



February 18, 2020

The Honorable Neal Chatterjee, Chairman  
 The Honorable Richard Glick, Commissioner  
 The Honorable Bernard McNamee, Commissioner  
 Federal Energy Regulatory Commission  
 888 First Street, NE  
 Washington D.C. 20426

Re: Calpine Corporation, et al. v. PJM Interconnection, LLC,  
 Docket No. EL16-49, EL 18-178 (consolidated)

Dear Chairman Chatterjee, Commissioner Glick and Commissioner McNamee:

On behalf of the National Association of State Energy Officials (NASEO), I want to express our concern over the order in the above-captioned case, issued on December 19, 2019. NASEO represents the state energy directors, and these officials lead state efforts in developing energy policies, programs, and initiatives. They work with their governors and state legislatures in a variety of energy areas, such as developing state energy plans and policies, preparing for energy emergencies, and addressing resilience needs.

NASEO, while not a participant in this case, is compelled to express deep concern over the order's expected intended or unintended consequences of limiting state authority and constraining the states' abilities to enact and implement policies and programs that they believe are beneficial to their citizens, both now and into the future. The order appears to limit concepts of cooperative federalism and we urge the Commission to either modify it or suspend it. The new, expanded concepts underlying the minimum offer price rule (MOPR), which would broadly define "state subsidies," are antithetical to the basic idea of cooperative federalism and the long-time interpretations of Part II of the Federal Power Act. There appears to be no rational basis for the "state subsidies" argument, other than to impose a Commission majority perspective over the studied actions of state officials who may choose as a matter of law to support clean energy policies and generation, nuclear power, and other generation sources. If unmodified, the order in this case will limit our nation's and states' ability to respond to emergencies, implement a more resilient energy system, and respond to a range of economic challenges. We remain fearful that the Commission's order will have the unintended effect of rendering organized markets as an obstacle to state pursuit of the needs of its citizens and economy.

We appreciate the opportunity to submit these comments out of time in this proceeding.

Respectfully,

David Terry  
 Executive Director

cc: State Energy Officials

1300 North 17<sup>th</sup> Street  
 Suite 1275  
 Arlington, Virginia 22209  
 Telephone: 703.299.8800  
 www.naseo.org

#### BOARD OF DIRECTORS

**Chair**  
 ANDREW MCALLISTER  
 California

**Vice Chair**  
 KELLEY SMITH BURK  
 Florida

**Treasurer**  
 MOLLY CRIPPS  
 Tennessee

**Secretary**  
 JOHN WILLIAMS  
 New York

**Past Chair**  
 ROBERT JACKSON  
 Michigan

**Parliamentarian**  
 JASON LANCLOS  
 Louisiana

#### Regional Representatives

DAN BURGESS  
 Maine

PATRICK WOODCOCK  
 Massachusetts

DAVE ALTHOFF  
 Pennsylvania

MARY BETH TUNG  
 Maryland

MITCHELL SIMPSON  
 Arkansas

MICHELLE GRANSEE  
 Minnesota

CHAD KRUSE  
 Illinois

WILL TOOR  
 Colorado

JOE FRANCIS  
 Nebraska

MICHAEL FURZE  
 Washington

JOHN CHATBURN  
 Idaho

**Executive Director**  
 DAVID TERRY

**General Counsel**  
 JEFFREY C. GENZER

Document Content(s)

NASEO Comments in FERC Docket No. EL18-178, et al.PDF .....1