



Support of EPA NOPR (40 CFR 60 and 63) RICE NESHAP/NSPS

Meeting with Office of Information and Regulatory Affairs (OIRA)

December 10, 2012

Co-Litigants Fully Support EPA's Proposed Rule

Participants:

- Rick Counihan Vice President Government Affairs, EnerNOC, Inc.
- Craig Gruber General Manager, Innoventive Power, LLC
- Howard Feibus Vice President, Business Development, Innoventive Power, LLC
- Bruce Campbell Dir. of Regulatory Affairs, Energy Connect/Johnson Controls, Inc.
- Don DiCristofaro President, Blue Sky Environmental, LLC

OMB Should Expeditiously Finalize the Rule

- Co-Litigants reached settlement with EPA on December 19, 2011 – Settlement Agreement specifies that final rule will be issued by December 14, 2012
- Co-Litigants met with OIRA on May 10, 2012
- EPA published the Proposed Rule on June 7, 2012
- The Proposed Rule is consistent with Settlement Agreement, with acceptable modifications
- The Co-Litigants support the Proposed Rule in full
- The Proposed Rule is common-sense public policy that provides appropriate regulatory relief
- **OMB should quickly conduct interagency review to ensure that EPA can sign the final rule**

Common-Sense Public Policy with Many Benefits

Minimal Impact to Status Quo

- The Proposed Rule presents a federal backstop
 - States continue to have the right to implement their own more stringent rules
- The Proposed Rule fits within and does not increase the existing 100-hour per year federal operating limit for testing and maintenance purposes
- The Proposed Rule may not increase run time at all
 - All emergency generators need to be tested anyway
 - DR dispatches offset the need for testing during relevant periods

Additional Benefits Afforded

- It is better to continue to allow grid operators and utilities to proactively utilize these critical resources as a last line of defense during defined NERC emergency events
 - Eliminating access to these existing resources would make blackouts more likely
 - During blackouts, all emergency generators run for extended periods of time
- Emergency DR helps ensure that engines are properly permitted and maintained

Emergency DR is Good for the Environment and Economy

A Last Line of Defense

- Emergency DR generators are a valuable resource for grid operators and utilities to **prevent blackouts** which can imperil:
 - health,
 - safety, and
 - the economy
- Emergency DR is **rarely dispatched**
 - Over the past 10 years, there have been less than 44 emergency demand response events called by PJM Interconnection, New York ISO, ISO New England, and the Electric Reliability Council of Texas combined

Real Economic Impact

- Emergency DR **saves billions of dollars** for consumers every year:
 - The PJM Independent Market Monitor concluded that demand resources will save all ratepayers in the Mid-Atlantic region \$11.8 billion in the 2013/14 delivery year alone, which equates to approximately \$200 per person
 - The vast majority of these annual savings come from emergency DR participation in PJM's capacity market
- Emergency DR **payments create jobs**
 - DR payments help improve the bottom lines of participating businesses and institutions – such as hospitals, factories, and schools – thereby supporting the economy and job creation

State Air Regulators Recognize the Value of Emergency DR

Most permitting agencies allow the operation of emergency engines for emergency DR

States/Counties Allowing Use of Emergency DR in Air Regulations

- Connecticut*
- Massachusetts*
- Vermont*
- Rhode Island*
- New Hampshire*
- Maine
- New York
- Ohio*
- Pennsylvania
- Maryland*
- Virginia*
- West Virginia
- Illinois
- Indiana
- Michigan
- Texas

States/Counties Not Currently Supporting Emergency DR in Air Regulations

- Delaware
- New Jersey
- Washington, DC

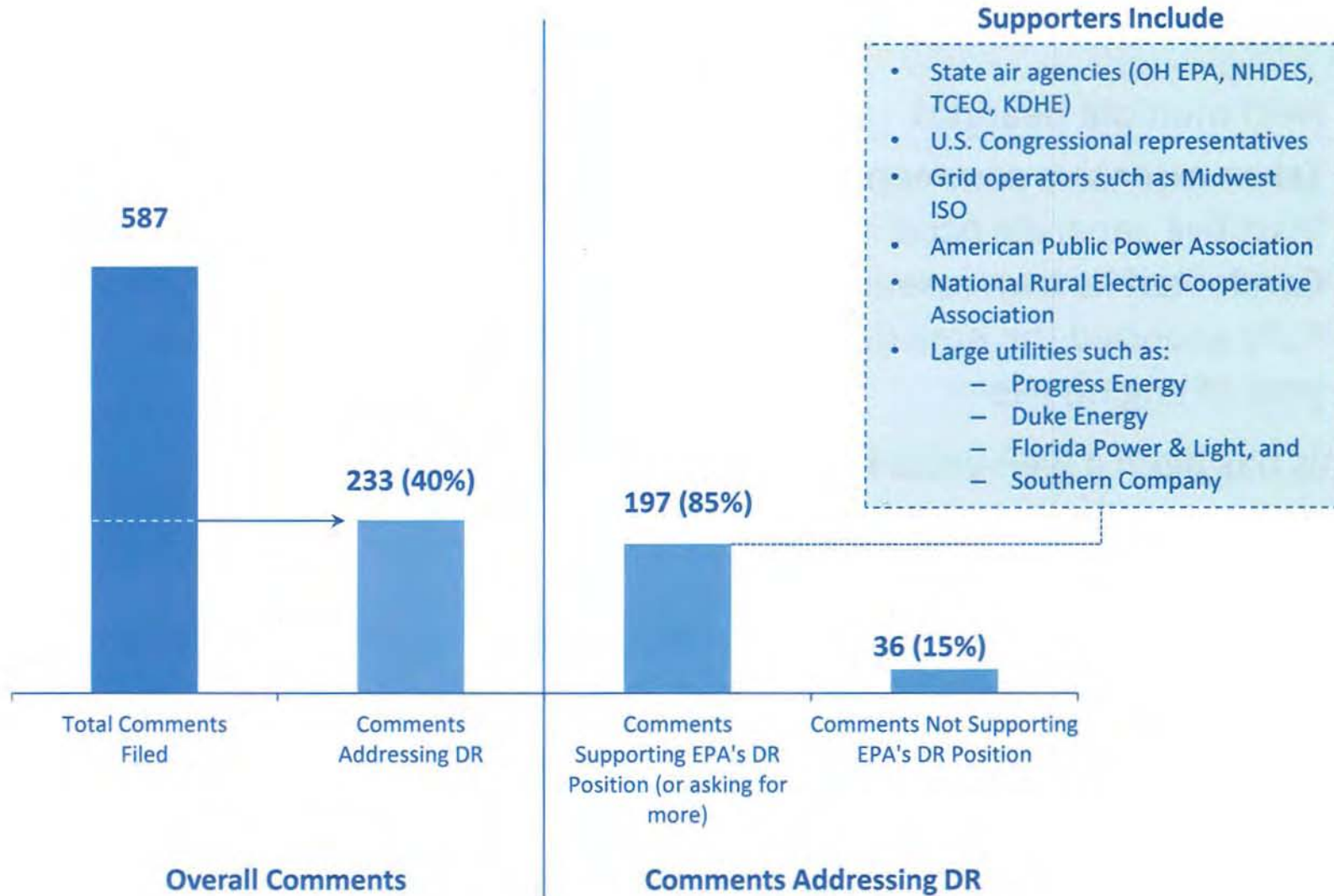
*States noted with * required regulatory change to facilitate emergency DR participation by emergency engines*

EPA Has Been Thorough and Exhaustive in its Review

- EPA has:
 - Held multiple hearings
 - Taken extensive comments from hundreds of stakeholders on at least five separate occasions
 - Conducted its own research
 - Fully analyzed the emissions associated with up to 100 hours per year of engine use
- This has been a well-vetted process for the past three years

Vast Majority of Comments Support EPA's DR Position

85% of comments addressing DR in final public comment period support EPA's DR position



Arguments Against Rule are not Robust or Compelling

Claims

- An Analysis Group report (commissioned by Calpine Corporation; one of the nation's largest independent power producers) claims that:
 - Eliminating RICE-based DR from capacity markets would have no impact on power system reliability
 - Resources used to replace lost capacity will result in lower system-wide emissions

Reality

- A NERA Economic Consulting report (commissioned by EnerNOC) found that the Calpine report's findings are unfounded based on the following:
 - The findings rely on key assumption that 100% of replacement capacity would come from natural gas-fired combined cycle units and wind power, whereas it would be just as likely to come from canceled retirements of coal plants
 - Binding caps for SO₂ and NO_x mean that no reductions of these emissions would be likely
 - Even if emissions reductions were achieved, they would be extremely expensive because they would be driven by increased capacity payments that would apply to all existing resources, not just to incremental generation