



N A R U C
National Association of Regulatory Utility Commissioners

July 26, 2010

Maureen C. McLaughlin
Senior Legal Advisor to the General Counsel
Office of the General Counsel
1000 Independence Avenue, SW., Room 6A245
Washington, DC 20585.

VIA E-Mail: broadband@hq.doe.gov

RE: NBP RFI: Data Access

In the Matter of Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid; Data Access, Third Party Use, and Privacy, 75 Federal Register 33611 (June 14, 2010).

Dear Ms. McLaughlin:

On May 11, 2010, the Department of Energy (DOE) published a Request for Information seeking comments from interested parties to assist DOE in understanding current and potential practices and policies for States and other entities to empower consumers (and perhaps others) through access to detailed energy information in electronic form--including real-time information from smart meters, historical consumption data, and pricing and billing information. DOE held a public meeting as part of this request for information on June 29, 2010.

Partially, in response to that Notice, the National Association of Regulatory Utility Commissioners (NARUC) passed the attached resolution last week at its Summer Meetings in Sacramento, California. The resolution, among other things, encourages completion of a study on information handling practices and specifies, because of the State's expertise and proximity to retail electric customers, that any federal ". . . action should respect and incorporate State rules and ongoing State authority to protect ratepayers' privacy and ability to control access to their energy usage information."

NARUC's counsel expects to review the initial comments submitted to DOE in this RFI and may submit additional comments. In the interim, we are forwarding the resolution for inclusion in the record of this proceeding. Please do not hesitate to contact the undersigned if you have any questions about NARUC's position.

Respectfully submitted,

James Bradford Ramsay
NARUC GENERAL COUNSEL

Resolution on Smart Grid

WHEREAS, Smart grid deployment can help bring our electrical grid into the 21st century by enabling the more efficient, reliable and affordable consumption of electricity and allow third party providers of energy services access to consumer information which may spur innovation and economic development; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution in July 2009 sponsored by the Committees on Electricity, Energy Resources and the Environment, and Critical Infrastructure calling for, among other things, policies and standards that “should promote a flexible, non-proprietary, open infrastructure,” and “encourage interoperability of the electric grid and information services to foster a vast array of resources and information services;” *and*

WHEREAS, The Federal Communications Commission (FCC) in its March 2010 National Broadband Plan, stated that “[A] national Smart Grid policy should encourage tens of thousands of entrepreneurs to innovate – using new technologies and business models – to create a wide variety of in-building energy management and information services” and that “[M]aking energy data available to customers and their authorized third parties, while employing open and nonproprietary standards, is the best way to unleash this vast potential for innovation;” *and*

WHEREAS, The FCC recommended that “[S]tates should require electric utilities to provide consumers access to, and control of, their own digital energy information, including real-time information from smart meters and historical consumption, price and bill data over the Internet; *and*

WHEREAS, While the deployment of smart grid technologies may empower the consumer and provide more options, it also poses significant privacy issues that need to be considered and resolved by regulators; *and*

WHEREAS, Control of the smart grid network and the proper roles and responsibilities of electric utilities, telecommunication companies, and others are still being determined; *and*

WHEREAS, Because traditionally, privacy regulation usage data has been a State responsibility, consumers already turn to their State commissions for service and billing disputes; *and*

WHEREAS, The United States Department of Energy has recognized the need to balance the benefits of data collection with the protection of personal privacy; *and*

WHEREAS, Smart grid deployments will utilize various wired and wireless communications technologies over utility-owned and commercial communications networks to transmit data, that will include sensitive customer information and energy consumption data; *and*

WHEREAS, It is crucial that State-approved smart grid technology deployment plans continue to be subject to a record-based review by States to ensure proposals – and in particular – the utility’s proposal for recovery of its capital outlays, are both cost-effective and actually result in benefits to ratepayers; *and*

WHEREAS, The adoption of the smart grid will allow for the collection of specific information about individual customer electric use, including individual end-use applications, and electric bill payment data; *and*

WHEREAS, Most States and electric utilities have policies to protect customer energy usage data (CEUD) with the premise that such information be kept confidential absent customer authorization for its release; *and*

WHEREAS, Information on the operation, reliability, and safety of the electric systems must remain secure; *and*

WHEREAS, Third parties entering the market may seek access to customers and utility data, *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2010 Summer Committee Meetings in Sacramento, California, recognizes the need to provide consumers with protections that ensure the privacy of customer information while allowing for the benefits the deployment of the smart grid promises; *and be it further*

RESOLVED, That NARUC encourages the National Regulatory Research Institute to expeditiously complete its study addressing consumer and operational data guidelines for States to consider when implementing smart grid technologies; *and be it further*

RESOLVED, That the State regulatory commissions, which have the responsibility for ensuring reasonable rates for local utility service, take steps to provide that utilities, subject to State commission oversight, make cost-effective decisions while at the same time safeguarding their customers’ privacy and that authorized third parties have responsibilities to protect this information and the privacy of customers; *and be it further*

RESOLVED, That any Congressional or federal agency action should respect and incorporate State rules and ongoing State authority to protect ratepayers’ privacy and ability to control access to their energy usage information; *and be it further*

RESOLVED, That NARUC make every effort to give the highest priority to ensure that consumers are protected as the smart grid evolves.

Sponsored by the Committees on Telecommunications and Energy Resources and the Environment

Adopted by the NARUC Board of Directors July 21, 2010