UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

COMMENTS OF THE NATURAL GAS SUPPLY ASSOCIATION
IN SUPPORT OF PROPOSED POLICY STATEMENT

Pursuant to the Federal Energy Regulatory Commission's ("FERC") Notice of Proposed Policy Statement, issued on October 15, 2020,[1] the Natural Gas Supply Association ("NGSA") respectfully submits these comments in support of the proposed policy statement. The Commission's day-long technical conference on carbon pricing held on September 30, 2020, as well as its proposed policy statement were much-needed first steps toward creating a climate conducive for state policymakers and regions to more seriously consider adoption of sustainable market-based approaches that will help them meet their long-term environmental policy objectives. Most importantly, this policy statement accurately recognizes the importance of creating effective state carbon policies that are fully aligned with maintaining competitive wholesale market structures.

NGSA asks the Commission to pursue additional efforts that allow for a more active role of state policymakers. Also, we ask the Commission to consider adopting a final policy statement that more broadly applies to both organized and non-organized markets alike given that there is no reason to treat proposals differently based on whether the submission originates in organized markets.

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[1] Federal Energy Regulatory Commission. (Oct. 15, 2020). *Carbon Pricing in Organized Wholesale Electricity Markets*. (Docket Number AD20-14-000).

I. INTEREST OF NGSA

Founded in 1965, NGSA represents integrated and independent energy companies that produce and market domestic natural gas and is the only national trade association that solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA encourages the use of natural gas within a balanced national energy policy and supports the benefits of competitive markets. NGSA is dedicated to achieving a cleaner future through strong partnerships with renewables and supporting innovative technologies and market solutions that reduce emissions. NGSA advocates for competitive wholesale power markets that provide the appropriate price signals that encourage natural gas-fired power generators to make investments needed to reliably meet consumer demand as well as to provide ramping capabilities that will assist in the grid's ability to accommodate greater levels of intermittent resources.

II. COMMENTS

A. NGSA supports the Commission's actions to provide clarity regarding its authority under Section 205 of the Federal Power Act.

The policies outlined in the proposal will instill greater confidence that efforts to develop market-based carbon pricing programs will be given the serious consideration they deserve when submitted to the Commission. While it may not be technically required to do so, reaffirming that FERC unquestionably has the authority under Section 205 of the Federal Power Act to review such submissions will give greater confidence to state policymakers, RTOs and industry stakeholders that devoting their resources to the development of carbon pricing proposals will not be for naught. Additionally, understanding in advance what considerations FERC believes are germane to the Commission's review of carbon price proposals will be useful knowledge for those developing proposals to fully understand what is necessary to address when seeking FERC approval.

In the proposed policy statement, FERC clarifies that wholesale market rules that incorporate a state-determined carbon price in RTO/ISO markets can fall within the Commission's jurisdiction given that they can affect wholesale rates. The proposed policy statement makes clear that FERC will make that determination based on the facts and circumstances in each specific proceeding. FERC has stated that it will follow the Supreme Court's instruction in *EPSA* by applying a two-part test for evaluating whether a Commission action is within its jurisdiction to regulate practices affecting wholesale rates.[2] First, the proposed policy statement finds that the wholesale market rules that incorporate a state-determined carbon price into RTO/ISO markets can satisfy that "directly affect" standard if the state-determined carbon price impacts how resources participate in the RTO/ISO market, how market operators dispatch those resources, and how those resources are ultimately compensated. Second, the proposed policy statement finds that the wholesale market rules that incorporate a state-determined carbon price in RTO/ISO markets can satisfy this second standard in the *EPSA* decision by incorporating a state-determined carbon price into the wholesale market solely for the purpose of improving that market without in any way diminishing state authority.

NGSA believes that FERC's interpretation of its authority is accurate because FERC would simply be using its authority to improve the functioning of the wholesale market by incorporating state-determined carbon pricing. This is precisely the type of cooperative federalism envisioned by the Supreme Court in *EPSA* and it is also consistent with the

[2] *FERC v. Elec. Power Supply Ass'n*, 136 S. Ct. 760, 776 (2016), *as revised* (Jan. 28, 2016) ("*EPSA*").

state/federal divisions contemplated by Congress in the Federal Power Act. Additionally, making these jurisdictional determinations on a case-by-case basis is appropriate given that each carbon pricing proposal will vary depending on the unique attributes of each region.

B. FERC correctly acknowledges that a well-designed carbon pricing program has the potential to improve the efficiency and transparency of the organized wholesale markets by providing a market-based method to incorporate state efforts to reduce GHG emissions.

A well-designed carbon price is the most efficient way to reduce emissions, as it provides the right incentives for everyone – energy producers and consumers alike – to play their part in reducing emissions and developing new clean energy technologies. While NGSA has a strong preference for a national economy-wide carbon pricing program, we understand that states are moving forward with aggressive targets to meet their clean energy targets, and the most effective way for them to accomplish those objectives is through broad regional or state carbon pricing programs.[3] A recent study released by Energy and Environmental Economics, Inc. ("E3") finds that carbon pricing leads to lower emission levels and is the best tool for states to meet their clean energy targets, finding "(m)uch deeper emissions reductions could be achieved at a much lower cost" relative to other more prescriptive policy options that are primarily utilized today."[4]

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[3] E3's study states that, "carbon pricing offers a significant advantage that other policy scenarios examined do not: carbon accounting offers a common metric for broader, economy-wide decarbonization efforts, both in the PJM region and elsewhere. While not explicitly studied here, prior studies by E3 and others have shown that coordinated planning for carbon reductions ***across all sectors of the economy are needed to achieve long-term goals at least cost***. Carbon pricing offers the unique ability to incentivize emissions reductions from both the power sector and other sectors of the economy – such as transportation, buildings, and agriculture – on a level playing field. A common carbon framework across these sectors may be increasingly important in the future as policymakers set more ambitious carbon reduction goals. Moreover, ***a U.S.-wide carbon pricing program would provide additional opportunities to seek out cost-effective emissions abatement opportunities from anywhere in the country***." (emphasis added) Energy and Environmental Economics Inc.(2020) *Least Cost Carbon Reduction Policies in PJM*, https://www.ethree.com/wp-content/uploads/2020/10/E3-Least_Cost_Carbon_Reduction_Policies_in_PJM-1.pdf. p. 10.

[4] Ibid., p. 8.

In addition to the fact that more emissions reductions can be achieved at a lower cost, there are a vast number of other benefits to implementing well-designed carbon pricing programs that make it the superior option for states and regions to consider when looking at the various options to meet their clean energy targets including:

a. ***Increased revenue during times of economic stress***. Carbon pricing is a more economic choice for consumers compared to out-of-market actions because it allows for the use of the least-cost options. Additionally, unlike other approaches to funding increased use of lower-carbon resources, carbon pricing will generate revenues that states can use to offset increased energy costs to communities, consumers and businesses that are impacted by carbon pricing in a fuel-neutral manner.

b. ***Maintaining grid reliability***. Allowing all resources to contribute to lower emissions is an essential component to maintaining grid reliability during a transition to a lower carbon energy future. Carbon pricing mechanisms allow for a broader resource mix to compete, including natural gas, which is needed to assist in addressing intermittency issues that may increase as more renewable resources are integrated into the grid.[5]

c. ***Encouraging innovation in new technologies***. E3's recent study explains that reaching aggressive emissions targets will likely require carbon capture and sequestration ("CCS"), new nuclear generation, new sources of renewable biogas or hydrogen fuels, or other forms of clean fuel generation which are not all commercially available today. However, "(f)lexible, market-based policy mechanisms like carbon pricing will be best equipped to incentivize these technologies of the future on a level playing field, spread risk evenly among market participants, and avoid path-dependent incentive mechanism."[6]

C. Consumer impacts, system reliability and market competitiveness are additional considerations that should be added to the policy statement's list of considerations germane to the Commission's review of a carbon price proposal.

The proposed policy statement enumerates several considerations that will be germane to the Commission's review of carbon price proposals. Generally, we believe that

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[5] As highlighted in E3's recent study, "Forcing these existing gas resources to retire adds significant cost but does little to reduce carbon emissions." Energy and Environmental Economics Inc.(2020) *Least Cost Carbon Reduction Policies in PJM*, https://www.ethree.com/wp-content/uploads/2020/10/E3-Least_Cost_Carbon_Reduction_Policies_in_PJM-1.pdf. p. 8.

[6] Ibid., p.14.

the list of considerations contained in the proposed policy statement include the essential elements that are relevant to a thorough review of an application and that the actual application of these elements will necessarily vary depending on the circumstances in each individual case. As noted below, NGSA encourages the Commission to engage states in a dialogue that may include enhancing or better refining how these considerations may be applied. Such an effort would be instrumental in helping states and regions better understand what might constitute a proposal that the Commission would find to be just and reasonable.

Additionally, NGSA believes there are additional factors that should be included in the Commission's considerations when reviewing individual carbon pricing proposals including:

a. ***Ensuring adequate consumer protections***. While carbon pricing programs are more likely to lower the overall costs to consumers relative to other policy out-of-market options, it is still imperative that the Commission give serious consideration to whether consumers are adequately protected from the potential layering of costs that could occur, especially in transitional years prior to carbon pricing becoming the more prominent vehicle utilized to lower carbon emissions. If there is a layering effect of costs associated with multiple carbon reduction programs, this could impact the overall efficiency benefits otherwise seen in wholesale markets associated with carbon pricing. Such a review should also entail whether there is full cost transparency of the various regional programs so that consumers are fully aware of their exposure.

b. ***Ensuring the wholesale market remains competitive***. As with any proposal before the Commission, one of the key questions FERC should consider is whether the proposal supports competition in wholesale markets.

c. ***Assessing the impact on system reliability***. As noted above, carbon pricing programs should result in a more diverse mix of resources capable of ensuring continued reliability of system operations. However, as we transition to a lower carbon environment, FERC should always be mindful of the possible impacts that changes to the resource mix may have on the future capability of the grid to maintain the high level of reliability required to meet power demand in both normal and extreme conditions.

d. ***Capability to link to other carbon pricing programs***. One of the common themes from the September 30th conference was that carbon pricing programs are most

> effective when they are implemented as broadly as possible. For that reason, we believe it is important that any FERC-approved carbon pricing program should have the capability to link to other carbon pricing programs economically and geographically.

D. ***NGSA encourages FERC to actively engage states policymakers to further refine what may be required for regional carbon pricing efforts.***

Although the proposed policy statement is a significant first step toward providing greater assurance that FERC will entertain carbon pricing proposals, we believe additional steps are needed to ensure strong state engagement. Even with the best of intentions, federal actions on carbon pricing can be unwelcome by states and regions that fear that federal actions may attempt to usurp their jurisdiction. However, in this instance, it is clear that FERC's proposed policy statement is intended to facilitate state actions rather than trample on states' rights by reaffirming that there is no federal hurdle that would prevent states from developing market-based approaches to meeting their clean energy targets. Given the Commission's actions over the past year that appropriately took steps to curb market distortions in regional organized markets due to state subsidies, this policy affirms that states still do indeed have viable market-based options that can be successfully pursued.

In the proposed policy statement, the Commission has ensured that it does not overstep its statutory obligations by emphasizing that it is not attempting in any way to diminish states' rights or authority and that the proposal is only intended to provide clarity about how FERC will review proposals that incorporate a **state-determined** carbon price into the wholesale market operations.[7] Also, while not specifically referencing its authority

[7] "Under that arrangement, and as in the CAISO EIM example discussed above, the state would retain authority over that carbon price as well as other measures for regulating generation facilities. For these reasons, incorporating a state-determined carbon price into RTO/ISO markets would not in any way diminish state authority." Federal Energy Regulatory Commission. (Oct. 15, 2020). *Carbon Pricing in Organized Wholesale Electricity Markets*. (Docket Number AD20-14-000). p. 10.

under Section 206 of the Federal Power Act, the proposal as well as Chairman Danly's dissent make clear that FERC is not an environmental regulator and that the Commission does not intend to mandate carbon pricing.[8]

Once FERC has issued a final policy statement reaffirming its authority and willingness to be receptive to carbon pricing submissions, we hope that the Commission will pursue more direct engagement with states to explore what additional steps it believes are required to encourage the development of broad regional or state carbon pricing proposals. State policymakers could assist FERC in refining more precisely how the list of considerations in the context of FERC's review should be applied. More direct state engagement could take many forms including another technical conference or a joint FERC/state dialogue, which was suggested by several participants at the September 30th conference.

E. FERC's final policy statement should apply more broadly than to competitive organized markets.

The proposed policy statement is focused on how the Commission will approach carbon pricing proposals within the context of regional organized markets. However, there is no reason for these overarching principles to be limited to proposals to incorporate carbon pricing in RTOs and ISOs. Indeed, these same principles could apply equally to public utilities within the Commission's jurisdiction, such as Southern Company or TECO Energy,

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See also: "Because the decision about the carbon price would be determined by the state—which could select a price of zero, should it choose—state authority would be unaffected, further removing any doubt that rules that incorporate such a ***state-determined*** carbon price would comply FPA section 201(b)."(emphasis added) Ibid., p. 11.

[8] Chairman Danly's dissent in this proceeding states, "This policy statement does not mandate that RTOs/ISOs adopt carbon-pricing accommodation regimes. I agree that the Commission should not issue such a mandate." Chairman James Danly dissent. (2020). Docket No. AD20-14-000. p. 2.

that wish to pursue carbon pricing outside of the organized markets. Therefore, we ask the Commission to consider adopting a final policy statement that applies to both organized and non-organized markets.

III. CONCLUSION

NGSA supports FERC's proposed policy statement and we are hopeful that the additional clarity provided in a final policy statement will create an environment that promotes the development of broad regional carbon pricing mechanisms that provide long-term sustainable market solutions to meet state and regional clean energy goals.

Respectfully submitted,

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