



N A R U C
National Association of Regulatory Utility Commissioners

September 2, 2009

Mr. David G. Frantz
Director, Loan Guarantee Program Office
Office of the Chief Financial Officer
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585-0121
lgprogram@hq.doe.gov

RE: RIN 1901-AB21 Comments on Proposed Loan Guarantee Program Rules

Dear Mr. Frantz:

We are writing to support the proposed changes to the rules implementing the Loan Guarantee Program that was authorized by Title XVII of the 2005 Energy Policy Act. The proposed changes will increase the Secretary of Energy's ability to effectively promote the commercialization and increased use of a variety of energy projects including renewable energy, advanced nuclear energy, advanced fossil energy technology (including coal gasification, efficient transmission and distribution technologies, carbon capture and sequestration projects), and other technologies to meet growing electricity demand, and avoid or reduce emissions.

NARUC is a quasi-governmental, non-profit organization. Our membership includes the State public utility commissions serving all States and territories. Our members regulate the retail rates and services of electric, gas, water, and telephone utilities. NARUC members are obligated under the laws of their respective States to ensure the establishment and maintenance of such services and ensure that such services are provided under rates, terms, and conditions that are just, reasonable, and non-discriminatory.

State Commissions are uniquely situated to evaluate the cost and benefits of programs such as the Title XVII Loan Guarantee Program. When DOE first issued the proposed rule implementing the Loan Guarantee Program, NARUC expressed concerns that certain provisions of the proposed rule appeared to reduce the effectiveness of the program as a means of promoting technologies that avoid, reduce, or sequester greenhouse gas emissions and reduce costs of these technologies to consumers.

The proposed changes will make the Loan Guarantee Program more workable by allowing the Secretary of Energy to determine appropriate collateral packages and inter-creditor arrangements. NARUC supports a workable Loan Guarantee Program that enables the deployment of advanced energy technologies to meet the nations future energy needs in a

manner that limits costs to consumers while reducing greenhouse gas emissions and facilitating greater energy independence.

NARUC adopted a resolution addressing the Title XVII Loan Guarantee Program during its July 2007 Summer Meetings. I have enclosed that resolution here for your information.

Sincerely,

A handwritten signature in black ink, appearing to read "RLunt". The signature is fluid and cursive, with the first letter "R" being particularly large and stylized.

Robin J. Lunt
Assistant General Counsel

Encl.

***Resolution Regarding the Notice of Proposed Rulemaking (NOPR) Issued by the
Department of Energy (DOE) Implementing the Loan Guarantee Program Authorized
by the Energy Policy Act of 2005***

WHEREAS, The Energy Policy Act of 2005 recognizes the need to promote and support deployment of advanced energy technologies to enhance the nation's electric generation mix; *and*

WHEREAS, The Act further recognizes the need to encourage the commercialization and increased use of a variety of energy projects, including renewable energy, advanced nuclear energy, advanced fossil energy technology, including coal gasification, efficient transmission and distribution technologies, carbon capture and sequestration projects and other technologies to meet the growth of electricity demand, the potential to lower costs, and to avoid, reduce, or sequester air pollutants and anthropogenic greenhouse gas emission; *and*

WHEREAS, The Act further authorizes the Department of Energy (DOE) to make loan guarantees for projects to encourage the commercialization and increased use of such technologies; *and*

WHEREAS, On May 16, 2007, the DOE issued a Notice of Proposed Rulemaking (NOPR) to implement the loan guarantee program as authorized by the Act; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) has recently formed a Task Force on Climate Policy to address issues relating to greenhouse-gas emission limitations while at the same time meeting the growth in demand for electricity in a manner that assures a safe, reliable, adequate and affordable supply of electricity; *and*

WHEREAS, State commissions are uniquely situated to assess the costs and benefits of programs which seek to promote technologies which avoid, reduce or sequester greenhouse-gas emissions; *and*

WHEREAS, The loan guarantee program authorized by the Act has the potential to lower the cost of electricity produced by such technologies and thus reduce costs to consumers, if it is properly implemented; *and*

WHEREAS, There are certain provisions in the DOE NOPR implementing the loan guarantee authority which may reduce the effectiveness of the loan guarantee program as a means of promoting such technologies and reducing cost to consumers; *and*

WHEREAS, NARUC members further believe these provisions may hinder the purposes of the loan guarantee authorization; *now, therefore, be it*

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 the DOE to adopt rules for a loan guarantee program that will ensure the program is a meaningful tool in encouraging the commercialization and use of energy technologies that reduce, avoid, or sequester air pollutants and greenhouse gases; *and be it further*

RESOLVED, That more specifically, NARUC urges the DOE to revise its proposed rules in the following manner so as to assure full compliance with the intent and purposes of Title XVII of the 2005 Energy Policy Act:

- Assure that loan guarantees may be used to cover 80 percent of the full project cost of the facility, as specified by Section 1702 of Public Law 109-58, thereby enabling the borrower to carry out the project, *and*
- Allow any un-guaranteed debt of the proposed project to be marketed separately from guaranteed debt to assure least cost financing is achievable; *and be it further*

RESOLVED, That NARUC believes adoption of workable loan guarantee regulations will enable the deployment of advanced energy technologies to help the nation meet its future energy needs in a manner that reduces costs to consumers while reducing greenhouse gas emissions and facilitating greater energy independence.

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