UNITED STATES OF AMERICA
BEFORE
THE FEDERAL ENERGY REGULATORY COMMISSION

	)	
Carbon Pricing in Organized	)	Docket No. AD20-14-000
Wholesale Electricity Markets	)	
	)	
	)	

Opening Statement of Travis Kavulla
Vice President of Regulatory Affairs
NRG Energy, Inc.

Mr. Chairman and Commissioners, thank you for hosting this important technical conference today.

NRG Energy, Inc. ("NRG") serves many customers who privately internalize the cost of carbon emissions into their energy purchasing decisions. Some of our large customers do so in explicit financial terms. Our residential customers may not reduce the proposition to a quantification, but many nevertheless choose to purchase all-renewable products or carbon offsets. The desire of our customers to voluntarily purchase such products, together with the improving economics of renewable energy, led my company to make among the largest purchases of new renewable energy of any American company last year, signing 1,600 MWs of solar power purchase agreements.

Increasingly, too, states are acting in their sovereign role to price the externality of carbon emissions. Usually, these policies are not directly a price on carbon, but are less direct, such as through a requirement to procure emissions allowances in a cap-and-trade scheme, or to procure certain quantities of clean energy relative to a reference price that is sometimes tied to carbon. Like many companies, NRG supports the consistency that an economywide, nationwide price on carbon would confer on market participants. Absent that, we should expect the number of states adopting such policies and the magnitude of their actions to continue increasing. The diversity of state policymaking on this topic, when it directly affects the regional wholesale electricity markets, is an issue that this Commission must grapple with.

Nearly all state carbon pricing policies contemplate controls for leakage. Some have implemented these controls comprehensively and actively police them—California, for example. For others, such as RGGI states, the control of leakage by state policy is more aspirational. In a tightly knit regional market for electricity, leakage is inevitably difficult to control through unilateral state regulation. Consider two illustrative examples:

- A state enacts a carbon price on power generators in its state. Its fossil generators consequently dispatch less, some of them ultimately closing, but the state's retail load-serving entities still buy power from a wholesale energy market that has no uniform carbon price, with ample transmission capacity to bring energy from states where generators are not subject to any carbon price. As a result, the emission content of the electricity its customers use does not decrease in the same manner as emissions produced by generators in that state.
- Frustrated with the above leakage, a state enacts a carbon price on retail load-serving entities (e.g., as a state might price carbon in the transportation sector at the gas pump) to price the emissions content of the electricity customers actually use. This leads load-serving entities to line up contracts for supply that have known emissions rates. But in the day-ahead and real-time framework of an RTO, the commitment and dispatch functions of the market nevertheless reshuffle generation to favor generators unconstrained by a carbon price, resulting in a similar outcome to the first scenario.[1]

In such examples, the effective control for leakage would require a change in the design of the wholesale electricity markets. That is to say, federal regulation is necessary to give effect to state carbon pricing policies, at least when those policies purport to control for leakage.

[1] An alternative is that the specified sources or portfolio be 'self-scheduled' to ensure the projected emission content, but this then both erodes the efficiencies of the wholesale market and, ironically, renders the grid less adaptable to the intermittency of renewable and other supplies.

Meanwhile, one state's desired leakage control may be, in the eyes of another state, an extraterritorial regulation of its power generators.

When state policies directly give rise to wholesale market design issues, the Commission should consider asking states to help solve them, subject to the same standards of justness and reasonableness, and a prohibition on undue discrimination, that apply to all federal regulation of these markets. Although seldom used, the Federal Power Act permits consultation with, or even joint or delegated decision-making with or by state officials of certain questions within the federal jurisdiction. (Sec. 209, implemented at 18 C.F.R. §§ 385.1304, 1305). These procedures incorporate protections that ensure that you are not in a position of abrogating your duties, even while recognizing that there are certain issues that implicate states in a unique manner. They are designed to promote a "cooperative federalism" that the resolution of these questions increasingly requires. It is also worth noting that your counterparts at the Federal Communications Commission have made use of similar "joint board" procedures more regularly in that agency's history to resolve certain cross-jurisdictional issues.[2]

Finally, many states have chosen to price carbon only indirectly, through renewable portfolio standards ("RPS") or clean electricity standards ("CES"). These are carbon prices by another name, just as a trade in allowances is. Some of these policies are benchmarked expressly on a shadow carbon price, and most are subject to interaction with carbon pricing (i.e., the cost of an RPS/CES compliance product would be reduced by the introduction of carbon pricing). Where these conditions exist, it is appropriate for the Commission to consider their interaction with carbon pricing in the wholesale market. A more direct approach to ensuring these state

[2] Notably, the FCC and other regulatory commissions also make relatively extensive use of Federal Advisory Committees Act ("FACA") committees.

policies equitably co-exist within the wholesale market ultimately would be to form a regional marketplace for RPS/CES compliance products. This is especially the case if the Commission continues to find that state requirements to procure these products directly affect the sale of particular wholesale products that traditionally have been the Commission's province.

The bottom line is that there are at least several approaches that both vindicate the Commission's responsibilities over wholesale markets and at the same time affirm the role of state policymakers. NRG urges the Commission to give further consideration to these possibilities, and again thanks you for taking the step of hosting this technical conference today.

Submitted Sept. 11, 2020
for delivery Sept. 30, 2020