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# PROMOTING TRANSPARENCY AND PUBLIC PARTICIPATION IN ENERGY REGULATION: A COMMUNICATIONS PRIMER FOR UTILITY REGULATORS



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# PROMOTING TRANSPARENCY AND PUBLIC PARTICIPATION IN ENERGY REGULATION: A COMMUNICATIONS PRIMER FOR UTILITY REGULATORS

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Author: Hisham Choueiki, Ph.D., P.E., Technical Advisor,  
National Association of Regulatory Utility Commissioners



National  
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Commissioners

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## About NARUC

NARUC is a non-profit, quasi-governmental organization whose members include the governmental agencies that regulate essential public services, such as electricity and gas, in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. NARUC's mission is to serve the public interest by improving the quality and effectiveness of public utility regulation in the United States and around the world. NARUC provides a venue to set and influence public policy, share best practices, and foster innovative solutions to improve regulation.

For more than 20 years, NARUC has advised nascent regulators worldwide to drive meaningful change in their energy sectors. NARUC's international assistance is built upon its vast global network of present and former energy regulators, providing unmatched technical expertise, insight, and analysis into the full range of challenging regulatory issues. Drawing on the U.S., the developed world, and emerging economies, this network provides NARUC with the capacity to present a diverse set of options and expertise to regulators around the world.

## About the Author

Hisham Choueiki joined NARUC in March 2019. He currently serves as a Technical Advisor, NARUC International. Prior to joining the NARUC team, Dr. Choueiki was the Director of the Office of the Federal Energy Advocate and the Director of the Forecasting and Market Monitoring Unit at the Public Utilities Commission of Ohio (PUCO). Between 1996 and 1998, Dr. Choueiki was on sabbatical from the PUCO, and was a Visiting Faculty in the College of Engineering and Petroleum at Kuwait University where he taught operations research, design of experiments, and forecast modeling.

Dr. Choueiki has contributed to numerous rule-making proceedings in gas, electric, and telecommunications, and testified in energy forecast hearings, alternative regulation hearings, and utility merger hearings. He has co-authored several energy forecasting and telecommunications reports, and has lectured at the PUCO, at national and international technical conferences, and USAID/NARUC energy workshops in Europe and the Middle East. He has published in peer-reviewed engineering journals, and currently serves as a reviewer on several engineering journals.

Dr. Choueiki is a Registered Professional Engineer in Ohio. He earned a Ph.D. in Industrial and Systems Engineering from The Ohio State University.

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## I. Introduction

With the support of the United States Agency for International Development (USAID) – Energy Division, Office of Energy & Infrastructure, the National Association of Regulatory Utility Commissioners<sup>1</sup> (NARUC) has undertaken the task of developing a Cost-Reflective Tariff Toolkit. This toolkit is intended to constitute several short practical primers that can be used by utility service regulators in countries with emerging economies to design rates that are based on actual cost of service and to effectively engage the public and key stakeholders in the decision-making process.

### I.1. Objective

The objective of this primer is to guide utility service regulators around the world in the development of communications strategies for engaging members of the general public and key stakeholders. At the heart of effective regulation are the four core capacities that provide a foundation for stable, transparent, and sound regulation (**Figure 1**).<sup>2</sup>



**Figure 1- The 4 A's**

Around the world, consumers are not often aware of how their electricity rates are set and by whom. Their primary concern is simply whether the lights come on when they flick the switch. However, when they see increases in their bills, they start to pay more attention. There are two types of utility service regulators: proactive and reactive. A proactive regulator engages in constant outreach with the public, media, government officials, utilities, and other key stakeholders. A proactive regulator recognizes that by sharing information and obtaining input from stakeholder groups, consumers at all levels are kept informed. A reactive regulator, on the contrary, tends to make decisions with limited

<sup>1</sup> "NARUC," National Association of Regulatory Utility Commissioners. <https://www.naruc.org/>

<sup>2</sup> Archer, Robert. "Key Characteristics of Regulatory Commissions." USAID. June 2008.

transparency. A reactive regulator is often cited as the cause for higher prices and generally has reduced credibility as an institution.

A utility service consumer is generally not supportive of utility bill increases. Add to that a lack of awareness of an increase or of the purpose for the increase, a lack of knowledge of the regulatory process, and the likely result is an unhappy consumer. Experience in the United States demonstrates that the latter response may certainly be attenuated when consumers are aware of a pending application for an increase and are fully engaged during the review process of such an application.<sup>3</sup> ***Having an effective regulatory communications strategy is, therefore, especially important when a utility files an application for a change in tariff.***

## **I.2. Scope**

This primer focuses on developing a set of recommendations, or a pathway, that regulators in countries with emerging economies may want to consider when designing a communications strategy for engaging the public and key stakeholders. This set of recommendations is based on U.S. utility service regulators' practices in communicating with the public at large during their review of a utility's application for a change in tariff. Furthermore, the recommendations include minor adjustments to incorporate regional differences between the U.S. and countries with emerging economies.

## **I.3. Organization**

This primer is organized as follows:

**Section 2** discusses the necessary conditions that are minimally required for having an effective communications strategy to engage the public and key stakeholders during a pending tariff change.

**Section 3** includes a summary of the research conducted on legal processes, practices and tools that are often used by the utility service regulators in five U.S. states<sup>4</sup> to engage with the public and key stakeholders during a tariff change application review.

**Section 4** summarizes some of the communications policies that are used in four countries<sup>5</sup> with emerging economies to inform and educate utility service consumers and industry stakeholders.

**Section 5** contains a set of recommendations and practical tools based on the research results presented in Sections 3 and 4.

**Section 6** concludes with final remarks.

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<sup>3</sup> One of the communications directors that was interviewed during the preparation of this primer stated the following: "If you can successfully communicate how the public can participate and learn more in the process and know ahead of time their bills may be affected, you may find they are more understanding."

<sup>4</sup> Florida, Iowa, Maryland, Nevada, and Ohio.

<sup>5</sup> Bangladesh, Bosnia and Herzegovina, Jamaica, and Tanzania.

## 2. Conditions for an Effective Communications Strategy

The overarching purpose of any communications strategy for a regulatory agency must be to build public confidence in the regulator. For utility service consumers to trust that the decisions made by the utility service regulator are in the public interest, it is essential that the regulator endeavor to satisfy the conditions outlined in **Table I**. Specific details for each condition follow Table I.

**Table I**

Conditions for an Effective Communications Strategy	
<i>The regulator must:</i>	
1	Convey its autonomy
2	Have a clearly stated and easily understood mission statement
3	Require transparency in the conduct of its business
4	Allow the public to have access to information
5	Be consistent in its messaging to the public
6	Identify and address the needs of the “would be influencers” in the community

### 2.1. Autonomy of the Utility Service Regulator

It is paramount to establish the identity of the regulator as an autonomous agency. In other words, the regulator has and exercises technical expertise, is not subject to political intervention, and is simply a creature of statute charged with implementing the law. Regulators do not draft laws, approve laws, or promote certain national policies in the law. The legislative body (or parliament) is the entity that contemplates policies and writes laws. The utility service regulator is simply mandated to implement the laws and policies approved by the legislative body in government. A regulator with a strong and proactive communications strategy and educational outreach can help ensure that various stakeholder groups understand this important difference.

### 2.2. Clear Mission Statement

The utility service regulator must relay clearly and concisely its mission and role. In general, the mission of a utility service regulator is to ensure that the public is receiving reliable utility services at just and reasonable rates. Such a mission should be communicated to the public, and then adopted, supported, and enforced by all members of the regulatory agency, leadership, and staff.

The concept of a reliable service at just and reasonable rates by no means implies that the public is entitled to the cheapest utility rates. Rather, it implies that the public is entitled to receiving a reliable utility service at a reasonable price, and the regulated utility is entitled to receiving a reasonable rate of return on its prudently incurred investments in infrastructure.



### 2.3. Transparency

Transparency in the conduct of business by a utility service regulator is necessary for nourishing and building a relationship that is based on trust with the public at large. Code of conduct and ethics rules that a utility regulator should abide by must be known to the public. Board/Commission meetings should be open to the public and, if possible, available for public viewing by electronic means. Applications for tariff changes with all the necessary standard filing requirements, including supporting and opposing opinions, should be available to the public for inspection.

### 2.4. Adequacy of Information to the Public

The public should have access to all statutes and regulations governing regulated utilities, including utility rates and terms of service. This would include the service reliability standards a utility must provide, the consumer's bill of rights, and the rights of a utility to recover its investments in infrastructure plus a reasonable return on its investments from its rate payers.

Certain measures, though, should be taken to protect market-sensitive information<sup>6</sup> that a utility must file with the regulator or information related to critical energy infrastructure.<sup>7</sup>

### 2.5. One Voice to the Public

The leadership should appoint a spokesperson within the regulatory agency that is solely responsible for communicating with the public and media on behalf of the agency. This should be a professional staff person designated as the director of communications or public relations. The purpose of "one voice to the public" is to avoid any confusion that may arise as a result of having several board members/commissioners or members of the technical staff communicate different messages on one particular issue to the public.

### 2.6. Identifying "Would-be Influencers"

Identifying, communicating, and catering according to the specific needs of key stakeholders in a particular utility industry is an essential consideration that should be taken into account by the utility service regulator. Identifying the "would-be influencers" and establishing a two-way communications scheme is important.

For example, a regulator should always, through its spokesperson, endeavor to supply members of the news media, members of the legislature (parliament), other government agencies, and consumer advocacy agencies with accurate information about pending rate case applications. It cannot be stressed enough that such key stakeholders should be receiving all unbiased and pertinent factual information from the regulator. Otherwise, they will seek information that may be inaccurate from other sources in the industry, including parties that may have hidden agendas.

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<sup>6</sup> To the extent utility service retail/wholesale competition exists or the utility is a publicly traded company, certain market or financial sensitive information may have to be protected.

<sup>7</sup> National security measures may include the protection of critical energy infrastructure, such as maps and locations of critical utility assets.

### 3. Sample Processes, Practices and Tools for Informing, Engaging, and Educating Consumers and Key Stakeholders in the United States

NARUC staff navigated extensively through five U.S. state utility service regulators' websites and conducted telephone interviews with several public information officers (or communications directors). In preparing for the telephone interviews, NARUC staff sent an email correspondence that included the following request:

*We are currently developing a primer for regulators in emerging economies on communicating tariff changes to the public and key stakeholders. We are seeking the best practices and practical tools commissions use to do this, including how/where you post information, processes, and procedures for seeking input and feedback, general communications strategies, and other relevant documents and content. In general, we want to provide a range of ideas and strategies that our partner regulators can assess and adopt as they see fit.*

#### 3.1. Florida Public Service Commission (FPSC)

Navigating through the FPSC website,<sup>8</sup> one immediately observes at the top of the home page the mission and role of the FPSC, and a statement to the fact that, with few exceptions, all records filed with the FPSC in hard copies or electronically are subject to a public records request.<sup>9</sup>

Hearings: There are two types of hearings in Florida when a utility files a request for a change in tariff; a Service Hearing whereby consumers may participate and state their opinions to the FPSC, and a Technical Hearing where sworn testimonies are filed by experts representing the technical staff of the FPSC, groups of consumers,<sup>10</sup> commercial businesses, industrial energy users, local governments, the federal government, and others that are granted intervention by the FPSC. During Technical Hearings, counsels for opposing parties may cross examine the expert witnesses.

Consumers Informed: When a large investor-owned utility in Florida files an application for a rate increase, it is required to inform the consumers it serves through a bill insert. It must also provide a justification for the needed increase and a bill impact analysis by customer class; typically residential, commercial, and industrial customers. Florida utility service consumers are also informed, through the FPSC website, social media,<sup>11</sup> news releases, and community events of their ability to participate in the "Rate Making Case."<sup>12</sup>

Elected Officials Informed: Local elected officials who represent consumers in the utility service area will generally receive a notice of the Service Hearing two weeks prior to the hearing date.

Consumers Engaged: Once consumers are notified through their bill inserts of a pending rate increase by the utility that serves them, they can go on the FPSC website and sign-up to receive information on all filings in that case and all notices issued by the FPSC related to that case.<sup>13</sup> This would include the Service Hearing announcements, locations, dates, and times. Consumers may elect to participate by both attending and presenting oral/written comments during a Service Hearing. To the extent the locations or dates and times are not convenient to consumers, they are also able to email or fax their comments to a designated FPSC email address or fax number. A third alternative is to simply print

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<sup>8</sup> "Florida Public Service Commission." Florida Public Service Commission. [www.floridapsc.com](http://www.floridapsc.com)

<sup>9</sup> In other words, any person may request any information that is filed with the Florida PSC (with few exceptions tied to market/financial sensitive information or critical energy infrastructure information).

<sup>10</sup> The Office of the Public Counsel, as an example, will generally represent the customers served by the applicant utility.

<sup>11</sup> FPSC's Twitter account

<sup>12</sup> "Utility Ratemaking in Florida." Florida Public Service Commission.

<http://www.floridapsc.com/Files/PDF/Publications/Consumer/Brochure/Ratemaking.pdf>

<sup>13</sup> Notice Example: "Rate Case Overview." Florida Public Service Commission. [http://www.floridapsc.com/Files/PDF/Publications/SpecialReports/sr--2017-01-gulf\\_power\\_company.pdf](http://www.floridapsc.com/Files/PDF/Publications/SpecialReports/sr--2017-01-gulf_power_company.pdf)

their comments and send through regular mail. All comments and opinions presented by consumers during a Service Hearing or emailed/mailed will become a part of the record that the FPSC will consider prior to making a decision on the application for the rate increase.

**Elected Officials Engaged:** During the Service Hearing, the presiding commissioner will always ask if an elected official is interested in offering comments about the pending tariff change application.

**Consumers Educated:** Prior to the Service Hearing, the FPSC communications staff will be present to mentor/advise consumers on how to offer their public comments, what protocols to follow and the amount of time consumers will have to address a presiding commissioner. Representatives from the utility that is requesting the increase will be available to answer consumer questions. The FPSC staff will also assist in answering questions and will generally provide helpful brochures on customer's bill of rights and the process for filing a complaint should a customer be experiencing a service quality or billing issue that is not being resolved by the utility.

### **3.2. Iowa Utilities Board (IUB)**

Consumers visiting the "About Us" navigation tab on the IUB website<sup>14</sup> can easily find the IUB's mission and vision statements in addition to a "Quick Links" to all docket filings in the IUB's electronic filing system (EFS).<sup>15</sup> All filings are available to utility customers, stakeholders, and the general public for review.

**Consumers Informed:** Iowa law mandates that a rate-regulated public utility shall not make effective a new or changed rate, charge, schedule, or regulation until the rate, charge, schedule, or regulation has been approved by the IUB. A rate-regulated public utility seeking a change in rates must file a request with the IUB for the approval of a proposed notice that will be mailed to customers notifying them of the utility's intent to file a tariff change (rate increase) request. Once approved by the IUB, all consumers served by the applicant utility will receive the notice with rate case information by customer class, the current customer charge, the proposed increase, the proposed new monthly charge, and the percentage increase. The notice also includes the consumer engagement information described below.

**Formal Docket:** Once the public utility files a request for an increase in rates, the IUB will open a contested case proceeding and issue a press release that summarizes the utility's request. Further information on the requested rate change will also be available on the IUB website. Subsequently, the IUB will issue an order setting a procedural schedule and setting the matter for a public evidentiary hearing.<sup>16</sup> Utility customers and stakeholders will have access to all information filed in the docket and may sign up to receive notifications of new filings.

**Consumers Engaged:** The IUB will issue an order establishing a series of rate case Consumer Comment Hearings<sup>17</sup> whereby customers of the utility are able to comment about the proposed rate change and their utility service. The Consumer Comment Hearings are presided over by a board member or an administrative law judge. During these hearings, a utility representative will present a summary of the requested application for the tariff change and answer questions from customers. Consumers who are interested in providing comments may have a limited amount of time depending on the number of attendees who wish to speak. However, all persons wishing to speak will be provided that opportunity. Consumers who do not wish to provide comments at the public meetings are still able to participate and present their comments or opinion in writing by filing them to the IUB via email, postal mail,

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<sup>14</sup> "Iowa Utilities Board." Iowa Utilities Board. <https://iub.iowa.gov/>

<sup>15</sup> "Iowa Utilities Board Electronic Filing System." Iowa Utilities Board. <https://efs.iowa.gov/efs/>

<sup>16</sup> Such hearings are evidence-based; expert witnesses representing proponents and opponents of the utility that are granted intervention by the IUB will present evidence. Counsels for intervenors may cross examine opposing witnesses.

<sup>17</sup> "CHAPTER 26: RATE CASES, TARIFFS, AND RATE REGULATION ELECTION PRACTICE AND PROCEDURE." The Iowa Legislature. <https://www.legis.iowa.gov/docs/iac/chapter/07-03-2019.199.26.pdf>

directly into the docket, or by using an online comment form.<sup>18</sup> All verbal and written comments will become part of the rate case record.

**Consumers Educated:** The IUB staff and representatives from the Office of the Consumer Advocate<sup>19</sup> will be present at all Consumer Comment Hearings to help assist in answering questions. The IUB staff will also hand out information pamphlets and frequently asked questions with answers about the rate case process and the utility's request.

### 3.3. Maryland Public Service Commission (MPSC)

Navigating through the "About Us" tab on the MPSC website,<sup>20</sup> the essential public message highlighted is its vision<sup>21</sup> and mission.<sup>22</sup> This message is an assertion to the citizens of Maryland of the MPSC roles and responsibilities.

**Pre-hearing Conference Scheduled:** When a large public utility files a request for a change in tariff (increase) with the MPSC, a pre-hearing conference is scheduled. The main purpose of the pre-hearing conference is to set the procedural schedule for the official evidentiary hearing, grant intervention, and resolve any preliminary matters. The commissioners or a Public Utility Law Judge (if the case has been delegated) will preside over the pre-hearing conference. The pre-hearing date and time will generally be posted on the MPSC website and served to all key stakeholders.<sup>23</sup> The public utility requesting the change in tariff is also required to advertise the location, date, and time of the pre-hearing conference on its website and in the local newspapers in the communities it serves.

**Consumers Informed:** After the pre-hearing conference, Public Comment Hearings<sup>24</sup> are scheduled. A press release is then issued referencing the MPSC's ['Make a Public Comment' online portal](#); posts to the MPSC's social media accounts will link to the press release. The press release will typically include a brief summary of the increase in revenues the public utility is requesting, and the locations, dates, and times of the Public Comment Hearings.<sup>25</sup>

The public utility requesting the change in tariff is also required to advertise the locations, dates, and times of each of the Public Comment Hearings on its website and in the local newspapers in the communities it serves.<sup>26</sup>

**Local Governments and Elected Officials Informed:** Notices of the Public Comment Hearings are sent by MPSC's communications director to local government administration offices that the utility serves. Local elected officials that represent the consumers in the utility service area will also be invited by MPSC's legislative director to attend.

**Members of the Media Informed:** The MPSC communications director will notify members of the media in the communities that the public utility serves to attend the Public Comment Hearings.

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<sup>18</sup> "Open Docket Comment Form." Iowa Utilities Board. <https://iub.iowa.gov/online-services/open-docket-comment-form>

<sup>19</sup> The Office of the Consumer Advocate represents the interests of consumers in all IUB docket filings.

<sup>20</sup> "Maryland Public Service Commission." Maryland Public Service Commission. <https://www.psc.state.md.us/>

<sup>21</sup> "The Maryland Public Service Commission will be recognized as a national leader in regulatory excellence and innovation. We demonstrate our commitment to the public, the companies we regulate, and our colleagues by building an environment of mutual respect, professionalism, and diversity."

<sup>22</sup> "The mission of the Maryland Public Service Commission is to ensure safe, reliable, and economic public utility and transportation service to the citizens of Maryland."

<sup>23</sup> Key stakeholders will generally include the consumer advocate, industrial energy user groups, associations of commercial businesses, local governments in the utility service area, federal government, and others.

<sup>24</sup> Public Comment Hearings are meant to engage members of the public at large.

<sup>25</sup> Public Comment Hearing Announcement Example: "Maryland PSC Seeks Public Input on Pepco Rate Increase Request." Maryland Public Service Commission. [https://www.psc.state.md.us/wp-content/uploads/PSC-Schedules-Public-Hearings-for-Pepco-Rate-Request\\_05060919.pdf](https://www.psc.state.md.us/wp-content/uploads/PSC-Schedules-Public-Hearings-for-Pepco-Rate-Request_05060919.pdf)

<sup>26</sup> The applicant utility is also required to provide a certification from the publishers of the local newspaper.

**Consumers Engaged:** The chairman of the MPSC or a Public Utility Law Judge will generally preside over the Public Comment Hearings. Prior to the commencement of the Public Comment Hearing, the MPSC communications staff will have a sign-in sheet for consumers that are interested in providing comments (first in, first to comment). Depending on the number of attendees, consumers are given between three and five minutes to offer comments. The presiding officer will open the hearing with an introductory statement followed by a brief summary of what the utility is requesting.<sup>27</sup> The presiding officer will then invite elected officials who are present and interested in offering comments to do so. Consumers are then invited to speak according to the order on the sign-in sheet.

Consumers that do not attend a Public Comment Hearing may offer their comments through MPSC's 'Make a Public Comment' online portal or through regular mail.

**Consumers Educated:** Fact sheets that include a summary of the public utility request are available for distribution during Public Comment Hearings. Staff from the MPSC and the Office of the Peoples Counsel<sup>28</sup> will also be available to answer questions about billing, service quality, or other utility service matters.

### **3.4. Public Utilities Commission of Nevada (PUCN)**

Navigating through the PUCN website,<sup>29</sup> one can easily find the "CONSUMERS" tab and a statement that the PUCN exists to serve the public interest, and that its main mission is to "ensure the public have access to reliable utility services, delivered in a safe manner at reasonable rates." In other words, the PUCN exists to balance the interests of the public at large with the interests of the regulated utilities.

**Hearings Scheduled:** When an investor-owned utility files a request of a tariff change, the PUCN assigns a docket number and posts the entire application and any filings related to the application on its website. The application filing begins a formal evidentiary hearing process that includes hearings where experts from the utility and other parties in the case cross-examine each other's witnesses based on pre-filed written testimony. Hearings are transcribed and are available to the public afterwards. At the conclusion of the hearings, the presiding officer writes a draft order that is presented to the full Commission (two Commissioners and Chairman) at a duly noticed agenda meeting. Draft orders are available on the PUCN's website in advance of the agenda meeting. At the agenda meeting, Commissioners have an opportunity to discuss the merits of the application and make modifications to the draft order. At the conclusion of the discussion, commissioners vote as to whether the application as discussed in the draft order should be granted, denied, or modified.

**Consumers Informed:** The PUCN is mandated to conduct a Consumer Session when a utility files a general rate case application. The PUCN also publishes information regarding any scheduled meetings in newspapers and on its website. The utility that is requesting the change in tariff is also required to inform its customers, through bill inserts, about the locations, dates, and times of Consumer Sessions. The PUCN will conduct Consumer Sessions, usually at one of its two Nevada offices,<sup>30</sup> where members of the general public may offer comments/opinions. Consumer Sessions conducted at PUCN offices are usually livestreamed on the PUCN website, and session transcripts are available to the public after each meeting.

**Members of the Media Informed:** Public Information Officers contact members of the media through press releases for all Consumer Sessions.

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<sup>27</sup> The chairman will not offer any opinion on the merit of the case.

<sup>28</sup> The state's consumer advocate agency

<sup>29</sup> "State of Nevada Public Utilities Commission." State of Nevada Public Utilities Commission. <http://puc.nv.gov/>

<sup>30</sup> Most electric utility Consumer Sessions are conducted at PUCN offices, but occasionally they are held at other locations. Consumer Sessions for other types of utilities, such as water operators, are often conducted away from PUCN offices.

**Consumers Engaged:** Consumer Sessions offer a forum for the public to voice opinions directly to PUCN Commissioners and Regulatory Operations Staff. Customers of the utility may offer public or written comments about the pending tariff application. The Nevada Attorney General's Bureau of Consumer Protection<sup>31</sup> (BCP) staff is always present during Consumer Sessions. Consumers who are unable to attend these sessions may file comments online in the docket, through regular mail, or submit them in person at any PUCN office.

**Consumers Educated:** PUCN Public Information Officers and Consumer Complaint Resolution Division staff are present during Consumer Sessions to mentor consumers about the process of presenting comments before the commissioners and to answer questions related to the change in tariff application. PUCN staffers are also available to answer questions about billing, service quality, or the complaint process.

**Additional Consumer Engagement Venue:** It should be noted that the PUCN is also mandated to conduct two General Consumer Sessions every year; one in the most populated county and another in the second most populated county in Nevada. These sessions are a venue for members of the general public to provide input on any utility service matter that is under the purview of the PUCN, including electric, gas, and certain telecommunication, water, or railroad companies.

### 3.5. Public Utilities Commission of Ohio (PUCO)

Consumers visiting the PUCO website<sup>32</sup> can effortlessly find its mission and commitments to residential, commercial, and industrial consumers in Ohio, such as ensuring the availability of safe and reliable utility service at fair prices, promoting investments in infrastructure to maintain high levels of safety and service quality, and monitoring compliance with all commission rules and state statutes.

**Intent to File a Change in Tariff:** "Not later than thirty days prior to the filing of application pursuant to section 4909.18<sup>33</sup> or 4909.35<sup>34</sup> of the Revised Code, a public utility shall notify, in writing, the mayor and legislative authority of each municipality included in such application of the intent of the public utility to file an application and of the proposed rates to be contained therein."<sup>35</sup> In other words, the utility is required by law to notify all local government bodies prior to filing a request for a change in tariff with the PUCO.

**Hearings:** The PUCO is mandated to conduct two types of hearings when a public utility under PUCO's jurisdiction files a request for a change in tariff; an Evidentiary Hearing and one, or more, Public Hearings. The Evidentiary Hearing is where the utility applicant's opponents and proponents that have been granted intervention<sup>36</sup> by the commission present expert testimony and are subject to cross examination. This is where the technical staff of the PUCO also defend the conclusions to their investigation/audit of the change in tariff application. Evidentiary Hearings are always presided over by attorney examiners.

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<sup>31</sup> BCP is the entity that represents all residential and small business customers in Nevada.

<sup>32</sup> "Ohio Public Utilities Commission." Ohio Public Utilities Commission. <https://www.puco.ohio.gov/>

<sup>33</sup> Section 4909.18 of the Ohio Revised Code covers the application for a change in tariff.

<sup>34</sup> Section 4909.35 of the Ohio Revised Code applies only when a municipal corporation fails to fix its rates. It may petition the PUCO to fix its rates.

<sup>35</sup> "Appendix A, Chapter 4901-7, Ohio Administrative Code: Standard Filing Requirements for Rate Increases." Ohio Laws and Administrative Rules Legislative Service Commission. [https://codes.ohio.gov/assets/laws/administrative-code/pdfs/4901/0/7/4901-7-01\\_FF\\_A\\_APP1\\_20140728\\_1345.pdf](https://codes.ohio.gov/assets/laws/administrative-code/pdfs/4901/0/7/4901-7-01_FF_A_APP1_20140728_1345.pdf)

<sup>36</sup> The Ohio Consumers Counsel (OCC), which is the agency that represents all residential consumers in Ohio, is always granted intervention in tariff change cases. Large industrial and commercial energy consumers, individually or collectively through associations, are generally granted intervention. Local governments, the federal government, universities, hospitals, and certain NGOs are also often granted intervention.



Public Hearings are where the general members of the public in the communities that the utility serves have an opportunity to offer their opinions and comments. They are often presided over by a commissioner and an attorney examiner.

Consumers Informed: The PUCO is required by law to publish a legal notice in the local newspapers of the communities that the applicant utility serves announcing the locations, dates, and times of the Public Hearings. Information pertaining to the utility's application for a tariff increase and the amount of the increase shall be included. The legal notice shall be published once each week for two weeks in a row prior to the date of the Public Hearing. These announcements are also posted on the PUCO website and through its social media accounts.<sup>37</sup>

Per the Ohio statute, the PUCO is mandated to conduct Public Hearings in every municipality that the applicant utility serves that has a population of more than one hundred thousand persons.<sup>38</sup> There is an additional requirement that at least one of these hearings shall occur after 5:00 P.M. This is to enable members of the general public that are interested in attending to do so after work.

Consumers are able to sign up to receive email updates on any open case of interest to them. They may also receive such updates by following the PUCO through its social media accounts.

Elected Officials Informed: The Public Hearing announcements are also shared with the PUCO legislative liaison office who in turn will notify the relevant elected officials who represent the communities affected by the proposed tariff increase.

Members of the Media Informed: Maintaining a professional and courteous relationship with members of the media is critical. The PUCO Director of Public Affairs will proactively contact the media to notify them of upcoming public/evidentiary hearings, press releases, or major commission decisions. Additionally, members of the media may sign up to be on a PUCO distribution list that provides periodic updates on all commission activities. They may also follow the PUCO through its social media accounts.

Consumers Engaged: The Public Hearings are chaired by an attorney examiner and a commissioner.<sup>39</sup> Also present will be PUCO public information and call center staff. The PUCO staff will arrive early at every Public Hearing to have sign-in sheets for members of the public who are interested in providing comments/opinions on the pending change tariff matter.

Elected Officials Engaged: Elected officials, if attending, will be recognized by the chair of the Public Hearing, and will be given an opportunity to offer comments.

Consumers Educated: The PUCO public affairs and call center staff will hand out a fact sheet<sup>40</sup> summarizing the application and will answer questions about the change in tariff application or about unrelated matters, such as consumer issues with billing, service quality, or how to file a complaint. They will generally have additional educational material to hand out and will also provide mentoring on the rules of etiquette<sup>41</sup> when offering comments in a public setting.

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<sup>37</sup> LinkedIn, Facebook, Twitter, Instagram

<sup>38</sup> Section 4903.083 of the Ohio Revised Code.

<sup>39</sup> PUCO commissioners do not comment or provide opinion on an open case.

<sup>40</sup> Fact Sheet Example: "AEP Ohio's electric security plan IV." Ohio Public Utilities Commission.

<https://web.archive.org/web/20180925172027/https://www.puco.ohio.gov/be-informed/consumer-topics/aep-ohios-electric-security-plan-iv/>

<sup>41</sup> "How to testify at a PUCO public hearing." Ohio Public Utilities Commission.

<https://puco.ohio.gov/utilities/electricity/resources/how-to-testify-at-a-puco-public-hearing>

## 4. Sample Processes, Practices and Tools for Informing, Engaging, and Educating Consumers and Key Stakeholders in Countries with Emerging Economies

The sample policies presented below are mostly derived from navigating through regulatory agency websites, email correspondence, and from a set of presentations that were given by NARUC expert volunteers during a NARUC/Bangladesh partnership activity<sup>42</sup> in October 2018.

### 4.1. Bangladesh Energy Regulatory Commission (BERC)<sup>43</sup>

An essential message that is communicated to the citizens in Bangladesh on BERC's website is the agency's independence and neutrality. Another message that may be found posted is the agency's vision and mission in which transparency is especially highlighted in its tariff determination and decision making process. BERC is also mandated to promote the public interest by enforcing the security of energy supply while maintaining fiscal discipline in infrastructure investments proposed by public and private utilities.

BERC engages the public through its website, email, and on social media with a Facebook account. Information that can be found on the website includes the following:

- 1) Primary legislation (the law that BERC operates under) and secondary legislation (the rules to implement the law);
- 2) Consumer-oriented information, such as consumer affairs, approved utility service tariffs, dispute settlements, and the complaint process; and
- 3) A set of commission contact email addresses that consumers may use to ask questions about general utility matters or about the process for filing a complaint against one of the utilities that BERC regulates.

More recently, NARUC sent correspondence to BERC inquiring on the process that BERC follows to inform members of the public when a utility files an application for a change in tariff. What follows is a summary.<sup>44</sup>

- 1) BERC will first conduct a content review to ensure that the application is complete.
- 2) Once the application is considered complete, BERC will make an announcement of the change in tariff application in two widely circulated newspapers.
- 3) BERC's Technical Evaluation Team will then conduct its technical assessment of the application and develop a report.
- 4) BERC will administer an evidentiary hearing in which expert witnesses representing all parties that were granted intervention would present testimony and be cross examined.
- 5) Once the hearing is concluded, and BERC makes its final decision on the change in tariff application, the utility will make an announcement of the decision in two widely circulated newspapers, in English and in Bangla. The utility will also send a notice to every customer it serves notifying them of the new tariffs approved by the commission.
- 6) All announcements, before and after the hearing, are also posted on BERC's website and on BERC's Facebook page.

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<sup>42</sup> Partnership Exchange on Public Communications and Stakeholder Engagement, Jakarta, Indonesia, October 22-25, 2018.

<sup>43</sup> "Bangladesh Energy Regulatory Commission." Bangladesh Energy Regulatory Commission. <http://www.berc.org.bd/>

<sup>44</sup> Government of the People's Republic of Bangladesh, Bangladesh Energy Regulatory Commission, TCB Bhaban, I Karwan Bazar (3rd floor), Dhaka-1215



## **4.2. Bosnia and Herzegovina's State Electricity Regulatory Commission (SERC)<sup>45</sup>**

The State Electricity Regulatory Commission (SERC) uses its website as the mode for communicating with the public. The website contains timely information on all applicable legal acts in the sector, SERC activities, official documents, and contacts in the languages officially used in Bosnia and Herzegovina (BIH) as well as in English. SERC announces on its website its public sessions and the agendas thereof and publishes the information on initiating any legal proceeding it conducts. SERC also publishes information on its proceedings in at least one daily newspaper distributed throughout the country. This approach enables the public to continually follow up on the work and activities of the Commission and to attend its sessions or public hearings.

The existing internal processes and procedures at SERC prevent the possibility of communicating with the public and key stakeholders by an unauthorized person, or providing partial, unofficial agency information.

SERC is legally obligated to act with the principles of objectivity, transparency and equality and these principles are inherent in all segments of SERC work, including all phases of tariff proceedings. The applicable law and SERC procedural rules in tariff proceedings impose the following obligations:

- 1) Publish a public notice on initiating a tariff proceeding. It is a requirement that the notice be published in daily newspapers and on the SERC website. By this notice, the general and expert public is introduced to the process of initiating a tariff proceeding, the content of the tariff application, dates for providing oral or written comments, and information on the terms and conditions to acquire intervenor status.
- 2) Hold a public hearing with the right of members of the general public to attend the hearing.
- 3) Prepare a report, authored by the Presiding Officer, on the public hearing. The parties in the proceeding have the opportunity to comment on this report before a final decision is taken.
- 4) Take a final decision at a regular session of the Commission, which is announced on the SERC website in a timely manner. The meeting is open to members of the public in order to have a direct insight into the procedure of reviewing and evaluating the evidence which is the basis for the SERC decision.
- 5) Prepare a rationale, in writing, as part of the final decision that includes the established factual circumstances, the reasons which were crucial while reviewing the evidence, the reasons why some requests were not taken into consideration and other reasons supporting the decision of the Commission.
- 6) Publish the final decision in the official gazettes and on the SERC website and distribute to the parties in the proceeding.

## **4.3 Jamaica's Office of Utility Regulation (OUR)<sup>46</sup>**

During the NARUC/Bangladesh partnership activity, an expert volunteer from Jamaica's OUR stressed the following guiding principles when developing a communications policy to engage the public and key stakeholders in Jamaica:

- 1) A utility service regulatory agency has the responsibility to explain its decisions to the public.
- 2) The public has a right to government records and to information filed by a utility with the regulator.

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<sup>45</sup> "Bosnia and Herzegovina STATE ELECTRICITY REGULATORY COMMISSION SERC." State Electricity Regulatory Commission. <https://www.derk.ba/en>

<sup>46</sup> "Office Of Utilities Regulation." Jamaica Offices of Utilities Regulation. <https://www.our.org.jm/ourweb/>

- 3) Communicating with the public and stakeholders must be coordinated, managed, and responsive to their needs.
- 4) Information provided to the public and to stakeholders must be accurate, objective, timely, clear, and easy to understand.
- 5) The utility service regulator must have transparency in its business.
- 6) The utility service regulator must maintain consistency of message by delegating the communications responsibility on behalf of the agency to authorized personnel.

According to Jamaica's OUR, an essential step in developing an effective communications policy is to answer the following questions: Who is your audience (identify the "would be influencers"), where are they located (in urban or remote areas), what is your message (the agency's mission/vision/commitments, a potential utility service rate increase, etc.) what is the audience's feedback (listen and be responsive), and what tools will you use to communicate back and forth.

The OUR expert volunteer also stated that a communications strategy should include several tools, processes, and procedures for speaking to the public and stakeholders based on their respective needs, such as:

- 1) Simple, and easy to read press releases about applications for a tariff change, or about major agency decisions;
- 2) Outreach programs in rural communities - such as going to local community centers, schools, town squares, or religious organizations to educate consumers on the responsibilities of the utility service regulator, answer general questions about utility service, provide pamphlets on customer's bill of rights or on the complaint process should a customer have a complaint that is not being resolved by the utility; and
- 3) Posting major commission decisions and initiatives on websites, social media accounts (if available), and using broadcast (public radio and TV stations) or print media in local communities.

As a final note, two interesting data points were highlighted by the OUR expert volunteer: one on broadband penetration in Jamaica and another on mobile subscription penetration. Broadband penetration was at 59.24 percent whereas mobile subscription penetration was measured at 113.51 percent as of December 2017.

These two statistics indicate that on average, about 59 percent of the households in Jamaica have access to broadband internet, and that each citizen in Jamaica has, on average, more than one mobile phone. Based on the latter, ***if an agency is interested in maximizing its messaging outreach to the public at large, it would be more effective when designing a communications policy to augment its web-based information with a social media component, such as Facebook, Twitter, YouTube, and LinkedIn.***

#### 4.4. Tanzania's Energy and Water Utilities Regulatory Authority (EWURA)<sup>47</sup>

Exploring the “About EWURA” tab on the agency’s website, consumers can read the vision, mission, and duties of the regulator toward the citizens in Tanzania. Additionally, the code of conduct rules<sup>48</sup> that agency board members and employees must abide by, such as reporting unethical conduct, conflict of interest, professionalism, and public interface, are all clearly posted. This is a demonstration that EWURA is striving to gain the public trust when it comes to utility service matters.

When a regulated utility files an application for a change in tariff with EWURA, the following is a summary of the steps that are required:<sup>49</sup>

- 1) The application shall be submitted in hard copy and electronically and must be signed by the Chief Executive Officer of the utility.
- 2) The application must contain a set of financial standard filing requirements; including the proposed additional revenue requirement requested, the current and proposed tariff increases, and the number of customers impacted in each economic sector.
- 3) The application must also include a justification for the requested change in tariff.
- 4) EWURA will conduct a preliminary content review to assess the application’s completeness.
- 5) All information included in the application will be a matter of public record unless the utility requests for certain information to be protected.
- 6) Once an application is accepted by EWURA for review, the agency will issue a solicitation notice to key stakeholders for comments. Such a notice will be made in the Government Gazette and on the agency’s website.
- 7) The utility shall also make available to all its customers the entire application and shall post it across its service area.
- 8) Should EWURA decide to convene a public hearing, it will invite the utility to present a summary of its application and all interested stakeholders<sup>50</sup> to present their comments on the application.
- 9) Once a decision is made by EWURA on the requested tariff change application, it is published in the Government Gazette, on the agency’s website, in local widely circulated newspapers (in English and Kiswahili), and on the utility’s website.
- 10) Copies of the certified final decision are also made available to the Government Consultative Council, the Consumer Consultative Council, and all intervenors.

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<sup>47</sup> “Energy and Water Utilities Regulatory Authority.” Energy and Water Utilities Regulatory Authority. <https://www.ewura.go.tz/>

<sup>48</sup> “The Energy and Water Utilities Regulatory Authority Act (Cap. 414).”

Energy and Water Utilities Regulatory Authority. <https://www.ewura.go.tz/wp-content/uploads/2019/03/GN-441-THE-ENERGY-AND-WATER-UTILITIES-REGULATORY-AUTHORITY-CODE-FINAL.pdf>

<sup>49</sup> Tariff Application Guideline for Regulated Utilities in the Electricity and Natural Gas Sub-Sectors, EWURA, Dar es Salaam, Tanzania, August 2017.

<sup>50</sup> Stakeholders that have been granted intervention by EWURA shall be heard during the public meeting.

## 5. Recommendations for an Effective Communications Strategy in Countries with Emerging Economies

One can observe several common themes for engaging the public across all five state regulatory agencies that were researched in the United States. Moreover, one can observe that even in countries with emerging economies, the significance of communicating the roles, responsibilities, mission, and vision of a utility service regulator to its citizens are highlighted on the regulator's website.

What follows is a set of recommendations that may be considered in designing an effective communications strategy to engage consumers when a utility files a change in tariff application. Furthermore, this set of recommendations includes minor adjustments to incorporate regional differences between the U.S. and countries with emerging economies.

### 5.1. Preamble

As a preamble to the set of recommendations for engaging the public at large, it is essential for the utility service regulatory agency to develop a relationship with the citizens it serves that is based on mutual trust. The latter may be achieved by making an effort to fulfill the conditions that are described in Section 2 of this Primer; namely conveying to the public and key stakeholders 1) the agency's **autonomy**, 2) the agency's **mission, vision, or commitments statement**, 3) the **transparency** in the conduct of agency business, 4) the **access to detailed information**<sup>51</sup> on pending utility matters before the agency, 5) the **consistency in agency messaging**, and 6) the agency's responsibility to **provide accurate and unbiased information to the public and to key stakeholders and especially to "would be influencers."**

### 5.2. Recommendations for an Effective Communications Strategy

**Table 2** is a summary of key recommendations to support an effective communications strategy. Specific details for each recommendation follow Table 2.

**Table 2**

Recommendations for an Effective Communications Strategy
<p><b>Public Announcement</b></p> <p>Announcing to the public <i>a priori</i> that a utility is planning to file a change in tariff application with the utility service regulator is central to any effective communications strategy.</p>
<p><b>Formal and Transparent Process</b></p> <p>Once a change in tariff application is filed and accepted for review, a formal and transparent process be followed that would assign a case number and designate an officer of the agency to administer/preside over an evidentiary hearing and a consumer hearing(s).</p>

<sup>51</sup> Either electronically via the regulator's website, or if not available, then hard copies should be available for inspection at the regulator's office or at local community centers (in remote areas) during business hours.

### **Consumer Hearing Announcement/Invitation/Engagement**

The regulator should issue and post on its website/social media links a press release that includes a Consumer Hearing invitation to all stakeholders.

### **Content of the Press Release Announcing the Consumer Hearing**

The press release should include a summary of the increase in tariff request application, rate impact by customer class, and the utility's justification for the request.

### **Consumer Education**

It is recommended that prior to the commencement of any Consumer Hearing, regulatory agency staff be present to provide relevant information and answer questions.

### **Members of the Media Inquiries**

The agency spokesperson should provide the messaging and the information requested.

### *Public Announcement*

***Announcing to the public in advance that a utility is planning to file a change in tariff application with the utility service regulator is central to any effective communications strategy, and is, therefore, highly recommended.***

***It is further recommended that the pre-notification announcement be reviewed and approved by the regulator prior to its dissemination to the public.***

***The announcement, at a minimum, should include, by customer class, the current rate, the proposed rate increase, the proposed future rate, the requested effective date of the proposed increase, and a brief summary of the justification for the proposed increase.***

Depending on the laws that the utility service regulator is implementing, this may be accomplished through an **agency press release** on its **website** and **social media** account(s). Additionally, the regulator may wish to obligate the utility to do so through a **bill insert, broadcast TV or radio, print media**, and on the **utility's website/social media** links.

***Important Observation: social media is emerging as the medium of choice for reaching out to the public at large.***

### *Formal and Transparent Process*

***Once a change in tariff application is filed and accepted for review, it is recommended that a formal and transparent process be followed that would assign a case number and designate an officer of the agency<sup>52</sup> to administer/preside over an evidentiary hearing<sup>53</sup> and a consumer hearing(s).<sup>54</sup>***

<sup>52</sup> Depending on the statutory authority in the country, the officer of the agency may be a commissioner/board member, an administrative law judge, an attorney examiner, or a senior member of the agency's staff.

<sup>53</sup> If mandated by law, this is where stakeholder experts testify under oath and are cross examined by opposing parties.

<sup>54</sup> If mandated by law, this is where elected officials, local government administrators, and utility consumers are invited to provide their comments/opinions about the pending change in tariff application at a convenient location.

Access to the change in tariff application with all supporting documents should be available to the public on the regulator’s website, utility’s website and through social media links (if available). The designated officer of the agency should set the locations, dates, and times of the Evidentiary and Consumer Hearings no less than two weeks prior to their respective dates.

#### *Consumer Hearing Announcement/Invitation/Engagement*

***It is recommended that the utility service regulator issue and post on its website/social media links a press release that includes a Consumer Hearing invitation to elected officials that represent the citizens in the utility service area, the local government administrators, the citizens, the consumer advocate, and members of the broadcast and print media that cover the local news in the communities that the specific utility serves.***

***It is further recommended that Consumer Hearings be conducted in locations<sup>55</sup> that are easily accessible to the public and on dates and times that are convenient to the public.***

This would allow the members of the general public to feel that they are “officially being heard.” The format of the Consumer Hearing<sup>56</sup> may be as follows: an introduction and welcoming remarks by the case designated officer, followed by a brief summary presentation by a utility representative describing the application for the change in tariff. Elected officials and local government administrators are then invited to provide brief comments. Finally, citizens that have requested to offer comments will be invited to speak on the pending application in the order that they signed in.

#### *Content of the Press Release Announcing the Consumer Hearing*

***It is recommended that the press release include a summary of the increase in tariff request application, rate impact by customer class, and the utility’s justification for the request.***

***Further, to the extent there is more than one language spoken (especially in remote areas), it is recommended that the press release be translated.***

#### *Consumer Education*

***It is recommended that prior to the commencement of any Consumer Hearing, regulatory agency staff be present to:***

- 1) Mentor consumers on the rules of etiquette when presenting comments in a public setting.***
- 2) Provide fact sheets and answer questions about the pending application from elected officials, consumers, or members of the media.***
- 3) Distribute brochures with “easy-to-understand language” on consumer’s rights, utility’s rights, and the responsibility of the regulatory agency for balancing the interests of both the public they serve and the utility they regulate.***
- 4) Answer general utility questions related to service quality, billing errors, or the customer complaint process.***

<sup>55</sup> Locations in rural areas may be local community centers, schools, town squares, or places of worship.

<sup>56</sup> To the extent permitted by law, public hearings should be transcribed and made available to the public for review soon after the hearing.

### *Members of the Media Inquiries*

<p><b><i>To the extent members of the news media are interested in interviewing the agency to inquire about the change in tariff application, it is recommended that the agency spokesperson be the individual that provides the messaging and the information requested.</i></b></p>
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## **6. Final Remarks**

Finally, as stated in the introduction to this primer, ***engaging consumers and key stakeholders from the outset of a regulatory process review will generally soften and attenuate their reaction to an increase in their utility rates.*** Why? Because they are provided an opportunity to participate in the regulatory process from the outset, an opportunity to review/inspect the detailed application, an opportunity to be heard during a public hearing, and an opportunity to be educated on the pending application and on the regulatory agency's responsibilities toward them and toward the utility applicant.

Any communications strategy designed by a utility service regulator that is based on mutual respect and trust among the regulator, the regulated and the consumers, and that incorporates the recommendations above is bound to be more effective.

*For questions regarding this publication, please contact:  
Erin Hammel ([ehammel@naruc.org](mailto:ehammel@naruc.org)),  
Bevan Flansburg ([bflansburg@naruc.org](mailto:bflansburg@naruc.org)), or  
Hisham Choueiki ([hchoueiki@naruc.org](mailto:hchoueiki@naruc.org))*

**National Association of Regulatory Utility Commissioners (NARUC)**

1101 Vermont Ave, NW, Suite 200

Washington, DC 20005 USA

Tel: +1-202-898-2200

[www.naruc.org](http://www.naruc.org)