FEDERAL ENERGY REGULATORY COMMISSION

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NEWS RELEASE

NEWS MEDIA CONTACT:
Bryan Lee
(202) 502-8680

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FEDERAL, STATE REGULATORS CONVENE COLLABORATIVE DIALOGUE ON COORDINATION OF ELECTRICITY DEMAND RESPONSE POLICIES

State and federal regulators will meet this month to begin a collaborative discussion to explore how to better coordinate their respective approaches to electricity demand response policies and practices. The first in a series of meetings will take place November 12, 2006, in Miami, Florida, in conjunction with the annual convention of the National Association of Regulatory Utility Commissioners (NARUC), which represents state utility regulators.

The Collaborative Dialogue will be co-chaired by Commissioner Jon Wellinghoff of the Federal Energy Regulatory Commission (FERC), along with Commissioner Sam J. Ervin, IV of the North Carolina Utilities Commission and Commissioner Phyllis Reha of the Minnesota Public Utilities Commission. Participants in the Collaborative Dialogue will include more than a dozen state utilities regulators representing all regions of the country.

FERC Chairman Joseph T. Kelliher observed: "I am extremely pleased that we begin this Collaborative Dialogue. I have sought a cooperative federal-state effort to promote electricity demand response since I joined the Commission three years ago, and I am glad that Commissioner Wellinghoff has agreed to take the lead on FERC's behalf in this important effort."

Iowa Utilities Board Commissioner and NARUC President Diane Munns stated: "State regulators see this initiative as a critical opportunity to develop coordinated policies that will accelerate demand response programs, moderate the cost of electricity to consumers and protect the environment. We look forward to working with Commissioner Wellinghoff and his colleagues to move this process forward."

FERC Commissioner Wellinghoff observed: "Expanded use of demand response holds great potential to make electricity markets more efficient and to provide billions in cost savings to consumers. This Collaborate Dialogue between the states and FERC is essential to make that happen."

Commissioner Ervin stated: "State regulators across the country have great interest in taking advantage of cost-effective demand response opportunities. The improved understanding that these collaborative discussions will produce should help both federal and state regulators to develop improved demand response programs for the benefit of the customers whose interests we are charged with protecting. I look forward to actively participating with Chairman Kelliher, Commissioner Wellinghoff and the other members of the FERC in these discussions."

Commissioner Reha observed: "State regulators have long supported cost-effective demand-side management measures, including both energy efficiency and load management measures, as a critical component of strategies to address electric system reliability concerns. This collaborative gives us a wonderful opportunity to have a meaningful dialogue on how state and federal regulators can move the discussion to the next level. We need to find a way to tap the untapped reservoir of efficiency and load management."

On August 7, 2006, a FERC staff report, "Assessment of Demand Response & Advanced Metering," was forwarded to Congress in response to a mandate in the Energy Policy Act of 2005 (http://www.ferc.gov/legal/staff-reports/demand-response.pdf). Among the report's recommendations was that FERC should "explore how to coordinate with . . . state commissions . . . on demand response in wholesale and retail markets."

The report to Congress found that only 5 percent of the nation's electricity consumers use some form of incentive-based demand response program or time-of-use rates, and that advanced metering has a penetration of only 6 percent of installed meters. Nationally, the total potential demand response resource contribution from existing programs is estimated to be about 37,500 megawatts, the staff report concluded. That level of demand response is the equivalent of building more than 40 new average-sized power plants.

The purpose of the Collaborative Dialogue is to address the coordination of federal and state demand response policies, such as the regulatory barriers to increased customer participation in demand response programs identified in the report to Congress. Among these is the disconnect between retail prices regulated by the states and wholesale prices regulated by FERC. Key regulatory barriers identified in the report to Congress include:

- **DISCONNECT BETWEEN RETAIL PRICING AND WHOLESALE MARKETS**. Retail rates for most customers are fixed, while wholesale prices fluctuate. Placing even a small percentage of customers on tariffs based on marginal production costs, can allocate resources more efficiently.
- **UTILITY DISINCENTIVES ASSOCIATED WITH OFFERING DEMAND RESPONSE**. Reductions in customer demand reduce utility revenue. Without regulatory incentives such as rate decoupling or similar incentives, electric utilities lack an incentive to use or support demand response.
- **COST RECOVERY AND INCENTIVES FOR ENABLING TECHNOLOGIES**. Utilities are reluctant to undertake investments in enabling technologies such as advanced metering unless the business case and regulatory support for deployment is sufficiently positive to justify the outlay. These investments may require an increase in rates. It is uncertain whether and how regulators would allow these costs to be recovered.
- **RESEARCH ON COST-EFFECTIVENESS AND MEASUREMENT OF REDUCTIONS**. There are deficiencies in the measurement of demand response and assessment of its cost effectiveness. Cost-effectiveness tests that have been used by regulators must be

improved to reflect changes in the industry, especially in organized markets.

- **SPECIFIC STATE-LEVEL BARRIERS TO GREATER DEMAND RESPONSE**. Policies of retail rate regulators and state statutes in several states have created barriers to implementing greater levels of demand response, especially by exposing customers to time-based rates. Several states have laws that restrict the ability of regulators to implement critical peak pricing and other forms of time-based rates.
- **SPECIFIC RETAIL AND WHOLESALE RULES THAT LIMIT DEMAND RESPONSE.** Certain wholesale and retail market designs have rules and procedures that are not conducive to demand participation. For example, the standard lengthy wholesale settlement periods utilized in ISO/RTO markets delays payment to participating retail customers.
- **BARRIERS TO PROVIDING DEMAND RESPONSE SERVICES BY THIRD PARTIES**. Shifting regulatory rules that allow third parties to provide demand response and potential sunset of various demand response programs are a disincentive to demand response providers. Because third parties often bear the risks of programs dependent on enabling technologies, they need long-term regulatory assurance or long-term contracts to raise the capital needed to invest in enabling technologies.
- **INSUFFICIENT MARKET TRANSPARENCY AND ACCESS TO DATA**. Lack of third-party access to data has been identified as a barrier to demand response. Greater transparency of unregulated retailer price offers and information on the amount of load under time-based rates or pricing would assist grid operation and planning. A related but more fundamental barrier related to data is timely access to meter data.
- **COORDINATION OF FEDERAL-STATE JURISDICTION AFFECTING DEMAND RESPONSE.** While states have primary jurisdiction over retail demand response, demand response plays a role in wholesale markets under Commission jurisdiction. Greater clarity and coordination between wholesale and state programs is needed.

The initial meeting of the Collaborative Dialogue will take place from 10:00 a.m. to 12:30 p.m., on Sunday, November 12, 2006 at the Loews Miami Beach Hotel – the site of the NARUC Annual Convention. The meeting will be open to all attendees at the NARUC Convention and members of the public.

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