

***Resolution Regarding Regulatory Policies for Review of Electric Utility Merger Proposals***

**WHEREAS**, The Federal Energy Regulatory Commission (FERC) is seeking comments on how it should evaluate proposed mergers in an open access environment [Docket No. RM96-6-000, NOI, Merger Policy Under the Federal Power Act]; *and*

**WHEREAS**, Both FERC and the States are responsible for ensuring availability of electricity at just and reasonable rates, whether through direct rate-setting or enhancing the viability of competitive markets; *and*

**WHEREAS**, The economic efficiencies associated with free and substantial competition may not be realized if mergers have an adverse impact on competition in the generation market; *and*

**WHEREAS**, State commissions have a responsibility to ensure that mergers do not adversely affect the availability of electricity at just and reasonable rates, yet they may be unable to participate adequately in FERC proceedings regarding mergers due to pending State proceedings on the merger; *and*

**WHEREAS**, A clear regulatory policy on mergers has several benefits, including (a) giving prospective merger partners more certainty on how regulators will treat their proposals, (b) increasing the likelihood that the actions of the merging parties will be consistent with the public interest, (c) assisting regulators in distinguishing efficient from inefficient mergers and mergers which increase competition from mergers which impede competition, and making the review process more efficient by reducing the need to relitigate generic policy issues in each case; *now, therefore, be it*

**RESOLVED**, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1996 Winter Meeting in Washington, D.C., hereby supports a reexamination and modernizing of electric utility merger approval standards at the Federal level; *and be it further*

**RESOLVED**, That both Federal and State regulators should thoroughly evaluate electric utility mergers to assess their impact on competition in the generation market, access to transmission facilities and ultimately on electric rates. Proposed mergers that adversely affect generation competition or create situations in the relevant electric markets that are inconsistent with antitrust laws should be disapproved; *and be it further*

**RESOLVED**, The FERC should give consideration to establishing a process for review of a merger application that provides for effective State participation by accommodating State proceedings to review the merger; *and be it further*

**RESOLVED**, That the NARUC file comments in the FERC "Merger Policy" Docket consistent with this Resolution.

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*Sponsored by the Committee on Electricity  
Adopted February 28, 1996*