

**BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES**

**COMMITTEE ON ENERGY AND COMMERCE,  
SUBCOMMITTEE ON ENERGY AND AIR QUALITY**

**TESTIMONY OF THE HONORABLE JAMES Y. KERR, II  
COMMISSIONER, NORTH CAROLINA UTILITIES COMMISSION  
ON BEHALF OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

**ON**

**H.R. 6258, the “Carbon Capture and Storage Early Deployment Act”**

**July 10, 2008**



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Summary of Remarks by  
The Honorable James Y. Kerr, II  
National Association of Regulatory Utility Commissioners  
Before the  
U.S. House of Representatives  
Committee on Energy and Commerce, Subcommittee on Energy and Air Quality

- NARUC supports the policy goals of the legislation and the need for broad-based funding mechanisms that match the resources committed to the magnitude of the challenge. NARUC also supports the policy goals of the legislation to expedite the commercial application of carbon capture and storage (CCS) as one option to begin addressing the revolution in energy production and delivery technologies needed if the U.S. expects to make a serious effort to reduce emissions of greenhouse gases in response to the threat of global climate change.
  
- We strongly agree with the underlying assumption of the authors of this legislation that a solution to technological and research and development challenges of greenhouse gas mitigation is an off-budget mechanism that is supported by the utility industry and its regulators.
  
- There are three areas of concern that we urge the Subcommittee to address as this legislation advances:
  - First, concerning the formation and governance of the CSRC: We are troubled that there is no governmental role or regulatory oversight involved in the formation of the Corporation or its ongoing operations;
  
  - Second, preemption of State law to permit monopoly distribution utilities to pass through the cost of funding the Corporation to their consumers with no review or approval of their regulators: We have strong reservations concerning the inclusion in the bill of section 8(a) on cost recovery of the fees.
  
  - Third, the scope of the bill: While NARUC understands the importance of carbon capture and storage, there are other areas in the utility sector and beyond that are worthy of greater commitment for research, development and demonstration. We believe that all options must be on the table, including carbon capture and sequestration for emissions produced by our abundant coal supplies, advanced nuclear technologies, improved efficiencies in grid and demand side technologies, greater deployment of renewable technologies, and strengthened appliance and building efficiency standards.

Mr. Chairman and Members of the Subcommittee:

Good morning. My name is James Y. Kerr II, and I am a member of the North Carolina Utilities Commission (NCUC). I am also a member of the National Association of Regulatory Utility Commissioners (NARUC), having served as NARUC's President in 2007, on whose behalf I am testifying here today. I also serve as a member of the Advisory Council to the Board of Directors of the Electric Power Research Institute (EPRI) and as a member of the Keystone Energy Board. On behalf of NARUC and the NCUC, I very much appreciate the opportunity to appear before you this morning.

NARUC is a quasi-governmental, non-profit organization founded in 1889. Our membership includes the State public utility commissions serving all States and territories. NARUC's mission is to serve the public interest by improving the quality and effectiveness of public utility regulation. Our members regulate the retail rates and services of electric, gas, water, and telephone utilities. We are obligated under the laws of our respective States to ensure the establishment and maintenance of such utility services as may be required by the public convenience and necessity and to ensure that such services are provided under rates and subject to terms and conditions of service that are just, reasonable, and non-discriminatory.

NARUC is pleased to provide its views this morning on H.R. 6258, the "Carbon Capture and Storage Early Deployment Act." This legislation would establish an industry-based program to accelerate the deployment of carbon capture and storage technologies through the creation of a funding mechanism administered by an arm of the

Electric Power Research Institute (EPRI) to support the development of large-scale demonstration projects. Specifically, the bill would authorize electric utilities that generate electricity through the combustion of fossil fuels to conduct a referendum to agree to fund the Carbon Storage Research Corporation (CSRC or Corporation). If utilities representing two-thirds of the fossil fuel-based power delivered to retail consumers agree, a fee would be established on all delivered fossil-based power to accumulate approximately \$1 billion annually to be administered by the Corporation. Utilities subject to the fee would have the legal right to recover the costs of these fees in rates charged to consumers notwithstanding otherwise applicable regulatory review and approval.

First of all, we would begin our analysis of this important legislation by commending you, Chairman Boucher, and the co-sponsors to this bill, for your vision in seeing the need to begin addressing the revolution in energy production and delivery technologies that will need to happen if the U.S. expects to make a serious effort to reduce emissions of greenhouse gases in response to the threat of global climate change. Currently, there is no scalable, commercially available technology that allows for the removal of carbon dioxide from the products of coal combustion. This fact makes the development of appropriate legislation regulating carbon emissions fundamentally different from earlier legislation to limit SOX, NOX, and other currently-regulated pollutants, because appropriate abatement technologies existed at the time that those pollutants were subject to regulation. As a result, two key goals of any climate change legislation should be (1) to provide support for the development of commercial carbon

capture and storage (CCS) technologies to ensure that effective CCS technologies are developed and become commercially available as soon as possible and (2) to establish the allowable limits on carbon emissions on the basis of a realistic view of the technological issues surrounding CCS.

As the regulators of the nation's electric and gas production and delivery systems, NARUC members are well aware of the fundamental shift in energy technologies that will need to take place if the kinds of emissions reductions contemplated in pending legislation can be made. Stated simply, the only hope we have to provide the energy services the American people expect, to maintain the safety and reliability of the power production, transmission and distribution system, and to reduce emissions, is to begin investing now in all technologies that will meet these goals.

We further believe that all options must be on the table, including carbon capture and sequestration for emissions produced by our abundant coal supplies, advanced nuclear technologies, improved efficiencies in grid and demand-side technologies, greater deployment of renewable technologies, and strengthened appliance and building efficiency standards.

To that end, NARUC has for the last decade adopted policy statements highlighting the importance of an aggressive national commitment to research, development and deployment of breakthrough technologies in each of these areas. Concerning the climate debate, NARUC has been particularly active in the last year. As

an initial step, during my term as NARUC President we established a Task Force of State commissioners from across the country charged with two responsibilities -- to set an agenda to educate the regulatory community on the implications for the utility regulatory process of actions Congress is considering, and to frame recommendations that we will advocate to respond to the legislative debate.

Importantly, through the work of this Task Force, NARUC in 2007 adopted three policy resolutions relevant to the issues raised by H.R. 6258 (which we have attached to our written statement.) Concerning the need to invest in new technologies, it is our view that Congress should consider legislation that “include[s] [s]upport for the development of more efficient generation, transmission and distribution technologies, energy efficiency, and *GHG-emission control and sequestration* technologies through various means, including, for example, increased funding for research, tax credits, bonding and more efficient national appliance standards (emphasis added).”

Concerning the role State commissions should play in addressing the climate challenge in their own jurisdictions, NARUC recommends that regulators implement regulatory policies that “[facilitate] greater reliance upon low- or no-carbon resources and technologies such as energy efficiency, high-efficiency combined heat and power, demand response, renewable generation, advanced nuclear, and *emerging technologies (such as carbon capture and storage)*” (emphasis added), and that “[support] broad-based funding for research to enable the use of thermal and other electric generating resources that result in environmentally acceptable electric generation.” Importantly, our

policy also recommends that under applicable State law, commissions “[ensure] timely recovery of reasonable and prudently incurred costs associated with this transition” to the use of emerging technologies.

While these statements speak to the current debate on climate policy, NARUC’s support for a robust research agenda is not new. Our Association has been a strong supporter of EPRI since its creation almost 40 years ago. Individual State commissions have followed through with strong support for the funding needed to implement EPRI’s agenda. That experience makes us keenly aware of the reality that addressing the climate challenge at the lowest cost will require the melding of emission reduction timetables and widespread application of the kinds of technological breakthroughs that H.R. 6258 is intended to elicit.

Accordingly, we support the policy goals of the legislation and the need for broad-based funding mechanisms that match the resources committed to the magnitude of the challenge. Based upon hard-earned experience with the unfortunate history of the Nuclear Waste Fund, we strongly agree with the underlying assumption of the authors of this legislation that a better solution to the technological challenges of greenhouse gas mitigation would be an off-budget mechanism that is supported by the utility industry and its regulators.

However, there are three areas of concern that we urge the Subcommittee to address as this legislation advances concerning the Corporation’s formation and

governance, preemption of State law to permit monopoly distribution utilities to pass through the cost of funding the Corporation to their consumers with no review or approval of their regulators, and the scope of the program the bill would establish.

First, concerning the formation and governance of the CSRC: we are troubled that there is no governmental role or regulatory oversight involved in the formation of the Corporation or its ongoing operations. Despite the fact that the Corporation is intended to be funded through rates paid by retail consumers who have no alternative but to pay the fees, we believe that there should be a duty on the part of EPRI written into the legislation to consult with regulators and other stakeholders before the referendum is conducted. Specifically, the Subcommittee could amend section 3(a) of the bill to provide that distribution utilities voting in the referendum in favor of establishing the corporation certify to the independent auditing firm that their respective retail regulators support their vote with the knowledge that the fees imposed by the bill will be automatically passed through to their customers.

Concerning the CSRC's operations once formed, we recommend that the legislation be revised to specify a role for representatives of regulators and consumers. This could be accomplished by amending section 3(c) to include such representation on the CSRC Board in addition to the industry representatives there listed, or by creating a separate advisory council for the CSRC modeled after the Advisory Council to the EPRI Board of Directors. We also recommend that the legislation specifically provide that the CSRC consult with representatives of regulators and consumers as it prepares its budget

and research agenda under section 4(e), and that the legislation specifically require that the Corporation provide its annual report and audit to each State commission with jurisdiction.

Second, we have strong reservations concerning the inclusion in the bill of section 8(a) on cost recovery of the fees. This section is problematic for a host of reasons: as drafted, the legislation would authorize utilities to vote to exempt themselves from any regulatory oversight to recover costs from captive ratepayers. This is unprecedented. While Congress has preempted State authority in other areas of energy and telecommunications policy and practice, we know of no other examples where it has given private entities the ability to band together to exempt themselves from the lawful application of otherwise applicable State law.

On this point, I would note that it's our understanding that this legislation is based upon the model of the Propane Education and Research Act of 1996, P.L. 104-284, (PERA) which was established to conduct research and development concerning clean and efficient propane utilization equipment and to support public education and training on consumer and employee safety in the use of propane. While these two programs are similarly structured and governed, there are important and telling differences. Concerning governance, the Propane Education and Research Council includes representatives of the propane industry and the public at large; by contrast, the Board of the CSRC created by H.R. 6258 is comprised solely of industry representatives. More importantly, concerning cost recovery, section 10 of PERA specifically provides that

*“the [Propane Education and Research] Council may take no action, nor may any provision of this Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment. . . .;”* by contrast, H.R. 6258 has as its goal the conduct of a referendum for industry to conclude an agreement for the very purpose of passing through the costs of assessments to captive consumers.

In addition, H.R. 6258 treats the consumers served by investor-owned utilities less favorably than customers of publicly-owned utilities such as municipal and cooperative utilities. While section 8 of the bill appears to apply equally to consumers served by all distribution utilities, public and private, there is a significant difference. Because the regulators of municipal and cooperative utility systems are the publicly-owned and managed utilities themselves, their consumers have a say in how their utilities vote in the referendum to establish the CSRC and thereby become subject to the fees imposed by the legislation. By contrast, neither the consumers nor the regulators of investor-owned utilities have any say in whether their distributors will subject their consumers to these same fees.

It may well be argued that because the fees established under H.R. 6258 “only” amount to \$10-12 per customer, section 8 is of little consequence. However, for retail regulators charged under law to protect the interests of consumers who remain captive to their distributors, this is an important matter of principle. Regardless of the amounts in question, Congress should not sanction a system where the monopoly providers of an essential service agree among themselves to charge consumers fees that they cannot

avoid free from any regulatory oversight at either the State or Federal level, regardless of how worthy the purpose. Moreover, we are deeply troubled by the precedent this bill would establish for other utility fees and charges for other worthy purposes. We are aware of bills pending that would mandate the recovery of costs for new investment in electric transmission facilities, compliance with greenhouse gas emissions reductions, and power purchased from renewable technologies, to name but a few.

Both as a matter of principle and practical application, we would strongly urge Congress to let the retail regulators do their jobs. As I've mentioned, the State commissions understand this responsibility, adopting a policy in November 2007 that specifically endorses "timely recovery of reasonable and prudently incurred costs" through application of long-standing State law. Frankly, we expect that the State commissions that would be most affected by the fees established under H.R. 6258 would support recovery of these costs in rates simply because of the benefit that they, as large consumers of fossil-based electricity, would reap from this legislation. I would note that to our knowledge, no State regulators have refused to pass through the costs that nuclear utilities contribute to the Nuclear Waste Fund, which operates under a statute – the Nuclear Waste Policy Act – that (notably) has no provisions mandating that costs be passed through to consumers. Similarly, we have seen little evidence that utilities that voluntarily contribute to EPRI's current research program have suffered by virtue of disallowances of their contributions. In sum, section 8 is unnecessary, discriminatory, and a bad precedent. Accordingly, we strongly urge the Subcommittee to delete this section when it marks up this bill. We stand willing to work with members of the

Subcommittee and all affected stakeholders to develop alternative approaches to this issue that preserve State oversight while addressing the industry's legitimate concerns.

Third, concerning the scope of the bill. As I noted at the beginning of this statement, NARUC strongly supports steps to advance research, development and deployment to meet the climate challenge. Accordingly, while I understand the interest the sponsors of H.R. 6258 have in carbon capture and storage, there are clearly other areas in the utility sector and beyond that cry out for a greater commitment for research, development and demonstration. While it is not necessarily the burden of the authors of this bill to address other technologies, we look forward to working with this Subcommittee, our colleagues at EPRI, and other stakeholders to fashion a research agenda that enables the nation to reduce carbon emissions as quickly, efficiently, economically and realistically as possible.

In closing, I would again commend the authors of this important legislation for the critical step this bill represents. NARUC and its members look forward to working with all members of the Subcommittee to improve this legislation in ways that supports an aggressive research agenda while ensuring accountability to the consumers that will pay the bills.

Thanks. I would welcome any questions you may have.

# APPENDIX



N A R U C  
National Association of Regulatory Utility Commissioners

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R E S O L U T I O N

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***Resolution on Implications of Climate Policy for Ratepayers and Public Utilities***

**WHEREAS**, National Association of Regulatory Utility Commissioners (NARUC) seeks to ensure that participants in the climate change dialogue fully consider and understand the effects of various potential climate policies on the nation's ratepayers and public utilities; *and*

**WHEREAS**, NARUC formed the Task Force on Climate Policy in March 2007 to:

- Develop an interim set of policy responses as climate issues are addressed in Congress;
- Review existing NARUC policies and propose updated resolutions for consideration by the Association's membership;
- Inform lawmakers of existing State programs and regional differences, and encourage Congress to ensure that ratepayers are not unduly burdened;
- Establish programmatic and educational content designed to inform the regulatory community about climate policy options and their potential impacts on utility customers and economic regulation;
- Coordinate NARUC's involvement with efforts both within and outside the Association, including the National Action Plan for Energy Efficiency and other efforts involving federal agencies, relating to climate issues; *and*

**WHEREAS**, The members of the NARUC Task Force on Climate Policy represent the diverse geographic and economic characteristics and the varied regulatory structures that exist in this country and the NARUC Standing Committees that are directly affected by potential climate policies; *and*

**WHEREAS**, The NARUC Task Force on Climate Policy has undertaken extensive efforts to educate State commissioners and staff by providing policy issue seminars and undertaking weekly teleconferences; *and*

**WHEREAS**, In addressing legislative proposals intended to reduce greenhouse-gas (GHG) emissions, Congress will be making decisions that could significantly impact customers of electric and natural gas utilities; *and*

**WHEREAS**, The continued availability of a reliable and reasonably priced supply of electricity and natural gas is critical to our nation's economic well-being, security, and the health and well-being of our citizens; *and*

**WHEREAS**, While Congress is assisted by numerous climate and environmental experts as it debates the environmental consequences of alternative climate change policies, NARUC, through its unique understanding of the nation's need for, and use of, electricity and natural gas can provide vital information and a crucial perspective regarding the potential consequences of possible climate change legislation on the nation's ratepayers and public utilities; *and*

**WHEREAS**, NARUC seeks to ensure that participants in the climate dialogue fully weigh and balance the potential impacts, whether costs or benefits, of various alternative GHG emission reduction mechanisms on the citizens we serve and the industries we regulate; *now, therefore, be it*

**RESOLVED**, That Congress should ensure that any national climate change legislation minimizes, to the extent possible, adverse impacts upon public utility ratepayers and the companies that NARUC members are responsible for regulating; *and be it further*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened in its July 2007 Summer Meetings in New York, New York, urges Congress to incorporate the following principles, which have been developed by the NARUC Task Force on Climate Policy, into any national climate program:

1. Any climate change legislation should be implemented economy-wide as part of a comprehensive national energy and energy security policy.
2. Any climate change legislation and its implementing regulations should be transparent, consistent, predictable, and equitable.
3. Any climate change legislation should avoid compromising electric and natural gas system reliability, and should ensure the availability of an adequate supply of electricity and natural gas.
4. Any climate change legislation should impose the minimum economic cost necessary to achieve the desired environmental objectives in a timely manner.
5. Any climate change legislation should minimize the cost impact on electric and natural gas ratepayers. To that end, the majority of any compliance-related revenues from the electricity sector should be dedicated to reduce ratepayer energy costs.
6. Any climate change legislation should refrain from usurping the States' traditional responsibility for making generation resource decisions. Such legislation should also avoid preempting States that take more stringent actions to reduce GHG emissions within their jurisdictions.
7. Any climate change legislation should ensure the continued ability of States and regions to deploy a diverse portfolio of cost-effective generating resources based on the unique circumstances of those States and regions.
8. Any climate change legislation should be realistic and based on existing and reasonably foreseeable electric generation, transmission and distribution technologies, GHG emission control and sequestration technologies, and efficiency technologies.
9. Any climate change legislation should include support for the development of more efficient generation, transmission and distribution technologies, energy efficiency, and GHG-emission control and sequestration technologies through various means, including, for example,

increased funding for research, tax credits, bonding and more efficient national appliance standards.

10. Any climate change legislation involving emissions allowances, whether distributed by auction or direct allocation, should recognize State or regional efforts already undertaken to limit GHG emissions; *and be it further*

**RESOLVED**, That this resolution be adopted as the complete and definitive statement of NARUC's position with respect to climate change issues as of the effective date of this resolution and that it serve prospectively as a framework for development of NARUC's position with regard to climate policy.

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*Sponsored by the Committees on Electricity, Gas, and Energy Resources and the Environment  
Adopted by the NARUC Board of Directors July 18, 2007*



N A R U C  
National Association of Regulatory Utility Commissioners

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R E S O L U T I O N

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***Resolution on State Regulatory Policies toward Climate Change***

**WHEREAS**, The National Association of Regulatory Utility Commissioners (NARUC) *Resolution on Implications of Climate Policy for Ratepayers and Public Utilities* (approved July 18, 2007) acknowledged the ongoing national debate over the desirability of limiting the emission of carbon dioxide and other greenhouse gases (GHG) and adopted certain policy principles that NARUC believes should be included in any federal legislation that attempts to regulate and reduce the level of such emissions; *and*

**WHEREAS**, Electric power generation is responsible for approximately 40 percent of U.S. emissions of carbon dioxide, the most common GHG; *and*

**WHEREAS**, The United Nations Intergovernmental Panel on Climate Change has concluded in its *Fourth Assessment Report* that “most of the observed increase in globally averaged temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations;” *and*

**WHEREAS**, There is growing support for State, regional, and federal actions to limit emissions of carbon dioxide and other GHGs; *and*

**WHEREAS**, The advocates of reducing the emission of carbon dioxide and other GHGs believe that the enactment of such legislation would provide substantial long-term environmental benefits and that a failure to address the impact of GHG emissions could, among other things, adversely affect the availability of water resources for hydroelectric generating facilities and cooling water for use in thermal generating facilities; *and*

**WHEREAS**, The advocates of reducing the emission of carbon dioxide and other GHGs believe that postponing action to reduce such emissions will increase the urgency of reducing emissions at a later time and increase the ultimate economic cost of actions taken to reduce such emissions; *and*

**WHEREAS**, Many U.S. financial and corporate interests, including many regulated utilities, have acknowledged that the enactment of federal legislation limiting the emission of carbon dioxide and other GHGs appears inevitable; *and*

**WHEREAS**, A broad coalition of multinational corporate and environmental leaders has formed the U.S. Climate Action Partnership in order to work collaboratively to address climate change issues; *and*

**WHEREAS**, Consistent with the States’ traditional role as “laboratories of democracy,” in which new and innovative approaches for meeting societal needs are developed at the State level, at least 18 States have taken action intended to limit carbon dioxide and other GHG emissions; *and*

**WHEREAS**, There is a substantial likelihood that federal legislation intended to reduce emissions of carbon dioxide and other GHGs (carbon regulation) will be enacted in the near future; *and*

**WHEREAS**, Assuming that such federal legislation will be enacted, State commissions should consider taking action to reduce the economic impact of compliance with such legislation; *and*

**WHEREAS**, The cost of compliance with carbon regulation may affect consumers differently depending upon a State's regulatory structure and the nature of the decisions made by State regulators; *and*

**WHEREAS**, The ultimate cost per ton of reducing carbon dioxide and other GHG emissions may vary dramatically depending on the State regulatory policy path chosen; *and*

**WHEREAS**, State utility regulators are well-positioned to evaluate carbon-related risks related to alternative resource options and to deliver economic benefits to their States through adoption of policies that appropriately account for and mitigate the risks arising from the likelihood that federal carbon regulation legislation will be enacted in the near future; *now, therefore, be it*

**RESOLVED**, The National Association of Regulatory Utility Commissioners, convened in its November 2007 Annual Convention in Anaheim, California, advocates that during the nation's likely transition to greater reliance upon lower-carbon resources for the generation of electric power, State regulators should consider adopting policy approaches and regulatory tools that ensure continued electric system reliability and minimize economic dislocation and costs to consumers; *and be it further*

**RESOLVED**, That State regulators should consider seeking to appropriately mitigate any risk of stranded utility investment, future cost increases, and reliability challenges resulting from the nation's likely transition to carbon regulation by requiring utilities to assess and incorporate carbon-related risks in their planning and decision making processes; *and be it further*

**RESOLVED**, That State regulators should consider addressing the nation's likely transition to carbon regulation through consideration of policy and regulatory options, such as:

- Facilitating greater reliance upon low- or no-carbon resources and technologies such as energy efficiency, high-efficiency combined heat and power, demand response, renewable generation, advanced nuclear, and emerging technologies (such as carbon capture and storage);
- Ensuring timely recovery of reasonable and prudently incurred costs associated with this transition;
- Requiring utilities to preserve system reliability while procuring resources in a manner that seeks to appropriately minimize the future cost of avoided carbon dioxide and other GHG emissions;
- Recognizing the costs and revenue streams associated with possible future emissions cap-and-trade mechanisms;
- Supporting broad-based funding for research to enable the use of thermal and other electric generating resources that result in environmentally acceptable electric generation;

- Supporting broad-based funding for research to enable the use of demand-side resources;  
*and be it further*

**RESOLVED**, That NARUC urges State regulators to work collaboratively with State and local government entities, researchers and industries in considering the adoption of policies that appropriately promote cost-effective energy efficiency efforts and that give proper consideration to the benefits resulting from the use of cost-effective, low-or no-carbon technologies.

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*Sponsored by the Committee on Energy Resources and the Environment  
Recommended by the NARUC Board of Directors, November 13, 2007  
Adopted by the Committee of the Whole, November 14, 2007*



N A R U C  
National Association of Regulatory Utility Commissioners

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R E S O L U T I O N

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***Resolution on Federal Climate Legislation and Cap-and-Trade Design Principles***

**WHEREAS**, The National Association of Regulatory Utility Commissioners (NARUC) formed a Task Force on Climate Policy in March 2007 in order to educate NARUC members concerning climate policy issues and to develop policy proposals for consideration by the NARUC membership; *and*

**WHEREAS**, The NARUC Board of Directors adopted a resolution sponsored by the Task Force on Climate Policy at the 2007 NARUC Summer Meetings held in New York, New York, on July 18, 2007, that enunciated ten policy principles that NARUC believes should inform federal climate policy; *and*

**WHEREAS**, The relative merits of a market mechanism proposed for inclusion in any federal climate change legislation, including, but not limited to, a cap-and-trade mechanism, a carbon tax, and a load-side cap, should be carefully evaluated in determining how to achieve the desired emissions reductions consistent with the ten principles previously adopted by NARUC; *and*

**WHEREAS**, Congress has continued to debate various policy proposals for addressing the environmental and economic consequences of alternative climate change policies since the 2007 NARUC Summer Meetings; *and*

**WHEREAS**, Since the 2007 NARUC Summer Meetings, the Task Force on Climate Policy has also continued to examine various policy proposals relating to climate change issues; *and*

**WHEREAS**, The momentum for enactment of federal legislation regulating the emission of greenhouse gases (GHG) appears to have further increased, making the enactment of such legislation within the foreseeable future likely; *and*

**WHEREAS**, The existence of uncertainty about the nature and extent to which GHG emissions will be subject to future federal regulation makes it difficult for State regulators, regulated utilities, and others to appropriately plan for needed investments in electric transmission and generation infrastructure; *and*

**WHEREAS**, Despite a diversity of opinion within NARUC's membership regarding the need for national limitations on the emission of GHGs for the purpose of addressing concerns over warming of the Earth's climate, NARUC's members are in general agreement that the enactment of federal legislation limiting such emissions in would be appropriate in order to remove existing uncertainties that are hampering the making of transmission and generation investment decisions; *and*

**WHEREAS**, NARUC's members are also in general agreement that appropriate federal climate change legislation should be enacted in order to enhance the likelihood that appropriate

technologies will be developed and other solutions implemented so as to achieve desired reductions in GHG emissions in the most economical manner possible; *now, therefore, be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened in its November 2007 Annual Convention in Anaheim, California, supports the enactment of federal legislation intended to reduce GHG emissions so long as such legislation relies, to the extent practicable, on an appropriate market mechanism or mechanisms as part of an economy-wide approach to GHG regulation; provides for an appropriate transition period prior to the implementation of full regulation of GHG emissions; creates sufficient certainty to ensure the financing of needed energy infrastructure consistent with the achievement of the environmental objectives intended to be accomplished by such legislation; and is otherwise consistent with the policy principles developed by the Task Force on Climate Policy and approved by the NARUC Board of Directors at the 2007 NARUC Summer Meetings held in New York, New York, on July 18, 2007; *and be it further*

**RESOLVED**, That the Task Force on Climate Policy should consider and develop, as appropriate, proposed resolutions for NARUC's consideration addressing additional market mechanisms including, but not limited to, a carbon tax and a load-side cap; *and be it further*

**RESOLVED**, That, in the event that Congress chooses to implement a cap and trade mechanism for the purpose of limiting electric sector GHG emissions, any such federal climate change legislation should rest upon the following cap-and-trade design principles in order to appropriately balance competing criteria, including, but not limited to, equity, economic efficiency, and ease of administration:

1. Auctioning of all allowances is ultimately the most economically efficient mechanism for achieving emission reduction goals from electric generation. However, the allocation of emission allowances within the electricity sector at no cost is an appropriate transitional measure in order to ensure continued reliability, minimize economic dislocation resulting from the carbon intensity of the existing electricity generation infrastructure, and allow for the development of appropriate new technology.
2. Any emissions allowance allocation program, consistent with an economy-wide approach, should involve a reduction in the number of allowances allocated within the electricity sector over time to ensure that needed reductions in GHG emissions are encouraged through a gradual increase in the cost of carbon-intensive generation sources as compared to the cost of other generation sources.
3. The primary purpose of any transitional emissions allowance allocation process applicable to the electricity sector should be to minimize the initial economic impact of GHG-emissions regulation to end-user customers by phasing in the impact of such regulation over a reasonable period of time.
4. Any emissions allowance allocation program should produce reasonable outcomes, consistent with these cap-and-trade design principles, regardless of applicable electricity market or regulatory structures.

5. Any emissions allowance allocation program should assign all allocated allowances available to the electricity sector to local distribution companies providing a regulated local distribution function for end-user customers (including vertically-integrated utilities, distribution utilities, rural-electric cooperatives, municipal distribution systems, and all other entities providing distribution service directly to end-user customers subject to State regulation or its equivalent). This approach will allow State PUCs or other authorities to ensure that the value of these no-cost allowances will inure to the benefit of end-use consumers. Alternatively, States should be able to adopt other methods for distributing benefits to end-use consumers.
6. The assignment of no-cost allocated allowances to local distribution companies as defined above should be based primarily on the level of GHG-emissions from the resources used to provide service to the local distribution company's load during an appropriate baseline period.
7. Any emissions allowance allocation program should not inappropriately advantage or disadvantage particular regions, local distribution companies (as defined above), or generators, and should ensure that end-user customers receive the benefit of allocated emissions allowances for the purpose of offsetting the increased costs resulting from the institution of GHG-emissions regulation.
8. Any assignment of allocated emissions allowances should seek to accommodate any efforts made in particular regions or States to reduce GHG-emissions in anticipation of the enactment of federal legislation regulating GHG-emissions.
9. In defining the baseline period, proper precautions should be taken to ensure that counterproductive behavior by any allowance market participants is discouraged and that gaming does not occur.
- 10 Cost-containment measures should be included in any cap-and-trade mechanism in order to minimize abrupt changes in the cost of compliance, including during the initial phases of implementation, which could adversely affect electricity consumers or allowance markets. Such measures should be designed to achieve effective and appropriate environmental benefits while ensuring price stability and predictability, promoting investment in appropriate technologies, and minimizing adverse consumer impacts, including price volatility; *and be it further*

**RESOLVED,** That any federal climate change legislation should be consistent with existing NARUC policies regarding non-discriminatory wholesale competition; demand response; energy efficiency; renewable generation; generation resource adequacy; fuel diversity; the development of clean coal and improved nuclear technologies; and the development of a comprehensive solution for the existing nuclear waste disposal problem.

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