Through the following discussion, we seek to convey recommendations regarding energy-related matters of concern not only to low-income households, but also to the broader group of residential, low-volume energy and utility consumers. Our recommendations pertain to wholesale electricity and natural gas markets and enhanced mechanisms in support of meaningful public participation at FERC the Department of Energy. In addition, the impacts of climate change and prospective costs of climate change mitigation are addressed. Our recommendations support emissions mitigation approaches and programmatic solutions that meet both environmental and vulnerable consumer protection objectives. We also present concerns with respect to particular applications of metering and smart grid technologies and utility revenue decoupling mechanisms. We recommend against Congress or the Obama Administration mandating or making receipt of federal funds contingent upon state legislative or regulatory approval of these mechanisms.

**Recommendations Regarding FERC Access and Wholesale Market Issues**

Under the Federal Power Act, FERC is required to ensure “just and reasonable” rates in states that have deregulated or adopted a hybrid system. FERC policy has a direct and significant impact on retail rates paid by customers, the majority of whom are effectively captive. The Commission has placed process over outcome, authorizing market-based rates without judging whether they are “just and reasonable.”

**FERC Access Recommendations**

The FERC process is not transparent and participation is difficult, at best. State-based consumer advocates lack a Washington presence and adequate resources to effectively participate in FERC policymaking activities. Consumer advocates suggest two options to mitigate these problems:

- **Create within DOE an office of FERC consumer advocate.** Many states have created a consumer advocate by statute. These organizations provide a valuable balance in regulatory proceedings. Utility company participation is well financed, by ratepayers, while industrial customers, with millions of dollars at stake, also invest heavily in the process. Having a state consumer advocate helps counter-balance the interests of utilities and large customers. The same arguments are relevant in the context of FERC. Absent effective advocacy, which requires a continuous presence, small customer concerns will continue to be overlooked. Our recommendation is to establish an independent office of consumer advocate at DOE which has authority to work within DOE and at FERC to press the concerns of small consumers.

- **Provide Intervener Funding to Consumer Groups.** Consumer voices will make commitments to participate in the FERC process if there is adequate funding. Utilities participation at FERC is funded by ratepayers, as is participation by utility commissions. Consumer groups need similar support given the importance of FERC decisions in establishing retail rates.
Wholesale Market Issues

Consumer groups have long complained about the failure of wholesale markets to produce least-cost outcomes, the hallmark of a competitive market. The data is clear that customers in competitive states pay more for capacity and energy than in states using traditional regulation. One reason is that FERC has relied on inadequate market power tests and has not enforced its mandate to ensure consumers pay just and reasonable rates. Locational marginal pricing (LMP) and payments based on the highest cost bid further contribute to high prices for generation. Consumer advocates make the following recommendations. We urge their adoption for wholesale and market oversight to apply equally for FERC, Regional Transmission Organizations and for utilities operating within ERCOT:

Wholesale Market Reform Recommendations:

- Improve the rigor of the market power tests utilized by FERC. The outcomes of wholesale competition – the prices – are relevant to determining market power. Economic models alone are no substitute to observing the actual prices produced in a given market. Holding companies with legacy generation may not have market power throughout an RTO, but can have market power within its traditional footprint because it owns most of the generation within a geographic area and because LMP will raise the prices of any competitive generation.

- Paying all generators the market clearing price has resulted in higher to consumers. Generation owners should be paid the price the generator bids, not the highest priced bid. This will drive down rates in the bilateral markets as well.

- Reinstate cost-based pricing for generation owners found to have market power. Permit other utilities to opt-in to cost-based pricing, which will provide guaranteed cost recovery for new construction.

- Increase oversight of markets. The wholesale markets lack transparency. Absent better oversight at the federal level manipulation of pricing is possible.

Recommendations Regarding Management of the Department of Energy’s Programs for Consumers and Their Communities

The Department is a world-class center of research and development, and its leadership focuses on that complex goal. Yet, it has major assignments with respect to developing today’s technologies and facilitating the operations of energy systems. Many of the partners for these activities are very different from the DOE research partners. All the deployment activities and many of DOE’s other decisions affect the well-being of small consumers, including businesses, families, and small institutions.

Recommendations:

- The Department should establish an Office of Community, Consumer and State Affairs within the Office of the Secretary.
• The Office should be charged with managing the deployment programs that transfer research tasks and technology innovations to the public through state, local, and community based organizations. Today, these include Weatherization, Energy Efficiency and Conservation Block Grant, and State Energy Programs.

• The Office should be responsible for representing small consumers’ interests by
  o analyzing impact on small consumers of:
    ▪ major DOE actions and policy priorities,
    ▪ energy market conditions, and
    ▪ DOE programs, and
  o Preparing reports to the Secretary and the public.

• In the event that the deployment programs are not organized under the office of the Secretary, an Office of Small Consumer Affairs should nevertheless, be established.

**Recommendations for Fair Climate Change Policy For Home Energy**

Policies to address climate change through mechanisms that raise the price of carbon will directly raise the price consumers pay for the use of energy and indirectly raise the costs for other products and services. A fair climate change policy ensures that low-usage utility consumers, including low and moderate-income households, fixed-income seniors and other vulnerable populations and communities, do not suffer greater hardship as a consequence of climate change policy and are able to share in the benefits of an energy efficient habitat.

Recommendations:

Policies to mitigate the impact of higher energy prices on low and fixed income consumers must, at a minimum, include the following:

• Assistance with higher energy bills must include aid to fixed-income seniors and the working poor, in addition to targeting the poorest households. Programs and policies to address mitigation of the energy cost increases to vulnerable consumers must be expanded during this economic downturn to reach those struggling households between 151% - 250% of poverty to keep those families from falling into poverty. We note that the LIHEAP statute requires states to target those low-income households with the highest energy burden (percentage of income dedicated to energy bills) and those households with seniors, disabled members, very young children who are particularly susceptible to extreme temperatures.

• The Low-Income Weatherization program (WAP) and Low Income Home Energy Assistance Program (LIHEAP) are federal energy programs that must be expanded. The Low-Income Weatherization program and Low Income Home Energy Assistance Program are uniquely positioned to deal with targeted energy assistance to vulnerable households. These are well-established programs in the states. Eligibility levels and targeting for LIHEAP and WAP can easily be increased to cover a broader number of vulnerable households. However, these federal energy assistance programs need higher authorization and appropriation levels in order to be able to serve...
those populations. WAP, in particular must undergo a massive expansion in order to achieve the goal of weatherizing a million homes a year.

- Targeted energy efficiency and weatherization activities should also include HUD and RDA housing. HUD subsidizes about 4.8 million housing units and spends an estimated $5 billion on energy costs annually. HUD estimates that 65% of the public housing units were built before 1970. There is enormous opportunity for energy efficiency savings for HUD and RDA, and the low-income households living in these units. DOE, RDA and HUD must better coordinate low-income energy efficiency efforts.

**Recommendations Regarding Revenue Decoupling Mechanisms**

Revenue decoupling is a utility revenue stabilization mechanism through which regulators set rates that allow utilities to earn their expected profits through increased investments while selling less energy. Promoting increased investments in effective energy efficiency measures is an important public policy objective. However, establishing revenue decoupling requires a complex analysis. When poorly executed and particularly if implemented without meaningful consumer protections, decoupling unduly shifts risk to consumers, raises prices during periods of declining sales, and does not guarantee investment in needed efficiency improvements.

Recommendations:

- Congress and the Obama Administration should not mandate or make receipt of federal funds contingent upon state adoption of utility revenue decoupling.

- Regulators and policymakers should consider alternate means to promote energy conservation, such as a banded incentive/penalty structure with specific utility energy efficiency targets.

- In promoting increased levels of utility investment in energy efficiency through any means, regulators and policymakers should ensure that initial, ‘baseline revenues’ are set in a fair and equitable manner in the course of a general rate case, while isolating the effects of utility-sponsored energy efficiency, protecting customers from the volatility and variability associated with frequent true-ups and adjustments, and protecting customers from avoidable price increases.

- Any approved decoupling mechanism should not reward the utility unduly for reductions in consumption resulting from conditions the utility did not sponsor, including consumption reductions stemming from customer initiated savings, weather conditions or economic downturns, and adoption of public sector initiatives such as building codes and appliance efficiency standards.

- When approving a decoupling mechanism, regulators and policymakers should consider ways to protect consumers from unnecessary rate increases, such as:
  - Adjustments to compensate rate payers for the risk shifted to them, such as a lower rate of return or lower equity capitalization.
  - A rate cap such that utility earnings from the added decoupling revenues cannot exceed the approved rate of return.
A collar on rates to protect rate payers from an increase in any one year of 3% or more; such rate increases would have to be spread over multiple years.

- Any decoupling mechanism must be accompanied by a significant increase in the utility’s energy efficiency programs, which should be designed and evaluated in collaboration with affected stakeholders
- To receive decoupling revenues, utilities should achieve specific, significant steps in their conservation savings targets designed and evaluated in collaboration with affected stakeholders
- A straight-fixed variable rate design, which shifts volumetric charges to the fixed portion of utility bills and unduly penalizes low-usage customers, should not be used to accomplish rate decoupling.

**Recommendations Regarding Advanced Meters and Time-Based Rate Structures**

Recommendations:

- Congress and the Obama Administration should not mandate or make receipt of federal funds contingent upon implementation of any time-of-use or prepayment metering and billing programs that require mandatory participation, are likely to increase rates of residential utility service disconnections, are likely to have adverse impacts on residential customers generally, or that shift costs to those who use less than the average amount of electricity.
- The Obama Administration should support and Congress should adopt legislation providing the following:
  - Any time-of-use metering and billing programs adopt an opt-in approach in which customers must indicate they want to participate, as opposed to an opt-out approach which automatically includes customers in the program unless they specifically indicate that they do not want to participate. In no case should prepayment meters be installed in households where loss of utility service poses a particular hardship or threat to health and safety, or where the total cost to the consumer of prepayment service exceeds that of comparable credit-based service.
  - Any time-of-use metering and billing program is accompanied by a consumer education program that, at a minimum, informs customers of both the costs and benefits associated with the selection of the program, how to determine the impact of the program on the customer’s annual electricity usage, and the costs of the customer’s annual electricity usage.
  - Any time-of-use rate design pilot programs for residential customers include and identify low income customers and measures the program’s impact on those customers who do not or cannot take actions to avoid the higher peak time prices.
  - Prior to implementation of advanced metering or time-based rate structure, state regulators and policymakers should specifically order a thorough analysis of such an effort and conduct contested proceedings to determine all of the following:
    - the costs and benefits to 1) lower income customers, 2) customers at different usage levels and 3) residential customers, in general;
    - the bill impact resulting from payment for the new meters and communication systems;
    - the impact on existing customer service, privacy, and consumer protection policies and programs; and,
the implicit costs of alternate metering for consumers who will have to spend time and effort monitoring prices to participate in kilowatt-hour usage tracking programs.

Prior to implementing any AMI system, state regulators and policymakers should evaluate the proposed system to ensure the following:

- The AMI system is as transparent as possible so that it is clear how the system will work.
- It is clear how much the system will cost to implement and who will pay these costs.
- It is known how the system will affect different groups of residential consumers and what the cost and benefits to these different groups will be.
- Revenue from any additional services provided through the AMI system, such as telecommunication or internet access, should be credited back to ratepayers.

Utility companies are required to provide data on the impact of any implemented AMI system to state regulators so that state regulators can gauge both the financial impact on consumers and how well the system is working to reduce peak demand.

Vulnerable populations, such as low-income consumers and consumers with health problems, do not suffer adverse consequences should AMI result in substantially higher electric bills for these people.

Any AMI systems utilize a generic hardware and software protocols similar to computers which readily permit upgrades and additional uses rather than proprietary operating systems that will be expensive to modify and that may become obsolete.

Prohibition of AMI systems that include remote disconnection of service.

Respectfully submitted,

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