

Resolution on Increased Flexibility with Regard to the EPA's Regulation of Greenhouse Gas Emissions from Existing Power Plants

WHEREAS, A reliable, affordable energy supply is vital to the nation's future economic growth, security, and quality of life; *and*

WHEREAS, Compliance with expected environmental regulations regulating greenhouse gas (GHG) emissions will affect ratepayers differently depending upon each State's existing generation, energy resources, electricity market and State commission decisions; *and*

WHEREAS, States have jurisdiction over the reliability and affordability of electricity provided to retail customers; *and*

WHEREAS, Incorporating flexibility in the implementation of EPA regulations to allow for unique State or regional strategies can lessen generation cost increases because of improved planning, greater use of energy efficiency and demand-side resources, and orderly decision-making; *and*

WHEREAS, NARUC at this time takes no position regarding the merits of EPA rulemakings for the purpose of regulating GHG from new or existing power plants; *and*

WHEREAS, In 2009, President Obama made a pledge that by 2020, America would reduce its greenhouse gas emissions in the range of 17 percent below 2005 levels; *and*

WHEREAS, The Regional Greenhouse Gas Initiative implemented by nine States is recognized as reducing emissions and provides a net consumer and economic benefit; *and*

WHEREAS, Ten States have successfully implemented market-based emissions trading systems applicable to the electrical power sectors for the purpose of reducing emissions; *and*

WHEREAS, Many States have: 1) implemented mandatory and/or voluntary renewable portfolio/energy standards, 2) implemented energy efficiency and/or peak load reduction programs, 3) experienced significant retirements of coal based generating plants and/or 4) mandated emission reductions programs; all of which have already contributed to a reduction in GHG emissions; *and*

WHEREAS, It may be in the best interest of ratepayers to maintain the operation of certain existing coal-based electricity generating plants that meet environmental performance requirements for priority pollutants for a period of time; *and*

WHEREAS, On June 25, 2013, the President issued a memorandum to the U.S. EPA Administrator directing the EPA to:

- Issue proposed carbon pollution standards, regulations, or guidelines, as appropriate, for modified, reconstructed, and existing power plants by no later than June 1, 2014;
- Issue final standards, regulations, or guidelines as appropriate for modified, reconstructed and existing power plants by no later than June 1, 2015;

- Include in the guidelines addressing existing power plants a requirement that States submit to the U.S. EPA the implementation plans required under Section 111(d) of the Clean Air Act and its implementing regulations by no later than June 30, 2016; *and*

WHEREAS, The President instructed the EPA, in its efforts to address GHG emissions from modified, reconstructed and existing power plants to engage directly with States, and expressly recognized that States “will play a central role in establishing and implementing standards for existing power plants;” *and*

WHEREAS, The President instructed the EPA to work with State agencies to “promote the reliable and affordable provision of electric power through the continued development and deployment of cleaner technologies and by increasing energy efficiency, including through stronger appliance efficiency standards and other measures;” *and*

WHEREAS, Section 111(d)(1)(A) requires the EPA to establish a procedure under which each State shall submit to the Administrator a plan which establishes standards of performance for existing sources; *and*

WHEREAS, Section 111(d)(1)(B) requires: (1) the plan submitted by the State to provide for the implementation and enforcement of such standards of performance and (2) the Administrator to permit a State, in applying such standards of performance, “to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies;” *and*

WHEREAS, The States rely on EPA to issue a procedure under Section 111(d) that reflects the best system or systems of emission reductions that has been adequately demonstrated at affected facilities; *and*

WHEREAS, State utility regulators have jurisdiction over decisions regarding integrated resource planning and/or resource adequacy, processes which ultimately determine the mixes of fuels and resources in State generation portfolios, which differ from State to State; *and*

WHEREAS, States have different mixes of fuels and resources in their existing generation portfolios; *and*

WHEREAS, States have achieved different levels of GHG reductions to date, and have diverse economies and face different economic conditions, including States with energy intensive manufacturing industries that provide goods for the entire nation; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 125th Annual Meeting in Orlando, Florida, urges the EPA, in developing any emissions guidelines for regulating carbon emissions from existing power plants, to recognize the primacy of States to rely on both State utility and environmental regulators to lead the creation of emission performance systems that reflect the policies, energy needs, resource mix, economic conditions of each State and region; *and be it further*

RESOLVED, That the guidelines should be flexible enough to allow States individually or regionally to take into account, when establishing standards of performance, the different makeup of existing power generation in each State and region; *and be it further*

RESOLVED, That the States need EPA under the relevant statutory factors, to issue guidelines that avoid GHG emissions reductions that are not feasible; *and be it further*

RESOLVED, That the guidelines should provide sufficiently flexible compliance pathways or mechanisms that recognize State and regional variations to achieve the most cost-effective emissions reductions in each State; *and be it further*

RESOLVED, That the guidelines recognize and credit States' emissions reduction achievements to date, recognize any and all existing State emission reduction programs, and shall not intrude on the States' jurisdiction over decisions regarding integrated resource planning and/or resource adequacy or otherwise mandate specific modifications to the mix of fuels and resources in existing and future State generation portfolios.

Sponsored by the Committee on Electricity

Recommended by the NARUC Board of Directors November 19, 2013

Adopted by the NARUC Committee of the Whole November 20, 2013.