

## ***Resolution on Increased Flexibility for the Implementation of EPA Rulemakings***

**WHEREAS**, The Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution on the *Role of State Regulatory Policies in the Development of Federal Environmental Regulations* on February 16, 2011; including the following statements:

- **WHEREAS**, NARUC at this time takes no position regarding the merits of these EPA rulemakings; *and*
- **WHEREAS**, Such regulations under consideration by EPA could pose significant challenges for the electric power sector and the State Regulatory Commissions with respect to the economic burden, the feasibility of implementation by the contemplated deadlines and the maintenance of system reliability; *and*

**WHEREAS**, NARUC wishes to continue to advance the policies set forth in the resolution as it relates to the proposed EPA rulemakings concerning the interstate transport of sulfur dioxide and nitrogen oxides, cooling water intake, emissions of hazardous air pollutants and greenhouse gases, release of toxic and thermal pollution into waterways, and management of coal combustion solids; *and*

**WHEREAS**, NARUC recognizes that a reliable energy supply is vital to support the nation's future economic growth, security, and quality of life; *and*

**WHEREAS**, There are many strategies available to States and utilities to comply with EPA regulations, including retrofits and installation of pollution control equipment, construction of new power plants and transmission upgrades to provide resource adequacy and system security where needed when power plants retire, purchases of power from wholesale markets, demand response, energy efficiency, and renewable energy policies – the collection of which can be implemented at different time frames by different interested parties and may constitute lower-cost options that provide benefits to ratepayers; *and*

**WHEREAS**, A retrofit timeline for multimillion dollar projects may take up to five-plus years, considering that the retrofit projects will need to be designed to address compliance with multiple regulatory requirements at the same time and requiring several steps that may include, but are not limited to: utility regulatory commission approval, front-end engineering, environmental permitting, detailed engineering, construction and startup; *and*

**WHEREAS**, Timelines may also be lengthened by the large number of multimillion dollar projects that will be in competition for the same skilled labor and resources; *and*

**WHEREAS**, NARUC recognizes that flexibility with the implementation of EPA regulations can lessen generation cost increases because of improved planning, selection of correct design for the resolution of multiple requirements, greater use of energy efficiency and demand-side resources, and orderly decision-making; *and*

**WHEREAS**, Some generators that will be impacted by the new EPA rulemakings are located in constrained areas or supply constrained areas and will need time to allow for transmission or new generation studies to resolve reliability issues; *and*

**WHEREAS**, The North American Electric Reliability Corporation (NERC) and regional RTOs will need time to study reliability issues associated with shutdown or repowering of generation; *and*

**WHEREAS**, NARUC recognizes that flexibility will allow time for these needed studies, *and*

**WHEREAS**, The Federal Energy Regulatory Commission (FERC), through its oversight of NERC, has authority over electric system reliability, and is in a position to require generators to provide sufficient notice to FERC, system operators, and State regulators of expected effects of forthcoming health and environmental regulations on operating plants to allow an opportunity for meaningful assessment and response to reliability claims; *now, therefore be it*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, supports efforts to promote State and federal environmental and energy policies that will enhance the reliability of the nation's energy supply and minimize cost impacts to consumers by:

- Allowing utilities to coordinate the closure and/or retrofitting of existing electric generating units in an orderly manner that will ensure the continued supply of electricity and that will allow power generators to upgrade their facilities in the most cost effective way, while at the same time achieving attainable efficiency gains and environmental compliance; *and*
- Allowing regulatory options for units that are necessary for grid reliability that commit to retire or repower; *and*
- Allowing an EPA-directed phasing-in of the regulation requirements; *and*
- Establishing interim progress standards that ensure generation units meet EPA regulations in an orderly, cost-effective manner; *and be it further*

**RESOLVED**, That commissions should encourage utilities to plan for EPA regulations, and explore all options for complying with such regulations, in order to minimize costs to ratepayers; *and be it further*

**RESOLVED**, That FERC should work with the EPA to develop a process that requires generators to provide notice to FERC, system operators, and State regulators of expected effects of forthcoming EPA regulations on operating plants to allow an opportunity for meaningful assessment and response to reliability issues; *and be it further*

**RESOLVED**, That NARUC and its members should actively coordinate with their environmental regulatory counterparts, FERC, and the electric power sector ensuring electric system reliability and encourage the use of all available tools that provide flexibility in EPA regulation requirements reflecting the timeline and cost efficiency concerns embodied in this resolution to ensure continuing emission reduction progress while minimizing capital costs, rate increases and other economic impacts while meeting public health and environmental goals.

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*Sponsored by the Subcommittee on Clean Coal and Carbon Sequestration and the Committees  
on Electricity and Energy Resources and the Environment  
Adopted by the NARUC Board of Directors July 20, 2011*