

However, the specific product at issue in the Petition, aggregation of retail customers into Wholesale EERs, affects both domains.

The Commission was faced with a similar set of issues as it implemented rules for wholesale Demand Response (“DR”) resources. In Order No. 719,² the Commission was careful to recognize the potential impacts that a wholesale market product would have on states' retail markets and retail regulators' jurisdiction. In so doing, the Commission provided a mechanism whereby state and local regulators could "opt-out" of retail customer participation in wholesale DR products to ensure that retail markets or the resource planning initiatives of state and local regulated utilities were not negatively affected. This outcome is a prime example of cooperative federalism. The Commission required RTOs and ISOs to incorporate wholesale DR products into their markets, “unless the laws or regulations of the relevant electric retail regulatory authority³ do not permit a retail customer to participate.”⁴ The OMS believes the same procedure should be applied to Wholesale EERs. The Commission will retain its jurisdiction over wholesale electricity markets while the state and local regulators retain jurisdiction over retail sales, including authority over whether retail load participates in wholesale markets.

Many of the same issues raised in AEE's Petition were addressed by the Kentucky Public Service Commission ("Kentucky Commission") in Case No. 2017-00129. On June 6, 2017, the Kentucky Commission issued its Order in that case which prohibited retail electric customers from participating directly or indirectly in any PJM wholesale market, including, but not limited to, DR and EER programs, except under a tariff or special contract on file with the Commission.⁵ The

² *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281, at P 155 (2008) [hereinafter “Order 719”].

³ Herein referred to as “RERRA.”

⁴ Order 719 at P 47.

⁵ *In re: Application of East Kentucky Power Cooperative, Inc. for a Declaratory Order Confirming the Effect of Kentucky Law and Commission Precedent on Retail Electric Customers' Participating in Wholesale Electric*

Kentucky Commission also stated that the case caused it to consider “whether it will be necessary to initiate an investigation to determine whether a change needs to be made in the functional control of transmission assets due to PJM actions that are inconsistent with Kentucky’s regulated electric market.”⁶ The Kentucky Commission's Order regarding the participation of wholesale aggregators within traditionally regulated states is consistent with the OMS' position on the jurisdictional issues implicated in the Petition.

In response to, and concurrent with, the above-referenced proceeding before the Kentucky Commission, PJM Interconnection, Inc. ("PJM") developed a Problem Statement and Issue Charge in April 2017 to address potential revisions to the rules governing Wholesale EER participation. After undergoing revisions on May 3, 2017, the Problem Statement and Issue Charge proposed three reforms for Wholesale EER participation in the PJM markets.⁷ The proposed reforms contemplate: (i) “the establishment of rules requiring that the providers of [EERs] comply with any Relevant Electric Retail Regulatory Authority ("RERRA") orders, ordinances, or resolutions relating to the participation of [EERs] in the PJM markets,” (ii) “if necessary, the establishment of rules requiring review of whether proposed [EERs] comply with RERRA orders, ordinances or resolutions,” and (iii) if necessary, the treatment of the EER providers that have already cleared past capacity auctions and have a position for a future delivery year.⁸

Following stakeholder consideration at PJM's May 3, 2017 Markets Implementation Committee (“MIC”) meeting, on June 7, 2017, the MIC voted to adopt the Problem Statement and

Markets, Case No. 2017-00129, (Ky. P.S.C. June 6, 2017), available at: http://psc.ky.gov/PSCSCF/2017%20Cases/2017-00129/20170606_PSC_ORDER.pdf [hereinafter “Kentucky Order”].

⁶ *Id.* at 21.

⁷ PJM, Energy Efficiency Resource Aggregations in PJM’s Capacity Market Problem Statement and Issue Charge, available at: <http://www.pjm.com/~media/committees-groups/committees/mic/20170503/20170503-item-07b-ee-draft-problem-statement-and-issue-charge-redline.ashx> (May 3, 2017).

⁸ *Id.*

Issue Charge.⁹ With this approval in place, a stakeholder process commenced to revise PJM's Tariff, manual, and other governing documents to develop rules regarding the participation of Wholesale EERs in PJM markets and to address those Wholesale EERs that have already cleared the PJM capacity auction.

With this backdrop, on June 5, 2017, AEE submitted the instant Petition to the Commission pursuant to Rule 207(a)(2), requesting that the Commission issue a Declaratory Order on the following:

1. That under the Federal Power Act, the Commission has exclusive jurisdiction over the rates, terms, and conditions under which Wholesale EERs are sold in wholesale electricity markets;
2. That an RERRA may not bar, restrict, or otherwise condition the participation of Wholesale EERs in wholesale electricity markets unless the Commission expressly adopts rules or regulations giving states and retail regulators such authority;
3. That Order No. 719 does not provide for an RERRA to exercise an "opt out" and bar or restrict the sale into the wholesale electricity markets of Wholesale EERs originating in their state or local area; and
4. That use of an RTO/ISO stakeholder process to develop tariff provisions giving an RERRA such "opt in / opt out" authority is improper.
5. That to the extent an RTO/ISO develops a new "opt out" procedure allowing an RERRA to bar or restrict the sale into wholesale electricity markets of Wholesale EERs, such an "opt out" may only be applied prospectively and may not be applied to existing Wholesale EERs that have already cleared an auction and met all tariff requirements for participation.
6. In the event an RERRA requests that the Commission adopt a rule, regulation, or policy giving states and other retail regulators authority to "opt out" and bar, restrict, or otherwise condition the sale of Wholesale EERs or other energy technologies into the wholesale electricity markets, the Commission will consider whether:

⁹ PJM, Energy Efficiency Resource Aggregations in PJM's Capacity Market Problem Statement and Issue Charge, available at: <http://www.pjm.com/~media/committees-groups/committees/mic/20170607/20170607-item-05a1-ee-draft-problem-statement-and-issue-charge-clean.ashx> (June 7, 2017).

- a. the RERRA is acting within its legal authority and has a compelling interest for barring, restricting, or otherwise conditioning the technology's participation in the markets; and
- b. providing the RERRA such authority would satisfy the Commission's obligations under the FPA to ensure that the rates, terms, and conditions of wholesale markets are just and unreasonable [*sic*] and not unduly discriminatory or preferential.¹⁰

On June 29, 2017, AEE submitted a Notice of Supplemental Authority and Activity to include in the record the June 6, 2017 Kentucky Commission Order in Case No. 2017-001297 and June 7, 2017 PJM Markets Implementation Committee vote to adopt the Problem Statement and Issue Charge related to Wholesale EERs, both described above.¹¹

The Petition raises issues that affect the shared regulatory construct between state/local and federal jurisdiction. Because these are nuanced, complicated matters with disputed issues of material fact, the Petition should be rejected in favor of a more comprehensive process to properly resolve the questions posed and any other related matters.

II. OMS Motion for Extension of Time to Respond and Notice of Intervention

On June 29, 2017, the OMS filed a Motion for Extension of Time to Respond and Notice of Intervention in this proceeding. On June 30, 2017, AEE filed an Answer to the OMS' Motion for Extension of Time to Respond in which it stated that it did not object to the requested extension of time. On that day, pleadings were also filed by the Kentucky Commission and PJM in support of the OMS' Motion. The Commission granted the OMS' Motion on July 5, 2017, extending the date for answers, interventions and comments to July 19, 2017.¹²

¹⁰ Advanced Energy Economy, Pet. for Declaratory Order, EL17-75-000, 9-12, (June 5, 2017) [hereinafter "AEE Pet."].

¹¹ Advanced Energy Economy, Notice of Supplemental Authority and Activity, EL17-75-000 (June 29, 2017).

¹² Notice Granting Extension of Time, EL17-75-000 (July 5, 2017).

III. Protest

The Commission should reject AEE's Petition because it contains important factual deficiencies that must be addressed and fully vetted in a broader forum in order for the Commission to make an informed decision. As detailed below, and contrary to the assertion in the Petition, Wholesale EERs have a number of effects on the systems and entities within the areas of traditional state and local regulatory authority that affect RERRAs ability to ensure retail rates remain just and reasonable.¹³ The Commission has acknowledged the jurisdictional overlap of wholesale market products on retail functions in the development of requirements for wholesale DR in Order 719 by allowing RERRAs to opt-out of retail customer participation.¹⁴ Wholesale EERs present the same type of concerns that were raised during the robust process leading to the issuance of Order 719.¹⁵ As such, the Petition should be rejected and a process established to develop a complete record upon which the Commission can make a reasoned and informed decision.

A. A Declaratory Order Is Not the Appropriate Process to Establish National Policy on Important Jurisdictional Questions

AEE based its Petition on the activities taking place within the stakeholder process of one RTO, yet seeks declarations on broad policy matters that will affect every RTO and ISO in the nation. As outlined below, there are numerous factual inaccuracies in the Petition. The most notable, and a key to proper disposition of the declarations requested, is that Wholesale EERs, “have no nexus with or connection to state-regulated retail electric utility service.”¹⁶

A broad, inclusive process should be initiated to comprehensively address the matters raised in the Petition. Through this process, all interested parties would be afforded a sufficient opportunity to comment on the issues presented in the Petition or raise others. Such an undertaking

¹³ See *Infra* p. 7-12.

¹⁴ Order 719 at P 155.

¹⁵ The OMS suggests a technical conference to begin a vigorous information gathering process.

¹⁶ AEE Pet. at 7.

would provide the Commission with the array of perspectives and concerns necessary to make a well-informed decision on fundamental, national policy questions.

B. Contrary to the Representation in the Petition, There Are Significant Factual Issues in Dispute that Require an Evidentiary Process to Ensure the Commission Has Sufficient Information to Make an Informed Decision

In support of its Petition, AEE states, "... there are no significant factual issues in dispute; there is no need for an evidentiary hearing to be conducted."¹⁷ This is a threshold matter on which the Petition fails. The primary and most crucial factual dispute is the claim that Wholesale EERs "have no nexus with or connection to state-regulated retail electric utility service."¹⁸ This statement is dubious on its face and substantially undermines RERRAs authority to ensure proper oversight of the entities and systems within their jurisdictions. As was determined for wholesale DR resources, Wholesale EERs impact several areas within state and local regulated electric utility service.

Critical areas of load forecasting, resource planning, capacity procurement, and reliability are all under the purview of the retail regulators. These areas are effected by RERRA-approved, utility-sponsored energy efficiency programs ("utility efficiency programs") which could be harmed if AEE's Petition prevails. Furthermore, there can be other important considerations in state and local policy making that may be impacted by retail customer participation in Wholesale EER markets without RERRA oversight.

i. Load Forecasting and Resource Planning are Impacted by the Presence of Wholesale EERs

As state and local regulators exercise their jurisdiction over resource adequacy, perhaps the most critical component is ensuring that they have an accurate understanding of the need for additional generating resources in the future. Load forecasting is an inherently complicated task,

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 7.

effected by dynamic factors such as population growth, the health of the economy, and changing technology. The presence of Wholesale EERs, falling outside of the scope of comprehensive utility planning, adds another layer of complexity to an already difficult analysis.

Retail load forecasts also play an important role in RTOs. For example, the majority of Load Serving Entities (“LSE”) in MISO account for their utility efficiency programs by reducing their load forecasts in the annual Planning Resource Auction (“PRA”).¹⁹ The presence of Wholesale EERs in MISO leads to energy efficiency participating on the load *and* supply side. If this were to happen in traditionally-regulated jurisdictions without the knowledge of the LSE, the fundamental premise of a voluntary auction that allows utilities to continue their state/local-required resource planning while sending locational signals would be placed in jeopardy.

The difficulties with having Wholesale EERs participate in capacity auctions on both the load and supply side were identified in a recent PJM report release June 28, 2017.²⁰ Specifically, PJM noted the potential for LSEs to over-procure capacity through a wholesale mechanism because Wholesale EERs have reduced the actual need. Another challenge identified is the difficulty associated with separating energy efficiency that occurs as a means to reduce retail electric costs (e.g., efficiency driven by economics or a retail tariff structure) versus efficiency measures intended to meet wholesale requirements. Efficiency measures undertaken under a retail tariff could in effect be paid twice if allowed to participate at the wholesale level as well. The report states that PJM will “evaluate transitioning energy efficiency to the demand side (retail

¹⁹ The MISO PRA is a voluntary, balancing auction, where LSEs show they have adequate resources to meet both local and system-wide resource adequacy requirements. Requirements can be met through a combination of a Fixed Resource Adequacy Plan, Self-schedule, or purchase in the auction.

²⁰ PJM, PJM Long Term Demand Response Strategy (June 28, 2017), available at: <http://www.pjm.com/~media/library/reports-notice/demand-response/20170628-pjm-demand-response-strategy.ashx>.

electricity cost savings) by eliminating capacity compensation” as part of a long-term strategy related to DR.²¹

ii. Wholesale EERs Can Impede the Success of State and Local Policies on Energy Efficiency and Cause Harm to the Jurisdictional Utilities that Are Responsible to Implement Them and Their Customers

State and local regulators, through legislation, executive action, or utility commission orders, have enacted a wide variety of policies on energy efficiency. In some instances, policy makers have put energy efficiency goals or requirements in place, along with financial incentives and/or “hold harmless” clauses to ensure the financial strength of the jurisdictional utility while reducing the amount of energy sold. Wholesale EERs will clearly interfere with the achievement of these policy objectives and potentially cause financial harm to the state/local utility as any reductions in energy sales from Wholesale EERs would be outside the scope of state and local policies.

Wholesale EERs also have implications on utility efficiency program planning and evaluation. Utility efficiency programs often utilize “technical potential” studies as a foundation for planning to achieve a policy objective. These studies are used to determine the amount of funding dedicated to efficiency programs and the specific types of programs to implement. The presence of Wholesale EERs would make it challenging for state and local regulators to plan effective utility efficiency programs because the portion of the “technical potential” captured by Wholesale EERs would be unknown. This is especially true if the timelines for planning utility efficiency programs, as set out in state and local statutes, are different than timelines established in RTO markets.²²

²¹ *Id* at 5, 39.

²² For example, in PJM, the wholesale products will be planned and bid on a 3-year forward basis to align Reliability Pricing Model while state and local program may only be one year forward or on some other timeline, making simultaneous planning difficult.

In addition, key policy decisions are made when establishing utility efficiency programs to ensure their cost effectiveness (i.e., comparing the expected benefits to ratepayers against the costs to implement the programs) and the ability of ratepayers to access program benefits. State and local policies often require the creation of a suite of efficiency programs that offer a wide variety of energy efficiency “measures.”²³ The whole suite of these measures is typically evaluated to ensure the program’s overall cost-effectiveness (as defined by a “B/C ratio”) is above a certain threshold. Each of the measures within the program, however, do not have the same B/C ratio. The measures that reduce peak demand often have the highest B/C ratio, increasing the average for the program as a whole. If Wholesale EERs reduce the pool of high-B/C ratio measures available to utility programs, the entire program’s cost-effectiveness could be effected. This may lead policy makers to determine that a utility efficiency program is ineffective, thereby reducing the availability of benefits to customers. This is a critical component of utility efficiency programs that could be affected by Wholesale EERs.

It’s worth noting that the single energy efficiency program type that AEE relies on throughout its petition, reducing product cost directly at a retailer/supplier, typically has a very high B/C ratio and is often a centerpiece of utility energy efficiency programs.²⁴ By allowing aggregators to sign up retailers and suppliers for purpose of generating Wholesale EERs, those same retailers and suppliers are no longer available to utilities to implement their own programs. Furthermore, the utility may have assumed the availability of certain retailers to participate in a utility efficiency program.

²³ Measure: any energy efficiency product or application that reduces electricity use.

²⁴ For example, Wisconsin’s Focus on Energy Calendar Year 2016 Evaluation Report discusses the prevalence of retail programs, stating “The Retailer Lighting and Appliance Program contributed the greatest amount of electric savings for the residential segment.” Cadmus Group, Wisconsin’s Focus on Energy Calendar Year 2016 Evaluation Report Vol. I 12-14 (2017), available at: <https://focusonenergy.com/sites/default/files/Wisconsin%20Focus%20on%20Energy%20CY%202016%20Volume%20I.pdf>.

In addition to affecting the successful planning and operation of utility efficiency programs, the back-end evaluation, consisting of measurement & verification (“M&V”) procedures, would also be effected. State and local regulators have strict M&V requirements that are designed to protect ratepayers by verifying claimed program benefits. To do this, M&V procedures rely on a variety of techniques, including surveying electric customers. Asking a customer to correctly recall the specific program – utility efficiency program or Wholesale EER – possibly months later would clearly be difficult and therefore challenge the ability of utility programs to provide verifiable savings.

Consequently, these potential intrusions into utility efficiency programs could unreasonably impede on the success of state and local policy objectives and create a clear conflict between Wholesale EERs and retail programs.

iii. The Typical Customer Protections Put in Place by Retail Regulators could be impacted by the Presence of Wholesale EERs

There are also concerns about the effect on customers directly. For instance, retail customers with average embedded rates may arbitrage their load through sales into wholesale markets which, absent application of retail rate provisions, could leave all other customers to shoulder the difference, leading to increased costs. In addition, solicitation of retail customers for participation in Wholesale EER programs would be limited based on RTO-defined market rules. Utility programs typically have a much more all-inclusive approach to ensure all customers can take advantage of efficiency program offerings.

iv. Impact to RTOs/ISOs

AEE makes several comments in its Petition related to the potential harm to the RTOs/ISOs of an opt-out provision. First, the argument that RTOs/ISOs may be “susceptible to being put in a position where they are obligated to act on behalf of specific stakeholders or market

participants”²⁵ falls flat. The type of policy under consideration and at issue in PJM would merely mirror what is already in place for DR resources. This does not amount to "acting on behalf of" any particular stakeholder, but acknowledges the potential implications on the state/local utility and the provision of certainty to the Wholesale EER supplier before making investments.

Furthermore, as Kentucky alluded in its Order, state and local regulators could be less inclined to support continued participation in the RTOs/ISOs if they fear harm to the jurisdictional distribution systems and customers because RERRAs have an obligation to protect their ratepayers. There are certainly opportunities to resolve these jurisdictional issues, as happened in the development of Order 719, in a manner that respects state and local resource planning obligations and protects customers from cross-subsidizing Wholesale EER participants. However, the participation of Wholesale EERs, without the knowledge or consent of the applicable RERRAs, threatens to harm the distribution system and those customers who do not participate in Wholesale EER programs.

C. If the Commission Does Not Reject the Petition in Totality, It Should Affirm that RERRAs May Opt-out or Otherwise Restrict the Participation of Retail Customers in Wholesale EER Markets

Like DR, the participation of EERs in RTO and ISO markets implicates the broad intersection between wholesale and retail electricity rates. The Federal Power Act authorizes the Commission to regulate “the sale of electric energy at wholesale in interstate commerce,” including both wholesale electricity rates and any rule or activity “affecting” such rates.²⁶ Any other sale of electricity (particularly, retail sales) is the jurisdictional province of the state and local regulators. In addition, state and local regulators have exclusive jurisdiction over facilities used

²⁵ AEE Pet. at 3.

²⁶ 16 U.S.C. 824(b)(1) (2015).

for the generation of electricity and over facilities used in local distribution.²⁷ By definition and as explained in more detail above, Wholesale EERs have a direct impact on the planning initiatives and operations of jurisdictional utilities, thereby necessitating recognition of state and local authority. Commensurate with RERRA authority over wholesale DR participation, it is necessary and appropriate for the Commission to extend the opt-out established in Order 719 to Wholesale EERs.

Energy efficiency and demand response have comparable features that effect an LSE's distribution system in similar ways. Both serve to reduce a customer's load, which correspondingly reduces demand on the utility supplier's system. Energy efficiency and demand response are differentiated by the fact that energy efficiency is usually a passive, permanent reduction in load while demand response is typically a temporary reduction or shifting of load during certain hours of the day. However, both have the same effect by reducing the load of the supplying utility and both have long histories of successful implementation by utilities. If this reduction in customer load is not reflected in the LSE's load forecast models and subsequent resource planning initiatives, the LSE may overbid its load and, in turn, procure more capacity resources than necessary. This result is, in essence, a subsidization by those customers not participating in an energy efficiency program and an unjust enrichment for those customers that do.

For these same reasons, the Commission in Order 719 required RTOs and ISOs to amend their market rules to permit Aggregators of Retail Customers ("ARC") to bid demand response on behalf of retail customers directly into the RTO's or ISO's organized markets, "unless the laws or regulations of the relevant electric retail regulatory authority did not permit a retail customer to

²⁷ *Id.*

participate.”²⁸ By so doing, the Commission recognized that allowing ARCs to bid into the wholesale energy market without the RERRA’s express consent may have unintended consequences. The Commission also stated that its intent was not to interfere with the operation of successful demand response programs, place an undue burden on state and local retail regulatory entities, or raise new concerns regarding federal and state and local jurisdiction.²⁹ As such, the market rules of an RTO or ISO do not have to allow bids from an ARC if they are restricted by a given RERRA’s laws or regulations.³⁰ This flexibility is needed for EER participation in wholesale markets as well.

In Order 719, the Commission recognized the value of energy efficiency and noted RTO and ISO efforts to integrate energy efficiency into organized markets.³¹ While the Commission did not preclude an RTO or ISO from appropriately including energy efficiency into any of its markets, it acknowledged that such participation may give rise to similar issues addressed by ARCs³². The Petition is asking the Commission to go in completely the opposite direction for Wholesale EERs even with the acknowledgment of similar impacts.

One of the declarations AEE requests in its Petition goes to the appropriate circumstances under which the Commission may adopt an opt-out for Wholesale EERs or other energy technologies, similar to that for wholesale DRs. AEE asks the Commission to consider whether (1) the RERRA is acting within its authority to exercise the opt-out, and (2) whether the Commission would meet its obligation under the Federal Power Act (“FPA”) to ensure that wholesale markets rules are just and reasonable and not unduly discriminatory or preferential.³³

²⁸ Order No. 719 at P 21.

²⁹ *Id.*

³⁰ *Id.* at P 129.

³¹ *Id.* at P 56.

³² *Id.*

³³ AEE Pet.at 11-12.

The OMS does not accept on its face that the AEE proposal is necessary or appropriate. However, as explained in this section and applied in Order 719, these proposed criteria would be met for Wholesale EERs. The effect of Wholesale EERs on the programs, entities, and responsibilities under state and local jurisdiction certainly bring the use of an opt-out within the RERRAs jurisdictional authority. And, as with wholesale DR products, Wholesale EER participation in wholesale markets will operate under appropriate circumstances in a way that is aligned with the Commission's responsibilities under the FPA.

To address these points and concerns, if a separate process is not undertaken by the Commission, it should find that retail customers should be allowed to participate in Wholesale EER markets only if expressly permitted by their RERRA. Such a provision would invite RERRA authorities to contact the RTO or ISO to provide the necessary notice. Absent notice that permission has been properly authorized, the RTO or ISO should presume that Wholesale EER participation in RTO or ISO markets is not allowed. In the same vein, the burden should be placed on the market participant or RTO/ISO to acquire the RERRA's permission to allow Wholesale EER participation rather than forcing RERRAs to show it conflicts with state/local laws or regulations. This approach is aligned with Commission precedent in Order 719 and an appropriate acknowledgment of the overlapping jurisdiction between the Commission and the state and local regulators.

D. Absent Institution of a Robust Evidentiary Gathering Process to Establish a National Policy or Adoption of an Opt-Out for Wholesale EERs, Vetting the Issues Raised in the Petition in the RTO/ISO Stakeholder Process Is Appropriate

Absent a more holistic approach to addressing the issues raised in the Petition or adopting the same opt-out provision approved for DR, the Commission should allow the individual RTOs/ISOs stakeholder processes to determine for themselves the appropriate outcome that takes regional market structure and other differences into account. It is appropriate that RTOs/ISOs

strive to address outstanding concerns within their individual stakeholder processes and PJM pursued the correct path by acknowledging the concern raised by the Kentucky Commission and bringing the matter to its stakeholders.

In the FPA §205 tariff process, the Commission remains the arbiter of the justness and reasonableness of the outcome flowing from the stakeholder process, but the vetting process inherent in the development of such a filing is valuable and necessary. The difficulty of successfully challenging a §205 filing is immaterial.³⁴ The important issue is whether the outcome is just and reasonable. For these reasons, if the Commission does not initiate its own process to resolve the issues raised by AEE, or adopt the Wholesale EER opt-out, PJM and other RTOs/ISOs should be encouraged to work with their stakeholders to devise just, reasonable, and appropriate solutions.

IV. Conclusion

For the reasons stated above, the OMS respectfully asks that the Commission reject the Petition and establish a robust process to address the issues raised therein. In the alternative, the Commission should adopt an “opt-out” for Wholesale EERs if the relevant retail regulatory body does not permit retail customers to participate in such programs. Finally, in the event neither of the aforementioned options are implemented, it would be appropriate to allow the issues raised in the Petition to be addressed as part of individual RTO stakeholder processes and evaluated by the Commission through any filings made to request associated tariff changes.

³⁴ *Id.* at 33-34.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 19th day of July 2017.

Tanya Paslawski