



# Demand Response, Order 745 and the Supreme Court

*Demand response is a low-cost, environmentally friendly resource that helps balance electric supply and demand, and is integrally related to FERC's mission to ensure 'just and reasonable rates.' FERC's Order 745 on demand response has, however, been subject to an incredible amount of scrutiny over the past year, beginning in earnest in May 2014, when the DC Circuit Court of the United States invalidated the Order by a 2-1 vote. That decision is now on hold pending review by the Supreme Court.*

*Michael Panfil*

## I. Introduction

On May 4, 2015, the Supreme Court of the United States granted petitions for *certiorari* on two interrelated cases: *FERC v. EPSA* and *EnerNOC et al. v. EPSA*. Both cases, now consolidated by the Supreme Court, involve the same issue: whether the Federal Energy Regulatory Commission (FERC) properly exercised its authority in promulgating Order 745.<sup>1</sup> Any grant of *certiorari* – essentially a

decision by the court to hear an appeal – is significant; statistically speaking, the Supreme Court hears less than 1 percent of cases brought.<sup>2</sup> However, this case is particularly noteworthy to the electricity industry, given that Order 745 is a federal rule on demand response.

FERC's Order, on its face, is narrow: it simply requires that demand response be given a fair opportunity to compete in one type of regional market, the

---

**Michael Panfil** is an attorney for the Environmental Defense Fund's Clean Energy Program, focusing on reducing energy waste throughout the electric power grid. He also engages on efforts to reduce emissions throughout the United States by advocating for the deployment of smarter technology, improved design standards, and sustainable practices.

---

wholesale energy market, by setting compensation comparable to that received by traditional sources of generation when providing comparable benefit. Demand response is a low-cost, environmentally friendly resource that helps balance electric supply and demand, and is integrally related to FERC's mission to ensure "just and reasonable rates."<sup>3</sup> FERC Order 745 has, however, been subject to an incredible amount of scrutiny over the past year, beginning in earnest in May 2014, when the D.C. Circuit Court of the United States invalidated the Order by a 2-1 vote. That decision is now on hold pending review by the Supreme Court.

This ongoing legal battle is discussed below, first explaining demand response and the value it affords. Second, FERC Order 745 is described, as well as the interplay between federal and state authority in electricity regulation. Lastly, the history of this case and legal process ahead is examined.

## II. Demand Response

To ensure customers have reliable, consistent access to electricity, supply and demand must be balanced at all times on the electric grid. Energy sources like coal and natural gas balance increased customer demand by increasing electric supply. Demand response balances the grid in a different way: by reducing

demand elsewhere in the system. Demand response is typically aggregated reductions in demand, deployed in the same way and for the same reason as traditional fuel sources – to meet increased demand and balance it with proper supply. By reaching this same end in a different way, demand response operates as a resource that makes the grid more efficient. This efficiency, in turn, translates to quantifiable, real-world benefits.

---

*By reducing nonessential demand, demand response helped keep the grid balanced and avoid blackouts.*

---

First, demand response reduces system costs by avoiding the need to turn on the most costly power plants. In the long term, demand response can further reduce system costs by avoiding or delaying the need to build such plants in the first place. The savings are substantial: in 2013, for example, demand response saved customers in the mid-Atlantic region \$11.8 billion in lower electricity prices.<sup>4</sup>

Second, demand response supports a more reliable and resilient grid by offering a different balancing pathway. For example, the 2014 Polar Vortex

rendered a number of coal and natural-gas-fired power plants unable to perform. At the same time, access to electricity was particularly important due to the extreme cold. By reducing non-essential demand, demand response helped keep the grid balanced and avoid blackouts.<sup>5</sup>

Third, demand response provides environmental benefits. Because the power plants used to balance peak demand also tend to be the most polluting, demand response reduces CO<sub>2</sub> emissions and air pollution by foregoing the need for these typically fossil-fueled energy sources. It also has the potential to help integrate more clean, renewable energy, like wind and solar, which predictably vary in output throughout the day. For example, when the sun stops shining or the wind stops blowing, demand response – a quick-acting resource – can be used to "firm" these renewable resources by ensuring electricity continues its flow, uninterrupted.

## III. FERC Order 745

FERC, under the Federal Power Act (FPA), is required to ensure electricity rates are "just and reasonable" at the wholesale, interstate level. Because demand response is a low-cost resource, it serves as an important tool to ensure rates are indeed "just and reasonable." In this context, it is thus unsurprising that FERC promulgated Order 745 in 2011.<sup>6</sup>

Download English Version:

<https://daneshyari.com/en/article/10402093>

Download Persian Version:

<https://daneshyari.com/article/10402093>

[Daneshyari.com](https://daneshyari.com)