

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

National Action Plan on
Demand Response

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)

Docket No. AD09-10

**COMMENTS ON NATIONAL ACTION PLAN ON DEMAND RESPONSE
BY
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER
ADVOCATES**

**NATIONAL ASSOCIATION OF STATE
UTILITY CONSUMER ADVOCATES**
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

By: Jody M. Kyler
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 (phone)
kyler@occ.state.oh.us

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The National Association of State Utility Consumer Advocates (“NASUCA”) hereby submits the following comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Notice requesting comments on the Commission Staff’s *Draft for Comment of the National Action Plan on Demand Response* (“National Action Plan”) issued on March 11, 2010.¹ NASUCA is a voluntary organization comprised of offices from 40 states and the District of Columbia, charged by their respective state laws to represent consumers before federal and state utility regulatory commissions, before other federal and state agencies, and before federal and state courts. Many NASUCA members have extensive experience with regulatory policies governing the electric utility industry and have participated in proceedings concerning demand response issues. NASUCA members’ primary interest is the protection of residential and other small consumers.

¹ The National Action Plan on Demand Response is an effort by FERC to meet three objectives required by section 529 of the Energy Independence and Security Act of 2007 (“EISA”): 1) identify technical requirements for assistance to states to allow them to maximize the amount of demand response resources that can be developed and deployed; 2) Design and identify requirements for implementation of a national communications program that includes broad-based customer education and support; and 3) Develop or identify analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, states, utilities, and demand response providers.

In its Notice, the Commission established April 8th as the deadline for written comments on the National Action Plan. NASUCA commends FERC on its efforts to develop and refine the National Action Plan. The Commission Staff's ("Staff") draft provides a solid framework to facilitate development of a comprehensive National Action Plan that will effectively catalyze the implementation of demand response. As a general comment, however, the National Action Plan fails to address where the funding used to implement many of the components of the National Action Plan will be generated. While there is much to support in the National Action Plan,² NASUCA's comments will focus on areas where residential consumer concerns could be better addressed, particularly regarding the proposed national communications program.

I. DISCUSSION

A. The Staff's Proposed "Paths of Action" Should be Revised to Maximize the Value of Cost-Effective Demand Response for Consumers

The Staff's National Action Plan proposes two simultaneous "paths of action" to maximize the amount of cost-effective demand response: 1) enabling price-responsive demand response; and 2) facilitating market penetration of newly developing smart grid technologies and programs.³ Although NASUCA supports the implementation of cost-effective demand response, the Staff's second path of action is too specific and may result in significant and unreasonable expenditures for consumers. By establishing the

² For example, NASUCA appreciates the Commission's recognition that communication programs should not include a national mass media campaign, but instead should be tailored locally in order to preserve state processes and unique regional differences. National Action Plan at 41. Further, NASUCA supports the National Action Plan's recognition that foundational market research should be conducted at local and regional levels. Both of these concerns were expressed in NASUCA's earlier comments in this docket. NASUCA's Comments on the National Action Plan on Demand Response ("NASUCA Comments"), FERC Docket No. AD09-10 (Dec. 22, 2009) at 5 and 9-10, respectively.

³ National Action Plan at 11.

market penetration of smart grid technologies and programs as its second plan of action and thereby making smart grid implementation a major priority of the National Action Plan, the Staff assumes that the significant expenditures necessary to implement smart grid technologies are a good value for consumers.

As NASUCA already noted in this docket, a variety of demand response programs are already in place and more programs are possible even without developing a smart grid.⁴ Additionally, many smart grid technologies and concepts are still in their infancy and are not clearly understood. In fact, there is no generally applicable understanding of the definition of smart grid, the principle characteristics of smart grid, or the realized benefits of smart grid investments. Thus, there is much work that still needs to be done by policymakers to ensure that there is a clear general understanding of these concepts prior to funding any smart grid deployments.

Before making the market penetration of smart grid technologies one of its main paths of action, the benefits of smart grid investments need to be demonstrated to consumers. Further, the costs of smart grid technologies and programs should be audited. Both the claimed benefits and costs of smart grid should be subject to measurement and verification. Additionally, smart grid investments should be subject to accountability standards that ensure least-cost planning. Focusing solely on enabling price-responsive demand through smart grid technologies may be too limiting. Thus, the Staff should not explicitly make market penetration of smart grid a major path of action in the National Action Plan before the actual costs and benefits of smart grid technologies to consumers have been accurately measured.

⁴ NASUCA Comments at 3.

One solution to this issue is to revise the second path of action to read “facilitating market penetration of demand-side management technologies and programs.” Demand-side management technologies and programs include smart grid, advanced metering, energy efficiency, renewable energy storage, and direct load control programs, among others. Through increased choices for demand-side management, states and local entities can tailor their demand response programs to maximize the amount of cost-effective demand response and to adopt those technologies and programs that are most beneficial to consumers.

B. FERC Should Ensure that it Hears the Consumer Voice in the Coalition that Advises on Implementation of the National Action Plan

In its National Action Plan, the Staff proposes that the Coalition responsible for advising the federal agency implementing the National Action Plan will be funded through non-federal sources, which means that participating organizations would directly fund Coalition activities or arrange for additional funding from other sources.⁵ Further, the National Action Plan proposes that the Coalition will be composed of voluntary leaders from various stakeholder groups.⁶ Consumer advocate offices or other consumer representatives who may wish to participate in the Coalition’s activities may not have the financial resources to fund Coalition activities and, therefore, may be hindered from participating. Further, consumer advocates may not be able to participate actively in Coalition meetings because of time and staffing constraints. Thus, financial, time, and staffing limitations may undermine the voice of the residential consumer in the Coalition.

⁵ National Action Plan at 2, fn. 4.

⁶ National Action Plan at 19.

Because the proposed Coalition would play a significant advisory role to the federal agency overseeing the implementation of the National Action Plan, the potential lack of a consumer voice in Coalition decision-making is problematic. Additionally, the voluntary nature of the proposed Coalition could lead to organization problems because too many individuals may be involved. Further, there may be issues with stacked voting because certain stakeholders will have greater numbers than others.

To solve these issues, the Coalition should have a Steering Committee composed similarly to Option B of the recently released Straw Proposal for the Eastern Interconnection Planning Collaborative's Steering Committee.⁷ As part of the Coalition Steering Committee, there should be at least one member specifically chosen by residential consumer advocates to represent the residential consumers' interest in providing advice, strategic insights, and expertise to the federal agency implementing the National Action Plan. Further, this representative should have a weighted vote so that the representative has a vote that is equal in strength to the other sectors' votes. Having such a representative who can attend regular Coalition sessions and can focus their time on the National Action Plan will ensure that the residential consumer's perspective is a part of the decision-making process used to implement the National Action Plan.

C. Consumer Representatives Should be Included in the Informational and Educational Sessions.

In the National Action Plan's section addressing technical assistance to states, the Staff proposes holding multiple regional and state sessions targeted to state and federal regulators, legislators, and other policymakers to share and learn about the attributes, uses, and benefits of effective demand response and opportunities to implement demand

⁷ EIPC Stakeholder Steering Committee Straw Proposal (March 18, 2010), http://www.eipconline.com/newsroom/EIPC_SSC_Straw_Proposal_Responsibilities_Final-031110.pdf

response.⁸ These sessions “would allow more targeted discussion and input from state officials and local utilities on demand response issues specific to each region.”⁹

One of the topics that should be addressed during these targeted discussions is the settlement of demand response payments between regional transmission organizations, demand response participants, demand response providers, and the regulated load-serving entities that will ultimately pass these payments through to consumers. This discussion could increase the quality of the state regulatory-review process for recovery of expenditures associated with demand response programs by helping all parties involved, including consumer representatives, understand what reasonable expenditures are.

Further, these informational and educational sessions should explicitly be open to representatives of consumers, especially advocate offices for utility consumers. Not only will consumer representatives get the benefits of increased knowledge on demand response, which will enhance the quality of discussions in later regulatory proceedings on demand response issues, but the sessions will provide an opportunity for discussion with other stakeholders regarding the consumer’s perspective on demand response programs.

D. The National Communications Program

1. FERC Should Draft a Consistent “Consumer-Friendly” Message Framework.

In the National Action Plan, the Staff proposes to adopt a consistent national message framework that local demand response implementers can customize and use to develop their own materials and message to consumers.¹⁰ The national message framework is a combination of messages, communications materials, and support tools to

⁸ National Action Plan at 29.

⁹ National Action Plan at 30.

¹⁰ National Action Plan at 43.

help all stakeholders understand and implement demand response programs. This consistent national message framework should focus on creating “consumer-friendly messages.”¹¹ For example, the term “demand response” may be confusing for consumers and therefore the national message framework should clarify what demand response means or possibly provide for using more understandable terminology to describe demand response.¹²

Creating consumer-friendly messages includes not only using consumer-friendly terminology,¹³ but helping consumers understand the industry terminology that would be involved in the implementation of demand response.¹⁴ As NASUCA commented previously, whatever terminology is selected, consumer education messages must be communicated in a manner that consumers can understand.¹⁵

NASUCA supports linking demand response with other smart energy use principles to increase consumer understanding of the National Action Plan’s message framework.¹⁶ Demand response, energy efficiency, energy conservation, renewable energy, load shifting, advanced metering, and smart grid are inseparable concepts that should be considered together in communications to consumers. Accordingly, NASUCA agrees that a comprehensive and clearly understandable message should be consistently conveyed to consumers to help them realize the interaction of demand response with

¹¹ National Action Plan at 44.

¹² National Action Plan at 51.

¹³ National Action Plan at 48; NASUCA Comments at 9.

¹⁴ NASUCA Comments at 11. In its Comments, NASUCA provides examples of terms that consumers will need to understand, including *critical peak*, *hourly pricing*, *direct load control*, *net metering*, and *distributed generation*.

¹⁵ NASUCA Comments at 9.

¹⁶ National Action Plan at 51; NASUCA Comments at 7-9.

renewable energy, energy efficiency, smart grid, and other related initiatives.¹⁷ This will increase the consumers' ability to maximize the benefits of demand response and other smart energy use principles in a more cost-effective manner.

Other information that should be made available to consumers through the national message framework includes information about the different types of demand response rates that are available, how various demand response pricing program works, the potential benefits of each, and information regarding consumer protections.¹⁸

Consumers should also be aware of the benefits of demand-side management empowerment tools, like smart thermostats and home area networks. Demand response resource guides or clearinghouses should be made easily available for consumers.

Although the National Action Plan proposes a web-based clearinghouse, efforts should be made, either through advertising or other means, to ensure that consumers are aware of it and that the information provided on the clearinghouse is helpful to consumers. Further, information regarding local energy efficiency and energy conservation programs available through utilities and local energy offices should be easily accessible to consumers.

2. Consumers Should be Fully Informed About Demand Response.

The National Action Plan's national communications program seems to suggest limiting the amount of information available to consumers regarding demand response.¹⁹

While NASUCA supports the implementation of demand response and recognizes its benefits, consumers should be fully informed about demand response before participating

¹⁷ National Action Plan at 51.

¹⁸ NASUCA Comments at 13.

¹⁹ National Action Plan at 47.

in any demand response programs and should be informed enough to participate in decision-making proceedings regarding demand response, if they choose to do so. Consumers should also have the voluntary choice to participate in such programs.

In the National Action Plan's current list of key research questions for demand response communications,²⁰ there seems to be significant emphasis on communicating the benefits of demand response to consumers. But there is little focus on providing consumers a clear picture of the potential costs and rate impacts of demand response and other energy usage initiatives. Consumers deserve full and accurate information. For example, there is one key research question asking "what messages are most effective to help customers understand demand response's benefits,"²¹ but no corresponding question regarding helping consumers understand the potential costs or rate impacts of demand response programs. Additionally, consumers should understand the risks of certain smart energy usage technologies, including cyber-security risks associated with smart meter deployments.

In this regard, one of the questions asks "what level of understanding of demand response do customers need in order to participate? Do they need to understand the concept fully, or is it enough to give them easy tools and instructions and inform them of demand response's potential benefits."²² That question seems to focus research efforts on limiting consumer knowledge, rather than providing consumers a full and clear picture of demand response and allowing them to make well-informed choices to participate in demand response programs. Before participating in demand response programs,

²⁰ National Action Plan at 46-47.

²¹ National Action Plan at 47.

²² National Action Plan at 47.

consumers should understand the whole picture, including the costs and rate impact of demand response programs. Consumers should not receive only limited knowledge in order to push through demand response programs as fast as possible. With only limited knowledge about demand response, consumers cannot actively participate in choosing the right programs for their circumstances. Only with fully informed consumer discussion can the National Action Plan be successful in maximizing consumer adoption of demand response programs that is in the public interest.

Further, in the National Action Plan's discussion of how a generic message framework could be tailored to address residential consumers in areas with available demand response programs, products, or markets, one of the topics suggested includes "minimizing negative impacts."²³ But this topic does not appear to be about consumer protection as suggested by the words to "minimize negative impacts." Rather, this topic appears to be about controlling the message that consumers hear to provide "reassurance to customers that the negative consequences of demand response implementation have been anticipated and would not pose a threat to them."²⁴

The goal of these messages would be to lessen consumers' concerns and "prevent customer backlash."²⁵ But NASUCA recommends that the goal should be to give consumers full information about the costs and benefits of the program. Rather than holding back information to consumers about the potential costs or negative impacts of demand response implementation, the communications framework should be very clear

²³ National Action Plan at 50.

²⁴ Id.

²⁵ Id.

about the costs of demand response programs and how they could be avoided or how those costs are offset by the potential benefits of the program.

3. Consumers Should be Educated About Demand Response Sooner Rather Than Later.

The National Action Plan says that the national communications program “would be most effective if it first helps stakeholders build decision-maker support and technical capacity for demand response implementation, then educates residential and small commercial customers through integrated communications.”²⁶ NASUCA suggests that the National Action Plan should begin educating consumers earlier rather than later so that consumers can participate fully in regional or local demand response program implementation. Not only will that benefit consumers in understanding any state or local decision-making that implements demand response programs, but it will increase consumers’ ability to maximize the benefits of demand response and other smart energy usage programs.

4. Consistent Terminology on a National Level is Necessary, but Templates and Toolkits Should Still be Adaptable for Individual State Programs.

In the National Action Plan, the Staff proposes developing communications materials and toolkits,²⁷ including a template for a one-page message outlining to consumers what demand response is and how it impacts them.²⁸ NASUCA encourages national support to assist states to develop the appropriate messages for their approved programs.

²⁶ National Action Plan at 44.

²⁷ National Action Plan on Demand Response at 44.

²⁸ National Action Plan at 46.

NASUCA emphasizes that there is a clear need to develop consistent national terminology to define and describe the components and benefits of demand response and demand response-enabling technologies. This will facilitate the intra and interstate commercialization of demand-response-enabling technologies. Likewise, to encourage the widespread operation of demand response in wholesale markets, consistent terminology is critical. Additionally, consistent terminology will enable an apples-to-apples comparison of demand-side management programs between states. Thus, the National Action Plan should include development of standardized terminology for demand response and other smart energy use principles that all states and local demand response programs can adopt to reduce confusion regarding important terms.

NASUCA commends Staff on recognizing that a comprehensive “one-size-fits-all” message may be difficult and inappropriate.²⁹ Although the development of template advertising materials will make implementation of demand response programs easier and faster for state or local entities, as the National Action Plan recognizes, one single message may not resonate equally with all consumers nationwide.³⁰ If template materials are crafted, they must address a very broad range of demand response topics or issues that can be tailored to local needs. Though it is important that any template materials provided must be adaptable so that localities can tailor the materials to their individual programs, they still must reinforce the terminology and objectives of the national message framework.

Therefore, although national materials should develop a consistent national terminology for demand response and other smart energy use principles, template

²⁹ National Action Plan at 40.

³⁰ National Action Plan at 41.

materials should still be adaptable enough to be tailored to individual state or local programs.

E. Analytical Tools for Consumers.

The National Action Plan's third initiative focuses on tools and materials for use by consumers, states, and demand response providers. In this regard, the National Action Plan should include the development of a tool available for residential consumers to easily calculate their home energy profile and tools that enable them to conduct home energy audits.³¹ This information can be used by consumers to develop a comprehensive energy plan. These tools will help consumers maximize their incorporation of demand response and energy usage programs.

Additionally, the North American Energy Standards Board and National Institute of Standards and Technology have standards related to demand response and other smart energy usage enabling technologies, such as smart metering. These standards should be public information that is easily available on the web-based clearinghouse of demand response materials.³² This availability of information will allow consumer representatives to review and then comment on whether the demand response and smart energy usage programs proposed in their regions meet these standards before being implemented.

Further, the web-based clearinghouse on demand response materials should be coordinated with other similar federal agency efforts, such as the Department of Energy's web-based smart grid clearinghouse that was established to monitor the performance of

³¹ NASUCA Comments at 12.

³² National Action Plan at 60.

any smart grid deployment funded by the American Reinvestment and Recovery Act.³³

This coordination should allow visitors of the web-based demand response clearinghouse to easily access the other federal websites through quick links to those pages. Further, the federal agencies should work to standardize the format of their web-based clearinghouses so that visitors can gain familiarity with the site layouts and can more easily find information on each of the pages.

II. CONCLUSION

NASUCA urges the Staff to consider the interests of consumers in revising and polishing its final draft of the National Action Plan on Demand Response

Respectfully submitted,

/s/ Jody M. Kyler

Jody M. Kyler

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-8574 (phone)

kyler@occ.state.oh.us

On Behalf Of:

**NATIONAL ASSOCIATION OF STATE
UTILITY CONSUMER ADVOCATES**

8380 Colesville Road, Suite 101

Silver Spring, MD 20910

Phone (301) 589-6313

Fax (301) 589-6380

³³ Smart Grid Information Clearinghouse, available at <http://www.sgiclearinghouse.org>.

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Columbus, Ohio this 8th day of April, 2010.

/s/ Jody M. Kyler
Jody M. Kyler
Assistant Consumers' Counsel