UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Demand Response Compensation in Organized Wholesale Energy Markets	))	Docket No. RM10-17-000

COMMENTS OF THE DEMAND RESPONSE AND SMART GRID COALTION

On March 18, 2009, the Federal Energy Regulatory Commission ("Commission") issued a Notice of Proposed Rulemaking ("NOPR") proposing an approach for compensating demand response resources in order to improve the competitiveness of organized wholesale energy markets and ensure just and reasonable wholesale rates.[1] The Demand Response and Smart Grid Coaltion ("DRSG"), supports the Commission's initiative to address this important issue of demand response compensation on a generic basis across all organized markets, in the context of a rulemaking.

The Demand Response and Smart Grid Coalition (DRSG) is the trade association for companies that provide products and services in the areas of demand response, smart meters and smart grid technologies. DRSG works to educate and provide information to policymakers, utilities, the media, the financial community and stakeholders on how demand response and smart grid technologies such as smart meters can help modernize our electricity system and provide customers with new information and options for managing their electricity use.[2] The DRSG supports the proposed rule and, for the reasons discussed below would support a Commission decision to promptly implement

[1] *Demand Response Compensation in Organized Wholesale Energy Markets*, 130 FERC ¶ 61,213.
[2] DRSG comprises more than 50 companies and include leading companies in the areas of smart metering, demand response, smart appliances, in-home displays and devices, dynamic storage, smart communications and controls, smart grid networks, and data management. DRSG members work throughout the US and around the world. They are at the forefront of the effort to modernize the electric grid; and to enable consumers to have greater awareness and control over their electricity usage. DRSG members collectively have thousands of MW of demand response capacity under management.

its proposal in the form of a Final Rule to ensure adequate compensation for demand response resources participating in organized markets.

I. BACKGROUND AND INTRODUCTION

Over the last several decades the Commission has acted to implement Congressional policy to expand the wholesale energy markets to facilitate entry of new resources and to support competitive markets.[3] As part of these efforts, in Order 719, the Commission implemented a series of reforms aimed at improving the competitiveness of the organized energy markets, finding that effective wholesale competition protects consumers by, among other things, providing more supply options, encouraging new entry and innovation, and spurring deployment of new technologies.[4] Order 719 also recognized the many benefits that demand response brings to organized wholesale energy markets, including: (1) increased competition; (2) lower prices; (3) mitigation of market power; and (4) system reliability support and resource adequacy.[5]

Consistent with the direction established in Order 719, the NOPR finds that demand response "can play a critical role in helping the Commission fulfill its mandate under the Federal Power Act ("FPA") to ensure that rates charged for energy are just and reasonable."[6] The challenge, of course, is that each Regional Transmission Organization ("RTO") and Independent System Operator ("ISO") (collectively referred to as RTOs) has taken a different approach to facilitating and valuing demand response participation in RTO-coordinated markets. Each RTO has developed a different approach to

[3] NOPR at 2.
[4] *Wholesale Competition in Regions with Organized Electric Markets*, 125 FERC ¶ 61,071 at P16-18 (Oct. 17, 2008)("Order 719")(citing *New England Power Pool and ISO New England, Inc.*, 101 FERC ¶ 61,344 at P44-49 (2002), *order on reh'g*, 105 FERC ¶ 61,211 (2003); *PJM Interconnection, LLC*, 95 FERC ¶ 61,306 (2001); *PJM Interconnection, LLC*, 99 FERC ¶ 61,227 (2002); *Southwestern Power Pool, Inc.*, 116 FERC ¶ 61,289 (2006).
[5] *Id*. at P 48; NOPR at 3-4.
[6] NOPR at 6 (citing 16 U.S.C. § 824d (2006)).

compensating demand response—generally below, and sometimes far below, the prevailing Locational Marginal Price ("LMP") or market-clearing price.[7] One RTO—the Southwest Power Pool ("SPP") - has no systematic demand response compensation approach.[8] This situation is one of the factors contributing to a relatively low degree of demand response participation in wholesale energy markets and, as such, has resulted in diminished benefits to consumers.[9] The Commission, recognizing the unrealized potential of demand response, proposes to add section 35.18(g)(1)(v) to its regulations to require that each RTO implement tariff provisions providing for compensation to demand resources at full LMP.

The concept of full LMP compensation, however, is not new. Nor is the debate. Most recently, the issue of demand response compensation was framed squarely at the Commission in a complaint proceeding brought by PJM Interconnection, LLC ("PJM") ("*PJM Complaint*").[10] As the Commission identified in the NOPR, perhaps the most influential among those presenting evidence in the complaint case was Dr. Alfred E. Kahn, who concluded that "the costs saved by curtailments in demand clearly will be LMP-including the marginal costs of generation. So, in the end the LMP inducement is clearly the correct one."[11]

In this NOPR, the Commission states its preliminary determination that full LMP for demand response service is the correct approach for all RTOs, and for all hours of the day. In the Comments below, DRSG responds to each of the issues on which the Commission seeks further input. The Commission will find that no reasonable basis

[7] NOPR at 8-9.
[8] NOPR at 8-9.
[9] NOPR at 10-12.
[10] *PJM Interconnection, LLC*, EL09-68-000 (2009).
[11] *Id*. Protest of DRSG, Kahn Affidavit at 3-4.

exists for not carrying through with its preliminary determination that "full LMP" is the correct approach for compensating demand response participation in RTO-coordinated energy markets. The approach will provide benefits across all customer classes, and move RTO-coordinated markets closer to being dynamically competitive. DRSG would support the Commission's prompt finalization and implementation of a Final Rule.

II. COMMENTS

As a threshold matter, DRSG urges that the Commission's Final Rule aim directly at the target of delivering benefits to customers. Essential to the just and reasonable balance is that consumers not be subjected to exploitative rates, and demand response is a cost-effective barrier against exploitative rates. The Supreme Court has recognized that the Commission stands as the watchdog providing "a complete, permanent and effective bond of protection from excessive rates and charges."[12] Furthermore, the Court "has described utility consumers as the agency's 'prime constituency.'"[13] The Court of Appeals for the District of Columbia Circuit even more explicitly described the importance of the Federal Power Act to protecting end-use consumers. In a decision discussing the powers and duties of the Commission's predecessor, the Federal Power Commission, the D.C. Circuit Court stressed the notion that the "primary task" of the Commission is to "guard" the consumer from exploitation, consistent with Congress' objectives in implementing the Federal Power Act:

> Congress's central concern with exploitation is of course reflected in the statute's emphasis on just and reasonable prices, as well as by its frequent references to the financial and accounting aspects of electric power operations. The

[12] *Jersey Central Power & Light v. FERC*, 810 F.2d 1168, 1207 (D.C. Cir. 1987)(citing *Atlantic Refining Co. v. Public Service Commission*, 360 U.S. 378, 388, 79 S.Ct. 1246, 1253, 3 L.Ed.2d 1312 (1959)).
[13] *Maryland People's Counsel v. FERC*, 761 F.2d 780, 781 (D.C.Cir.1985) (citing *Federal Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 620).

> legislative history of the Act adds little to our understanding. It reveals that Congress's goal was, once again, the 'planned coordination of the facilities of the industry which alone can produce an abundance of electricity at the lowest possible price.'" (footnotes omitted).[14]

In today's complex and challenging wholesale markets, the possibility of unjust and unreasonable outcomes is omnipresent. In the demand response context, this mandate means that demand response must be adequately compensated because it provides quantifiable and qualitative benefits to all customers, and helps protect against unjust and unreasonable market outcomes. Requiring full LMP compensation to demand response will help the Commission satisfy its statutory obligation.[15]

1. Issue: The need to compensate demand response acting as a resource in organized wholesale energy markets, including whether current compensation for demand response providers is adequately procuring demand response.

The Commission has rightly concluded that the current compensation provided for demand response resources is inadequate in most of the organized markets and that LMP is the proper payment required to ensure adequate demand response. In Order 719-A, as in the NOPR, the Commission identified several areas in which demand response benefits the wholesale markets — reducing price volatility; aiding system reliability; lowering wholesale prices; reducing potential exercises of market power; and increasing competition.[16] Notably, no party challenged these Commission findings, made in Order 719-A, that are generically applicable to the organized markets that will be subject to a Final Rule issued in this rulemaking process.

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[14] *See Nat'l Ass'n for the Advancement of Colored People v. Fed. Power Comm'n*, 520 F.2d 432, 438 (D.C. Cir. 1975).
[15] *See PJM* Complaint, Protest of DRSG, Affidavit of Alfred E. Kahn at 3, 6.
[16] *Wholesale Competition in Regions with Organized Electric Markets*, 125 FERC ¶ 61,071, *order on reh'g*, 128 FERC ¶ 61,059 (2009)("Order 719-A") at P 47.

The Commission's general findings, in Order 719-A and elsewhere, reflect the studies and analysis that have been conducted over the past few years. There is substantial evidentiary support for the Commission's conclusions. For example, the Brattle Group prepared a study, "Quantifying Demand Response Benefits in PJM," showing the many substantial and positive affects demand response can have on PJM's wholesale energy and capacity markets.[17] The Brattle Group study simulated the market impacts of curtailing only 3% of load in five of PJM's zones during the top twenty 5-hour price blocks in 2005. It found that:

- Curtailing 3% of each selected zone's super-peak load, which reduces PJM's peak load by 0.9%, yields an energy market price reduction of $8-$25 per megawatt-hour ("MWh"), or 5-8% on average, during the 133-152 hours in which curtailment occurs in at least one zone. The range depends on market conditions.

- Assuming all loads (i.e., customers or their retail providers) are exposed to spot prices, the estimated price reductions could benefit non-curtailed loads in MADRI states by $57-$182 million per year. The potential benefits to the entire PJM system amount to $65-$203 million per year.

- The market impact in each zone would be substantially smaller if it curtailed its load in isolation from the other zones. By the same token, the market impact would be larger if more than five zones implemented DR programs or if greater amounts of DR participation were achieved.[18]

The Brattle Group also estimated that benefits to demand response program participants were significant, despite the relatively small amount of curtailment. The study stated that benefits would be approximately $85 to $234/MWh based on its

[17] *Quantifying Demand Response Benefits in PJM*, the Brattle Group, prepared for PJM Interconnection, LLC and the Mid-Atlantic Distributed Resources Initiative ("MADRI") (Jan. 29, 2007).
[18] *Id*. at 2.

simulations and, using different assumptions, could result in yearly benefits ranging from $1 to $36 million. In addition, participants would also benefit on the capacity side, as reducing peak demand would flatten the load shape and could produce a long-term capacity benefit of $73 million/yr based, again, on only an assumed 3% curtailment of load in the five zones.[19] PJM itself has recently weighed in on this issue and presented yet more data estimating the value of demand response based on actual events:

> Demand response demonstrated its value during a heat wave in early August 2006. Reductions in electricity use produced price reductions estimated to be equivalent to $650 million in payments for energy for the week of the heat wave. On the day PJM reached a new all-time peak, demand reductions lowered the cost of electricity by about $230 million.[20]

There is no indication that these types of results would not occur in wholesale markets across the United States.

On top of these obvious economic benefits, the Brattle study identifies other benefits that are not as easily quantifiable. These areas include: enhanced market competitiveness; reduced price volatility; insurance against extreme events; capacity benefits to non-curtailed load through lowering capacity clearing prices; and environmental benefits, such as lowering emissions at critical times.[21]

Numerous other broader studies have made similar conclusions regarding demand response benefits.[22] For example, FERC Staff issued its "Assessment of Demand Response & Advanced Metering" in December 2008, outlining the status of demand

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[19] *Id*. at 3.
[20] *See* http://ftp.pjm.com/about-pjm/~/media/about-pjm/newsroom/downloads/demand-response-fact-sheet.ashx.
[21] *Id*. at 26-30.
[22] *See, e.g.*, Federal Energy Regulatory Commission, *Assessment of Demand Response and Advanced Metering: Staff Report*, Docket No. AD-06-2-000 (Aug. 2006); Federal Energy Regulatory Commission, *Assessment of Demand Response and Advanced Metering: Staff Report*, Docket No. AD (Dec. 2008)("2008 Staff Report"); United States Department of Energy, *Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them*, A Report to the United States Congress Pursuant to Section 1252 of the Energy Policy Act (Feb. 2006)("DOE Report").

response programs throughout the country and recommending that the Commission continue to make demand response a priority.[23] Commission Staff further highlighted the "critical role" that demand response has played during system emergencies during 2007:

- Demand response averted a system-wide emergency in California between August 29-August 31.

- On August 8, PJM reached its system peak of 139,428 MW. Emergency demand response provided an 888 MW reduction, and demand response resources in the economic program provided additional reductions, lowering the system peak and LMP.

- On December 12, an unexpected drop in generation of 1,022 MW occurred in Texas. ERCOT's demand response program resulted in a response of 1,051 to stabilize the grid, (within 16 minutes of ERCOT's call).[24]

Furthermore, in February 2006, the United States Department of Energy ("DOE") issued its report, "Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them," citing the numerous benefits that demand response programs have, and can have, to electric markets. The DOE Report found that the "most important benefit of demand response is resource-efficiency of electricity production."[25] The DOE Report also concludes that demand response results in: (1) participant financial benefits, through bill savings and incentive payments; (2) market-wide financial benefits, due to lower wholesale market prices caused by demand response lessening the need for costly-to-run generators during periods of high demand and longer-term wholesale market benefits such as lower production costs and lower prices; (3) reliability benefits, because demand response lowers the likelihood and

[23] 2008 Staff Report at 65.
[24] *Id*. at 49-53.
[25] DOE Report at vi.

consequences of forced outages that would impose financial costs and inconvenience to customers; and (4) market performance benefits, due to demand response's value in mitigating suppliers' ability to exercise market power.

Despite the potential for providing significant benefits, demand response remains an under-developed and under-utilized resource in wholesale markets. For example, the PJM's Independent Market Monitor has consistently pointed out that the demand side of wholesale electricity markets in PJM is "underdeveloped."[26] The 2006 DOE Report also made several important findings, among them that total load management capability had fallen by nearly one-third since 1996 due to several reasons, including the fact that fewer utilities were offering load management services.[27]

Demand response is characterized as "underdeveloped" not only because of the actual level of penetration of demand response in wholesale markets is low, but also because that demand response is enabled to provide only a fraction of the benefits it is capable of providing to customers. Increasing demand response in the wholesale markets, therefore, should be of paramount concern to the Commission, and increasing opportunities to encourage demand response resources to seek to participate by fully compensating them for the benefits they bring to the market is a necessary part of the solution.[28] Therefore, the Commission's move to require organized wholesale electricity markets subject to its regulation to compensate demand response resources at LMP is something that DRSG supports.

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[26] 2009 State of the Market Report for PJM; Monitoring Analytics, LLC, Internal Market Monitor for PJM (Mar. 11, 2010) at 17; 2008 State of the Market Report for PJM, Monitoring Analytics, LLC, Internal Market Monitor for PJM (Mar. 11, 2009) at 93; 2007 State of the Market Report, Market Monitoring Unit (Mar. 11, 2008) at 10, 93; 2006 State of the Market Report, Market Monitoring Unit (Mar. 8, 2007) at 93; Barriers to Demand Side Response in PJM, Monitoring Analytics, the Independent Market Monitor for PJM (July 1, 2009), Docket No. ER09-1063-000 at 27.

[27] *Id*. at xii.

[28] *See PJM* Complaint, Protest of DRSG, Affidavit of Alfred E. Kahn at 6.

2. <u>Issue</u>: Alternative approaches to compensating demand response resources participating in organized wholesale energy markets, and the merit of those approaches in comparison to full LMP in all hours.

As more fully discussed above, compensation approaches that fall short of providing full LMP in all hours have proven not to be successful and have not delivered the full potential benefits that demand response can deliver to customers. The PJM region provides a good compare-and-contrast case study of demand response participation with and without full LMP compensation. Prior to its expiration near the end of 2007, PJM had in place a demand response compensation approach that paid full LMP to demand response resources in most hours. That compensation approach expired, on its own terms, at the end of 2007, and customers' efforts to renew that compensation approach were not successful.[29] Following expiration of that "near-full LMP" approach to demand response compensation, PJM experienced (and continues to experience) marked declines in demand response participation in the day-ahead and real-time energy markets.

The Midwest ISO's current approach to demand response compensation demonstrates the inhibitive effects that less than full LMP compensation could have on demand response participation. The Midwest ISO's approach of requiring an almost complete offset to demand response compensation eliminates any real incentive for DR to participate in energy market. Unsurprisingly, the Midwest ISO has seen very little participation. For example, the Brattle Group issued a paper, "Fostering Economic Demand Response in the Midwest ISO," in December 2008, highlighting the lack of participation of demand-side resources and recommending approaches that the ISO could

[29] See PJM Industrial Customer Coalition v. PJM Interconnection, L.L.C., FERC Docket No. EL08-12

take.[30] While recognizing the regional differences and barriers to broader participation, the Brattle Group recommended "to consider changing its tariff and business practices to accommodate the “supply curves” approach that would facilitate the entry of [curtailment service providers]," which the paper found to be particularly useful in achieving gains in demand response participation.[31]The paper further stated that "the fact that some parts of the Midwest ISO have much less DR than others suggests that the utilities in those areas have lagged in developing cost-effective DR, and that CSPs could help to fill those gaps."[32]

These real-world experiences demonstrate that the objective of ensuring dynamic participation by demand response resources in LMP-based energy markets is not apt to be fulfilled absent compensation to those demand response resources comparable to the level of compensation provided to generation resources – i.e., full LMP with no administrative offset.

3. <u>Issue</u>: Whether a reduction in consumption is comparable to an increase in electricity production for the purposes of balancing supply and demand and whether demand response providers and generators should receive comparable compensation.

Reducing consumption is comparable to increasing generation because demand response provides a functionality that is equivalent to the functionality provided by generation – i.e., providing the service of demand response enables grid operators to maintain the necessary system balance between supply and demand. This comparability between generation and demand resources with respect to supply and demand balancing has been noted by several independent agencies, including the Commission's Staff. In

[30] "Fostering Economic Demand Response in the Midwest ISO," The Brattle Group (Dec. 30, 2008).
[31] *Id*. at 73.
[32] *Id*. at 74.

fact, in December 2008, the Commission's Staff issued a study showing how demand response can provide relief in system emergencies, in effect compensating for a lack of adequate response in generation with a decrease in consumption. Specifically, as we earlier noted, the study concluded that demand response averted a system-wide emergency in California in August 2007; significantly lowered PJM's system peak and LMP in August 2007 during a demand spike; and, on December 12, 2007, offset an unexpected drop in generation of 1,022 MW occurred in Texas. ERCOT's demand response program resulted in a response of 1,051 to stabilize the grid (at the time there was a 16 minute response; the program has more than doubled its reliable resources, in the interim, and has been honed to deliver 10 minute response).[33]

Given the fact that both providing additional generation and/or curtailing consumption effectively provide the same service to the market, it is crucial that the Commission provide comparable compensation to demand-side resources.

4. <u>Issue</u>: Whether paying LMP to demand response providers is comparable compensation or more or less than comparable to compensation paid to generation in RTO and ISO energy markets.

Compensating demand response at the applicable LMP is an appropriate means of addressing the Commission's articulated concerns in Orders 719 and 719-A, which emphasized comparability among resources. In Order 719, the Commission specifically required that "each RTO or ISO assess and report on any remaining barriers to comparable treatment of demand response resources that are within the Commission's jurisdiction and to submit its findings and any proposed solutions, along with a timeline for implementation

[33] Staff Report at 49-53.

Supply- and demand-side resources are comparable in nature and effect, and provide the same type of service to wholesale energy markets, albeit in directly opposite ways. Under the current regimes, when demand for electricity is high, the general practice is to offer more generation, which at times drives the LMP higher leading to all generations being then compensated at the higher LMP. Demand response resources, however, can and do provide the same grid-balancing service, while also delivering other benefits to the market, including lower overall prices to consumers than would be paid if RTOs relied only on generation during high-priced hours. Compensating demand response resources at a level of LMP, no more and no less, for its service is, therefore, appropriate. Further, any argument that demand side resources are being compensated twice, with energy savings and demand response payments, falls flat, from our perspective, on two fronts:

1. Demand response participants who load-shift do not generally (with the limited exception of time-based rates; even in these markets they get only a portion of the beneficial value they provide) get any savings benefit from participating in demand response and
2. Implementing demand response has a technology cost, an operations cost, and a lost opportunity cost for demand response participants.

Moreover, other approaches to compensating demand response have resulted in less-than optimal outcomes. For example, and as described in response to Issue #2 (above), we believe alternatives to LMP in PJM correlate with a tangible negative market reaction, due in part, to decreases in compensation—less than LMP results in decreased

participation. Observed reactions to compensation approaches, therefore, suggest that full LMP compensation is necessary and proper.

5. Issue: Whether payment of LMP should apply to all hours and, if not, the criteria to be used for establishing the hours when LMP should apply.

Consistent with the customer-oriented objectives that should guide the Final Rule, DRSG posits that payment of full LMP to demand response resources should apply to all hours when the net benefit to customers is positive. For example, for dispatchable demand response assets, the RTOs should implement algorithms that would determine, in advance of dispatch, whether a net customer benefit would occur. If the RTO makes that determination, it would dispatch accordingly. However, if the process of delineating this exception were to have the impact of delaying a final FERC ruling, DRSG would not support delay, in exchange for perfection.

In the presence of a FERC-ordered "carve-out," and in the case of "self-scheduled" demand response, such resources would bear the risk of non-payment for instances in which the RTO subsequently determines that the self-schedule did not yield customer benefits that would otherwise entitle the resource to full LMP payments. By and large, this issue is something the resource owner will have already accounted for when determining whether to provide its service: receiving full LMP payments during times of low LMPs will not be an economic choice for the resource owner. So, as customers near the "cross-over" point (i.e., where customer benefits are zero or negative), they will be less inclined to self-schedule demand response resources. DRSG sees this crossover point as less significant today than it will be when technologies and costs of

these technologies improve- more cost effective hours of demand response will mean that the industry "butts heads" against less outlying LMP prices.

6. Issue: Whether requiring payment of LMP is appropriate across all RTOs and ISO; or whether variations justify varying levels of compensation.

Requiring payment of LMP would be appropriate across all organized wholesale energy markets subject to Commission regulations once this determination has been made for any specific wholesale market. Any organized market that uses LMP to determine the market-clearing price for payment to generation resources should use LMP to determine payments to demand response resources to ensure comparability for the respective services provided to the markets.

The fact of the matter is that generators are paid LMP for energy sales into RTO markets. As stated by the Commission in its NOPR and as recognized throughout these Comments, demand response also provides numerous significant benefits to wholesale markets for this service, not the least of which are aiding reliability, checking potential uses of market power, and tempering prices. The Commission has already observed that comparability among resources is necessary to its regulated wholesale markets,[34] and the principles underpinning comparability have no regional distinction. The Commission, therefore, would require RTOs to deviate from full LMP payment for demand response resources in any one hour, only upon a strong showing that such an approach is incapable, in any one hour, of providing net benefits to customers. In all other circumstances, all RTOs would be required to implement full LMP compensation for demand response resources for all hours in which there is a net benefit to customers.

[34] Order 719, 719-A.

7. Issue: Whether FERC should allow regional variations for an ISO or RTO that does not seek to compensate demand response.

DRSG does not oppose reasonable variations amongst RTOs that are designed to implement a federal regulation under varying market structures. However, the Commission should not adopt regulations in the Final Rule that permit regional variations to compensating demand response resources that have the effect of inadequate compensation (and therefore sub-optimal outcomes for market efficiency) for demand response. For the reasons stated throughout these Comments, the Commission should generally require all organized wholesale energy markets under its regulatory authority to use full LMP compensate demand response appropriately. The many benefits provided by demand response to wholesale energy markets, recognized by the Commission in its NOPR and throughout these Comments, depend, in part, on an appropriate level of demand response in all wholesale markets.

If the Commission were to allow regional variations, it should impose a high regulatory presumption against an RTO that proposes to compensate demand response at less than full LMP. Any RTO that seeks an exception to the full LMP compensation mandate should be required to demonstrate that its approach adequately compensates DR, and that its approach would achieve 100% of the benefits of DR, related to system reliability, clearing price reductions, volatility reduction benefits, and related to the mitigation of market power.

DRSG also recognizes that the substantial differences in tariff and agreement structures among the various RTOs may drive slight differences in implementation of a Final Rule. Those differences, however, should not drive a non-standard outcome in the basic concept to be embodied in a Final Rule.

8. Issue: Whether, and under what circumstances, FERC should conduct periodic reviews of demand response compensation and the criteria used in making such assessments.

DRSG does not necessarily object to the concept of reviewing, after some predetermined length of time, demand response compensation to ensure that it continues to deliver benefits to organized wholesale energy markets. However, the criteria for any such review(s) should focus on principles of comparable treatment for resources that achieve desired results in RTO/ISO markets. Any such review(s) should focus only on whether demand response payments achieve at least the same level of savings to other Market Participants. Put another way, if the review shows a net benefit to customers, no further inquiry is necessary and full LMP compensation should be retained.

While other options may be reasonable, we also suggest that any periodic review could be considered, on the order of every five or ten years. We believe it should be initiated by a study performed by Commission Staff or another independent entity to ensure the accuracy of the results and conclusions. We further recommend, in the interest of fairness and to ensure that robust and comprehensive data is presented and considered, that any study should allow interested persons to submit comments and evidence.

9. Issue: Whether such terms as "expected levels," "price signals," and "market prices" are sufficiently defined.

As a general matter, we support the Commission's determination to fully compensate demand response resources and do so promptly in order to ensure that the attendant benefits are realized by the markets and consumers. To that end, and to make certain that the Commission's goals are fulfilled as intended, we also support efforts to include as much specificity as possible in the Final Rule. As the Commission is no doubt

aware, stakeholder processes are lengthy. Ambiguous terms will likely give rise to lengthy stakeholder processes to discuss implementation and further delay meaningful reform**.** Nevertheless, it is our belief that the terms "price signals" and "market prices" appear not to require additional specificity and need not be addressed in this proceeding.

However, we suggest that the Commission explore defining the phrase "expected levels," particularly in the event that it determines in this proceeding or at a later date to re-examine the issue of compensating demand response resources at full LMP. The "expected level" should be a level of demand response participation that is defined by each RTO in order to recognize the differences in the individual markets. However, the RTOs' respective "expected levels" should be formulated as rationally and consistently as possible in order to ensure that the goals sought by increased demand response participation are achieved. Therefore, the Commission should require that each RTO's "expected level" be largely consistent, while recognizing the nuanced retail or state regulatory barriers that may exist.

10. <u>Issue</u>: How should demand response payments be allocated and who should pay for full LMP compensation.

The Commission should address in the Final Rule how payments to demand response resources should be allocated and how payments should be received. Addressing this matter at the outset, and while the Commission is adopting comprehensive reform with respect to the overarching issue of resource compensation, will provide both clarity to markets and market participants that will help avoid potentially protracted stakeholder discussions (or in the worst case, litigation) that will only serve to delay the benefits of reform. DRSG recommends that the Commission

adopt, as part of an order promulgating a Final Rule or in the Final Rule itself, a concept that generally requires that customers who benefit from the demand response pay the cost of full LMP compensation.

III. CONCLUSION

WHEREFORE, the DRSG respectfully requests that the Commission consider these Comments and, in the Final Rule, adopt regulations requiring the payment of full locational marginal pricing to eligible demand response resources in organized wholesale energy markets.

Respectfully submitted,

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Dated: May 13, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 13th day of May, 2010.