UNITED STATES OF AMERICA
BEFORE
THE FEDERAL ENERGY REGULATORY COMMISSION

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

REPLY COMMENTS OF NRG ENERGY, INC. ON THE COMMISSION'S NOTICE OF PROPOSED POLICY STATEMENT

NRG Energy Inc. ("NRG") again appreciates the opportunities afforded to it and other stakeholders to assist the Commission as it works toward developing a meaningful policy statement on its inter-relationship with state climate policies.

I. Introduction

In these reply comments, we note areas of emerging consensus—and disagreement—in initial comments, and offer additional commentary on certain topics that have not been as fully explored as they should be in considering whether and how to incorporate state-level policies into the markets jurisdictional to the Federal Energy Regulatory Commission's ("Commission"). In so doing, NRG urges the Commission to finalize the policy statement incorporated within its Notice of Proposed Policy Statement ("Statement"), but not without significant modifications.

In these comments, NRG notes and replies to:

- The emergent consensus between diverse commentators that the Commission will be ignoring the realities of state policymaking if the Commission chooses to focus exclusively on carbon pricing;

- The unrealistic perspective of a handful of commentators that state policymaking necessitates only a mostly passive reaction by the Commission in order to square the design of competitive wholesale markets that meet the statutory standards of the Federal Power Act with increasingly ambitious state-level policymaking that affects those markets;
- The disagreement between State commentators on an essential part of any carbon pricing proposal—leakage—that the Commission inevitably will have to adjudicate in any Section 205 proposal related to carbon pricing; and
- The clear necessity to incorporate states into either or both the ISO/RTO or Commission decision-making processes as they relate to how state-level policies are incorporated into wholesale markets.

Like many, NRG believes the most economically efficient approach to regulating carbon emissions is an economywide, nationwide price on carbon. Yet as the Commission has tacitly recognized through this proceeding, that is not the world in which we are living. It is therefore essential to consider how various state policies can be aligned with Commission-jurisdictional markets.

II. The Commission should not focus on carbon pricing to the exclusion of considering other state policies and their interaction with the Commission's jurisdiction

Environmental advocates and the Heritage Foundation agree on one thing in this proceeding, and it is that the Commission, in focusing solely on carbon pricing, risks talking past states and the policies they have chosen to enact in the field of climate policy. Environmental advocates declare the Commission's focus on the efficiency of carbon pricing to be "irrelevant for purposes of distinguishing carbon pricing from other state policy actions in the context of FERC decision

making."[1] Meanwhile, Heritage notes the conclusions of speakers at the Commission's technical conference that other state policies like clean electricity standards affect wholesale rates just as state carbon pricing does. "The proposed policy statement is an incomplete representation of state [carbon] pricing policies and their interplay with wholesale markets," Heritage Foundation argues.[2]

Clearly the political left and the political right disagree on what the Commission *should do* in relation to these state policies. Yet NRG agrees with the emergent consensus that a Commission policy statement that exclusively moors itself to carbon pricing misses the point. States have and will continue to adopt policies other than carbon pricing. As NRG has previously noted, these policies are larger in scale and presumably therefore have a more substantial effect on the wholesale markets' prices than do state carbon-pricing policies.[3]

Advanced Energy Economy ("AEE") is correct that "the fundamental jurisdictional conclusions of the Proposed Policy Statement are not limited to just state-established carbon pricing programs, but rather extend to other kinds of state policies as well."[4] AEE calls on the Commission to broaden its policy statement to express similar encouragement to "options that seek to utilize the regional wholesale market construct to achieve state clean energy procurement objectives, and to co-optimize those objectives with resource adequacy and system reliability needs."[5] In a similar vein, the Edison Electric Institute advises that "the Commission should not pre-determine that carbon pricing is the preferred market solution and reject other proposed

[1] Comments of Sustainable FERC Project, Clean Air Task Force, Natural Resources Defense Council, Union of Concerned Scientists, Southern Environmental Law Center, Conservation Law Foundation, and Acadia Center (collectively "Public Interest Organizations" or "PIOs"), at 5.
[2] Comments of Katie Tubb and Nick Loris for Heritage Foundation at 2-3.
[3] Comments of NRG, at 7.
[4] Comments of AEE at 8-9.
[5] *Id.*, at 9.

mechanisms."[6] NRG agrees with both of these commentators. If finalized as proposed, the Statement may implicitly discourage other approaches to bringing state policies into a regional market-based paradigm, which are more realistic and more urgent in light of the nature and scale of states' policy aims. The Commission should encourage the creation of a market-based approach to the most significant variant of climate policy that exists at the state level, namely clean electricity standards ("CES") and like policies that operate through the purchase and sale of compliance-based certificates ("credits").

III. Certain commentators wrongly believe that significant federal-state coordination is not necessary

Public Interest Organizations ("PIOs") argue that the Commission should regard "taxes and supports [as] equal but opposite measures."[7] They contend, "If the inquiry is limited to the impacts on FERC-jurisdictional rates, there is no distinguishing between imposing a cost on undesirable resources and conferring a benefit on desirable ones."[8] The PIOs suggest that a tax or a support (that is, a subsidy) result in "symmetric outcomes that the Commission should treat equally."[9]

NRG disagrees that an inquiry "limited to the impacts on FERC-jurisdictional rates" should result in a Commission that "treat[s] equally" each and any state policy.[10] Different state policies have different effects on Commission-jurisdictional rates, and it is not an undue exercise of authority over generation for the Commission to react differently to those policies with the justness, reasonableness, and fairness of those rates in mind.

[6] Comments of EEI at 5.
[7] Comments of PIOs, at 3.
[8] *Id.*
[9] *Id.*
[10] *Id.*

The PIOs' initial proposition that a tax and a subsidy have "an equal but opposite" effect on the "equilibrium" a wholesale market will achieve is incorrect.[11] Imagine, for example, two policies: One of which imposes $20 in cost per unit of emissions, and the other of which confers a $20 payment for resources that avoid that unit of emissions. Even in a seemingly "symmetric" policy design, the outcome on wholesale prices may not be symmetrical, because a market's supply curve may not be perfectly linear. In those conditions, a tax and a subsidy that have the same absolute value may nevertheless cause a different magnitude of shift in marginal clearing price when applied to affected resources that cause their offers to shift up and down the non-linear supply curve.

Of course, we find ourselves far away even from a world where one can even casually entertain the hypothetical outcome the PIOs pose, which imagines uniformly imposed taxes and uniformly available subsidies working roughly equal but opposite effects. That is because the subsidies in question are not equally available to each resource that delivers an equal environmental benefit. On the contrary, as PJM's Independent Market Monitor observed in advance of the Commission's technical conference in this proceeding, the actual cost of state subsidy policies is highly divergent. The cost of state subsidies to eliminate a tonne of carbon emissions from the PJM system ranges from $6.31 to $871.90 per credit, according to the Independent Market Monitor's submission in this proceeding.[12] This compares to RGGI's uniform clearing price in its June 2020 auction of $6.34 per tonne and to measurements of the social cost of carbon emissions at around $50 per tonne.[13] NRG has previously described that the aggregate price tag, and concomitantly the effects on wholesale markets, of these subsidies is

[11] *Id.*
[12] Comments of Joseph Bowring, PJM Independent Market Monitor, at 3.
[13] *Id.*

rising.[14] They clearly pose effects on the transparency and efficiency of the markets that the Commission uses to determine just, reasonable, and not unduly discriminatory rates at wholesale.

As the Commission noted in its Statement, certain state jurisdictions have announced that they will expand a trade in credits to match a majority of, and sometimes every, megawatt-hours of energy used in a particular state.[15] That naturally will have an inevitable and profound inter-relationship with the production and sale of energy and those market mechanisms intended to keep the system reliable which, all three, should be coordinated and aligned. In light of this reality, NRG disagrees with the view of certain State AGs that a strict "separation" should exist between "state clean energy and carbon-pricing programs" and the "RTO/ISO rules over which the Commission has jurisdiction."[16]

Lately, the Commission has chosen to mitigate the price effects of state subsidies in certain ISO/RTO markets. The PIOs criticize the Commission for this, urging "the Commission to reconcile its positive view of its role in enabling state-determined carbon pricing with its prior decisions that work to nullify other state policy supports for resources that avoid negative environmental externalities."[17] The PIOs are here at least partially correct. As described in Section II, NRG agrees with PIOs that the Commission *should* understand that states are choosing to enact both subsidies for clean energy and taxes on carbon emissions. But rather than standing at a remove from this arena of policymaking, the Commission in either case should be

[14] Comments of NRG, at 4, 7.
[15] Statement, at 2, fns 2, 3.
[16] Comments of the Attorneys General of Massachusetts, California, Delaware, Maryland, Michigan, Minnesota, New Mexico, Pennsylvania, Rhode Island, Wisconsin, and the District of Columbia (collectively, "State AGs"), at 4.
In addition to disagreeing about this "separation" because of state policies' clear effects on the markets for which the Commission has responsibility, NRG notes that it is also the case that federal law overtly contemplates pro-active federal/state regulatory activity under the Federal Power Act where policies conflict, as described more fully in Section V-B of these comments.
[17] Comments of PIOs, at 4.

working to allow the markets for which it has responsibility to accommodate these policies by internalizing the carbon externality or by facilitating a trade in credits. The Commission should pursue this work as it has over the last several decades, with an eye toward an efficient, competitive, market-based approach.

This is not to say the Commission should try to use its markets to achieve each and every state policy in this field; to do so would be impossible as a practical matter given the diversity of state action, and likely unlawful in the application of the canons of federal ratemaking. Lamentably, the PIOs take an extremely rosy view of what certain states are actually doing in this field, in light of the public corruption scandals associated with the passage of certain of these "state policy supports."[18] The Commission is under no legal obligation to tolerate the contaminating effects of public corruption on its markets. But to the extent these state policies do have a common thread associated with the power sector's impact on climate, it should be possible to "utilize the regional wholesale market construct to achieve state clean energy procurement objectives, and to co-optimize those objectives with resource adequacy and system reliability needs."[19]

States then would have a choice on whether to participate in this efficient regional market that expresses the value of environmental benefits. Presumably, some states would choose to rely more on it than others—just as states have done with the wholesale market structures the Commission has established and refined throughout the decades.

[18] Dan Gearino, "Illinois and Ohio Bribery Scandals Show the Perils of Mixing Utilities and Politics," *Inside Climate News* (July 26, 2020). Available at: https://insideclimatenews.org/news/25072020/ohio-illinois-bribery-scandals-utilities-climate-change-commonwealth-edison-firstenergy-householder

[19] Comments of AEE, at 9.

NRG believes the best way the Commission can promote this cooperation and soothe tensions between the federal and state jurisdictions is by creating one or more formal ways for states to participate in the operation of wholesale markets, and to consciously accommodate state policies in those markets. We describe this view more fully in Section V of these comments.

IV. Commentators pose obvious disagreements about the appropriateness of leakage controls that the Commission should address in its final Statement

States on their own have a limited practical ability to accomplish certain stated purposes of their carbon regulations. The Commission's regulation generally would be necessary to effectuate state laws as they pertain to leakage, which occurs when a state regulates in-state emissions only to find that sources of its energy production migrate to other states that do not impose the same constraint. In this proceeding, states have disagreed on whether the Commission should take any such action.

A state may be satisfied with merely imposing a carbon price on generators within its boundaries. But if it imports or exports electricity across its borders, it reasonably may desire to affect the emissions content of electricity that actually supplies its population, even if this electricity is produced elsewhere and intermediated by a wholesale transaction.[20] This "first-jurisdictional deliverer" approach to carbon pricing can (somewhat ineffectually) be grappled with in bilateral markets where assumptions are made about the source of imports into carbon-pricing states. But in a regional marketplace that dispatches "all generation to serve all load,"[21] these individual state carbon pricing regimes necessitate more exotic market design configurations in order to be effectuated. As Vistra notes, noting the leakage mechanism within

[20] Alternatively, the state may desire not to put its in-state generation at a competitive disadvantage when it would serve other populations that are not subject to a carbon tax.
[21] Transcript of Technical Conference ("Tr."), at 213:1 (Quinn).

the Commission-approved tariff for CAISO, "These rules…were designed to accommodate the cap and trade program set up by a state regulator, [but] it was only made possible by the Commission's approval."[22]

Responding to the Commission's Statement, various states appear to disagree with one another. The State of Utah, through its Department of Commerce, voices skepticism of leakage controls, and along with experts that testified at the Commission's technical conference,[23] the state notes that "it is virtually impossible to identify the actual path of electricity from generation to consumption," suggesting leakage may be "designed to account for sales of electricity that do not involve the [carbon-pricing] state."[24] The State of Ohio, through its State Commission's Office of the Federal Energy Advocate, objects to a leakage control that would impose "an energy bid adder" or subject "an Ohio natural gas plant's bid into the wholesale energy or capacity market to be adjusted to suit the policy goals of another retail jurisdiction in PJM."[25] Of course, this is precisely the kind of market design that the State of California, through its Air Resources Board, and the State AGs approvingly cite in their respective comments.[26] The suggestion that the Commission actively regulate leakage, which Utah and Ohio object to, is meanwhile an element that Public Interest Organizations suggest the Commission "narrowly focus" on for purposes of exercising its jurisdiction,[27] and is the preeminent subject of Exelon's commentary.[28] Finally, the Michigan Public Service Commission argues that to prevent "gaming

[22] Comments of Vistra, at 3.
[23] "It is impossible to measure precisely the carbon content of electricity imported into a regional wholesale market from a neighboring control area." Tr., 100:9-11 (Wolak).
[24] Comments of State of Utah, Department of Commerce, at 3.
[25] Comments of the Public Utility Commission of Ohio's Office of the Federal Energy Advocate ("the Ohio Commission"), at 10.
[26] Comments of California Air Resources Board, at 2-3. Comments of State AGs, at 4-5.
[27] Comments of PIOs, at 7.
[28] Comments of Exelon Corp., at 5-11.

between states" and to preserve "any expected benefits" of carbon pricing, that the Commission should permit states to elect only "a consistent carbon price…or a price of zero."[29] This dichotomous choice would limit the emergence of numerous, individual carbon prices—but would do little to solve for the leakage that is already presenting in PJM[30] and potentially other markets.

NRG notes again that leakage controls are both the problem around which the Commission is likely to be frustrated in its attempt to reconcile diverse state-level carbon pricing to its wholesale markets, and also the primary reason why the Commission's involvement in carbon pricing would be necessary at all.[31] This is one of the primary reasons a more voluntarily market in CES credits is appealing on a practical level. That being said, leakage with respect to carbon pricing is an important consideration to grapple with, and the Commission should in any final Statement adopt a clearer rubric by which it will evaluate ISO/RTO proposals. NRG has suggested several concrete criteria to do so.[32]

V. The Commission should provide states an important governance role in any federal approach to achieve state-level climate policies

State participation in that part of the wholesale market structure pertaining to their state policies is crucial. It would be an obvious non-starter for the Commission to assume within its jurisdictional markets the means of achieving state policies without including states in the governance or decision-making processes on these issues in a significant way. Through initial comments, several commentators identify at least two meaningful roles for states, either as

[29] Comments of Michigan Public Service Commission, at 14.
[30] *See*, for example, E3's study that suggests leakage within RGGI will perversely cause PJM emissions to *increase* if not controlled. Comments of NRG, at 11-12.
[31] Comments of NRG, at 7-8, 11-13.
[32] *Id.*, at 12-13 & Appendix.

decision-makers within an ISO/RTO process or acting alongside federal Commissioners in decision-making. Below, NRG replies and notes two others.

NRG believes a clear, formal action to channel states' viewpoints into the Commission's process is necessary at this time, after observing that the state and federal jurisdictions sometimes have seemed to work at odds with one another. Whatever vehicle it uses to this end, the Commission should take care that it has a clear scope and charter to its work, that its meetings are open to the public, and that opportunities exist for public participation.

A. Delegated Authority in ISO/RTO Tariffs

A growing trend in ISO/RTO governance is a split or delegated authority to authorize a tariff filing. Vistra in its initial comments points to the most explicit example of this, where the Southwest Power Pool's Regional State Committee is permitted to exercise that RTO's Section 205 tariff-filing right with respect to certain topics that traditionally implicate states' regulatory prerogatives.[33] Vistra suggests a similar tack might give states comfort in a carbon-pricing and revenue-allocation mechanism housed within an ISO/RTO.[34]

Meanwhile, the California Independent System Operator ("CAISO") vests the "primary authority to approve or reject a proposed change to a market rule" caused by the existence of the regional Western Energy Imbalance Market ("EIM") to the EIM Governing Body, a five-member independent board nominated by stakeholders and today approved by the EIM Governing Body.[35] Other ISO/RTO governance structures require the public utility to use inputs established by state-government processes external to the ISO/RTO for certain market processes

[33] Comments of Vistra, at 6-7.
[34] *Id.*
[35] CAISO, *Charter for Energy Imbalance Market Governance* (adopted Dec. 18, 2015, rev'd March 27, 2019), at 3-4. Available at: https://www.westerneim.com/Documents/CharterforEnergyImbalanceMarketGovernance.pdf

established by tariff. The Commission has accepted resource adequacy rules filed by the Midcontinent Independent System Operator ("MISO") providing that a state may override the Planning Reserve Margin established by MISO.[36] The Commission has similarly recognized that the Installed Capacity Requirement ("ICR") for the New York Control Area is calculated pursuant to rules established by the New York Public Service Commission ("NYPSC"), and that the proposed ICR is subject to review by both FERC and the NYPSC.[37] Additionally within this arrangement the proposed ICR is determined through an extensive stakeholder process facilitated by the New York State Reliability Council, whose executive committee is made up of represents across the range of NYISO market participants and several members not affiliated with any market participant.[38] It is easy to see how the interplay between states and ISO/RTOs in these examples might extend to state-determined inputs like the price of carbon or the scale of demand for CES credits.

B. Joint Boards

Section 209 of the FPA contemplates the periodic creation of panels that include state regulators for the purpose of deciding matters that come before the Commission[39] or promoting alignment between state and federal policy.[40] At least two commentators recommend the Commission to consider using Section 209 in this context. Advocating for a Section 209(a) board "to address FERC's proposed policy statement regard carbon pricing prior to a section 205 filing by an applicant to implement carbon pricing in organized wholesale markets," the Ohio

[36] *See, e.g., Indianapolis Power & Light Co. v. Midcontinent Independent System Operator, Inc.*, 155 FERC ¶ 61,034 at P 14 (2016) (explaining that "[i]f a state regulatory body establishes a [Planning Reserve Margin] for its regulated entities that is higher or lower than the MISO [Planning Reserve Margin], MISO will apply that state-established [Planning Reserve Margin] to those entities").
[37] *See New York State Reliability Council*, 122 FERC ¶ 61,153 at P 32 (2008).
[38] http://www.nysrc.org/default.html
[39] 16 U.S.C. §824h(a).
[40] 16 U.S.C. §824h(b).

Commission, through its Office of the Federal Energy Advocate, suggests it would be "beneficial to create a forum to discuss issues related to the design of a potential carbon price and carbon revenue collection, as well as state-specific policies that might interact with a carbon price."[41] The Ohio Commission identifies a wide range of topics such a board should discuss.[42] Meanwhile, the Energy Trading Institute suggests the Commission invoke Section 209(b) as a formal mechanism to "confer with the appropriate state entities for a given ISO/RTO to understand their policy objectives and laws and to discuss how to reflect and respond to any such policies or incentives in the Commission-jurisdictional ISO/RTO rules."[43]

The Commission's sister agency the Federal Communications Commission ("FCC") has a similar history of interacting with state regulatory agencies that possess state regulatory authority over certain telecommunication carriers that are subject to both state and federal regulation. The FCC operates three joint boards. Two of these are established at the explicit direction of Congress.[44] The FCC has another "joint conference" that Congress did not require, the Federal-State Joint Conference on Advanced Telecommunications Services, but which the FCC created using its generic authorities to seat joint boards, noting that its statute "provides a flexible vehicle for state-federal cooperation."[45] The FCC issued the order forming this board shortly after the National Association of Regulatory Utility Commissioners ("NARUC") endorsed the concept by resolution.[46] Notably, the statutory authority the FCC relied on to seat this joint board at its own

[41] Ohio Commission, at 13, 15.
[42] *Id.*, at 16-17.
[43] Comments of Energy Trading Institute ("ETI") at 7.
[44] Respectively, these are established pursuant to 47 U.S.C. §410(c) and 47 U.S.C. §254(a)(1).
[45] Citing to 47 U.S.C. §410(b). *In the Matter of Federal-State Joint Conference on Advanced Telecommunications Services*, CC Docket No. 99-294 (Oct. 8, 1999) at 5. Available at: https://docs.fcc.gov/public/attachments/FCC-99-293A1.pdf
[46] *Id.*, at 3.

discretion is virtually identical to this Commission's statutory authority in the Federal Power Act.[47]

Realizing that the form of this proceeding, and the ongoing tensions between the state-federal jurisdiction, revolve around a set of conceptual issues—rather than a single, particular matter in controversy—it would not seem appropriate to use a Section 209(a) process that contemplates a decision on a particular matter. In light of that, the less adjudicatory, although still formalized, cooperation envisioned by Section 209(b) could be appropriate both in scoping these issues and ultimately in bringing them to resolution. The Commission should consider asking NARUC, or another representative of states, whether it would support such a joint board through a resolution, as occurred when the FCC took the step of forming the joint board referred to above.

One caution that the Commission should keep in mind is that a joint board approach and others that involve states may be incompatible. For example, it may well be the case that states, rather than acting jointly with the Commission on a decision-making body operating pursuant to federal law, would instead prefer to be seated in a capacity where they exercise the delegated tariff filing rights as described in Section IV-A. Were that the case, NRG submits it would be inappropriate to have a state act both as a decisionmaker within an ISO/RTO stakeholder process for the purpose of crafting a Section 205 filing, and subsequently sit on a Commission panel that is tasked to review and decide on that filing.

[47] *Compare* 16 U.S.C. §824h(a)-(b) with 47 U.S.C. §410(a)-(b).

C. Federal Advisory Committees

One of the most frequently used tools in federal administrative law to collect the input of state and local governments, industry stakeholders, and unaffiliated technical experts is an advisory committee that operates consistent with the Federal Advisory Committee Act ("FACA").[48] The General Services Administration publishes a brochure to help agencies understand the procedures for such a committee.[49] Under FACA, advisory committees have a specific charter, tenure, and membership, and hold open meetings with specifically noticed agendas with the help and oversight of a designated federal officer. The work of advisory committees often "form the basis for government decisions."[50]

Many regulatory commissions make use of advisory committees. Perhaps most notably of late, the Food and Drug Administration has relied extensively on its Vaccines and Related Biological Products Advisory Committee in the course of the COVID-19 pandemic.[51] Closer to the work of the Commission, the Commodity Futures Trading Commission sponsors five advisory committees. One of them released a landmark report *Managing Climate Risk in the U.S. Financial System* earlier this year.[52]

The FCC extensively uses the reports of one of its advisory committees, the North American Numbering Council ("NANC"),[53] as the basis for its decision-making, including in proceedings

[48] 5a U.S.C. §§1-16.
[49] https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/advice-and-guidance/the-federal-advisory-committee-act-faca-brochure
[50] *Id.*
[51] https://www.fda.gov/advisory-committees/vaccines-and-related-biological-products-advisory-committee/2020-meeting-materials-vaccines-and-related-biological-products-advisory-committee
[52] https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf
[53] https://www.fcc.gov/about-fcc/advisory-committees/north-american-numbering-council/general/nanc-background

where the rights of regulated carriers are affected.[54] The NANC may be a particularly relevant example for the Commission because it deals with an important set of conceptual issues that intersect state and federal regulatory interests.[55] The FCC has used the NANC as a forum to refer specific matters that would benefit from consensus-based resolution and/or the application of technical expertise within that set of conceptual issues. Traditionally, the chair of the NANC is a state utility commissioner, and its representation draws from all different segments of the telecommunications landscape. The NANC's working-group structure is designed to promote consensus in the production of its final work product (typically, written reports), but separate concurring and dissenting opinions are sometimes issued.

D. NARUC Collaboratives

NARUC, representing state public utility commissions, and this Commission have a long history of interacting with one another. Federal commissioners frequently have been invited speakers at NARUC's meetings, and likewise state regulators often have presented at the Commission's technical conferences and in other forums. However, the standing forums that NARUC and the Commission once used have not recently been in use. As former Minnesota commissioner and MISO executive David Boyd recently recalled, "The opportunity to share perspectives did not always lead to consensus but allowed for open exchange of ideas that preserved a respectful culture enabling regulation in the best interest of impacted parties."[56] The

[54] Usually, the FCC incorporates the NANC's reports into the record of a proceeding, and parties are given opportunity to reply to them before the FCC issues an order.
[55] Numbering in a technologically evolving world, the portability of phone numbers, and interoperability may seem decidedly less important than climate change. But these topics result directly in the outgrowth of important public policy problems like robocalling, the ease with which customers may shop between competing carriers, and public-safety hotlines, on which the NANC has frequently provided reports to help resolve.
[56] David Boyd, Ph.D., *Can FERC's Markets and State Clean Energy Policies Work Together*, prepared for Northwestern University Electricity Dialogue, at 5. https://www.law.northwestern.edu/research-faculty/clbe/events/electricity/documents/can_ferc_markets_and-state_clean_energy_policies_work_together.pdf

Commission's regulations encourage the use of informal conferences to avoid "the imposition of inconsistent or conflicting regulations upon companies subject to both Federal and State control."[57] If the Commission finds that it is premature to articulate a scope of work on these issues, which NRG believes would be essential to the efficient operation of a joint board or advisory committee, it could be best for the Commission to begin anew with a structured engagement with states through NARUC conferences.

VI. Conclusion

NRG appreciates the opportunity to comment in this proceeding, and looks forward to continuing to engage with the Commission as it moves forward on this important topic.

Respectfully Submitted,

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[57] 18 C.F.R. §385.1303.