

August 26, 2016

Commissioner Travis Kavulla, President
National Association of Regulatory Utility Commissioners
1101 Vermont Avenue, NW, Suite 200
Washington, DC 20005

RE: Comments on NARUC Distributed Energy Resources Compensation Manual
(responses@naruc.org)

Dear President Kavulla:

Environmental Defense Fund (EDF) would like to commend NARUC and its Staff Subcommittee on Rate Design for recognizing the importance of rate design change and for the extensive work done to produce a draft Distributed Energy Resources Compensation Manual (Manual). It has been a monumental task for the group to undertake, and EDF believes, for the place we find ourselves at this time, the Manual is comprehensive and even-handed. We understand time constraints and the old adage, ‘Don’t let the perfect be the enemy of the good.’ To that end, we have two very targeted recommendations that we believe can be incorporated before the November NARUC meeting where the Manual will be presented for adoption.

1. Make permanent the Staff Subcommittee on Rate Design, and make the Manual a living document.

The Manual, as drafted, does an excellent job of defining the issues related to distributed generation and some of the solutions under consideration, **as they exist today**. The draft Manual itself recognizes these limitations and acknowledges “these specific challenges will lessen with time as knowledge and experience are accumulated . . .” (p. 28) We also expect the technologies and impact they are having on the industry will continue to develop at an accelerating speed as costs decline, more businesses see opportunity, and more customers adopt the technologies. The current tone of the document could be read to reinforce a view that these technologies cause a problem to be solved, i.e. that by forcing them into the well-established, existing regulatory structure, these disruptive technologies cause tensions and new, novel issues. But these technologies also offer opportunity, and we believe, as time goes on, the value and flexibility of these resources will become more and more evident and quantifiable. Increasing time will be spent, not dealing with the “problem,” but with embracing the opportunity.

Since we are at the beginning of what we see as a paradigm shift in this industry, we believe the Manual needs to be considered a living document, with a structure and process established for its updating. The integration of distributed resources into the system for the benefit of all customers and society is the one of the greatest issues of our time, and the Manual should not be frozen in time. In this way it differs from past manuals that were not tasked with guiding a changing paradigm. While the draft Manual says, “it should be expected that this Manual will be revised, as circumstances warrant,” there is no structure in place. (p. 5) Without a structure and process in place, we fear the Manual will quickly become outdated and more of an impediment than an asset to state commissions as they grapple with these fast-moving, emerging issues.

Recommendation: We recommend that the Staff Subcommittee on Rate Design be made a permanent standing staff subcommittee attached to the Electricity Committee, with dedicated NARUC staff support. We recommend the subcommittee continue its work, including establishing a process and timeframe for review of the Manual to ensure its continued relevance. We recommend this be put before the NARUC membership at its annual meeting in November 2016.

2. Include process considerations for changing rates as a separate, dedicated section of the Manual.

Leading up to the summer meetings, EDF, former public utility commissioners, and more than 30 consumer, clean energy, and environmental advocacy organizations from across the country signed and sent a [joint letter](#) to NARUC recommending a common set of principles that each state should consider to identify consensus and get electricity rate design done right for its citizens and businesses. These principles include:

- Assessment and analysis of state conditions and sound data when determining the need and pace for rate-design change;
- Collaborative, upfront, open, docketed processes that explore the range of rate-design options in advance of or in lieu of rate cases;
- Data-driven rate-design inquiries;
- Pilots and testing for novel or untested rate designs prior to wide-scale adoption;
- Consideration and accommodation for low-income and vulnerable customers in rate design; and
- Sufficient opportunity to educate customers on new/shifting rate designs well in advance of their implementation, and the development of tools to do so.

The joint letter, dated June 23, 2016, is attached to ensure it is part of the record for consideration.

Whether intentional or not, the draft Manual recognized the importance of process in making changes throughout the 66-page document. Following are some excerpts from the draft manual that illustrate the concern.

- **Appropriate pace** – The draft Manual states that once the quantity of distributed resources (small, grid-connected devices like rooftop solar and energy storage) passes certain levels, there can be significant issues for traditional rate making, utility models, and delivery of electricity. Our letter to NARUC advises, and the draft manual agrees, that before responding by changing electricity rates, states should “empirically establish at what adoption level they [distributed resources] will affect the grid.” (p. 15) One key variable in considering DER ratemaking is the level of adoption of the resources. (p. 22) The draft Manual wisely cautions, “Reforms that are rushed and not thought out could set policy and implement rate design mechanisms that have unintended consequences. (p. 62) The draft Manual also encourages regulators to establish a process to set the values periodically to ensure that technological and practical considerations can be changed as the distribution and transmission and growth of DER occurs.” (p. 45)
- **Collaborative proceedings** – The draft Manual also recognizes the difficulty of addressing rate design in rate cases where parties often only address “one aspect of the interaction, cost recovery for utilities or customer compensation on the part of the advocates.” (p. 28) The Manual aptly identifies that this approach “separates the conversation and makes it harder to reach an agreement that is beneficial for the public.” (p. 28)
- **Advance data collection** – Throughout, the draft Manual recommends that states should use data to drive change, for example, “The utility's specific characteristics and their most likely reaction to change must be clearly and thoroughly determined before questions and challenges from DER are addressed through rate making changes. The level of transparency and detail on the operations and physical characteristics of a utility’s distribution system may be significantly more than have been employed in the past.” (p. 22) “Before states embark on the journey to implement substantive rate reforms due to the growth of DER penetration in its jurisdiction, each state should look closely at data, analysis and studies from its particular service area before any such actions are taken since all electric systems are impacted by DER penetrations differently.” (p. 60)
- **Pilot testing** – The draft Manual further acknowledges that one of the biggest issues, “if not the biggest” is a “dearth of empirical data on impacts.” (p. 28) It admonishes, “Regulators should be wary of counting on unsupported, promised benefits and cautious when plausible harm may represent itself.” (p. 53) It recognizes that pilot tests could be the best way forward. (p. 53) However, it concludes, “Whatever the implications of these newer rates may be, a regulator must be comfortable with how the changes will interact with their jurisdiction’s unique circumstances before implementing them.” (p. 53)
- **Attention to low-income** – The draft manual flags electricity-rate impacts on low-income individuals as a special consideration and, in several places, identifies potential impacts of various designs on low-income customers. (p. 12) It also recognizes that many states implement policies to reduce the burden that low-income customers face. Rate design change should not further exacerbate the affordability gap, and the draft Manual recognizes further work needs to be done in this area. (pp. 32-33, 50)

- **Consumer education** – The draft Manual finds, "These processes are at the vanguard of an anticipated shift" that represents a "steep learning curve for everyone involved." (p. 15) It recognizes a role for commissions and consumer advocates in communicating and building consensus for, and acceptance of, change "now and prior to the time any rate design change is implemented." (p. 38)

Recommendation: Include a separate section of the Manual dedicated to 'good process' approaches to changing rates. These good process recommendations are already a part of the draft Manual. Such a dedicated section would be invaluable to state commissioners as they plan their work. The staff subcommittee could then gather information on best practices to assist regulators in understanding issues such as how to structure collaborative proceedings, what data to gather, and best practices in addressing low-income and consumer education.

Respectfully submitted,

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