

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

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Grid Reliability and Resilience Pricing

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Docket No. RM18-1-000

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**COMMENTS OF THE ILLINOIS COMMERCE COMMISSION**

Pursuant to the *Notice Inviting Comments* issued by the Deputy Secretary of the Federal Energy Regulatory Commission ("Commission") on October 2, 2017, the Illinois Commerce Commission ("ICC") respectfully submits these comments regarding the *Notice of Proposed Rulemaking for the Grid Resiliency Pricing Rule* issued by the Department of Energy ("DOE") on September 28, 2017 ("DOE NOPR").<sup>1</sup> The ICC timely filed a Notice of Intervention on October 12, 2017, and therefore, is a party to this proceeding.

**I. SUMMARY OF THE DOE NOTICE OF PROPOSED RULEMAKING**

The DOE NOPR expresses concern that the resiliency of the nation's electric grid is insufficient to provide electricity, capacity and essential reliability services when faced with major fuel supply disruptions caused by natural or man-made disasters.<sup>2</sup> The DOE NOPR states that fuel-secure resources are indispensable for the reliability and resiliency of the electric grid and generating units having on-site fuel storage enable operation independent of supply chain disruptions.<sup>3</sup> The DOE NOPR suggests that a changing electricity sector and market changes are the cause for many fuel-secure units that have already retired or are about to retire.<sup>4</sup>

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<sup>1</sup> *Grid Resiliency Pricing Rule*, Department of Energy, Docket No. RM17-3-000 (2017), filed September 29, 2017, Docket No. RM18-1-000 ("DOE NOPR"); 82 FR 46940 -01 (Oct. 10, 2017).

<sup>2</sup> DOE NOPR, at 2.

<sup>3</sup> *Id.*, at 2.

<sup>4</sup> *Id.*, at 3-4.

The DOE NOPR also states that current organized electricity markets do not fully compensate generators for the attributes that they provide to the grid, resulting in premature unit retirement and posing risks to grid reliability and resiliency.<sup>5</sup> The DOE NOPR recognizes that through multiple dockets, the Commission developed an extensive record regarding price formation in the markets operated by independent system operators (“ISOs”) and regional transmission organizations (“RTOs”).<sup>6</sup> However, the DOE asserts that neither the Commission nor the RTOs/ISOs have addressed the fundamental challenge of maintaining a resilient electric grid.<sup>7</sup> The DOE NOPR states that in light of these risks to the reliability and resilience of the electricity grid, it is the Commission’s immediate responsibility to take action to ensure that the attributes of generating units “with on-site fuel supplies are fully valued and in particular to exercise its authority to develop new market rules that will achieve this urgent objective.”<sup>8</sup> Notably, the DOE NOPR states that the Commission should “develop and implement market rules” to achieve the stated objective,<sup>9</sup> but the specific rule proposed in the DOE NOPR is not market-based.

Rather, the DOE’s proposed rule would provide for the full regulatory recovery of costs of eligible generation units that:

- (1) are physically located within a Commission-approved ISO/RTO;
- (2) are able to provide essential energy and ancillary reliability services;
- (3) have a 90-day fuel supply on site in the event of natural or man-made emergencies;
- (4) are compliant with all applicable environmental regulations; and
- (5) are not subject to cost-of-service regulation by any state or local authority.<sup>10</sup>

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<sup>5</sup> *Id.*, at 5-6.

<sup>6</sup> *Id.*, at 8-10.

<sup>7</sup> *Id.*, at 10.

<sup>8</sup> *Id.*, at 11.

<sup>9</sup> *Id.*, at 11.

<sup>10</sup> *Id.*, at 11-12.

The DOE’s proposed rule asks the Commission to require RTOs/ISOs to establish tariffs for the purchase of electric energy from an eligible power plant and for the recovery of costs and a return on equity for such a plant dispatched during grid operations.<sup>11</sup> These revised tariffs would fully compensate an eligible plant for the benefits and services it provides to grid operations, including reliability, resiliency and on-site fuel-assurance and each plant is to recover its fully allocated costs and a fair return on equity.<sup>12</sup>

In the NOPR, the DOE requests the Commission to consider and take final action within sixty days from the date of the publication of the NOPR in the Federal Register, which occurred on October 10, 2017.<sup>13</sup>

## II. COMMENTS

### **A. Illinois Supports Market Mechanisms for Needed Electric Generation Attributes.**

The ICC has a long history of supporting competitive markets for electricity. In 1997, the Illinois legislature passed the Illinois Electric Service Customer Choice and Rate Relief Law of 1997, which established the foundation for the restructuring of Illinois’ electric utilities and led to generators in Illinois being transferred out of the incumbent utilities’ possession.<sup>14</sup> The Retail Electric Competition Act of 2006 specifically directed the ICC to “promote the development of an effectively competitive retail electricity market that operates efficiently and benefits all consumers.”<sup>15</sup> As of August 2017, Illinois has close to 1.8 million residential customers and approximately 275,000 non-residential customers that purchase power and energy from an

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<sup>11</sup> *Id.*, at 11-12.

<sup>12</sup> *Id.*, at 11-12.

<sup>13</sup> *Id.*, at 12.

<sup>14</sup> 220 ILCS 5/16-119A.

<sup>15</sup> 220 ILCS 5/20-102(d).

alternative electricity supplier.<sup>16</sup> Illinois embraces energy restructuring and competitive markets as a means to both increase consumer choice and enable efficient resource allocation at just and reasonable prices.

The DOE NOPR recognizes that the RTO markets do not necessarily compensate generators for the beneficial resilience and reliability attributes that they provide, and specifically indicates that RTO wholesale market design currently fails to compensate the desirable attributes stemming from fuel security.<sup>17</sup> The ICC herein is not taking a position on the DOE NOPR's statements regarding fuel security, but the ICC supports and agrees with the statements in the DOE NOPR that recognize the Commission's initiatives to improve the mechanics of price formation in RTO-operated markets.<sup>18</sup> The ICC urges the Commission to re-focus and re-double those price formation initiatives.

The ICC does not support the DOE's proposal to apply cost-of-service regulation to the generating units targeted by the DOE NOPR. Implementation of cost-of-service regulation for that set of generators would (1) represent a dramatic departure from market-based electricity pricing as practiced by the Commission for more than thirty years; (2) compromise the foundation of electricity industry oversight as practiced by many states; (3) interrupt new technology development and adoption; and (4) raise consumer prices significantly. The ICC recommends that a better alternative to the broad-based reintroduction of cost-of-service regulation of wholesale electricity sales from certain generators is for the Commission to modify its wholesale market design to directly compensate generators for the needed and valuable attributes they provide including

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<sup>16</sup> <http://www.icc.illinois.gov/electricity/switchingstatistics.aspx>

<sup>17</sup> DOE NOPR, at 5.

<sup>18</sup> *Id.*, at 8-10.

resiliency and reliability. Future wholesale market design should also appropriately incorporate state policies that acknowledge attributes necessary for effective grid operation or that meet the needs of electricity consumers as determined by state public policy representatives. For example, in 2016 Illinois did just that when it enacted Public Act 99-0906. Among other things, Public Act 99-0906 created a zero emission standard to compensate nuclear power plants for the valuable attribute of zero carbon electricity production.<sup>19</sup> This state public policy action was necessary because the Commission's RTO/ISO market design does not compensate zero carbon generators any differently from carbon emitting generators. As stated before, the ICC recognizes the complexities of balancing appropriate market design rules with "the need to recognize valid state action to promote selected social, political and environmental policy objectives."<sup>20</sup> The units covered under this state policy provide the very resilience attributes described in the DOE NOPR. In other words, the Commission should not undermine Illinois' zero emissions standard as such action would also undermine some of the very resources that support the resiliency that the DOE NOPR seeks to ensure.

As noted above, while the ICC takes no position with respect to the DOE NOPR's statements regarding fuel security, the Commission should undertake a proceeding to determine whether there is a resiliency issue to address, and, if so, whether it is appropriately considered in RTO/ISO markets. To the extent the Commission determines that a resiliency attribute is necessary, it should be procured through a market-based mechanism as a separate attribute, similar to the zero emissions attribute established in Illinois.

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<sup>19</sup> 20 ILCS 3855/1-75(d-5)(1)

<sup>20</sup> Comments of the Illinois Commerce Commission, Docket No. EL16-49-000, filed February 3, 2017, at 10.

**B. The Commission Already Established the Record Necessary to Address the Bulk of the NOPR's Objectives.**

The ICC believes that the Commission's organized electricity markets would benefit from greater focus and prompt action on improved electricity and ancillary price formation. The ICC has long emphasized the importance of the Commission developing correct prices in the RTO electricity and ancillary services markets. Proper electricity price formation is the basis for well-functioning electricity markets. Without proper price formation, the price signals sent by the RTO's organized markets will not efficiently allocate resources and will not support efficient entry, exit, and operation decisions on the part of generators or consumption decisions on the part of electricity consumers. Flawed energy price signals will not support efficient provision of essential energy and ancillary reliability services mentioned in the DOE NOPR like voltage support, frequency services, operating reserves, and reactive power.

The DOE NOPR notes that the Commission developed an extensive record on price formation in RTO/ISO markets.<sup>21</sup> Some notable dockets in this regard are: price formation (AD14-14), hourly offers (ER16-372), primary frequency response NOPR (RM16-6), offer caps (RM16-5), valuation and pricing of fast-start resources (RM17-3), uplift (RM17-2) and electric storage in energy markets (RM16-23). However, if the Commission chooses to directly address the specific fuel security risks for grid resiliency and reliability concerns, as described in the DOE NOPR, the Commission may have to launch new market-based initiatives aimed more directly at achieving those objectives.

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<sup>21</sup> *Id.*, at 8.

The ICC notes PJM's paper on *Energy Price Formation and Valuing Flexibility* issued by PJM on June 15, 2017<sup>22</sup> and PJM's March 30, 2017 report on *Evolving Resource Mix and System Reliability*.<sup>23</sup> PJM states that reserve markets and the method by which PJM co-optimizes reserve products with energy can be a means to enhance market price formation and make the system more resilient through efficient commitment and pricing.<sup>24</sup> PJM also mentions revising the demand curve used in shortage pricing.<sup>25</sup> Such a revision would incent high-availability attributes in fuel-secure generating units. The ideas and initiatives in these PJM reports do not necessarily comprise an exhaustive list of items that the Commission and stakeholders could consider for improving wholesale electricity market price formation, but do represent concepts that could be useful for achieving the resilience and reliability objectives in the DOE NOPR without regressing back to cost-based tariffs.

If the Commission believes that fuel security is an attribute that should be encouraged to enhance reliability and resiliency, such an objective is best pursued through the Commission focusing first and foremost on the optimization of price formation in the energy and ancillary service markets, rather than by a disruptive, administratively-determined effort to re-regulate and bifurcate electricity markets. As the DOE notes, the Commission already established an extensive record on price formation and the general issues contained in the NOPR. As a result, the Commission is in a strong position to identify the best means for achieving grid resilience and reliability through wholesale energy and ancillary services markets. Specifically, the Commission

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<sup>22</sup> <http://www.pjm.com/~media/library/reports-notice/special-reports/20170615-energy-market-price-formation.ashx>

<sup>23</sup> <http://www.pjm.com/~media/library/reports-notice/special-reports/20170330-pjms-evolving-resource-mix-and-system-reliability.ashx>.

<sup>24</sup> PJM *Energy Price Formation and Valuing Flexibility*, at 6

<sup>25</sup> *Id.*

should require PJM to expedite the development of its ideas and initiatives regarding reserve market improvements and shortage pricing demand curve revisions.<sup>26</sup> Implementation of such programs could provide recognition of beneficial attributes in the near-term, while the Commission determines whether, and how, to directly address the grid resiliency and reliability concerns described in the DOE NOPR.

### **III. CONCLUSION**

For the reasons described above, the ICC recommends that the Commission not adopt the DOE's proposal for reintroduction of widespread cost of service regulation in wholesale electricity provision. Rather, to the extent the Commission chooses to address the specific fuel security risks for grid resiliency and reliability concerns described in the DOE NOPR, the ICC recommends that the Commission utilize market-based mechanisms for more efficient price formation in RTO-operated energy and ancillary services markets.

Respectfully submitted,

*/s/Christine F. Ericson*

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<sup>26</sup> *Id.*

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing document of the Illinois Commerce Commission to be served this day upon each person designated on the official service list compiled by the Secretary in this proceeding, a copy of which is attached, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Chicago, Illinois, this 23<sup>rd</sup> day of October, 2017.

*/s/ Christine F. Ericson*

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