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The Honorable James Richard Perry
Secretary of Energy
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Dear Secretary Perry:

This letter builds on the joint filing dated March 30, 2018, that the Electric Power Supply Association (EPSA) co-signed with ten other entities in response to the application filed by FirstEnergy Solutions for an emergency order under section 202(c) of the Federal Power Act, and EPSA's subsequent letter to President Trump dated April 12, 2018.

More recently, press reports indicate that the Administration is also reviewing potential statutory authorities under the Defense Production Act to subsidize certain existing coal and nuclear plants with which EPSA members compete in the PJM Interconnection regional grid that operates federally regulated wholesale power markets. Furthermore, EPSA understands that the Department also may be considering Section 215A of the Federal Power Act as added by the FAST Act which provides new authorities intended to be used to address cyber security emergencies.

Reliability and resilience in PJM and other regions with organized wholesale markets depend on financially viable power plants using the full range of fuels and technologies. The power plants that together comprise the bulk power system in these regions are operated by several different types of owners, including independent power producers that EPSA represents, not just those utility-affiliated generators seeking one-off, narrow subsidies for themselves.

Viewing the complex, inter-related power grid solely through the narrow and parochial lens of subsidy requests from individual market participants, such as FirstEnergy Solutions, or categories of fuels, such as coal and nuclear, will make wholesale markets worse off, not better. This is especially so given that all power suppliers face a range of challenges. The policy choices facing the Administration should not be limited to either the status quo or even more subsidies. Subsidies are contagious. As the market share subject to competition continues to shrink from fuel-based preferences, both federal and state, there will be woefully insufficient megawatts to compete for by those not subsidized. At that point, everyone will require non-market payments. Thus, the policy choices the Administration is examining should also include the best choice, which is eliminating discriminatory and fuel-specific "thumbs on the scale" for electricity.

The Department's policy review should not be based on statutes such as FPA Section 202(c), the Defense Production Act, and Section 215A of the Federal Power Act (FAST Act) that were never intended to be used to establish economic support arrangements for entire sub-categories of generating facilities. By limiting its review in this fashion, the Department is unnecessarily confining itself to adding yet another thumb on the scale by creating a new broad federal subsidy program. While some may view this as rebalancing what was done by the prior Administration, that simply invites others to engage in further rebalancing in the future. Such uncertainty is inherently inconsistent with making substantial investments at market risk in long-lived assets to achieve your goal of improving electricity infrastructure for the future.

The Department should not miss this historic opportunity to promote competition and open markets. Effective competition will achieve the type of secure, reliable and resilient "all-of-the-above" mix of generating facilities the Administration seeks. To this end, EPSA suggests a bold and courageous approach that reduces and then removes subsidized forms of generation from distorting competitive generation markets. This can be achieved on parallel paths:

- The Department of Energy should lead an effort to review all existing subsidies related to power generation and, to the extent it is determined that such subsidies are no longer needed or effective, work with Congress and other relevant federal agencies to eliminate those that distort markets; and,

- The Federal Energy Regulatory Commission should swiftly conclude several pending dockets through which the Commission must develop and implement effective rules to protect competitive wholesale power markets from the parasitic and distorting effects of material discriminatory subsidies, both federal and state, whether supply-side or on the demand side of the electric meter.

The focus among many federal and state energy regulators over the last several decades has been to work to transition an industry once focused almost exclusively on extensive regulation and cost-of-service reimbursement to an industry that values competition over regulation and depends on market forces to incentivize both new investment and market participant behaviors that maximize system reliability.

We have learned a lot from these efforts. First and foremost, ***markets work*** and, when impediments and distortions are removed from markets, ***they work better***. The second thing we have learned is that, when there are concerns that the markets are not creating adequate incentives to build or retain generating units that have the attributes that the power system needs to be reliable and resilient, the best way to address those needs is through new market-based initiatives that are ***fuel neutral***. For example, new products and a full suite of attributes can be introduced into the existing markets (like PJM's capacity performance product) and generating facilities can then compete to provide these products and ***all*** required attributes in cost-effective and innovative ways.

The approach EPSA is recommending does not prevent States from making their own resource decisions, one way or the other. If a State wishes to incentivize or provide cost support for a specific type of generation, it will continue to be completely free to do so. But, it is essential to also respect the choices made by those States that elect not to subsidize specific resource types. Thus, regardless of the State in which they are located, those generating facilities that have not been subsidized must be protected from the market distortions that occur when subsidized resources are permitted to participate in the wholesale markets without limits. Absent adoption of effective countermeasures to protect the integrity of the wholesale power markets that FERC regulates, the subsidized subset of competitors will have an unfair artificial advantage competing with unsubsidized resources to clear wholesale energy and capacity markets on which the unsubsidized resources totally rely for revenues to remain viable.

Similarly, if in the future the Department determines that specific energy assets need emergency support for identified national security reasons, any temporary cost reimbursement that is provided to the relevant asset owners needs to occur outside of these markets, so that un-subsidized resources and their customers do not bear the brunt of providing funding for what will be an emergency or national security issue.

We think the choice is clear. Removing market distortions and ensuring that the power plant attributes that the system needs are compensated within the market on a competitive basis will allow an all-of-the-above strategy to continue to be successful. Doing so will ensure that it works into the future in a manner that incentivizes and spurs new investment and innovation along the way.

We look forward to working with you in addressing the Department's very important goals for the nation's energy systems including its organized wholesale power markets.

Sincerely,

John E. Shelk

John E. Shelk
President & CEO
Electric Power Supply Association (EPSA)