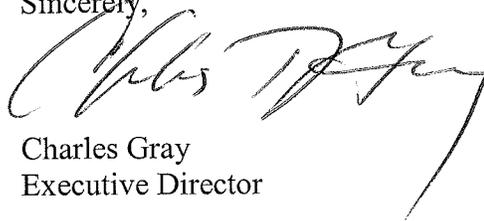
intervention into this area should be undertaken with considerable caution and narrowly tailored to support, rather than preempt, appropriate local efforts. The potential risks of adverse impact to retail electric customers and local economies stemming from an inappropriate Federal mandate are significant and must be taken into account to the extent that Congress considers legislation addressing the manner in which, and the extent to which, renewable resources are used to provide retail electric service.

There are a number of options available to Congress as it considers legislation attempting to stimulate the use of renewable generation resources and how to attempt to achieve that end. For example, Congress could require States to consider a PURPA standard relating to renewable generation. In addition, Congress could provide greater economic or technological certainty for renewable generators by making tax credits intended to benefit renewable generation projects permanent or by funding research grants or demonstration projects intended to improve the efficiency and cost-effectiveness of renewable generation technologies on a long-term basis. The removal of the uncertainties surrounding the continued availability of such tax credits or the continued existence of funding for such research grants or demonstration projects could provide substantial impetus for the development of new renewable generation resources.

Finally, in response to your question under section 4 regarding a requirement that State regulatory agencies pass through the compliance costs of any Federal portfolio standards mechanism, for the reasons which we have discussed above, NARUC strongly opposes the inclusion of a Federal mandate prescribing the manner in which the costs associated with such programs are to be included in retail electricity rates in any Federal renewable portfolio standard legislation. If such a cost-recovery provision is included in RPS legislation, NARUC would be forced oppose the entire bill that contains such a provision.

Thank you again for your interest in our views on Federal "renewable portfolio standards." NARUC and its membership look forward to working with you on this issue as the legislative process progresses.

Sincerely,



Charles Gray
Executive Director

CC: The Honorable Joe Barton, Ranking Member, House Energy and Commerce
Committee
The Honorable Dennis J. Hastert, Ranking Member, House Subcommittee on
Energy and Air Quality