

Resolution on Stranded Costs

WHEREAS, The Federal Energy Regulatory Commission (FERC) has issued a Notice of Proposed Rulemaking (NOPR) entitled "Recovery of Stranded Costs by Public Utilities and Transmitting Utilities," 59 Fed. Reg. 35274 et seq. (July 11, 1994), which proposes, inter alia: (1) that utilities not be allowed to seek recovery of stranded costs associated with "new" wholesale requirements contracts; (2) that utilities be allowed to renegotiate existing wholesale requirements contracts during a three-year period in order to attempt to recover stranded costs in light of various contractual provisions; and (3) in the case of retail stranded costs, that FERC will either (a) entertain requests to recover such stranded costs through wholesale or retail transmission rates in the event that the State commission(s) with jurisdiction do not explicitly address the issue, or (b) will not entertain any request for recovery of retail stranded costs; *and*

WHEREAS, At its 1994 Summer Meeting in San Diego, California, the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution sponsored by its Committee on Electricity that (1) expressed the Association's position that it is the primary responsibility of the States to address retail stranded cost issues, and (2) called upon the FERC to work with the States to establish a cooperative process for addressing issues of mutual concern; *and*

WHEREAS, The NARUC believes that under current law, the authority of the States to address retail costs is exclusive, but it recognizes that there may be circumstances that could result in evasion of State regulation; *and*

WHEREAS, The NARUC entered into a contract for the production of a white paper, supervised by its Committee on Electricity, to assist its members in responding to stranded cost issues at both the State and FERC levels; *and*

WHEREAS, This contract produced a Briefing Document entitled "The Regulatory Treatment of Embedded Costs Exceeding Market Prices: Transition to a Competitive Generation Market" (November 1994); *now, therefore, be it*

RESOLVED, By the National Association of Regulatory Utility Commissioners, convened in its 106th Annual Convention in Reno, Nevada, that the referenced Executive Committee resolution adopted at the 1994 Summer Meeting is hereby affirmed; *and be it further*

RESOLVED, That the NARUC believes that States have the authority to address retail cost issues, as stated in the Summer Meeting resolution; *and be it further*

RESOLVED, That because the jurisdictional character of stranded costs and responsibility for cost recovery can become unclear under certain circumstances, the NARUC continues to encourage the FERC and the NARUC to develop workable administrative and legislative solutions to such questions, consistent with the NARUC Summer Meeting resolution; *and be it further*

RESOLVED, That the NARUC accepts the referenced Briefing Document as full completion of the contract, and directs that it be submitted to its member State commissions, to assist those agencies in analyzing the issues addressed therein.

Sponsored by the Committee on Electricity
Adopted November 16, 1994