

1 APPEARANCES:

2 RICKY BITTLE

3 Vice President, Planning Rates and Dispatching

4 Arkansas Electric Cooperative Corporation

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6 JIM CALDWELL

7 Policy Director

8 American Wind Energy Association

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10 PETER ESPOSITO

11 Senior Vice President and Regulatory Counsel

12 Dynegy

13

14 HONORABLE RORY McMINN

15 Commissioner

16 New Mexico Public Regulation Commission

17

18 GLENN B. ROSS

19 Director of Transmission Policy

20 Dominion Resources

21

22 AUDREY ZIBELMAN

23 Vice President Transmission

24 XCEL Energy

25 -- continued --

1 APPEARANCES (CONTINUED):

2 CRAIG BAKER

3 Senior Vice President of Regulation and Public

4 Policy

5 AEP Services Corporation

6

7 SUSAN KELLY, ESQ.

8 Principal

9 Miller, Balis & O'Neil

10

11 WILLIAM K. NEWMAN

12 Senior Vice President

13 Transmission Planning and Operations

14 The Southern Company

15

16 STEVE WARD

17 Public Advocate

18 Maine Consumer Counsel

19

20 MATTHEW WRIGHT

21 Senior Vice President

22 PacifiCorp

23 JAMES M. IRVIN

24 Public Service Commission of Arizona

25 Commissioner

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PROCEEDINGS

(10:14 a.m.)

CHAIRMAN WOOD: Let's begin with the Pledge of Allegiance, please.

(Pledge of Allegiance recited.)

CHAIRMAN WOOD: Good morning and welcome to day three of Camp FERC. Today's topics are standardizing RTO tariffs and in the afternoon at two o'clock we'll take up cost recovery issues. I want to thank everybody for being here and coming back and thank our panelists as we always have this week for coming on such short notice to help us get jump started on Chapter 3 of the trilogy, wholesale competition. Shelton, take her over.

MR. SHELTON: Well, good morning and welcome. We are indeed on day three, and my role, as everybody who has been here for days knows by now, is sort of to M.C. this thing and keep it going, make sure we stay on topic and try to fully understand the underlying issues and arguments. We want to try to build a common base for moving forward.

We've gone pretty much the full three hours both for morning and afternoon for the last couple of days. I'm hoping maybe we can be a little more economical today, give people a little longer for lunch and get people out of here a little earlier. Three hours is a long time to sit for anybody. If you need to get up, please do, including our

1 panelists. Also I'd like to make sure that people turn off
2 their cell phones. Because, again, the first day we had a
3 lot going off in the back.

4 Commission asked Staff to try to put together
5 these workshops as a way to kind of jump start RTO formation
6 and to try to provide some additional focus and guidance for
7 moving forward. What we're up to is trying to get a To Do
8 list, you know, what do we need to do, what kind of a game
9 plan do we need to get to the finish line. That includes
10 not only what the industry needs to do but what we need to
11 do and what our state colleagues need to do.

12 Commissioner on Svanda on Monday really
13 highlighted the need for a federal-state partnership. I
14 think that's right on the mark. We had similar messages
15 yesterday from Commissioner Brockway from New Hampshire as
16 well as Chairman Dworkin from Vermont. And indeed,
17 tomorrow's morning session is going to be devoted to a real
18 dialogue between our Commissioners and a whole lot of state
19 commissioners on all the jurisdictional issues that underlie
20 the notion of trying to get RTOs up and running.

21 The structure of these workshops is we've invited
22 RSGs, Real Smart Guys and Gals, to come in and just talk
23 through the issues. We've told people no PowerPoint. We
24 want to keep it very conversational. If others in the
25 audience or at home have comments they think are relevant

1 and they really want to make sure they're part of the record
2 we're developing here, please submit them in RM01-12.

3 We've got flip charts. There's one out on that
4 side of the room which is available if you all need to make
5 some sort of visual point, and we're going to have someone
6 from Staff trying to record sort of the main issues that get
7 ventilated today, see where we have consensus, where we
8 don't.

9 Before we start each session I'm going to have a
10 member of Staff kind of frame the issues that will be
11 discussed today. Feel free to go beyond those issues, but I
12 want to make sure that we get answers to the questions that
13 we put out on the Web page.

14 We're looking for solutions, ways to move
15 forward. You're each welcome to make a very short opening
16 statement. It's not required, though, if you don't want to.
17 Again, what we want to try to do is have a conversation.

18 Monday we had a really good discussion on sort of
19 what markets RTOs need to operate, as well as some market
20 design issues. Yesterday we got into a whole set of issues
21 around what do you do if there isn't enough transmission to
22 go around, both short-term congestion management kinds of
23 solutions as well as long-term planning and expansion
24 solutions.

25 Despite the fact that a lot of that discussion

1 involved a lot of sort of lofty economic theories, I think
2 we had a surprising amount of consensus. And as Udi Helman
3 of our Staff pointed out, I think the debate has matured a
4 lot from where it was a couple of years ago.

5 Today we're going to delve into some more nuts
6 and bolts kinds of issues. This morning we are interested
7 in exploring how we go about updating the pro forma tariff
8 that was adopted in Order 888. We think it's done a good
9 job, but there may be areas where it's not working and where
10 maybe it needs to be tuned up somewhat. We need to make
11 sure it's relevant for RTOs, and we need again to understand
12 what needs to be standardized.

13 This afternoon we're going to be looking at RTO
14 facilities, cost recovery and cost shifting, with a real
15 focus on the dollars-and-cents kinds of issues, and I'm sure
16 a lot of these dollar-and-cents issues are going to carry
17 forward in tomorrow's discussions with states.

18 Again, I want to highlight our goal, which is to
19 get to a seamless national power marketplace. Panelists
20 need to sort of help us figure out what ought to be on our
21 To Do list and how we sequence that To Do list. We need
22 your help figuring out where standardization is needed and
23 where flexibility is needed, what we do now, what we do
24 later, and what the best models are out there.

25 So I'd like to introduce the panel, and then I'm

1 going to turn it over to Mark Hegerle of our Staff to sort
2 of frame this morning's discussion.

3 With us this morning we have Ricky Bittle. He's
4 the Vice President, Planning Rates and Dispatching for
5 Arkansas Electric Cooperative Corporation. Welcome, Ricky.
6 Jim Caldwell, the Policy Director with American Wind Energy
7 Association; Peter Esposito, without Hawaiian shirt, Senior
8 Vice President and Regulatory Counsel for Dynegey; the
9 Honorable Rory McMinn, Commissioner with the New Mexico
10 Public Regulation Commission; Glen Ross, Director of
11 Transmission Policy with Dominion Resources; and Audrey
12 Zibelman, Vice President of Transmission with XCEL Energy.
13 Welcome to you all. And, Mark?

14 MR. HEGERLE: Good morning. My name is Mark
15 Hegerle. I'm with the Office of Markets, Tariffs and Rates.
16 With me this morning is Rich Armstrong, Don Gelinas, Alan
17 Haymes, Julia Tuzun and Scott Miller, also of OMTR.

18 This morning we'd like to discuss the topic of
19 standardizing RTO tariffs, as Shelton said. We seek answers
20 and opinions on a variety of topics centering on the
21 question of which elements of the RTO tariff should be
22 standardized and which elements should be left for a
23 regional resolution.

24 Some related questions to that include what
25 improvements to the Order 888 pro forma tariff are necessary

1 to further encourage the development of competitive markets?

2 I think this would include examining how to properly value
3 network and point-to-point services.

4 How should network resource rights be allocated,
5 particularly with respect to sellers competing to serve
6 native load growth?

7 How and by whom should TTC and ATC be calculated
8 to ensure accuracy and consistency? And how should CBM
9 costs be assigned under RTOs?

10 As was noted in previous sessions, we're looking
11 to find where the consensus is and where it is not. Alan
12 Haymes will help us by tracking on the flip chart over there
13 any areas where can reach resolution. Shelton?

14 MR. SHELTON: With that, let's have some opening
15 statements. Do you want to start us off, Ricky?

16 MR. BITTLE: I am Ricky Bittle with Arkansas
17 Electric Co-op. Just to kind of frame a little bit of our
18 background, we are transmission-dependent. We do serve only
19 in the state of Arkansas. However, we have load and
20 generation both within Entergy's load control area and
21 within the AEP load control area, and a small amount of load
22 within the Southwest Power Administration load control area.

23 So one of the big things that we will always be
24 concerned about is seams issues. Unless there is something
25 there that really takes care of that, it's going to continue

1 to make our life a little bit more difficult than everyone
2 else's. But we do try to match our load and generation
3 within those load control areas and so we do have occasions
4 that we need to move load back and forth between those load
5 control areas. And so it is one of the things that we see
6 as a coming problem.

7 Transmission is a limited resource, has been for
8 a long time, will continue to be for a long time. And so to
9 some extent, when you start allowing reservations for
10 speculation, you in effect are conferring market power. And
11 that's a real problem, because in effect, if you can't get
12 access to other areas of the transmission system, you are
13 going to pay whatever the market requires you to pay in
14 order to serve load because you don't have a -- there is no
15 reason or there is not -- well, you have an obligation to
16 serve. And in our case, our members own us, and so we will
17 serve them. There is no other choice as far as we are
18 concerned.

19 And it's also one of the things that we see as a
20 real growing problem is that load is the real actor in this
21 case that may get forgotten in trying to actually set up
22 markets. The real reason for all of the markets are the
23 loads. And so if the loads are disadvantaged in the way
24 market is set up, it's going to be a real problem. It's one
25 of those things that I think California has proved real

1 successfully that if the consumers are the ones that are
2 upset, then everybody is going to be upset.

3 And so the market design is going to be extremely
4 important as we move forward. Native load is going to be
5 where it is. I mean, it's just one of those things that you
6 can make reservations to go different places on the
7 transmission system, but the load is going to be wherever it
8 is located. And so that's the one constant that you have
9 there as far as planning the transmission system, you're
10 always going to know where the load is. Now you may not
11 know exactly who's going to serve it, but you know where the
12 load is, and the transmission system has got to support the
13 load.

14 So as we move into this area of incentives, it's
15 one of those things that I think we need to be extremely
16 careful with. Incentives need to achieve what you want
17 achieved. It's not a matter of just throwing money and
18 seeing if you can get something done. If we want new
19 transmission to be built, then the incentive ought to be
20 based on the production of new transmission. And so that's
21 one of the areas that, you know, I think that we're going to
22 have to be very careful with in all of the discussions of
23 incentives. You know, incentives are good when used
24 properly, but it's easy to incent the wrong behavior.

25 And so that is one of the other areas we're

1 extremely concerned about. But when we start talking about
2 rates for these RTOs, one of the areas that always comes up
3 is, well, there are cost-shifting issues. And that's true,
4 there are cost-shifting issues. But when you throw in the
5 congestion management system, depending on how it is
6 structured, it also is a cost-shifting issue, because all of
7 the historical decisions that have been made on the location
8 of generation, the transmission that has been built, all of
9 a sudden get priced to the load based on the fact of their
10 location. And they really have not changed. And so that is
11 a cost-shifting issue that has to be really looked at.

12 One of the other issues that comes up, especially
13 in the Southwest Power Pool is, that this system now is
14 fully subscribed. And so all new transmission is going to
15 cost a large amount of money. There are no cheap solutions
16 to new transmission being built. And the question then
17 becomes who is going to build it and is the transmission
18 speculative in nature? If you only have to have a one-year
19 reservation to get transmission built, then it is
20 speculative in nature, and it needs to be looked at as a
21 long-term commitment if you're going to get transmission
22 built. And quite frankly, if you're not going to get
23 transmission built in the Southwest Power Pool, you're not
24 going to be able to get a reservation for new load.

25 And so it is one of those questions. And then

1 that tradeoff between native load growth and new
2 reservations is one of those other things that's going to
3 have to continue to be grappled with. The load is going to
4 be there. It's a matter of whether you're going to have a
5 long-term commitment from a transmission reservation
6 standpoint that matches the load's reservation requirement
7 that will determine whether that transmission is economic in
8 the long term.

9 Thank you.

10 MR. CANNON: Thank you, Ricky. Jim?

11 MR. CALDWELL: I'm Jim Caldwell with the American
12 Wind Energy Association, and I'm here not only representing
13 wind but as a miner's canary for a lot of other resources
14 out there who simply can't deliver their product through the
15 market that exists today.

16 And as a general characterization of those
17 resources, let's just call them as-available resources,
18 which includes one that I think I heard six or seven
19 speakers talk about as being a key to this market, and
20 that's demand response. What we need and what we don't have
21 under the existing tariffs and under the existing markets is
22 we need a liquid transparent spot market with arbitrage
23 opportunities to the forward markets. We need flexible,
24 real time schedules and protocols that communicate accurate
25 information to the system operator. We need penalty-free

1 imbalance settlements in those real time spot markets. And
2 we need fair treatment in the capacity markets.

3 Now that list doesn't sound to me like a lot of
4 subsidies or a lot of special treatment, but the fact is is
5 that we don't have those. They are not in the pro forma 888
6 tariff which operates not as a floor but as a ceiling on the
7 markets today.

8 What we want? Well, we want our needs addressed
9 promptly, and we want administrative relief until we get
10 there. One of the things I guess that I was struck by in
11 listening to folks is -- I think maybe I'm the 27th or 28th,
12 and I think there's probably 35 different opinions about at
13 least -- what we should do or what you folks should do from
14 here on going forward. I don't see a consensus. I don't
15 see that we know all the answers that we can sit down and
16 write a new pro forma tariff that is going to solve all the
17 problems we see today.

18 We need to have a process. We need to have this
19 Commission set a vision for what it is that they want and to
20 establish some goals. And those goals ought to be things
21 like liquid transparent spot markets; fast, accurate
22 settlements. One of the real things about California that I
23 haven't heard many people talk about is, is the opaque 90-
24 day settlement process. We weren't not only not sending
25 price signals to the retail customers, we weren't sending

1 them to the wholesale customers, because you found out 90
2 days later what it was you bought and what price you paid
3 for it. We can't have that.

4 We need to preserve what was right about the old
5 system. We need to preserve things like reserve sharing,
6 mutual aid in times of emergency, and common sense as maybe
7 something that is going to govern our actions going forward.

8 We need to operate efficiently at low reserve
9 margins. That ought to be a goal. If you look back at the
10 cost benefit analysis that went into Order 88, what it said
11 was is is that the real benefits came from, not from
12 transmission expansion, not from using the existing system
13 better, but in operating the system with relatively low
14 reserve margins and then getting new technology and new
15 investment. And instead, what we've done is, is that we've
16 protected the old, we protected the existing, we protected
17 the incumbents. And this Commission simply must speak for
18 new technology, innovation and the new entrants into this
19 system. There's plenty of people to speak for the existing
20 interests in this system.

21 Thank you.

22 MR. CANNON: Thank you. Peter?

23 MR. ESPOSITO: I'm Peter Esposito, and I'm Vice
24 President and Regulatory Counsel for Dynegy. Dynegy is a
25 large, integrated, unregulated for the most part, energy

1 company. Started as a natural gas trading company, bought
2 gathering assets and moved into electricity trading. Now we
3 have under contract or ownership about 20,000 megawatts of
4 generating capacity across the country.

5 First of all, I'd like to say it's unprecedented
6 to have the full Commission's attention for an entire week,
7 and I congratulate you for that. This is important stuff.
8 Why are we here? You stop and you think back, you got the
9 Energy Policy Act, you've got 888 and Order 2000 over the
10 course of a decade trying to open up the power system, yet,
11 you know, here we are still learning. But compare that to
12 gas, it took from the early '80s with the SMPs and then 436
13 and 636 in 1991 to really get there and know where we had to
14 go. And I think we're at the precipice now, and hopefully
15 the jump will have a good landing.

16 I feel like the atheist at the revival meeting
17 here when I say there's more parallels to gas and power than
18 people will believe. People say you can't store power.
19 What's hydro? You need to keep the voltage up the same as
20 pressure in the pipelines. You need tools to keep voltage
21 and pressure up. Gas, you have compression, line pack
22 storage. Power, you have hydro spinning reserves, ten-
23 minute reserves and a host of other tools.

24 Yes, there is congestion in both. There are
25 differences in flow control of course. But, you know, the

1 tools to deal with this have different names but essentially
2 the same purposes. We need quicker access to the toolbox in
3 power clearly, but again, the same overall purposes.

4 Just like in gas, when we go to make a change
5 through the regulatory process, the reliability bogeyman
6 comes up. We learned from gas that things can get done with
7 a market. I was in Albany, New York on September 11th in
8 the morning with the gentleman who runs our power plants in
9 New York, and the first thing he did was go down to his
10 power plants to make sure they were running. They weren't
11 scheduled to run. He jumped on it. That's emergency
12 reaction, emergency response, voluntary.

13 You know, what can we learn from gas? Can we
14 learn about a detailed market design? Heck, no. 636 didn't
15 do anything about that. If we learn something about
16 markets, certainly we can, and it's basically the vision
17 thing. If you look at the refocus between 436 and 636, in
18 436, the incumbents controlled the toolbox. They had the
19 storage, they had the firm transport rights. And that
20 basically kept new entrants out of the market.

21 We're at the same place with power. We've got
22 grandfathered deals. You've got network service. We've got
23 inaccurate ATC, all keeping new entrants out of the market.
24 And what did 636 do? What were the visions that actually
25 worked? I pick out four basic things. The first was

1 comparability. Everybody got on the same tariff. Once the
2 Commission said you're all on the same tariff, everything
3 came together in about nine months and we were up and
4 running in a year. We're not there right now. As I said,
5 we've got grandfathering, we've got network service versus
6 point-to-point, you've got ATC issues. All of those serve
7 to divide this market and vulcanize it.

8 FERC said don't inhibit the development of market
9 centers. It didn't say go out and create this market. And
10 FERC meant it when said don't inhibit the development of
11 market centers. It provided markets with tools like
12 pooling, title transfers and things of that nature to allow
13 markets to develop. And if you look in Gas Daily now and
14 compare Power Daily or Energy Markets or any of the other
15 ones, you'll see many more gas markets being traded liquidly
16 transparently, then you have power markets.

17 Third, everybody has the access to the same tools
18 and you have primary and secondary markets for capacity.
19 You don't have to just go to the pipeline to buy capacity.
20 Find a liquid secondary market in electric power
21 transmission capacity today.

22 Fourth, you have separation of control, and
23 that's really the most critical one in my mind.
24 Independence of the control of the transmission system from
25 the marketing side. An overriding vision really is many

1 buyers reaching many sellers and many sellers pursuing many
2 buyers. By definition, if you have that capability, you've
3 taken care of market power.

4 You say market power mitigation to the gas guys
5 and they scratch their heads. You tell them they're going
6 to have to bid in their marginal cost of production and they
7 stop drilling. The same thing is going to happen ultimately
8 in power if we don't get good markets.

9 You know, we're here to talk tariffs, and you're
10 probably going, Esposito, when are you going to get to
11 tariffs? What can we learn from the gas vision? One, we
12 need flexibility. You need to be able to pool resources and
13 use them efficiently and reliably. We have that in gas. We
14 can get there in power.

15 RTOs, however, don't get there by their very
16 nature. They're a big monopoly. You've achieved the
17 separation objective but you don't get to a flexibility
18 perspective just by creating an RTO. You know, the tariff
19 should be there to facilitate the market, not inhibit it or
20 protect incumbents.

21 Finally, you need rate incentives to go along
22 with the tariff. You need the opportunity for the
23 transmission provider to make some money by providing
24 flexibility, by making sure that you can have more
25 throughput. And you've got to make sure that the provider

1 can keep the fruits of it. Right now the state structures
2 as set up primarily to take that money back.

3 With that, I'll say, you know, standardization is
4 important, but it's not everything. Compatibility and
5 consistency are the key. Uniformity can make a uniform
6 mistake, and I look forward to your questions and the
7 discussion. Thank you.

8 MR. CANNON: Thank you, Peter. Commissioner
9 McMinn?

10 MR. McMINN: Thank you, Shelton. Good morning,
11 Mr. Chairman and Commissioners. My name is Rory McMinn and
12 I'm proud to be here representing the state of New Mexico
13 and my fellow New Mexico public regulation commissioners.

14 I need to forewarn you that the comments that
15 you're going to hear from me today should be taken in
16 consideration of the following. First, I make my home in
17 Roswell.

18 (Laughter.)

19 MR. McMINN: Roswell is a community which, though
20 much smaller than Washington, is equally as well known in
21 some parts of the galaxy.

22 (Laughter.)

23 MR. McMINN: And in fact, Mr. Chairman, as you
24 may know, it has been described by the former chairman of
25 Arco, Mr. Robert O. Anderson, as the hub of the universe.

1 (Laughter.)

2 MR. McMINN: Second, I am a nubie, not a nimbi.
3 Having recently been appointed to fulfill the unexpired term
4 of a previous commissioner.

5 Third, as a result of my appointment, I now work
6 in Santa Fe, which as most of you know is a great community
7 but one that has the distinction of being known as the City
8 Different.

9 With that background, you might expect me to
10 channel into this issue or read the tea leaves of RTO
11 issues. Sadly, I can do neither. I will tell you that as a
12 state, we're a land filled with many diverse cultures of
13 which we are very proud. With that diversity having been
14 stated, it needs to be pointed out that we have the
15 commonality of all being ratepayers. From a state
16 regulator's perspective, that is the lowest common
17 denominator.

18 We are very concerned about the effect that a
19 broadbrush approach to a standard model for RTO formation
20 will have on the ratepayers in our state and in the other
21 Western states. We in fact have retail residential rates
22 that range from 6.6 cents per kilowatt hour to approximately
23 10 cents per kilowatt hour. These rates are great for us
24 because we are in the average of most of the states of the
25 country. However, our average per capita income in our

1 state is among the lowest 2 to 5 percent in the country.

2 Our population of 1.8 million people is smaller
3 than many of the cities in the Eastern and Midwest RTOs.
4 The distance between our major population centers in the
5 West is great when again compared to the transportation
6 distances in the Midwest and in the Eastern RTOs. In fact,
7 a number of New Mexicans, including many of our ranchers,
8 are off the grid and provide their own power through self-
9 generation.

10 Our Commission regulates four different utilities
11 within our state. One is transmission-dependent and buys
12 all of its power off the wholesale market. Three, including
13 that one, have been participants in Desert Star. The fourth
14 is undergoing a merger with a Minnesota utility and is
15 currently participating in the Southwest Power Pool RTO.

16 We feel that the issue of tariffs and rates is
17 one of the most important issues in your proposed RTO
18 formation. We feel that tariffs are the flywheel in the
19 creation of the money trail. There are significant
20 differences between transmission needs in the West and those
21 in the East where you have populations that are highly
22 concentrated in a geographic sense. A concern that we have
23 is making sure that RTO costs do not increase cost to
24 ratepayers. We want to make sure that whatever changes may
25 be made to the way our transmission system works are changes

1 that will benefit the public interest.

2 So I'm here to listen and to offer what
3 observations I can that you may find helpful in developing a
4 well functioning transmission system for the West and for
5 the country as a whole. Thank you.

6 MR. CANNON: Thank you, Commissioner. Glenn?

7 MR. ROSS: Thank you, Shelton. Also thank you to
8 the Commissioners, the Chairman, for setting up this forum.
9 I'm not the canary or the atheist. My wife, which I do
10 appreciate very much you letting me acknowledge during the
11 last time I spoke before you, she was quite excited, but
12 she's not watching today. She said, don't tell me what you
13 do for a living, tell me what I can tell my friends you do
14 for a living.

15 (Laughter.)

16 MR. ROSS: And the only thing I could come up
17 with is a translator. I feel like I am an individual who
18 can bridge the gap between the change we're facing, which we
19 support as a company and as an individual I support, and the
20 technical capability of the system which will operate to
21 deliver hopefully reliable energy to the customer. Of
22 course, she went off to school. And when she told a friend
23 I was a translator, they wanted to know how many languages I
24 spoke.

25 I must first thank you all for the opportunity to

1 speak, and I think it's also excellent that we're starting
2 with the vision. And I want to say right out of the chute
3 that Dominion Resources supports the vision of a seamless
4 national marketplace for delivering power and realizing the
5 benefits of competition. If there's any caution I would
6 exhibit at this time, it's that we're not moving fast
7 enough, and I think that is one of the really good reasons
8 why we're here today, and hopefully this will help move the
9 process along.

10 A little bit more of my background beyond what
11 Shelton gave you, just to amplify, I will be filing my
12 comments which will go into more detail. As the Director of
13 Transmission Policy, I am responsible for both state and
14 federal regulatory matters, and I'm very sensitive to the
15 needs of our States, North Carolina and Virginia, for
16 electric operation, as well as our other seven states for
17 our gas operation.

18 I'm also responsible for the delivery of an RTO
19 that can meet our business needs and modification to the
20 development of that RTO process. So I've been very involved
21 in the activities of the FERC up til now.

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1 I've also been with Dominion or its predecessor,
2 VEPCO, for those of you who are our customers, since 1970.
3 I've held various positions starting in the distribution
4 planning area. I've worked my way up through the company,
5 talked to the customers, ran one of what I call our retail
6 stores where you actually touch the customer, render the
7 bill, and collect the payment.

8 I've also been a generation planner. I ran the
9 generation planning for the company for six years from 1991
10 to 1997. And we integrated our transmission planning
11 activities. So I think it's very critical to know the
12 technology behind how the system delivers competition.

13 I am the Chairman of the Southeastern Electric
14 Reliability Council, the SERC Engineering Committee. I'm
15 the current Vice Chairman of the NERC Planning Committee. I
16 chaired from April 2000 to April 2001 the PJM Members
17 Committee, and I'm the U.S. Advisor on the U.S. Advisory
18 Committee, the Study Committee 37, which is the Power System
19 Planning and Development Work. Clearly immersion is the way
20 that we can make change happen, and that's what I'm trying
21 to do.

22 But Dominion itself, as a company, really in my
23 mind, reflects the new competitive environment, both the
24 electric and gas integration that we're seeing in North
25 America. We operate facilities from Maine to the Gulf of

1 Mexico, from the Atlantic Coast to Mississippi and a little
2 beyond. We are a diversified national company. We want to
3 run our generation independently of our transmission
4 business and we support an opportunity to put transmission
5 in a business model that will permit that.

6 But the current rules do not allow us to operate
7 as a national company. Our national generation fleet is
8 segmented. It doesn't have the ability across the various
9 regions of the country where the facilities are located to
10 deliver what the system needs in order to produce low-cost
11 power to meet competitive pressures.

12 Again, we support the goals of this Commission.
13 We support the vision. I think we need to see that
14 translated into national policy and then let's implement.

15 Thank you.

16 MR. CANNON: Thank you, Glenn.

17 Ms. Zibelman?

18 MS. ZIBELMAN: Thank you, Commissioners, and I
19 also appreciate the opportunity to be here. I'm Vice
20 President of XCEL Energy which is a registered holding
21 company headquartered in Minneapolis. XCEL was formed after
22 the merger of New Century Energies as well as Northern
23 States Power Company, and we currently operate in 12 states
24 spanning from Manitoba, Canada, down to New Mexico and
25 across both the eastern and western interconnects.

1 We serve 3.9 million electric customers and 1.9
2 million gas customers. XCEL is also a 74 percent owner of
3 NRG which is a global IPP so we're obviously quite
4 interested in these issues and how the market's going to
5 develop.

6 The other aspect though of XCEL Energy is that we
7 are one of the founding members of Translink, which is a
8 proposed not for profit independent transmission company
9 that, when it is formed, is going to own, operate, and
10 maintain transmission assets.

11 There are a number of things about Translink that
12 make it unique and I do want to talk about those a little
13 bit because they really frame up my comments today in terms
14 of standardization. The first place is Translink under a
15 combination will be Translink members represent both private
16 investor-owned utilities and public power participants.

17 The current members of Translink include, in
18 addition to XCEL Energy, Alliant Energy and MidAmerica,
19 which are investor-owned utilities in Iowa. The two public
20 power entities in Nebraska, Nebraska Public Power District
21 and Omaha Public Power District and Cornbelt, which is a co-
22 op. One of the very important things for us in forming
23 Translink was to have this public and private participation.

24 The other aspect of Translink is that we'll
25 operate in 14 states in the central part of the United

1 States and like XCEL, will span both the eastern and western
2 interconnect. So issues of standardization are very
3 important to us as we look to forming a company that helps
4 to standardize this region of the country as well.

5 The other piece of Translink that is very
6 important is that we are not an RTO wannabe. Translink is
7 not interested in being an RTO. We want to be an
8 independent transmission company that operates in an RTO
9 construct. And so one of our major concerns is forming a
10 business that allows us to be successful as an independent
11 transmission company.

12 My comments then today reflect on what areas we
13 think the issues of standardization and flexibility are
14 going to be very critical to us as we try to form an
15 independent transmission company that, in our view, will
16 become the electric version of the pipeline company.

17 As a company that owns and manages transmission
18 assets, we see that we have four major business purposes.
19 First, we want to provide predictable and reliable electric
20 service. Second, as a transmission-only company, we want to
21 maximize throughput on our system. Third, it is absolutely
22 essential to us that we attract the capital that's necessary
23 to make the investment in infrastructure because we'll be
24 out on the market looking to get that capital. And the
25 fourth, and after I listened to the discussions yesterday,

1 this has become very important to me. We have to make it
2 easy to do business with us. Having simplicity is going to
3 be essential to our success.

4 In conjunction then with the issues of
5 standardization, there are two issues that I think we could
6 ask the Commission to provide for specific flexibility. One
7 is in the issue of rate design, and I want to distinguish
8 tariff standardization from rate design standardization.
9 It's important that we be able to design a tariff that meets
10 our specific needs. And the second is in terms of
11 standardization of operations. I know there's a lot of
12 concern when you have investor-owned utilities that have
13 integrated transmission operations, that they won't maximize
14 the throughput on our system.

15 I take it from another standpoint, as an owner of
16 a transmission company, a stand alone company, my concern is
17 to maximize throughput on my system and operate the system
18 to the maximum extent possible. And I would be worried
19 about any standardization in operations that may restrict
20 that capability.

21 One of the things that we've talked about as
22 forming Translink is what are going to be the critical
23 success factors, as you do in any business. What do we need
24 to be successful? And several of these also have an
25 implication in terms of the issues of standardization. The

1 first is participation. In our part of the country, we have
2 a lot of public power and private power entities. A number
3 of the public power entities did not want to join regional
4 transmission organizations. Their primary concern was about
5 the rate design issue.

6 One of our major goals then was to form a rate
7 design for Translink that addresses the key concern of
8 public power, which is cost shifting. One of the reasons we
9 did that is to create a rate design that allows for system
10 averaging of the regional facilities, effectively a postage
11 stamp construct. And that was important to us to be able to
12 attract those participants.

13 The other piece of forming Translink, the other
14 critical success factor, is fair treatment of participants.

15 We are very interested in making sure that all users
16 incumbent load as well as new users are on the tariff.

17 We're also very interested in making sure that new
18 generators and existing generators are treated the same.

19 Consequently, as part of our rate design, we
20 designed a tariff to make sure that new generation and
21 existing generation pays for the same cost of the facilities
22 that they will use to take their generation to the regional
23 facilities.

24 Third obviously is to attract investment. As we
25 looked at some of the RTOs -- and by the way, XCEL, by

1 virtue of its operations is in Southwest Power Pool, as well
2 as the West as well as the Midwest ISOs, so we've learned a
3 lot about RTOs as we've worked with these three different
4 systems -- is that while we have tariffs in place for six
5 years, at the end of some transition period, there's nothing
6 yet to replace it, and people are still talking about that.

7 When we're out in the market trying to get
8 investors into transmission, one of their concerns are going
9 to be what's your revenue stream, how you recover money. By
10 having a rate design that deals with the transition and the
11 period after the transition, in other words, understanding
12 rates all into the future, we're able to satisfy investors
13 that this is how revenues will be collected.

14 The other piece obviously, as you well know, is
15 the issue of rate of return and making sure you can earn on
16 the investment and make yourself comparable to other types
17 of infrastructure companies.

18 The last critical success factor is addressing
19 state concerns and again, as part of our rate design issues,
20 one of the concerns we knew we had to address is the concern
21 about our states that we put in regional facilities to serve
22 a broad region, but the cost of those facilities are borne
23 by local ratepayers. Again, by using a postage stamp
24 construct, we've been able to satisfy that concern to make
25 sure that the new facilities are going to be used and paid

1 for by everyone who benefits from them.

2 The last thing I wanted to note is that you've
3 heard a number of times in the last several days about the
4 need for flexibility that the fact that the regions are very
5 different. I think that's true in terms of standardization
6 of tariffs. One of the hallmarks of competition is
7 innovation. We think that there's opportunities to take a
8 look at how do you create tariff and rate designs that work
9 for the companies and the region they are will be critical.
10 And in doing that, I do want to note also is that for us,
11 there has to be a balance between standardization and
12 uniformity. We don't want seams issues as a transmission
13 owner, we want to be able to maximize throughput but at the
14 same time we need to have the flexibility to meet our
15 business concerns.

16 Thank you, and I look forward to he discussion.

17 CHAIRMAN WOOD: What would really help would be
18 to build on the last comment and have the panel talk to us
19 about exactly in more specificity, not just that'll impact
20 your business plan, but what kind of issues, it sounds to me
21 like rate design is probably one that you would like to be
22 customized to fit the needs of the local region. I heard
23 that from Commissioner McMinn as well.

24 What kind of business practices, what protocols.
25 You know, GISB ISBE we call it around here, the litany of

1 items on the gas agenda that have been roughly agreed to as
2 protocols for not only transmitting data but scheduling time
3 lines and nomination time lines and how balancing issues are
4 dealt with when there are imbalances. Talk to us about
5 those kind of categories of issues that help you as you deal
6 with multiple RTOs and those that really are kind of tier
7 two as far as importance of going toward any kind of
8 regional or national standard form.

9 MS. ZIBELMAN: Thank you. I can give you a few
10 examples. We have worked very hard, actually, with the
11 Midwest ISO, to design a set of protocols. We've worked
12 hard with the Midwest ISO to talk about the protocols and
13 how we will operate as a transmission company within an RTO
14 construct.

15 There are certain issues, Commissioner, like
16 congestion management where standardization is going to be
17 important for us. We'll operate within the RTO congestion
18 management rules because we want throughput throughout the
19 region. We don't want a different set of rules and we don't
20 want to be in a position to have to arbitrate as to what
21 rules are better.

22 The provision of situations such as region-wide
23 security will operate within the RTO rules. On the other
24 hand, one of the issues that was asked about was in terms of
25 calculating total transmission capability and available

1 transmission capability. My goal is to make sure that each
2 of our lines is rated as high as possible. I don't want to
3 have to participate in a set of rules that requires me to
4 de-rate my lines because we have a standardization procedure
5 that doesn't work for us.

6 What we've arranged and what makes sense to us,
7 is that we developed a total transmission capability and
8 throughput, we work with the RTO to make sure that they
9 agree with that, and that if there's a dispute, we use the
10 RTO dispute resolution process.

11 But as an owner of an asset, one of the most
12 important things that you have is to be able to maximize the
13 use of that asset and that's the value that we want to bring
14 to investors is that we will make sure, as we say, as an
15 asset manager, sweat the assets. We need to do that. In
16 order to do that, we have to have a certain amount of
17 control as to how those assets should operate.

18 CHAIRMAN WOOD: Let me just follow up on that.
19 What explains then the relatively high level of complaints
20 that we have against, or under the current practice of ATC
21 and TTC being kind of low-balled? What's going to be
22 different about where you're going that would necessitate us
23 to saying well then we don't need to deal with that issue?

24 MS. ZIBELMAN: I think there are two things. One
25 is, as an independent transmission company, our interest is

1 throughput and so there's always a concern that companies
2 would manipulate the transmission entities just to help
3 throughput by one entity, one set of generators they happen
4 to own versus another. We're not going to have that
5 interest because we are interested in maximizing throughput
6 throughout the system.

7 I think the other way that we are working through
8 these issues is that to make sure that we can continue to
9 use the RTO as the market monitor, as the arbitrator of
10 disputes. Consequently, what we want to do is be able to
11 say, let us tell you, let us set how we will maximize the
12 assets and the RTO can set the principles, but we want to do
13 the calculation and then bring them to you and if there's a
14 disagreement, then it's open and transparent but we need to
15 look at our system and make a decision that the lines are
16 operating.

17 The other piece of it, and this is a very
18 important piece for us, is we look throughout our region and
19 having Translink and having multiple participants, we intend
20 to use best practices across the entire system.
21 Consequently today, when we work on our system, for example,
22 XCEL Energy, a lot of constraints that might happen in
23 Nebraska or Iowa because of how they calculate TTC and ATC,
24 will prevent throughput through our system. By having a
25 region-wide transmission company that's for-profit that's

1 operating under the same set of protocols with the same type
2 of incentive, we think that we'll be able to get there and
3 make sure that maximum TTC and ATC is on the system.

4 So in event, what I'm saying is give us the prima
5 facie capability to calculate what we need to do, give the
6 RTOs the ability to monitor that, and that I think will
7 create the right incentives to make sure that the companies
8 are operating the lines as best as possible.

9 MR. BITTLE: May I add something there?

10 One of the problems we're running into in the
11 Southwest Power Pool with everything fully subscribed and
12 looking at things on a large RTO basis is that basically all
13 transactions get involved in the determination of ATC on
14 everybody's system, and it's that network nature of the
15 electric system that makes that so.

16 And so if you start focusing only on a small
17 area, you may be able to maximize throughput, but because of
18 the network nature, it may be at the expense of someone
19 else's system. And so it's going to be extremely difficult
20 not to standardize on a very large area on how ATC's going
21 to be calculated, and it's going to be very difficult for me
22 to see how it cannot be only by the RTO.

23 MR. CALDWELL: Let me make one comment there and
24 that is that once we decide how it is we're going to do TTC
25 and ATC, I think it's really important. Yesterday, I think

1 it was Jose that was talking about the flavors of service
2 and we see a lot of lines that we would like to transact
3 business over that are congested for tens of hours out of
4 the year, but we have no way of getting any kind of capacity
5 rights whatsoever for the other 8750 hours out of the year
6 when they're not congested, and that somehow after we get
7 done worrying about who does TTC and ATC and all that sort
8 of stuff, we've got to be able to do something that we would
9 call long-term non-firm transmission that gives us the right
10 to use those lines when they're not congested and has some
11 sort of priority over that.

12 And then if there are terms when they are
13 congested, fine, we'll fight with everybody else for our
14 share of what those lines are. But we can't go to the
15 system where we say, someone can reserve it for 8760 merely
16 because it's congested for ten.

17 MR. MILLER: Audrey, let me ask a question of
18 you. I mean it's pretty clear, or it should be fairly clear
19 that a company with your structure, the incentives are for
20 maximum throughput. For companies that are transmission
21 owners that aren't structured your way, how do you get that
22 incentive? Is it just by being a member of an RTO?

23 Or I'll ask that of anybody.

24 MS. ZIBELMAN: I think it's a good question. I
25 mean as operating of a transmission company right now, I

1 think that we do look for ways to maximize throughput but
2 our profit motive is not as distinct as when we're a
3 separate ITC. So in answer to your question, I would think,
4 and I know other companies I can always speak from our
5 experience, is we do look for ways to maximize throughput,
6 we try to maximum rate our lines. Our frustration as an
7 investor-owned and part of a larger pool is that a lot of
8 what happens on our system is a result of neighboring
9 systems, and so one of our major concerns going forward is
10 creating a much broader footprint for the transmission
11 company by having both the public and private participants.

12 So in answer to your question, I think the
13 incentives are there. I think companies are trying to meet
14 the policy of making sure there's maximum throughput but the
15 capabilities are not because of the fact, particularly in
16 our region where there's so much public power involved.

17 And so the way we can get there is by have an ITC
18 that includes both of those. I do want to address and want
19 to make sure what I'm saying in terms of the TTC
20 calculation. What I'm talking about is making sure that you
21 calculate the maximum TTC on the lines and that we rate the
22 lines in the maximum extent possible and the principles for
23 how we do it can be set by the RTO. But we would like to
24 take the first cut of saying this is where we think the
25 lines should operate.

1 And we've noticed that there are differences
2 among utilities and we'd like to make sure that there's best
3 practices throughout the region.

4 MR. ESPOSITO: Can I jump in and respond on the
5 incentives issue and also on sort of what should be uniform.
6 First on the incentives, you know you look to the gas model
7 and compare the electric model of ratemaking, and in the gas
8 model you've got an SFE rate that has everything but return
9 in it, so there's a collection of most of your fixed costs
10 up front, but then there's a volumetric component. And the
11 volumetric component can get you above your authorized
12 return, and in fact many pipelines make significantly above
13 their authorized return because they go out and they hustle
14 throughput. They discount, and they do things like that.

15 In comparison, in the power industry, you pay
16 your load ratio share of the expenses and that's basically
17 it. There's no incentive to do better and we've had
18 instances where we found ATC on a line and said we want to
19 do this transaction but we can't do it at max rate. We can
20 do it at two-thirds of max rate. In this case, the number
21 was like \$40,000 and would have given the utility one day.
22 They said, no thanks, we're not going to discount.

23 Well, why would they do that? Why would anybody
24 have that incentive? Basically because that \$40,000 is
25 going to be taken away from them at the state level and you

1 really have to fix that issue. I think we know how to
2 create the incentive but we've got to keep it from getting
3 taken away.

4 And at the end of the day, I think if you go to
5 an RTO or a transco or an ITC structure where you've
6 separated out the asset, you have a chance of moving that
7 away to where it's a separate corporate entity and can
8 actually keep the incentive.

9 As far as ATC calculation, I would agree with the
10 speakers who said it needs to be done at a relatively high
11 level, at the RTO level. Listening to Audrey, I sort of
12 heard two things, one that I really liked, which is we want
13 them rated high.

14 The other is we want to start at our own level,
15 and once we start at our own level and work up under a
16 common set of assumptions that aren't overly conservative,
17 then I think we can arrive at the consensus you're looking
18 to get on the board here.

19 19

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1 But, you know, you have to have that incentive to
2 use the line creatively. Pipelines, they add compression,
3 and they don't necessarily come running back in for a rate
4 case because they look at it and say well I can increase my
5 throughput by this much, which is more than the cost, so
6 I'll take that return and I'll keep my system running and
7 add customers.

8 What should be uniform? This is kind of a
9 mundane list, and I'd really like to talk about sexier
10 subjects, but this is what you asked for.

11 (Laughter.)

12 MR. ESPOSITO: You know, things like, if you look
13 to GISB, a lot of stuff GISB has done translates easily.
14 You know, reservation standards, what's the timing for
15 submission, acceptance by the transmission provider?
16 Confirmation, processing, timing. Who's responsible for
17 confirming once the transmission provider has accepted your
18 reservation? Some don't require any further action on your
19 part. It's deemed confirmed. Some require further action.
20 Those kind of things are relatively easy to get agreement
21 on.

22 Terminology. You know, we shouldn't be using
23 different names for the same thing. In this regard, I'd
24 point you to the EEI contracts, the wholesale contracts that
25 they've come up with. There's a whole set of lingo out

1 there that's been accepted by the industry very successfully
2 that the industry itself came up with, and I would point you
3 in the direction of having the industry itself come up with
4 this lingo.

5 You know, notice periods regarding maintenance.
6 If you're going to take a line down for maintenance, there
7 ought to be some advance notice that everybody knows about
8 and responsibility. Who has got responsibility and
9 liability? If somebody says we're going to take a line out
10 for maintenance tomorrow, people like us shuffle all our
11 business for tomorrow. And that is at a cost, and often a
12 significant cost. And then if somebody says, well, gee, we
13 were wrong. We didn't mean to do that. We'll do it some
14 other day, there are costs involved with that. And in many
15 cases, there's no level of responsibility assigned to the
16 person who's actually causing those costs.

17 You know, bus names should be the same. You
18 would think that would be there by now, but as little as a
19 year ago there were two interface names on one side of New
20 York, New York and PJM, and one on the other. This is
21 pretty common sense stuff.

22 Ramping protocols. When you're going to ramp,
23 does it start minutes before the hour or on the hour and
24 minutes into the hour?

25 ATC calculations we've talked about. I think the

1 assumptions need to be uniform and probably need to be
2 uniform interconnect-wide. Glenn told me a story once about
3 line rating differences between PJM and his company where
4 one assumed a wind speed of one mile an hour and the other
5 assumed no wind speed.

6 MR. ROSS: It was Allegheny, but that's okay.
7 That's sort of PJM.

8 (Laughter.)

9 MR. ESPOSITO: But in any event, there was a
10 significant difference. What was the difference? I don't
11 remember -- 10 or 25 percent.

12 MR. ROSS: Yes. And I think it's a very good
13 point you're making. It simply was that when you go down
14 the technical specification of the line when they had a
15 normal rating, they had a normal rating of wind speed of one
16 mile an hour, which is -- I'm not sure where Allegheny is
17 now. But when they had an emergency condition, they upped
18 their rating to four miles an hour. Well, that's not
19 exactly how you rate lines.

20 So technically, that's probably not a really
21 great thing to do. But we had a wind speed of more.
22 Naturally, we went up to the mountains. We took an idea of
23 what the 500 kV wind speed would be. We were clocking it on
24 a fairly consistent basis at a higher speed and we got a
25 higher rating.

1 MR. ESPOSITO: And I don't remember what the
2 percentage of rating higher was, but it was startling to me
3 as a lawyer that it would make that much of a difference.

4 ATC posting times. Those should be standard.
5 Bumping protocols. Whether you have a use-or-lose situation
6 if you don't schedule firm.

7 Settlement timing. Somebody brought up earlier
8 waiting 90 days to get paid, or in the case of California,
9 still not get paid, is just an unacceptable business
10 practice.

11 As far as congestion management, I see that on
12 Alan's board there. And I would say that congestion
13 management within some sort of recognized market be in an
14 RTO probably. I don't have a problem with standardizing
15 that. I think you set yourself up for a lot of problems if
16 you set up a standardized congestion management system
17 across the country before we allow some of the different
18 theories that are out there to be applied. And I'll leave
19 it at that. Thanks.

20 MR. ROSS: I'd like to respond to Scott's
21 question that he asked a little bit earlier. And the way
22 I'd like to do it is to talk about how we in fact do improve
23 our system.

24 When you look at maximizing throughput when
25 you're under a rate lag, regulatory lag, where you're able

1 to capture those revenues and not necessarily come in for a
2 rate case or you can increase those revenues, we do go
3 through a maximization of transmission ratings. But when
4 you get more into a maturation, a more of a mature model,
5 what you tend to focus on is transmission optimization. And
6 what that tends to do is focus instead on a model which will
7 probably lead to a lower line rating and not a higher line
8 rating associated with the regulatory lag.

9 And I think optimization of ratings tends to be
10 true, Scott, especially when you're in a formula, a
11 formulamatic style of rate where the revenues are passed
12 directly back to the customer, and there isn't an
13 opportunity to increase the throughput.

14 But back to Chairman Wood's comment earlier about
15 ATC and about the number of complaints that you all have
16 received from the ATC. One of the things you may want to
17 consider is don't necessarily attack this with the full
18 frontal approach. I clearly believe you have to respond to
19 the complaints that have been filed. There's a lot of
20 cranky people out there about ATC, TRM, CBM and all the
21 terms.

22 But the principal problem in our mind isn't
23 necessarily ATC, but it may be the current two-tier or two-
24 system OAT, where you've got lack of transferability between
25 a network service and a point-to-point service. It's not an

1 indictment of the process. I think we needed 888. We
2 needed that process to move forward. But it's time now in
3 our opinion to move to a network service for all.

4 There is a carve-out, and I haven't mechanically
5 figured out how to do this. There are some customers who
6 want point-to-point service for specific transactions. But
7 I really believe that as a merchant plant owner, Dominion is
8 in the network resource secured by load type of mode.

9 Our salient points are that the customer may
10 integrate multiple resources inside or outside the RTO, and
11 it eliminates the advantages that integrated utilities have
12 currently over merchant generators that are buying -- we're
13 buying point-to-point service where the integrated utilities
14 are clearly network service, and it gives them an advantage.

15 The customer has the maximum flexibility under
16 our proposal of network service. You can do monthly, weekly
17 or even day ahead designation or undesignation of network
18 resources. And we happen to believe that a use of LMP to
19 manage congestion constraints is appropriate. But I also am
20 somewhat cautious of the approach that we think congestion
21 can be relieved with market forces.

22 We really believe that -- some people call it
23 evolution, but that takes millions of years. "Innovation"
24 may not be the right word, but clearly, some form of an
25 ability of a transmission owner, whether it be a transco or

1 an RTO or an ISO, to meet the customer's needs with new
2 products is a very important consideration. And for the
3 generators to be able to meet congestion relief
4 requirements, whether it be through demand response, which
5 we've heard earlier -- I really support that -- or whether
6 it be through other mechanisms to try to relieve congestion
7 without being forced to a standard market model.

8 We do believe in standardization. We support
9 standardization. But we think we need some room to maneuver
10 and try to get it right. Because we probably won't get it
11 right the first time.

12 MR. CALDWELL: It was real nice to hear a couple
13 of transmission guys talk about wind speed and how important
14 that is.

15 (Laughter.)

16 MR. CALDWELL: Even if it was in a different
17 context. I can explain it to you, Peter. What scares me
18 about that conversation was, and it was a very good
19 conversation and a lot of good words, but Peter mentioned,
20 for example, the EEI contract, standard contract as an
21 important underpinning. Well, the EEI standard contract is
22 for a firm flat block of power, and how do you define that
23 and how do you transfer that.

24 Well, there's a lot of resources out there that
25 don't meet that definition. And what we've done is is that

1 we've designed a system for that, specifically and only for
2 transfer of firm flat blocks of power between individual
3 control areas. And that is an extremely inefficient way to
4 run a system. And that what we're doing is is that we're
5 discouraging any kind of resource that has any kind of as-
6 available nature to it. We're discouraging any kind of
7 innovative transactions to taking place. And that as a
8 result, we're getting a more brittle system that requires
9 more reserves in order to run it, because everybody keeps
10 their own reserves to balance their on transaction so that
11 they can stay out of these dysfunctional things that we so-
12 called call real time spot markets at any cost. And that's
13 a cost that we are all bearing.

14 And I'm afraid that it's going to be a long time
15 before we figure out how to get the flexibility, how we get
16 the maturization. We don't know a lot of these answers.
17 It's going to take a lot of evolution. Maybe not millions
18 of years, but long enough that a lot of us aren't going to
19 be able to get from here to there. That we're not going to
20 have the political will to go through this stuff long enough
21 to learn how to do it. And we've got to keep focused on
22 some of the goals.

23 And we have to have some administrative relief
24 from some of these proceedings. We have to have a way to
25 transact our business in the meanwhile. Right now we cannot

1 take a transaction in interstate commerce. Our only hope,
2 with maybe the partial exception of PJM, is to have some
3 special carve-out of the rules for our resource. And that
4 is a crime.

5 MR. ESPOSITO: Can I respond to Jim for a second?

6 I pointed out the EEI contract as one industry effort that
7 was successful in creating a product. I think you all can
8 do the best thing for the industry by setting a vision and
9 then telling the industry to go out and meet that vision.
10 And that vision should clearly include flexibility to
11 aggregate resources.

12 Glenn was talking about his network concept and
13 talking about being able to designate a network resource or
14 undesignate it on short notice. I'm sitting here going, you
15 know, with my old gas model, gee, that just sounds like
16 primary and secondary points on a gas pipeline. You
17 designate where you want to bring the gas in, and if the
18 wellhead freezes up, you go somewhere else, get another
19 resource and bring it in on a secondary basis.

20 So I think you could go to the gas business model
21 and change the names if you have to. But you'll find a
22 business model that's flexible, that's been developed,
23 tested and really works. And you have to make some
24 adjustments for the different physics really more so the
25 different timing that's necessary in power. But there's a

1 good business model out there to start with.

2 COMMISSIONER MASSEY: Well one of the principles
3 of the gas model is that all service is on the tariff. And
4 now for the electric industry, should all wholesale and
5 retail load be on the tariff?

6 Can we just go 'yes' or 'no' down the line?

7 MR. BITTLE: Surely you don't want just a yes.

8 COMMISSIONER MASSEY: I want just a yes.

9 (Laughter.)

10 MR. BITTLE: You put me in an extremely difficult
11 position, but long term, the answer is yet.

12 COMMISSIONER MASSEY: Oh, good. That's the right
13 answer.

14 (Laughter.)

15 MR. CALDWELL: Yes. But we need to be careful
16 what we mean by the tariff. I mean, we need to make sure
17 that we allow things that don't naturally fit some of these
18 definitions to be able to exist. But, yes, all load has to
19 be on the same tariff.

20 MR. ESPOSITO: Yes.

21 MR. GELINAS: I would like to maybe pick up on --

22 COMMISSIONER BROWNELL: Let's get the answers
23 first.

24 COMMISSIONER MASSEY: We're trying to go down the
25 line here. We got three yeses so far.

1 MR. McMINN: Commissioner, I don't remember
2 drawing that card, but I have to say that to us, this is a
3 jurisdictional question and so it causes a little problem.
4 I would just have to say no.

5 MR. ROSS: Yes.

6 MS. ZIBELMAN: Yes.

7 COMMISSIONER MASSEY: Okay. Thank you.

8 MR. BITTLE: May I explain my hesitation?

9 COMMISSIONER MASSEY: No.

10 (Laughter.)

11 MR. BITTLE: Oh. Well, it's a good thing I'm on
12 the right end of this panel I think.

13 (Laughter.)

14 MR. BITTLE: But we do have grandfathered
15 contracts, and the fact is, our grandfathered contracts does
16 provide some benefits that are not available in the existing
17 contract, the tariff. And to just say that I'm going to
18 have to move immediately means that I'm in an extremely
19 difficult bargaining position to get something for those
20 advantages.

21 Now if it's a long term, I have a chance, it may
22 be small, but at least I have a chance to try and recover
23 some of those advantages.

24 MR. ROSS: At the same time, though, if I can
25 point-counterpoint, I'm not sure if I'm Kirk Kilpatrick or

1 Shana Alexander. But we have 94 percent of our load under
2 rate cap in Dominion's load, and we are close to a 17,000
3 megawatt utility. If 50 percent of our industrial customers
4 choose a new supplier under retail choice, which is supposed
5 to begin January 1st, we'll drop to 80 percent under rate
6 cap. And we were able to craft a document and file it at
7 FERC which was putting all Virginia load, whether it was
8 rate capped or not rate capped, with the exception of a few,
9 very few grandfathered contracts which we're working through
10 the transition plan for, under a single RTO tariff. And so
11 there are ways to do that.

12 And I think it has taken -- it's a little
13 challenging. You've got to really bite the revenue bullet.
14 But I think in the long haul, the benefits to the market and
15 benefits to the transmission customers outweigh that. We
16 are experiencing some revenue loss. We've got some
17 transition adjustment discussed within our tariff to
18 overcome that for a three-year transition period. There are
19 ways to get around it. I think there's ways to do it.

20 COMMISSIONER BROWNELL: Did you have discussions
21 with your state commissions about that, I mean, in response
22 to Rory's concerns, which are real and legitimate? How did
23 you work that through?

24 MR. ROSS: Yes, we did have discussions with
25 them. I think being under the rate cap model in Virginia,

1 you can pay whatever you want to pay to the RTO, but we're
2 still under rate cap in Virginia, and we do have an
3 adjustment between wires charge, adjustment for the
4 transmission versus the distribution adjustment.

5 And there is some discussion currently and
6 there's actually hearings going on as we're speaking about
7 how that rate cap is adjusted and whether we go with the
8 filed rates we filed with the Commission last month -- or in
9 August -- or whether we actually go with our existing rates.
10 But the dialogue is there, and I think dialogue is good.
11 Rate cap through 2007 was a hard pill to swallow, but we
12 swallowed it, and we found a way to get around it, and we're
13 very happy about the way we're moving. Seriously.

14 MS. ZIBELMAN: If I could amplify on why it's
15 important for us to get all load under the same tariff and
16 have a tariff for everybody, and an answer also to Scott's
17 earlier question.

18 One of the major issues for us is the issue of
19 regulatory lag between federal and state. We don't see this
20 working until we become, like the pipelines, regulated by
21 this Commission, with the ability to have rates set. And
22 rather than the issues we have today, which is it's very
23 difficult to make investment on a regional basis when you
24 have to back to individual states who have legitimate
25 concerns, by having a single proceeding, we won't have those

1 regulatory lag issues, and therefore will be able to have
2 the confidence once we get a rate order as to what type of
3 investment we'll be able to make and what the returns will
4 be on those investments.

5 Transmission, as you well know, represents only a
6 very small cost of the overall cost of providing delivery.
7 And so you've never filed a retail rate case on the basis of
8 transmission investment. And having a single rate
9 jurisdiction I think will for us go very far to being able
10 to make a new investment with confidence.

11 MR. CANNON: Don, you had a question?

12 MR. GELINAS: Going back to our pro forma tariff
13 just for a minute in general, there were many of us that
14 when Order 2000 was issued expected that that tariff would
15 be not only tuned up but perhaps fundamentally changed to
16 deal with the new marketplace. Commissioner Massey just
17 teed up one of the big issues, which was putting everybody
18 on the tariff and eliminating the native load exemption.

19 But beyond that, and I think Peter and Glenn I
20 think both of you touched on this, I'm seeing and we're
21 seeing in RTO filings in many cases just the pro forma
22 tariff with the fences pushed out a little bit, and that's
23 it. We're not getting much else other than that. We still
24 have the existing two types of classes of customers with the
25 inherent benefits and disadvantages of the two services that

1 we designed five years ago in a different world.

2 We've got, although we didn't require it,
3 complicating ATC. We now have even small RTO proposals with
4 multiple control areas, creating effectively internal seams
5 inside the RTO. And so I think, Glenn, you mentioned
6 network service for all. I think Peter, you mentioned the
7 disparities that generators and customers face as to whether
8 they can avail themselves of network versus point-to-point
9 services.

10 And I'd sort of like to tee up what have you seen
11 in some of the RTO proposals that needs to be changed and
12 that's there simply because it's a vestige of the old world,
13 other than the native load exemption, which I think
14 Commissioner Massey has just teed up. And Peter or Glenn,
15 both of you touched on it in your comments, so.

16 MR. ESPOSITO: I think there's obvious things in
17 the RTO proposals, you know, for example, SPP where 90-some-
18 odd percent of the load wasn't going to be on the tariff.
19 And there's some things where, you know, you end up with
20 some tightening up of the tariff. I think the alliance of
21 which one of our affiliates is a member, tightens up the
22 tariff in a few places.

23 I think what we need to be looking at is
24 something new. Take the best of network and point-to-
25 point. You know, for instance, network is not a good

1 service to develop a secondary market in it because you
2 can't move the power out of the designated area. And point-
3 to-point has some flexibility in terms of doing that. So
4 you end up taking the best of both of them and developing a
5 new tariff.

6 We talked about the capacity reservation tariff I
7 don't know how many years ago, and it's probably a good
8 place to start looking as the one-tariff model. I go back
9 again to gas and I look at the tariffs, and you've got
10 basically four services that were out there. You had no
11 notice, storage, firm, and interruptible. And if you looked
12 at the firm and interruptible, which we would equate to firm
13 and nonfirm here, they were the same tariff except there was
14 a provision that says firm trunks. It's a little bit more
15 complicated than that, but not much more.

16 And then second tool was storage, which could be
17 an ancillary service type of tariff in a market where people
18 brought their own ancillary services. The no-notice, of
19 course, was a combination of firm and storage. And again,
20 you could emulate that product and get those two, three,
21 four products out there that are essentially variations on
22 the same product but not have the network point-to-point
23 differentiation anymore. Everybody has to use those same
24 tools.

25 And when you get to the point where everybody is

1 rowing in the same boat in the same direction in developing
2 a tariff, all of a sudden the differences and the advantages
3 that Ricky have, people are saying, okay, I want that
4 advantage too. How do we develop a tariff that gives
5 everybody that advantage? Rather than, I want it and you
6 don't get it, which is sort of the situation we have now.

7 MR. ROSS: I think it's somewhat unrealistic to
8 expect that as you move from the heavy precedent we have for
9 888 and 889 -- 888 mostly -- that you're going to see rapid
10 movement to a new tariff. I think you do have transitions,
11 you do have rate shift, you do have issues you have to deal
12 with. But right now, we don't have a vision for that new
13 tariff, so that's why I think what we're doing today is
14 extremely important.

15 The foundation of any superstructure is not very
16 pretty. In fact, most of the time you don't ever see it.
17 But what that foundation is built off of generally can be
18 some remarkable structures. And I think what we're doing
19 today is laying that foundation for what that new tariff
20 needs to look like.

21 I did go back when I first got asked to speak and
22 looked at the foreign power corp filing for the network
23 tariff. I went there first. And I went to the attorney
24 that filed it. And I think to some degree we've outgrown
25 that. I think it is a good -- that's where I started. It's

1 a good suggestion to start there. But I think we might want
2 to go beyond that, because I don't think that's the one we
3 need.

4 And the other concern I have is that tariffs have
5 held up the negotiations that are on tariffs have held up
6 the various proposals that have been filed as much as a year
7 to a year and a half in my experience. And I'm in a
8 position where let's launch this thing. I have the
9 disadvantage. My father, a great man, worked at the Newport
10 News Shipbuilding and Dry Dock Company, and I don't remember
11 many ships when I went to launches with him that were
12 finished when they were launched. And we've got a group
13 that wants to sit around and let the ship be finished in dry
14 dock. I'm sorry, but the dry dock is for development.
15 Let's get the ship launched. Let's finish it.

16 If we need to build a new ship and scuttle the
17 old one, we'll do that if we have to. So I'm in support of
18 working through some very short transition periods. I'm not
19 up for the 11-year transition periods proposed by some
20 regulators. But we're in a three-year transition period.
21 Let's get the new foundation built. Let's move to the new
22 network tariff.

23 MR. CALDWELL: Let me give a specific example.
24 In the Order 888 tariff Schedule 4, Imbalance, it doesn't
25 require the control area to settle its imbalances in the

1 same way as it does non-control area things. And it allows
2 the imposition of administrative penalties to keep people
3 from so-called deviants.

4 (Laughter.)

5 MR. CALDWELL: In Order 2000, three years later,
6 you know, on page -- I can't remember what it is, 150-
7 something or something like that -- one of the functions of
8 the RTO says you can't do that anymore. Yet here it is 2001
9 and we have tariffs that are coming in for RTOs that are to
10 be done in 2000 in order to start operation in 2003, which
11 still contain those administrative tariffs and still contain
12 the provisions that you told them they weren't supposed to
13 be able to do in the Order 2000 tariff two years ago.

14 This is going to be a long slog, a long, long
15 slog before we get there. And I echo, we're going to have
16 to try to get there as soon as we can, but we're going to
17 have to have some administrative remedies--and let me use
18 the word--we're going to have to have some affirmative
19 action on the part of the FERC in order to cure those
20 discriminations against, you know, resources like ours,
21 and I happen to know that one but there are others, or else
22 we're not going to have the political legitimacy to get
23 here.

24 24

25 25

1 That if we keep doing things like what we're
2 doing, and taking so long and causing all of these problems
3 and making the customers mad, none of this is going to
4 matter, because we are not going to be allowed to keep the
5 ball here.

6 MR. BITTLE: I think part of the problem is at
7 times we get focused on the transmission system rather than
8 the real generation market. How do we want the generation
9 market to work? That's one of the questions. I mean, if
10 you really think about it, under LMP, as a specific example,
11 the fact is everybody has firm service, delivery is assured,
12 and so you don't have problems with ATC, at least with
13 inside the area. And so that's one solution that you can
14 look at that all of a sudden takes a lot of the questions
15 about what type of service out of play.

16 The real focus is on the generation market and
17 actually serving the load. And then you make the
18 transmission system function in a way that gets that done.
19 And then you change money as necessary.

20 And so to some extent, even though, you know, the
21 Southwest Power Pool had reached the decision to move to
22 LMP, and it was really because of delivery certainty was one
23 of the big pieces of what we were looking at. But that
24 takes care of how you operate the system currently. The
25 real problem is, we're right up at the precipice of the level

1 that you can operate the transmission system, at least with
2 the reservations that are in place. And so to a large
3 extent, one of the real focuses that the tariff is going to
4 have to address is how do you get new transmission built and
5 where.

6 I mean, if you make wrong decisions about where
7 generation is, it has some real consequences on
8 transmission. And so there is just that give and take
9 that's got to be there. The transmission system can be
10 developed if you know what the market is that you want to
11 use. But that's one of the big pieces in making this whole
12 thing function.

13 MR. MILLER: Ricky, let me ask you a question in
14 that regard because I can see something in your comment
15 where LMP, regardless of how small the road gets, that you
16 can get through because you'll pay for it. But my question
17 is, whether or not keeping in some of the contracts that
18 you're talking about in place is the most efficient use of
19 the transmission system because there are times when it
20 seems like the transmission system isn't fully subscribed
21 and yet the transactions don't flow.

22 The part of the country that you're in appears to
23 have some of the least liquidity and it's not because the
24 transmission system's always fully subscribed. And that has
25 all sorts of other problems like market power and then you

1 get to administrative solutions, and then you never get to a
2 market.

3 MR. BITTLE: Well, on LMP that's true to a
4 certain extent. As long as you are able to redispatch
5 generation, you can get delivery. If there is not
6 generation to re-dispatch, the only option is load
7 curtailment. I mean, so there is a reason there.

8 But when you start talking about liquidity, it is
9 one of those strange things that is out there. If there are
10 reservations in place and there is no way to get access to
11 them, then they do perform really a block to transactions
12 that could take place. And so, you know, there is a real
13 question. LMP tends to get around that. It's a good first
14 step. I don't know if it's the long-term ultimate step but
15 it does tend to open up the generation market in a way that
16 allows multiple parties to participate in the market.

17 Now I don't know if that fully answers what you
18 were asking, but there was one question you asked earlier
19 about how do you get the transmission system to focus on one
20 specific issue, and that's independence, quite frankly. If
21 that's its only business, it's going to focus on that one
22 aspect.

23 MR. MILLER: Well, let me follow up on that
24 because the difficulty with even the largest RTO is that
25 they have to get the raw data for calculation of TTC and ATC

1 from somewhere. The question in the current paradigm that
2 we have right now, whereby there's still some vertically
3 integrated utilities that own generation and own
4 transmission, and by the way, Peter, my concern about doing
5 this through the rate design is that revenues from
6 transmission dwarf revenues from generation -- and so
7 incentives, if you own both, are for to maximize your
8 generation revenues.

9 And so, as a consequence, is independence where
10 the genesis of all the information comes from a vertically
11 integrated entity?

12 MR. BITTLE: It goes a long way. Now is it the
13 only answer, the answer is of course TTC and ATC are a
14 changing issue because of the changing generation pattern,
15 so as long as there is some incentive out there for
16 maximizing the revenue in one place or the other, you're
17 going to take the one that maximizes the most revenue to
18 your stockholders or your consumers, whichever.

19 But the idea is long term we've got to be focused
20 on how do we make the whole market work, not just how do you
21 make electrons move across the transmission system because
22 the reason we want them to move across the transmission
23 system, is to be able to access a full functioning
24 generation market, and if you have the concept of what you
25 want that full functioning generation market to do, then you

1 can go back and start taking into account the physical
2 nature of the transmission system and looking at what does
3 it take to make that model of a market work.

4 MS. ZIBELMAN: I'd like to just add to that. And
5 the concept for me of course of independence is having a
6 company that's independent as a transmission company which
7 is where the data will come from and therefore the issues of
8 availability won't be there.

9 Also, as we're talking about the use of network
10 versus point to point, I think the other piece is to try to
11 understand where we are in the evolution, and I think our
12 major concern at this point is to make sure that the
13 Commission does everything it can to encourage companies to
14 basically divest their transmission and put them into
15 separate, independent companies.

16 One of the reasons that we think that these rate
17 design issues are going to be critical is that companies are
18 concerned about who costs will get shift, and they need to
19 have the flexibility therefore to design the rates to
20 prevent some of the cost shifting initially and then
21 transition into separately-owned companies. I would be
22 worried about any formula rate that doesn't allow for those
23 differences and also to recognize that all parts of the
24 system are not the same. There are facilities that are more
25 regional in nature and should be averaged on a postage stamp

1 basis, and then there are facilities of the system that are
2 really designed to serve load and maybe should not be
3 required to be cost-shifted to others as well as facilities
4 that are mostly designed to move generation to the regional
5 facilities.

6 We're all not coming out of the same framework.
7 Obviously for us, we don't have a tight power pool. We've
8 operated as separate utilities, we're trying to create
9 consolidated control areas, and the major issue for us is as
10 we make these filings, that the Commission accept some form
11 of innovation and gives us an opportunity to demonstrate
12 that these models can work.

13 MR. ROSS: I'd like to build off of that and give
14 a specific example, if I may. And it's a specific example
15 coming from our transmission customers today. If you do
16 move to a network service rate -- and that's a good vision,
17 I think we ought to go that way -- and you do in fact kind
18 of rule out some of the provisions under 888, although I
19 think one you shouldn't rule out is it contemplated release
20 capacity and it contemplated that in the three ways you
21 could sell back or the higher of costs associated with
22 transmission service. So I think if you bring the release
23 capacity forward and allow the RTO to have a release
24 capacity component of network service, then you could
25 actually develop a new product for a customer under a

1 network service rate.

2 And one specific example I'll use that a lot of
3 merchants is trying to do is point-to-point transmission
4 service. Merchant generators will use a point-to-point
5 transmission service to move power to a trading hub.
6 Conceptually, it provides a mechanism to sell generation
7 into liquid market, and in fact an ideal trading hub will
8 have a correlation to a commodity market, and you could
9 actually put a financial instrument out there to actually
10 trade.

11 For example now we have at least one ISO, and I
12 won't do the advertisement for which ISO, and it's not mine,
13 it's not mine, has a hub that is an aggregate of several
14 locations. And a financial product that's used by a lot of
15 people for financial trading comes from that hub price. But
16 the generators can still bid to the pool and the generators
17 take any financial risk or benefit between the aggregated
18 price and the actual generator bus price. Then the loads
19 will take any redispatch risk at LMP for creating any system
20 imbalance or congestion.

21 So the generators now have a capability under
22 this new product design by the independent entity under the
23 tariff to be able to move their product to market and hedge
24 the long-term product into a liquid market. Now that's an
25 example, a specific example of innovation where you want to

1 build a tariff that allows for, I think really as 888 had
2 contemplated, a form of release capacity which can be used
3 to sell other kinds of transmission services.

4 MR. ESPOSITO: I'd like to build right on that
5 one because that's where I was going, too. I think one of
6 the ways to take care of the cost shift is to get a good
7 liquid secondary market developed. That way, if Ricky ends
8 up with more costs and we've got a, what I would consider to
9 be a more valuable service as a result of this transition,
10 then he can sell off some of that value to get back some of
11 the transition costs or the higher shifted costs.

12 Ricky mentioned LMP being something that where
13 you're short of delivery. I wish I was on that panel too.
14 That to me was probably the more fun panel to be on. Not
15 that this isn't fun.

16 (Laughter.)

17 MR. ESPOSITO: But LMP sure you have delivery
18 assured all the time but you don't know what you're going to
19 pay for it, so you've got that issue and there's all the
20 machinations that go down on how you deal with that and FTRs
21 and this, that, and the other thing. But the bottom line
22 is, if you go in and look at the results, it worked great
23 for the people who designed it, the incumbents. They got
24 the FTRs allocated to them, they've got their generation set
25 in certain places and their load set in certain places.

1 They aren't trying to be real flexible with how they use
2 their resources to go out and compete for other markets.

3 So it's a great system for them. Congratulations
4 on their success, but we need to move on because we need to
5 bring new generation in that can be efficiently used as a
6 fleet across a geographic area and have the flexibility to
7 do that.

8 And node-to-node FTRs and the things that are
9 touted as the solutions to the delivery price problem just
10 don't work and aren't working in that context.

11 I've told at least a couple of the Commissioners
12 in private meetings that we've met with Phil Harris of the
13 unadvertised RTO or ISO, and are trying to get the best
14 lines in congestion management--I don't know what the
15 acronym for that would be--together very quickly within the
16 next month or so to look at some other products that they
17 might offer.

18 So it is the industry out there finally getting
19 together and saying you know, we're going to, instead of
20 just touting our own product, go out and jointly look at a
21 product, and I hope that is successful. I know Phil is
22 committed to working hard on it, and so are we.

23 At the end of the day, we're looking at cost
24 shifting and transitions and how long can a transition be.
25 We're like ten years into it at this point. It's time to

1 get over it and move on, and I think part of it is we sort
2 of had a vacuum here of leadership.

3 The Commission, for whatever reason, was not
4 moving ahead aggressively, I think hoping to get some
5 voluntary action. You know, we've seen the result of that.
6 Congress has a bunch of false starts. You know, the states
7 are out there saying, we're not so sure we want this. I
8 think it's time to step up to the plate and I think this
9 Commission is the Commission to step up to the plate, issue
10 an order after these proceedings and comments, that says
11 here is the policy direction we want you as an industry to
12 go, and here are x, y, z points we want in a tariff. Go out
13 and design one for each RTO.

14 And we did that in 636. They aren't all the same
15 tariff, but they are all tariffs agreed to pretty much close
16 to unanimous consent I think by the parties because they
17 knew they had a deadline. And they knew that if they didn't
18 solve the problem, the Commission was going to deal with the
19 issue.

20 I know in the Northeast RTO proceeding, we went
21 out and we spent 45 days talking about a process; never
22 talked about substance. We, in our comments, proposed what
23 we call fast track procedure to go in, have the parties work
24 for 30, 60, 90, you know, whatever days, a very short
25 period, to identify the most critical issues that they can

1 arrive at consensus on, throw them up to the Commission,
2 throw the ones up that there is no consensus on, the
3 Commission makes the decision, we live with it, and we move
4 forward.

5 The worst kind of deregulation is slow transition
6 deregulation because there's so many different anomalies and
7 economic dislocation that go along with it, it's time to
8 make the move.

9 MS. ZIBELMAN: Actually, that's one for the
10 chart. I do think expedited decisionmaking will help all of
11 us as we move forward and know where we're headed.

12 I'd like to add to the list actually we started
13 and a couple of questions that the Commission asked. One is
14 in terms of capacity benefit margin, the processes for that
15 as well as the processes for allocating network resources.

16 In our view, what we need to do is have a
17 standard, that's an area where I think there ought to be
18 standardization, we ought to know -- that's an area where I
19 believe that standardization will benefit us on how CBM is
20 calculated and also a process so that we have I understand
21 in ERCOT there's an annual review of CBM, something like
22 that, so we know where we are. Because again, as a
23 transmission owner, we don't want people to over reserve on
24 the system and not use it. That's important to us.

25 The other questions that I think needs to be on

1 the list is in terms of the regional reserve obligation.

2 There's a lot of differences in the region in terms of
3 capacity reserves.

4 MR. ROSS: Put some room underneath CBM. We're
5 not done with that yet.

6 MS. ZIBELMAN: Okay. He wants an addendum to my
7 CBM.

8 MR. ROSS: Just say leave some room underneath
9 it. We've got some more work to do on CBM.

10 MR. HAYMES: We can do another page.

11 MR. ROSS: One of our challenges is the reserve
12 obligation on capacity is different throughout the regions.
13 That becomes a cost depending on where you are, and we need
14 to have basically a way of looking at that from a national
15 standpoint so everybody has the same types of obligations.

16 The other thing I wanted to respond to was the
17 comments about load balancing and penalties. I think one of
18 the things we have to do in a market is reflect the fact
19 that not all generation is the same but that the fact is is
20 that if the load is out of balance, and somebody has to move
21 a generator up or down, that's a cost to somebody. And an
22 interruptible generator today and most of the time they are
23 part of the network resources. I know in our system, we'll
24 move our peaking powers up or down based on what the wind is
25 generating.

1 I think it's unfair for interruptibles to say
2 that somebody else should bear that cost. That is a cost
3 that's part of the effectively way that you represent the
4 economic value of interruptibles on the market.

5 MR. CALDWELL: No one's talking about not bearing
6 fair cost. What we're talking about is administrative
7 penalties that confiscate the value of our resource. And
8 that the idea that somehow simply because our resource goes
9 up by a megawatt, somebody else has to go down by a megawatt
10 is incomprehensible. What load does and what customers do
11 all the time, I mean, do I have to notify you every time I
12 turn on my light switch? No. The system is designed to
13 take a certain amount of variability. And we're perfectly
14 willing to take care of our own costs. But what we're not
15 willing to do is to be defined out of the market, and to say
16 that we have to somehow match a definition that is old, that
17 is obsolete and that will not work in the 21st century,
18 period.

19 MS. TUZUN: I'd like to ask a question. This is
20 on the CBM and also on the ATC. One of the questions with
21 regard to CBM, there's different, right now it's calculated
22 differently. People are using different levels and for
23 different purposes. Do you think there should be agreement
24 on the definition of it? I think there's also a question I
25 have of whether or not CBM, as we know it or as some people

1 think of it, should still be thought of in the same way that
2 it's currently being thought of. The other question is who
3 would quantify it. How would the quantify it, and how
4 should it be used.

5 Could you comment on it?

6 MR. BITTLE: I'll take that one to start with
7 anyway. And yes, I think CBM should be standardized if it's
8 going to be utilized. I mean it is one of those things
9 that, depending on the size of the RTO, it becomes much less
10 important. CBM is needed in order to be able to access
11 reserve sharing. To the extent that you've got a large
12 enough area that reserve sharing can be done within that
13 area, then it's much less of a question.

14 MR. ROSS: I'm sorry, I'm not there. I worked on
15 the first NERC ATC working group, and I think what we need
16 to do first is to define what CBM really is before we start
17 down the path of how it's used.

18 CBM clearly, capacity benefit margin, is intended
19 to be used or be defined as the value of transmission
20 capacity that is reserved for generator availability to your
21 network load or to your load. If you have a very reliable
22 generating mix or a basket of generation that serves your
23 load to meet reliability targets, you can have a lower CBM.
24 I may have a situation where I'm in a very moderate day, a
25 very peaky day with a very shallow peak in the morning. I

1 may have a lot of generators that are running that are
2 getting ready to meet the peak. I may have a zero CBM that
3 day because generator availability's not a problem. A unit
4 can trip over here and another unit can pick it up and it
5 doesn't matter. So setting CBM at some predefined level on
6 an annual basis or standardizing it against in the nation is
7 not the appropriate way to use CBM.

8 You may find that somebody has purchased very
9 unreliable units. They have a lot of unit disruption and
10 unit failure. Their CBM may be 50 percent of their load and
11 may need to be in order to handle the import of generation
12 necessary to meet the generation that is unavailable.

13 Indirectly, CBM is paid for by the owners,
14 customers of the transmission grid today because it is an
15 opportunity cost lost. You don't sell your CBM. You
16 reserve your CBM for your import capability.

17 Now I do agree that we do use CBM to import
18 reserve sharing. Some regions of the country don't do that.
19 But I think if CBM is defined as a generator availability
20 reliability value, a generator availability reliability
21 value, then the generation that is designed to meet the
22 load, the load should determine the CBM value, and they
23 should pay for it.

24 Now if an RTO has a guideline whereby reliability
25 is of concern to the overall grid, they may have a load

1 serving entity that is not responsive, does not reserve
2 enough CBM and leans on the system. Then the RTO may come
3 up with a policy to force some minimum level. Now if you
4 want to call that standardization, then I'm with you.

5 But I think truly the load that buys reliable
6 generation that wants to operate and by low CBM levels ought
7 to be permitted to do so. And the one that has unreliable
8 generation may need to be bird-dogged by the RTO or the
9 independent entity. So CBM really is -- some people don't
10 use CBM at all -- some utilities don't use it at all.

11 MS. TUZUN: Just to be clear, are you saying that
12 because it should be generation specific that it should be
13 something that should or shouldn't be defined or determined
14 by the RTO?

15 MR. ROSS: There's going to be situations where
16 the RTO should provide reliability guidance. It may be that
17 the region, the NERC reliability region, until we have some
18 other model, will provide that guidance. As to what the
19 level of reserves needs to be or what the level of import
20 capability needs to be, but only the buyer of the supply
21 will know with certainty what the outage history or
22 availability of that unit will be. And only the buyer is
23 the one who is responsible for buying the CBM. I think if
24 you allow the buyer to see a direct pass of the cost of CBM,
25 then CBM misuse will go down and the level of CBM reserve

1 will go down.

2 The fact that the entity uses, and we may be
3 talking about our favorite ISO again, but the entity fixes
4 CBM for a year and then uses a value they call capacity
5 benefit of ties without sending a check to the ties that
6 they're using, a find is an egregious behavior. It doesn't
7 get a lot of traction but it's a very poor way to balance
8 the system and that is a pass through.

9 So I'm interconnected to that RTO, that ISO, and
10 the capacity benefit of ties is working against me and it is
11 devaluing my generation and my ability to move my generation
12 to their market by at least 50 percent, the capacity of my
13 generation's devalued. So in that way, if you want to call
14 that a standard way of handling CBM, I think there probably
15 could be, but to fix it at a certain level to say it's a
16 reliability value, and to fix it at that level for an annual
17 cycle is inconsistent with the CBM definition.

18 MR. ESPOSITO: Julia, I liked the end of your
19 question which is basically does this need to exist in the
20 future. And my answer is clearly no. I view it as a
21 transition/allocation issue. Everybody should be paying for
22 it. We should have a flexible tariff that allows the
23 purposes of CBM to be achieved but you pay for how much you
24 want.

25 Now the state commissions might want to come in

1 and say we want you, Glenn Ross, to have a higher number or
2 a lower number based on what we want to pass through to the
3 consumers but I don't see an RTO role in this except perhaps
4 as a mediator as to who gets what when we divvy up the pie.

5 Again, going back to the gas industry, we had
6 bundled contracts for gas and we had to unbundle those
7 contracts and we had to say who was going to get what
8 capacity, and it all got worked out in the settlement
9 proceedings on each pipeline as we went along, and if it
10 didn't get worked out, the Commission worked it out.

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1 The same type of process could be used here to move the ball
2 forward and get us down the road.

3 MR. ROSS: I was beginning not to agree with you
4 on a couple of issues regarding the absence of vision. I
5 happen to think this Commission's had a lot of vision over
6 the last ten years. I also was beginning to wonder when you
7 went to 636 with multiple tariffs, because we do support a
8 standardized tariff, but you just redeemed yourself. Thank
9 you.

10 MR. ESPOSITO: I better check what I just said.

11 (Laughter.)

12 MR. CALDWELL: I can't let my harsh words for
13 EXCEL stand on that issue that we were talking about a
14 little bit ago. But we did have a contested proceeding in
15 Colorado on that issue and they lost. And then we had
16 another contested proceeding for three years in Minnesota
17 and they lost. And in both cases, it was because they could
18 not demonstrate any cost that was associated with the
19 operation of the wind power on their system. And that was
20 before two commissions who to begin with were predisposed to
21 believe them, because it makes some at least sense to begin
22 with.

23 And if we have to have a contested proceeding
24 here on that issue, fine. We'll do that. But again, I
25 think the focus of this Commission has to be not on the

1 little i's t's and dotting, it has to be on the goals. It
2 has to be saying if our vision is this national commodity
3 market that's going to deliver least cost services to the
4 customers, then we have to focus on some of the results it's
5 going to take to get there.

6 And there's a word that a lot of us have used
7 today and is used around, and that was liquidity. And
8 liquidity is something that you can't mandate. But when you
9 don't see it, that ought to be a big red flag. And that
10 ought to say something is wrong. Because what the lack of
11 liquidity means is that nobody wants to go there. Nobody
12 wants to use that service. That there is not this many
13 buyers and many sellers.

14 And so I think you need to focus on those kinds
15 of things. And if there is no liquidity, if there is an
16 opaque long settlement system, you better get in there and
17 fix it before there's stress on that system and that early
18 warning sign, that miner's canary, leads you down the road
19 that when things get tight, that's when it starts to get
20 interesting. But you'll see that long before in the lack of
21 liquidity and in those kinds of things.

22 I remember one of the early speeches in this
23 restructuring debate was Jeff Skelling (phonetic) giving a
24 speech to William Daniel Fesler (phonetic) in the PUC room
25 in San Francisco. And back to the sex for a minute, Peter,

1 Jeff was clearly, he was getting hot under the collar and
2 his shirt was coming off when he started talking about these
3 deep, forward, liquid markets.

4 (Laughter.)

5 MR. CALDWELL: And that is what we need, okay.
6 Well, how do we get to those? Okay, well first we need a
7 liquid spot market and some way to arbitrage between that
8 spot market for physical delivery and those forward markets.
9 If we don't have that, we're not going to get there. Well,
10 what do we need to do that?

11 And I think we need to focus our efforts that way
12 rather than talk about whether we need this particular
13 provision or that particular provision or the ISO and PJM
14 does it differently than the ISO and New York. We need to
15 focus on the results.

16 MR. ARMSTRONG: I'd like to go back to an earlier
17 discussion that I don't think we ever came to closure on and
18 just see if I can get an understanding from the panelists.
19 At one point when we were talking about the point-to-point
20 or network service, I thought people were saying that they
21 wanted the flexibility to have these choices but take care
22 of any disparities in the costing or whatever.

23 And then later on I was sort of getting the
24 flavor that, no, everybody wanted to take one model or the
25 other and have a standardized product. I'd just like to see

1 if we could flesh that out a little more. Under an RTO
2 tariff, is it people's opinion that you should keep
3 different types of services? Try and take care of what is
4 in 888 discrepancies in the pricing or whatever. Or should
5 it be more just a standard either network model or point-to-
6 point model or capacity reservation or what?

7 MR. ESPOSITO: I'm jumping to say yes, because of
8 all those things. But I think that at the end of the day,
9 what you want is one transmission tariff. You can have a
10 firm and a nonfirm component of that tariff for the
11 delivery of energy, and that would have some of the
12 flexibility inherent in the network and in the point-to-
13 point tariffs. They both have different levels of
14 flexibility, different attributes to them. So you'd want to
15 take the best of both.

16 Then you could have some ancillary services type
17 of tariffs also. But I think you've got the transmission,
18 firm, nonfirm and ancillary services, and those should be
19 the dividing lines, if you will, of the products. And
20 everybody should be on the same product so they all have the
21 same incentive to develop a quality product.

22 MR. GELINAS: Well, Peter, are you leaning toward
23 -- I mean, you can have one -- I'm hearing you, let's have
24 one service, firm and nonfirm. Are you leaning more toward
25 a reservation-based service or a network-type service? I

1 mean, effectively in the Eastern ISOs, everybody's all
2 network service as a practical matter, and it's developed
3 immensely liquid results. The disparities are gone. But
4 I'm not sure which side you're coming down on.

5 MR. ESPOSITO: I think I would come down
6 something that looks like a very flexible point-to-point
7 service. So it approaches the network. I mean it's hard to
8 -- you force me to put it into a box.

9 MR. GELINAS: Well, yes, that's where I'm going.

10 MR. ARMSTRONG: If you don't, it's going to come
11 back to us.

12 (Laughter.)

13 MR. ESPOSITO: Here's where I am --

14 MR. GELINAS: Well, wait a minute. No. I got
15 you here. Wait a minute.

16 MR. ESPOSITO: Okay. You got me.

17 MR. GELINAS: It sounds very much, Peter, unless
18 -- yeah. I think so. It sounds very much like network
19 service when you call it a very flexible point-to-point.
20 I'm trying to understand the difference.

21 MR. ESPOSITO: I had this discussion this morning
22 with our transmission guy at Illinois Power. And I said if
23 we put together a service that says you can bring power in
24 at this interface or this set of interfaces at these
25 respective amounts and you have a right to do that, okay,

1 and I look at the analogy to primary points in gas. And if
2 you've got three points you're coming in on and you've
3 bought 100 megawatts of capacity and you split it up evenly,
4 you're 33-33-33. Well, one day you want to go Point A and
5 bring in 50, well you'd have 33 that's firm there, and you'd
6 have 16 and change that's secondary or nonfirm, if you will.
7 It's that kind of flexibility.

8 I said can we do that? And he said, yes. I said
9 that's in large part what we do already. So if that's the
10 one service, I think it works well on gas. Nobody convinced
11 me yet that it won't work in power. So call it what you
12 want. Call it dog food, I don't care. Let's just make it
13 work.

14 MR. ROSS: Can I approach it from a slightly
15 different angle, though? Let's quantify it. Utility, just
16 on the electric side, we had last year in round numbers 80
17 million megawatt hours delivered to our customers, which is
18 the network tariff I'm proposing. We delivered somewhere
19 between 1 and 5 million megawatt hours in third party
20 market. To me, if 80 million megawatt hours is delivered as
21 a part of a network load basis, you can do a network tariff
22 for that, put everybody under the network tariff, including
23 partial requirements, full requirements as contracts move.
24 But for the 1 to 5 million megawatt hours we moved, they're
25 the customer. Give them what they demand.

1 And if the tariff can be structured so that I can
2 deliver a point-to-point style of service at maybe not at a
3 network price because it is maybe a less firm service or
4 maybe it's just as firm, however that product needs to be
5 developed, I'll work with the customer and develop that
6 product.

7 Now maybe there's a comparability issue there
8 under the old 888 order. But that's what I think we ought
9 to think about, throwing out some of the past precedent and
10 moving for what it takes to make the 80 million megawatt
11 hours move more efficiently.

12 MR. ESPOSITO: Glenn's earlier suggestion that,
13 you know, you can take network service and be very flexible
14 in designating and undesignating may solve the problem.
15 Again, I don't care what you call it, so long as it works.

16 MR. GELINAS: All right. And earlier, Glenn, you
17 did kind of characterize your position as network for all is
18 the way you spun it.

19 MR. ROSS: Yes.

20 MR. GELINAS: And with the right flexibility,
21 Peter, it's use of the network in a flexible manner that
22 you're looking for.

23 (Mr. Esposito nods in the affirmative.)

24 MR. GELINAS: So you would not continue the two
25 sets of services we have today?

1 MR. ESPOSITO: That's correct. This is where I
2 would disagree with what Glenn just said. I think we need
3 to develop one set of service that's comparable for
4 everybody and is a high quality service and can develop a
5 secondary market.

6 What we've done in gas is we had this one high
7 quality service. We developed a secondary market for it at
8 lower qualities of service that are negotiated between the
9 parties in the process of release. The recall rights are
10 negotiated.

11 MR. GELINAS: So what I'm hearing is a single,
12 all load, a single service with characteristics of
13 flexibility and reassignment?

14 MR. ROSS: I agree.

15 MR. GELINAS: Regardless of what we call it.

16 MR. ROSS: We are not in disagreement.

17 MR. GELINAS: All right. Now can I ask one other
18 point? Looking at the Eastern ISOs and looking at PJM in
19 particular, you mentioned LMP and I guess you're not a big
20 fan of that, Peter. But other than LMP, doesn't the PJM
21 model get you very flexible use of the grid? And if not,
22 how does it not do that? That would be very helpful to me.

23 MR. ESPOSITO: Sure, it gets me flexible use of
24 the grid, but I have to give them my checkbook in advance.

25 (Laughter.)

1 MR. GELINAS: Have to get back on the LMP?

2 MR. ESPOSITO: Customers at the end of the day
3 want not to be shocked by price spikes. And what we want to
4 do is develop products that are forward products that say
5 we're going to deliver you power for X years at X price
6 under X terms and conditions. And if you don't know what
7 your price of providing the service is within some level of
8 certainty that you can hedge, then you can't offer that
9 product. And at the end of the day, what you have is the
10 price spikes you had in California, the political fallout
11 that I don't think any of us want to see again.

12 MS. ZIBELMAN: I just want to add to it. I think
13 the concept of some sort of flexible, creating a flexible
14 tariff, a flexible point-to-point tariff or a flexible
15 network tariff is great. What I would urge the Commission
16 not to do, though, is preclude other types of tariff
17 structures. While something may work in the Eastern
18 markets, it may not work in the Midwest. And having the
19 availability or the ability to provide a point-to-point
20 service is also of value.

21 So while I think what we need to do is look at
22 the way of adding onto different services, I don't think
23 we're at the point at this stage of being able to eliminate
24 --

25 MR. MILLER: Audrey, are you saying because one

1 of the difficulties is in terms of -- and I'll just hark
2 back to the liquidity, because that's one part of a vision.
3 Is network the reason to go to sort of network for all
4 that's flexible is that people currently aren't able to
5 designate themselves if they just are talking about one unit
6 as network? Are you talking about a situation where anybody
7 can be network, but if you want to designate yourself as
8 point-to-point within those confines, that works?

9 MS. ZIBELMAN: You ought to be able to --

10 MR. MILLER: Even if you only have one unit?

11 MS. ZIBELMAN: Right. You ought to be able to do
12 that. And I think it's really, again, having the
13 flexibility of meeting what the customers want and
14 recognizing that all situations are not the same.

15 MR. ESPOSITO: I would caution at this point
16 against going down a road where you send people out to
17 negotiate tariffs. First of all, I'd say I don't see a
18 raging need for a uniform tariff. I think the pro forma
19 tariff was a good idea at the time to move the ball forward.
20 But I would like to see the customers of RTOs, each RTO,
21 develop their own tariff under a set of guidelines coming
22 down from the Commission, one flexible network service with
23 X, Y and Z attributes that we can probably pick up a lot
24 from the paper over there.

25 But if you get to the point where you're

1 negotiating both a network and point-to-point service,
2 somebody is going to be saying, wait a minute. You don't
3 need that network, you can get it in point-to-point. So out
4 of the box you're going to get a lesser quality of network
5 service.

6 Now as we go down the road, after we've got the
7 default flexible network if you will, if somebody wants to
8 develop a better point-to-point, let them go get it. That's
9 really what's begun to happen in the gas side, and it's been
10 fairly successful.

11 MR. BITTLE: This is one thing that really is I
12 guess near and dear to our heart. We have 17 different
13 resources and 250 delivery points. And so point-to-point
14 really doesn't make sense in that part of it. But there are
15 places that we need to do some business, either purchasing
16 to back up a resource where we need point-to-point into our
17 network on a firm basis, short-term firm, which we're
18 willing to pay for. But yet the tariff as structured
19 doesn't let you mix network and point-to-point, and there
20 are places where that needs to be done.

21 And so as we look at this, those two have a good
22 foundation in being able to serve load, and I think that's
23 right because that's one of the things the system was
24 designed for. But we need the flexibility to mix those
25 services in order to optimize our reach into the generation

1 market that's out there.

2 MR. ESPOSITO: And what we're advocating is that
3 you in fact mix those services in one tariff so that you get
4 on that tariff and you have that flexibility both ways.

5 COMMISSIONER BREATHITT: Peter, is your vision
6 for this to be so nondiscriminatory that state commissioners
7 who have an emphasis on making sure their state load is met,
8 is your vision of this so nondiscriminatory that you don't
9 think there would be concerns if you eliminate it?

10 MR. ESPOSITO: I think the real issue is the
11 initial allocation of the capacity. I mean, the people who
12 are today serving load need to be assured that they will
13 have the capacity in the service that they need to serve
14 load.

15 Down the road, the role of the -- I mean, I think
16 that should satisfy the state commissions. That's what we
17 did in gas. We gave all the capacity to the LDCs. And down
18 the road, they found that they didn't need some or that they
19 needed some more somewhere else, and they worked through
20 their PUCs to get approval to make changes to release to get
21 some money back on what they were paying. I think that was
22 a paradigm that worked and could work here.

23 MR. McMINN: Commissioner, I think that -- I
24 can't speak for all of the Western commissioners, but I
25 would have to say that in the comments that Peter has made

1 and Glenn has echoed and the other panel members as well, I
2 think that it would go a long way in the West to satisfying
3 the needs of the West if the issues that Peter has brought
4 forward in regards to using gas as a model, I think it would
5 go a long way towards satisfying the needs of the Western
6 commissioners.

7 Those of us that are in the states like my state,
8 New Mexico, is the number two gas producer in the nation.
9 We're familiar with gas. We know how it operates. We know
10 how it flows. We know how it trades. And from that
11 particular model, I think some of the other states that may
12 be net importers and not net exporters as we are, I think
13 some of these other states understand the methodology of gas
14 as well. They've been involved with it. They've dealt with
15 it.

16 I think the flexibility is definitely needed, as
17 Peter and Glenn both pointed out. And I think that with
18 that and taking care of our native load. Of course, that's
19 why I'm here is to make sure that we're taking care of that
20 native load. But I think that it can be done.

21 Another comment is that, you know, there's a
22 great deal of concern in the West that we're just trading
23 small marketplaces for big marketplaces with guarantees for
24 those market players.

25 And I think the comments that were made earlier

1 in regards to creating the open commodity-type market where
2 the trades actually take place within these RTO areas, I
3 think goes a long way to satisfying that question as to
4 whether those incentives, those profit incentives are going
5 to be locked in for certain players, those incumbents,
6 which, you know, causes a great deal of concern.

7 Because we think that starts you three steps up on
8 the rate before you ever come out the gate.

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1 With that having been said, I have to thank you
2 for the opportunity to be on this panel this morning, but
3 due to scheduling with some of our delegation, I have a
4 previous commitment that has been moved up, and I hope you
5 don't mind that I take out early.

6 I will be on the panel in the morning, and do
7 have some comments or hopefully more comments on the panel
8 in the morning than on this one, but I do appreciate the
9 opportunity. Thank you.

10 CHAIRMAN WOOD: Thank you, Commissioner.

11 COMMISSIONER BREATHITT: The other point I wanted
12 to make on a new tariff is that on the gas side, the
13 Commission has been I think very responsive to accepting new
14 tariff filings that have been proffered because of the
15 changes in the gas markets, and our rules are that if they
16 can be offered to similarly situated customers, that those
17 new tariff offerings not be so unique that they can't be
18 offered to similarly situated customers. And I think that's
19 a good protection and a good thing that we could replicate
20 on a new tariff on the electric side, and the fact that we
21 have pretty quick turnarounds for applications for new
22 tariff amendments. Aren't they 30 days? Sixty. Sixty for
23 electric. What is it for gas? Thirty. So we could look at
24 that too.

25 MR. MILLER: Peter, let me direct a question to

1 you because you've got at the allocation issue and it
2 sounded, correct me if I'm wrong, it sounded that what
3 you're talking about almost perpetuated native load and the
4 preferences for native load and all the difficulties for
5 transportation, getting access to the transmission system
6 that that entails. Currently what's the difference -- I'm
7 having difficulty with the LDC model and equating that to
8 the electric side because there's not mostly on the gas
9 side, the LDC is not as vertically integrated as the
10 electric is.

11 And so it's fine to allocate capacity to the LDC
12 because they only have an incentive to use as much as they
13 need and to try to sell on a secondary basis what they don't
14 need. Given vertical integration which this Commission's
15 not going to necessarily go towards divestiture, how does
16 allocation under that model not perpetuate the difficulties
17 that we have now?

18 MR. ESPOSITO: You make some very astute
19 observations there, and there is no easy answer to that.
20 One way to deal with it is to auction capacity with a right-
21 of-first-refusal, if you will, in the hands of the people
22 who own it today. And at that point, you determine the real
23 economic value of the capacity and the capacity value may be
24 much higher which will bring the PUCs in to say, hey, wait a
25 minute, you're holding too much, you may be favoring your

1 own generation and engaging behavior of that sort.

2 What I see is we have to make a transition in
3 access to transmission and once we get there, we sort of
4 move downstream on how the consumer ends up getting the
5 benefit.

6 MR. BITTLE: Well, it is one of those questions
7 that has to be answered and it is kind of a long-term view.
8 Because when you look at the reason the transmission system
9 was built, it was built to serve local load, local generation
10 serving local load.

11 Now we're starting to look at much wider markets,
12 and that is a fundamental shift in the way the system is
13 being used. And so to say that you're going to disadvantage
14 the local load in order to make a major market work may
15 create more cost on them than it creates benefit. And so
16 there is a question of how you make that shift. And if you
17 go to an auction, basically the deep pockets are going to
18 get the transmission and that's not going to be the
19 customers.

20 MR. MILLER: Well, as one FERC Chairman once
21 said, everyone is somebody's native load sometime.

22 MR. BITTLE: That's true. But if you look at
23 where the transmission system was built and who has
24 supported it for a long period of time to get it to the
25 point that it is, it's those local customers and those local

1 customers can't be left out of the equation as we move
2 forward. I understand a transition, but it has to be that,
3 it has to be a transition, looking at long-term where you're
4 actually building additional transmission. And quite
5 frankly, I don't know that you can get too much
6 transmission, but that's not everybody's view.

7 MS. ZIBELMAN: I would just add to that comment.
8 The observation has to be that there is a real concern,
9 there's a very much of a concern out in the states about how
10 this will affect local customers and there is a concern
11 about reliability and the fact that customers are captive to
12 these systems that were designed to meet their need.

13 Consequently, we do need to have a methodology,
14 I think, for allocating for them. And when I talk about
15 standardization, my concern is from the balance of
16 acknowledging the fact that there is a concern there and
17 they want to know that the transition is going to protect
18 their concerns while, at the same time, from my perspective
19 of not being in a position where too much capacity is
20 reserved on the system unnecessarily and therefore limiting
21 what I can do in terms of meeting the needs of other
22 customers. That's where I think this Commission can help in
23 setting the standards and what the principles should be
24 around allocation so that both of those needs are met.

25 The other piece, I want to add to it and repeat

1 again, part of this, in order for us to make this all work,
2 is that we'd have to have all sorts of diverse participants
3 in the mix and the concerns that we're talking about about
4 serving local needs are particularly felt by the public
5 power entities, and again this is where I think allowing
6 some flexibility, recognizing their differences, and
7 incenting them to participate in both regional transmission
8 organizations, but also ITCs, are going to be very critical
9 especially in regions where you're not going to have the
10 type of seamlessness unless you have public power
11 participation.

12 And so these concerns, in our view, their
13 concerns have to be addressed and the flexibility needs to
14 be there to make sure that they come into the party.

15 COMMISSIONER BROWNELL: So one of the reasons we
16 have the really smart people here is not to say, you guys
17 solve that, it's to say what is it that we need to do to
18 solve that. So Ricky, Audrey, anybody else, let's get to
19 the specifics of how we get that balance. We have spoken
20 about the importance of the consumer. We call it kind of
21 more than that neighborhood load, but the real consumer who
22 pays the price at the end. What is it that we need to do to
23 get to that balance in the transition? How long should that
24 transition be? What then, in the long term, do we need to
25 do to make sure that even if the market's working, we've got

1 some backstop in case there are market anomalies.

2 MR. BITTLE: Well, we have worked, you know, it's
3 always one of those give-and-takes when you start talking
4 about transition periods. How long does it take to move to
5 that?

6 Well, part of it depends on how long it's going
7 to take to build transmission, and I keep coming back to
8 that because I think that is the key in all of this. There
9 has to be additional transmission for these markets to work.
10 And I keep saying it, but in the Southwest Power Pool, the
11 transmission system is fully subscribed, so anybody that
12 wants to do something different is going to have to
13 construct new transmission.

14 So the question is how do we get new transmission
15 built and build it quickly in order to get there. Once we
16 can get to a point where we have an open generation market,
17 then these allocation issues actually become somewhat less.
18 So how long? It has to be at least five years. How much
19 longer? I would say no longer than ten. And so someplace
20 in there, but it really depends on looking at the ability to
21 build transmission.

22 MR. CALDWELL: One rather minor suggestion is,
23 and we'll go back to our favorite ISO, PJM. One of the
24 characteristics that PJM has and forget the LMP and all of
25 that, is that they do have a place for the customer to

1 actually participate in the governance structure within PJM.
2 And the Staff of PJM does listen to customers and does
3 listen to the public and does act on their requests. And
4 that's very different than it is in other places where the
5 customer is viewed as someone who, you know, comes later,
6 and that's politics, and we don't want these guys messing up
7 our little game here. And I think that's one of the
8 characteristics that makes PJM work is it does have
9 political legitimacy because it does listen to the customers
10 and the customers have a voice in that governance structure.

11 And I think this Commission is sort of -- in
12 order to give deference to the states, they've been sort of
13 reluctant and pussyfoot around that issue because the
14 customers are retail and therefore to have retail voices in
15 this wholesale market, that that division between retail and
16 wholesale is getting in the way of having the customers have
17 a voice in this. And I think that's again one of those sort
18 of results-oriented things that we need to look at. It's
19 not something that can be mandated.

20 But I think we need to spend some time on
21 metrics. We need to spend some time on what is the metric
22 for liquidity, and we need to measure that for these
23 markets, and we need to set goals for RTOs, and we need to
24 say okay, the liquidity was X and now it's 2X, we're doing
25 good. We need to look at settlement accuracy, we need to

1 say well, okay, how soon do people settle their bills. How
2 much do we have on that. And measure these institutions
3 that we're talking about creating on the basis of some goals
4 that we know are required in order to achieve these results
5 because we're not the smartest people, and we're pretty dumb
6 when it comes to a lot of this stuff. And we're going to
7 have to have a way of measuring on an on-going basis whether
8 we're moving in the right direction. And we're going to
9 have to press and push those who are not. Otherwise, we're
10 going to be getting into real trouble.

11 MR. ROSS: I'd like to respond. I think you are
12 exactly right to set us back on track, that we're not here
13 to ask you the questions. We're hopefully going to give you
14 some meaningful responses to work with.

15 I'm less familiar with the regional gas tariffs
16 that exist in the West. I'm' slightly more familiar with
17 the California model. And I think really Ricky made a point
18 earlier that I think is very important and that is that as
19 you look at the model for the West versus the model for the
20 East, you probably have a rights model that's working well
21 in the West. There wasn't a transmission system built off a
22 local load and local generation. There was a transmission
23 system built off long distance transmission to move the
24 water rights to the various markets within the West. And so
25 you have a rights model that is not only working but is

1 acceptable to that particular part of the country.

2 If you're in the East, however, somebody at NERC
3 on Monday described Dominion is at the mother of all seams
4 because we've got clearly the southeast directly to our
5 south for our North Carolina territory. We've got the
6 Alliance to our West, we have PJM to our North, and we
7 simply don't want to have multiple tariffs in which to have
8 to deal with whatever the ultimate decision is on RTOs,
9 whether there three or four or seven, we do have local load
10 that was built to serve local generation. But we also were
11 proactive in building a 500 kV network, and other systems, a
12 765 network to go reach out and grab the lump of coal in our
13 West and bring some low cost energy in.

14 So we've already started this process. We have
15 over 7000 megawatt interface to our North to move power from
16 the lump of coal in the Appalachian basin up into the
17 Northeast markets. So there is an allocation issue as to
18 who has rights, who built it, who has rights to it, that is
19 going to be more difficult in the east.

20 I think it is a very question to ask the states
21 tomorrow. I think the states clearly are driving the
22 process of how the allocation should be handled within my
23 experience in the RTO. And I'm not sure my opinion is as
24 valuable to you as their input will be.

25 MR. ESPOSITO: I sort of chuckled internally as

1 Ricky was saying that he fears that he's not going to be
2 able to get an allocation in an auction because of the big
3 money that's out there, and I guess we're viewed these days
4 as big money. And we sit around and say we fear that the
5 guys who have what we call the "customer hedge" have got the
6 deep pockets and they're going to be able to get it. So we
7 are probably at a point where we both agree and things will
8 work.

9 But the bottom line is that you can come up with
10 a procedure -- and I'm not going to even start to think I
11 know that procedure -- but I know there's been a lot of
12 debate about allocations and auctions and things out there
13 that we can look at and say, okay, this makes sense, and say
14 this is the model, unless you, the customers, and the
15 transmission providers agree on something else. And you
16 send everybody out and say, okay, here's your default. If
17 something else works for you regionally with your 17 special
18 contracts or whatever, and you can all agree, go do it and
19 life will go on. This is a transition issue.

20 MR. ARMSTRONG: Would you say that would be your
21 position not just on allocation but on a tariff in its
22 entirety. This panel is standardizing RTO tariffs but when
23 we start talking about it and start digging in, I'm hearing
24 a lot of push back from having a standard tariff. I'm
25 hearing a lot more support saying, let the RTOs develop it.

1 There might be one model for the West, some changes there,
2 some changes for the East. But that's what the ball's in
3 the RTO court right now and I haven't seen anybody come in
4 here with anything other than what Don said earlier, just
5 moving the fence.

6 What is it that we can do to have the RTOs bring
7 us what they agree on and they think works in their region?

8 MR. ESPOSITO: I think issuing an order in a
9 rulemaking such as this that says, by date certain, and that
10 date I think should be a quick date. We've debated this ad
11 nauseam for years. I think we've got enough experience that
12 people know each other's positions, and know the relative
13 value of those positions. Where you go in say, let's say
14 six months from now, we want to see you file a tariff that
15 has x, y, and z attributes. Look at some of these lists and
16 do that in a manner that works for your area. And these
17 attributes are something that'll take care of a lot of the
18 seams issues. So if you can set in stone that you're
19 standardizing things that affect seams, and then go let
20 people have some flexibility underneath to negotiate things
21 that are more appropriate for their region or market, and
22 say come back, and if you don't agree, we're going to fix it
23 for you, like it or not, and life goes on.

24 MS. ZIBELMAN: If I could just add to that? I do
25 think it's important that the Commission can identify and

1 say these are the seams issues that we're concerned about
2 and these are the ones that we want to make sure that you
3 address by your tariff.

4 I do want to echo that we need to continue to
5 make a distinction between RTOs and ITCs and if we're going
6 to the gas model, every gas pipeline has its own tariff, and
7 they are able to use their tariff. If you want companies to
8 form independent transmission companies, stand alone
9 transmission companies, they need to have the same
10 flexibility to be able to design their tariffs so they can
11 attract investment, attract participants and make those
12 companies work.

13 And consequently, what we can do is say these are
14 the types of issues that we can standardize and would
15 address the seams. Within that footprint, though, it would
16 be helpful to allow for the flexibility and rapid response
17 so that as we're working with our customers and saying this
18 works for us, and does it work for you, we have a way of
19 bringing it to the Commission and helping move the ball
20 along.

21 I would be very concerned about a situation where
22 we are just told this is the tariff but the result will be is
23 a lot of push back and I think a slow down of the transition
24 rather than speeding it up.

25 MR. MILLER: Let me ask a question with regard to

1 standardization because I think we are hearing from you that
2 we ought to have certain base elements, not to use a
3 chemistry term, that are a part of a tariff, and then
4 identify the seams issues that we want solved. Obviously,
5 one of those things, to create a liquid market, and the
6 ability to transact over an arbitrage between regions,
7 because I'm not hearing that anybody was wanting us to
8 define the regions is things like congestion management.

9 And, Peter, I heard from you that you didn't want
10 us to go for standardization of congestion management even
11 on an interconnection-wide basis. And it seems to me, given
12 our experience in the Northeast where we hear that it's
13 difficult to arbitrage between regions and which leads to
14 high prices which ultimately hurt customers, that there
15 needs to be some standardization in those areas too. And I
16 don't want to fall back on a previous panel, but it does get
17 to the issue of standardization.

18 MR. ESPOSITO: I think, Scott, in the Northeast,
19 you had at least two forms of LMP there between New York and
20 PJM and there were seams issues entirely independent of the
21 congestion management system that was in place. I think, as
22 a practical matter where we're headed is that LMP is going
23 to end up being the balancing market.

24 And to go back again, and I'm sorry to do this
25 all the time to the gas analogy, you know, the gas pipelines

1 charge you a balancing charge. They go out and buy gas or
2 put it into storage or sell it, or whatever they need to do
3 to keep the line pressure up. And if LMP is the way, in the
4 real time market, to utilize that tool, or if that is the
5 tool for balancing the system, and it looks like it may well
6 be, well so be it. Let's not make LMP, however, the market
7 for everything. We need to have portfolio markets available
8 to customers.

9 The problem we've had traditionally with LMP is
10 that we can't go forward because the hedging tools aren't
11 appropriately constructed and available at this point. So
12 at the end of the day, you may end up with the same quote
13 unquote congestion management at the bottom but that just
14 shouldn't be the entire market, is the point I'm trying to
15 make and there are different ways to get there, and I'd like
16 to see some flowers bloom here.

17 MR. CANNON: I'm looking at the clock here.
18 We're coming up on 1:00 o'clock. I think Commissioner
19 Massey has a question and Commissioner Breathitt, and then
20 if we could, there's a lot of good ideas up on the flip
21 chart, but what I'd like to do is maybe try to organize a
22 little bit of what we've heard today and I think Don Gelinis
23 has some questions to try to focus that.

24 So if we could go first that Linda's had her
25 light on, and then Commissioner Massey.

1 COMMISSIONER BREATHITT: Peter, what I was
2 hearing you advocate is not for the Commission to do a
3 rulemaking where it comes up with a generic tariff using
4 this process to come up with some standards but rather let
5 the new tariffs come to us.

6 And I think what the Commission had generally
7 decided was that it was time to have some standardization in
8 our industry to address what needed to be standardized but
9 allow flexibility for certain functions or unique aspects of
10 different parts of the country.

11 So we were doing this to help us figure out how
12 to write a generic tariff like we did in 888. In 637, each
13 pipeline brought its tariff to the Commission based on
14 certain criteria that the Commission said each tariff should
15 have in 636. I wasn't here then, but that's two different
16 ways of doing it, and I thought what we were trying to come
17 up with was an agreement on certain standards that could be
18 proffered through a rulemaking and a generic response, and
19 then figure out what uniquely could come forth, depending on
20 different regions of the country.

21 21

22 22

23 23

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25 25

1 MR. ESPOSITO: I think there are all sorts of
2 shades of gray here as to how you approach it. I mean you
3 could conceivably put out another pro forma tariff, this one
4 being the flexible network, if we want to call it that,
5 tariff, and people could come back in and say, well, we need
6 to change X, Y and Z for our region, or we think this is
7 better. That's one approach.

8 I think you're better off going out to the
9 industry and charging them with coming up with a tariff that
10 has certain predefined characteristics. A good example here
11 is New York and PJM. Not too long ago they had two
12 different time limits for when you schedule for hour ahead.
13 And I forget what the numbers were. But it was like 1.5
14 hours versus a half an hour. Well, you could point the one
15 that's a half hour and say how come you're not doing a half
16 hour, you with the hour-and-a-half? And I think those kind
17 of innovations if you will of better service are going to
18 come out of an industry-negotiated tariff with some guidance
19 on what needs to be in it from you as opposed to having --

20 COMMISSIONER BREATHITT: Which was the 636 model
21 where the pipeline settled with the customers on each
22 pipeline's tariff. And I don't know if that gets us where
23 we need to be in terms of the Chairman's vision. And I know
24 Commissioners Massey and Brownell and mine, too, which is to
25 begin to have standards where they make sense, flexibility

1 where that makes sense, so you have maximum throughput but
2 you have benefits that come to consumers.

3 I'm real interested in talking to the panel
4 tomorrow. But I don't know if I --

5 MR. ESPOSITO: If I were sitting in your shoes
6 right now, I'd be thinking if I force some behavior through
7 a pro forma tariff, I'd better be careful what I force
8 through the pro forma tariff, because the lights can go out,
9 defibrillators don't work. I mean, you name it.

10 If the industry comes in to you -- what you're
11 going to end up with is the least common denominator. If
12 the industry comes in to you and says this is what we can
13 do, I think you're going to get more -- I hate to use this
14 term -- bravery, if you will, in terms of what can be done
15 and particularly if they've got the right rate incentives to
16 do it.

17 So I think you're going to end up with more
18 efficient use of the system by allowing the industry the
19 chance to go out and say what's best for us.

20 MR. ROSS: I disagree, respectfully. That's what
21 we did with the RTO model. We said come in with your
22 filings. You received I believe it was 18 filings, resulted
23 in throwing it off to mediation in the Northeast and the
24 Southeast, and I'm not sure what's going on in the West.

25 I just don't think that's the recipe that you

1 need to move this thing forward. I would prefer at this
2 time to move the vision forward that the Commission be more
3 prescriptive and put a model out there and not get into a
4 situation where you have 18 proposals that then have to work
5 through a period of time in order to result in some ultimate
6 prescription from the FERC.

7 COMMISSIONER BREATHITT: You see, I think we can
8 be prescriptive without stifling innovation, without
9 minimizing -- while ensuring that the system is vibrant,
10 that it's not static, that innovation does come forward, but
11 come up with a minimum set of standards that you're asking
12 for.

13 CHAIRMAN WOOD: Are what you're saying and you're
14 saying really that different? You're saying be
15 prescriptive. That gets from where Order 2000 is down to
16 this level. You're saying let the industry come back.
17 Well, as your predecessor down in Texas did, we did that.
18 Then we said you all come back with something. They got it
19 all the way to three issues left for the Commission to
20 decide at the end.

21 But you're right. We said here's the vision
22 thing with specificity. Prescriptive is a little hard. As
23 the son of a druggist it's a little --

24 MR. ROSS: Specificity is good.

25 CHAIRMAN WOOD: Specificity. But I mean quite

1 frankly, the detail writing, my personal experience is a lot
2 of time that is better on your side of the fence than ours.

3 COMMISSIONER MASSEY: Aren't you talking about
4 the difference between Orders 636 and 888 basically? 636
5 said here are the principles, go negotiate the tariffs. And
6 I remember each pipeline, we did five or six orders working
7 through all the bugs. Order 888 said here's the tariff,
8 file this. A hundred and sixty-six utilities file this,
9 unless you can come up with something better.

10 MR. ESPOSITO: And here we are five years later
11 still waiting for something better. To Glenn's point that
12 you had 18 RTOs come in, the Commission didn't say come in
13 with a tariff that says X, Y and Z and has all these
14 characteristics. They just said go out and create an RTO.

15 And the focus was on the RTO governance. It was
16 on congestion management. It was on a lot of other things
17 besides the tariff. Because there was a default tariff
18 sitting out there.

19 MR. ROSS: But you also had in the Texas model --
20 I'm not criticizing -- but you had -- for obvious reasons
21 --

22 (Laughter.)

23 MR. ESPOSITO: Knock that brown off the nose, Mr.
24 Ross.

25 (Laughter.)

1 MR. ESPOSITO: But you had a single state in
2 which to deal with. You had a single model in which to deal
3 with. You had motivation at the state because you had a
4 single regulatory body to deal with. That isn't the case in
5 the rest of the country.

6 CHAIRMAN WOOD: But I would just say as a
7 precursor for tomorrow, and this was a nice conversation I
8 just had with Mr. McMinn when walked out, from this day
9 forward, the jurisdictional split is no longer going to be
10 an excuse for inaction. It's going to be a reason for
11 action. Because it's their customers. I hear this man from
12 the co-ops talking about that too, who have the most to lose
13 by us not doing this. And I appreciate that the industry
14 folks are similarly motivated, at least in large part.

15 But at the end of the day it's about the person
16 who pays the bill. ANd we want to make it work for them,
17 and those regulators and we are aligned in that interest.

18 So stay tuned for tomorrow, because I'm looking
19 forward to resolving differences and looking forward in a
20 positive way. But the single state model that has always
21 been the reason why people never take ERCOT and follow
22 through in the details to me is just a variation of what
23 we're going to have at the federal level. So be optimistic
24 about that issue, please.

25 MS. ZIBELMAN: Just on that point, I do want to

1 support the concept that we do need specificity in some
2 areas, and I think the Commission can help with that. I do
3 think, however, that it is premature to be overly
4 prescriptive and have a single model and think that it will
5 work for the entire country.

6 CHAIRMAN WOOD: Let me try an example. If we
7 said you shall have network service available to everybody
8 and continue to offer point-to-point along the same lines,
9 recognizing that some things will have to be differentiated,
10 is that too prescriptive?

11 MS. ZIBELMAN: No. I think that --

12 CHAIRMAN WOOD: Is that prescriptive enough?

13 MS. ZIBELMAN: That's prescriptive enough. And
14 if you were to add to that, and we think you need to have a
15 flexible point-to-point tariff or some form of network to
16 everybody, that that will help us.

17 I think on the other hand if you say you shall
18 have zonal rates for five years and then we'll decide
19 afterwards what we're going to do, that's not going to work.
20 And that's where we need to have flexibility.

21 CHAIRMAN WOOD: Well, what if we say you shall
22 set a rate path that provides a lot of certainty from the
23 investors to know what your cashflow is going to be for not
24 just the next five years but the next ten? Because that's
25 important to me.

1 MS. ZIBELMAN: And that's important to me. And
2 that's what we're looking for.

3 CHAIRMAN WOOD: But if we said we want you and
4 all the stakeholders to come back with something that says
5 here's the rate, we want a rate path. We don't really give
6 a damn how that path goes. We just want it to be at the end
7 of the day something that's certain for an investor. Is
8 that too un-prescriptive or too prescriptive?

9 MS. ZIBELMAN: No. That may be too prescriptive
10 if in fact you try to make it too broad. If you allow for
11 different types of models, depending on the characteristic
12 of the company, whether or not you're part of an integrated
13 utility or a separate transmission company that's out there
14 trying to attract investment, that would allow us the
15 ability to come back to you and say this is what you want,
16 this is what we want, and this is how we think we can get
17 that.

18 COMMISSIONER MASSEY: Before we finish I want to
19 shift gears and just ask a specific, fairly discrete
20 question. Maybe now is the time to do it. Peter, as I
21 recall, there was a case involving Entergy, involving the
22 source and sink issue. You guys, I think it was your
23 company, wanted to use a generator essentially as a sink to
24 move. And we didn't let you do that, as I recall, because
25 of our point-to-point rules.

1 Now if we moved to a single tariff that is more
2 of a flexible tariff, let's call it flexible network
3 service, or even the capacity reservation tariff, does that
4 problem go away? You wanted to park power at a generator as
5 I recall. You wanted to be able to use the grid the same
6 way the load serving utility could use it with its
7 generation resources?

8 MR. ESPOSITO: Exactly. And I think the flexible
9 network service that we have in mind would solve that
10 problem.

11 COMMISSIONER MASSEY: Would the capacity
12 reservation tariff solve that problem?

13 MR. ESPOSITO: You know, I'm just not sure. It's
14 been a while since I've looked at that in detail.

15 COMMISSIONER MASSEY: Does anyone else know?

16 MR. ROSS: It would start to solve the problem.
17 We were also involved in a case with Energy, and it would
18 help.

19 COMMISSIONER MASSEY: So the CRT if we floated
20 that or used it as a strawman would solve that problem?

21 MR. ROSS: Time has passed -- the actual accepted
22 filing at the FERC for I believe it was Florida Power Corp
23 -- I believe time has passed that by. But I said earlier,
24 I believe that's a good starting point. I know we need to
25 move beyond that.

1 MR. ESPOSITO: Commissioner Massey, Betsy, who
2 knows everything, informs me that now that we have the
3 flexible redirect capabilities that has solved part of the
4 problem. The problem was really being able to make a
5 reservation without a source. And if you get the
6 flexibility to designate a source and then redesignate
7 quickly, you've pretty much solved that problem.

8 COMMISSIONER MASSEY: And basically it
9 highlighted I think the advantage of network service over
10 point-to-point in that respect. And so if we eliminate that
11 inherent advantage, everybody gets it. Then are you saying
12 we solve that problem?

13 MR. ESPOSITO: Yes.

14 COMMISSIONER MASSEY: Okay.

15 MR. BITTLE: It's not totally solved. It is
16 still a problem even within network service at times trying
17 to get -- purchase a resource off the system in order to be
18 able to back up a generator that's going out for
19 maintenance. Well, you may not want to tie the source of
20 firm, but you want the transmission firm so that it doesn't
21 get cut because of TLRs. And so there's still some problems
22 there with having to designate a specific resource in order
23 to get a reservation.

24 COMMISSIONER MASSEY: But you're not talking
25 about a comparability problem at that point?

1 MR. BITTLE: No.

2 COMMISSIONER MASSEY: Just a technical problem.

3 MR. BITTLE: It's an adjustment. It is an
4 adjustment that probably should be made in the tariff.

5 MR. ESPOSITO: It's at what level is it coming
6 in? Is it, in gas parlance again, primary or secondary? If
7 you can switch your resource designation quickly, it may
8 have to be a secondary point and it may not have the firmest
9 of priorities. And if you want it, then you need to pay for
10 it up front.

11 COMMISSIONER MASSEY: Thanks.

12 MR. ESPOSITO: Thank you.

13 MR. CANNON: Paul, since my stomach is starting
14 to really growl here, Don, can you try to bring some closure
15 here to this panel and see if we can see where we have some
16 consensus on where we go from here?

17 MR. GELINAS: I'll give it a shot, Shelton.
18 There's a lot of principles up there, but as I was listening
19 to everyone I tried to get them into some boxes here, and
20 maybe we could build on Commissioner Massey's method and try
21 to get close to a yes or no if we could. I guess the first
22 one we asked whether all load ought to be on this tariff,
23 and I think the members that are left here all agreed.

24 (Laughter.)

25 MR. GELINAS: All right. So all load needs to be

1 on the tariff I think is all these folks agree on.

2 I'm going to try to phrase this carefully so I
3 can get yeses or no's from everybody. I thought I heard
4 today that on the issue of CBM, if CBM exists in an RTO
5 world, perhaps for reliability needs of the state, that the
6 load needs to be assigned the costs of and pay for that CBM.
7 Do we agree on that? Ricky? Or --

8 MR. ROSS: I would just -- you said of the state.
9 It's a phenomena of the load, not of the state.

10 MR. GELINAS: Right. If CBM exists --

11 MR. ESPOSITO: If it exists, I would clarify that
12 it shouldn't need to exist and they should just buy it as
13 part of the service they buy.

14 MR. GELINAS: Essentially, Peter, I'm saying it
15 should be purchased.

16 MS. ZIBELMAN: I would agree. It's a service
17 that should be purchased and paid for by the users.

18 MR. GELINAS: Lana, are you okay with Peter?

19 MR. ESPOSITO: And it should simply be part of
20 the service that's offered. You purchase more of that
21 service to constitute CBM.

22 MR. GELINAS: Yes, Ricky?

23 MR. BITTLE: It's already being purchased.

24 MR. GELINAS: Okay.

25 MR. ESPOSITO: Indirectly.

1 MR. GELINAS: But so you'd be fine with the
2 notion that it has to be purchased, leaving the mechanics
3 aside?

4 MR. ESPOSITO: Explicitly purchased under the
5 tariff.

6 MR. GELINAS: Explicitly purchased. Because I
7 don't think it's being explicitly.

8 MS. ZIBELMAN: As a tariff service.

9 MR. GELINAS: As a tariff service is what I'm
10 asking. CBM needs to be explicitly purchased. Ricky?

11 MR. BITTLE: It depends on the details.

12 MR. GELINAS: So is that kind of a no?

13 (Laughter.)

14 MR. BITTLE: Yes.

15 MR. GELINAS: Or a yes? We're going to go with a
16 yes? All right. Thanks.

17 On ATC, what I thought I heard this morning was
18 that ultimately it has to be calculated by a completely
19 independent entity and ultimately in conjunction with the
20 RTO itself. Everybody in agreement with that?

21 MS. ZIBELMAN: I would agree.

22 MR. GELINAS: With what caveat?

23 MR. CANNON: Can you all keep your mikes on,
24 because there's people over in the other room.

25 MR. ROSS: With the caveat that when you look at

1 the technical calculation, the model building activity, the
2 owner has to provide elements of that like impedance data
3 which I don't believe violates any -- it's simply a factual
4 finding. And so to that extent, and Scott asked that
5 question earlier. I don't believe any of us ever answered
6 it.

7 MS. ZIBELMAN: I understand your question is is
8 that it has to be an independent entity, and I'm presuming
9 that would allow for if there's truly an independent
10 transmission company, they could calculate their own.

11 MR. GELINAS: I'm underscoring independence and
12 ultimate oversight with the RTO.

13 MR. CALDWELL: I think it has to be the RTO. I
14 don't think you can leave the inputs to an entity that does
15 have an interest in the answer. I'm not suggesting that it
16 doesn't need to start there, but I think the inputs have to
17 be on the table as well as the output.

18 And I think a lot of that is going to go away or
19 a lot of the controversy here is going to go away if you
20 have something that Peter talked about, which is some
21 secondary rights underneath that that says that once we've
22 calculated this stuff that we don't use those calculations
23 to exclude people for the 90 percent of the time when that
24 doesn't matter, or the 90 percent of the places that doesn't
25 matter. And that way then I think we can get more

1 utilization out of the current system. We can get some
2 things that we can't do now, long-term non-firm and so
3 forth.

4 MR. ROSS: There is a factor associated --

5 MR. GELINAS: I'm trying to wrap up.

6 MR. ROSS: I know. I know you are.

7 (Laughter.)

8 MR. GELINAS: You're making it very hard for me.

9 (Laughter.)

10 MR. GELINAS: Just to be nice to me, could
11 somebody -- let's back up just a minute.

12 MR. ROSS: There is an element of ATC that is a
13 forward element that you can project. There is an hourly or
14 market-developed, three hours, hour and a half ahead, that
15 simply can't be done in a centralized fashion in the RTOs
16 you have today, with the exception of a very few.

17 So I would agree to the extent there is a
18 transition from the talent that exists. And I think that
19 transition is going to be highly developed around the
20 infrastructure improvement. My company is not real
21 infatuated with the concept of putting \$450 million into the
22 development of some centralized DMS system in an uncertain
23 world. And it really is going to take that to get a true
24 ATC calculation in an hourly mode.

25 So just as long as you describe what ATC you're

1 talking about -- hourly or day ahead or whether it's in a
2 short term, 168 hours or 13 months.

3 MR. GELINAS: I was more getting to the notion of
4 independence and transparency, not necessarily that level of
5 detail.

6 MS. ZIBELMAN: What I think I've heard is is that
7 there's a concern about the independence of the entity who's
8 calculating ATC. There's a concern about transparency. And
9 I would add to it is that we need to allow for the fact that
10 the individuals operating the system are going to want to
11 make sure that the ATC is there, and so long as you have a
12 procedure, it seems to me that you can have the oversight
13 that's required.

14 MR. GELINAS: Does everybody agree with that?
15 I'm really looking to transparency and independence, not
16 necessarily all of the details because I'm sure we can't
17 possibly wrap that up this morning.

18 MR. ROSS: The way it was just stated, I
19 absolutely agree.

20 MR. GELINAS: Thanks for saving me. Peter, are
21 we good?

22 MR. ESPOSITO: Yes, I'm fine.

23 MR. GELINAS: Ricky?

24 MR. BITTLE: Yes.

25 MR. GELINAS: Now the last two for me anyway are

1 the most critical. What I heard this morning, I thought I
2 heard that we need a very flexible, high quality service for
3 use of the network that doesn't exist in today's pro forma
4 tariff, so we'll label it whatever we need to label it. And
5 we need to have that at least as a default service. Others
6 can bloom, but we need that at least as a baseline. Have we
7 got agreement on that?

8 MS. ZIBELMAN: I think that would be helpful.

9 MR. ROSS: Again, I think standardization --

10 MR. GELINAS: I'm going to get how to do it in a
11 second.

12 MR. ROSS: Okay. Yes.

13 MR. GELINAS: Peter?

14 MR. ESPOSITO: Yes.

15 MR. GELINAS: Ricky?

16 MR. BITTLE: Yes.

17 MR. GELINAS: All right. Now how to do it. The
18 last key debate which I think Commissioner Breathitt teed up
19 very appropriately, I heard two ways to go about it. I
20 heard go into a rulemaking and prescribe very specific
21 principles and characteristics and let the participants, the
22 RTOs, then come back with their own tariffs that meet those
23 very, not necessarily prescriptive, but specific
24 characteristics.

25 And I heard another one which was more, as

1 Commissioner Massey put it, go the 888 route and float out a
2 pro forma tariff which says here it is. Tell me if you've
3 got something better. So I don't know where folks stand. I
4 heard two versions and I just -- the first one is specific
5 principles and the other is a specific tariff. And I'd just
6 like to know where the panelists stand on those. Audrey?

7 MS. ZIBELMAN: I think having the principles will
8 be helpful and then allowing us to respond.

9 MR. ROSS: I think principles as long as you
10 allow a time element so that it doesn't drag out forever.

11 MR. GELINAS: So you're fine with principles as
12 long as it's coupled with a pretty specific, with a very
13 specific time element?

14 MR. ROSS: I don't want to get into an 18 RTO
15 mediation process.

16 (Laughter.)

17 MR. GELINAS: Okay. Glenn, what would that time
18 element be?

19 MR. ROSS: Just the mechanics of pulling a rate
20 case together, it took us a good nine months and the guys
21 worked their tails off to get it done. So I think getting
22 an actual rate case together under a new specification is
23 going to take -- I really hate to say it, but it might take
24 a year.

25 MR. GELINAS: But I thought you were going to be

1 the one on the side of write, you know, prescribe a pro
2 forma. I'm hearing a little movement that as long as
3 there's timeliness --

4 MR. ESPOSITO: Take it while you've got it.

5 (Laughter.)

6 MS. ZIBELMAN: You made the sale.

7 MR. GELINAS: I'm getting excited.

8 MR. ROSS: I don't think I'm going to get what I
9 want, and this is a good second step.

10 MR. GELINAS: With a timeline, with a specific
11 timeline. Okay. Peter?

12 MR. ESPOSITO: I would agree with what Glenn just
13 said and note that, you know, some people like vanilla ice
14 cream, some people like chocolate. They still get ice
15 cream. I think either way, you end up moving the ball
16 forward.

17 MR. GELINAS: I want pistachio.

18 (Laughter.)

19 MR. CALDWELL: I think the 888 tariff is so far
20 away from where we have to go that I think you have to redo
21 the 888 tariff or at least remove the presumption that
22 that's enough somehow, that you've got to get rid of that
23 presumption that that floor is being used as a ceiling. And
24 if that means we have to have new pro forma tariff, I think
25 we need one.

1 I don't see any other way other than to do both
2 at some level and understand that if you start off on one
3 path, there's certain pluses and minuses and you're going to
4 have to react in a certain way. If you start off on the
5 principles path, then you're going to have to hold people's
6 feet to the fire. And one of the things you're really going
7 to have to do if you start off on the principles path is
8 you're really going to have to follow through on Chairman
9 Wood's deal about the states and getting them in there and
10 getting the final customer to be a participant, a full
11 participant at the table.

12 If we define the industry as simply the buyers
13 and the sellers and the wholesale market, we're not going to
14 make it, and we've got to get the customers in that
15 principle discussion they have to have. That's part of the
16 governance system and it won't work unless you do it.

17 MR. GELINAS: So are you, with that caveat, are
18 you --

19 MR. CALDWELL: I'm for the principles way of
20 doing it, but I don't think that it's sufficient to leave
21 888 pro forma tariff where it is. I think you've got to go
22 back and clean up what you've done, and I think you've got
23 to advance that ball significantly. I'm sorry, but I think
24 you have two jobs.

25 MR. GELINAS: No offense taken. I think it needs

1 to be changed, too. Ricky, do you have a?

2 MR. BITTLE: If you just totally throw out the
3 pro forma tariff as it exists, I might have to go back and
4 change my answer on the first question.

5 (Laughter.)

6 MR. GELINAS: No, you can't do that.

7 MR. BITTLE: But principles would be the
8 preference.

9 MR. GELINAS: Preference. And that's the high
10 points that I have for the key issues. And I think a lot of
11 what's on the charts perhaps falls into those boxes.

12 MR. CANNON: Good. With that, I'd like to thank
13 the panel and wish everybody a happy lunch. We'll be back
14 here at two o'clock.

15 (Whereupon, at 1:02 p.m. on Wednesday, October
16 17th, 2001, the meeting was recessed, to reconvene at 2:00
17 p.m. the same day.)

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1 A F T E R N O O N S E S S I O N

2 (2:15 p.m.)

3 MR. CANNON: Could people take their seats,
4 please? Good afternoon, everybody. The session this
5 afternoon is going to focus on cost recovery issues, and we
6 have a very distinguished panel with us to help us work our
7 way through some of those issues.

8 With us this afternoon are Craig Baker, Senior
9 Vice President of Regulation and Public Policy with AEP
10 Services Corp.

11 We also have Commissioner James Irvin from the
12 Arizona Corporation Commission.

13 Our ever popular Susan Kelly, Principal with
14 Miller, Balis & O'Neil and I'm sure she'll keep things
15 livened up for us here.

16 Bill Newman, Senior Vice President with
17 Transmission Planning and Operations of The Southern
18 Company.

19 Steve Ward, Public Advocate for the Maine
20 Consumer Counsel.

21 And last but not least, Matthew Wright, Senior
22 Vice President with Pacific Corp.

23 Welcome, and I'd like to turn it over now to Tony
24 Ingram to try to frame the issues that we'd like to explore
25 this afternoon.

1 MR. INGRAM: Good afternoon. I'm Tony Ingram.
2 I'd like to very quickly introduce Staff participants on
3 this panel. Bruce Poole, Jim Campbell, we've got Julia
4 Tuzun on the flip chart, Joe Power, Gerald Williams, Mike
5 Donnini and anybody I'm leaving out.

6 I would also like to welcome you and thanks for
7 your participation. As Shelton mentioned, our focus this
8 afternoon is on RTO costs and cost recovery, cost shifting,
9 as well as RTO facilities, what should be included.

10 Generally the areas of focus, as I mentioned,
11 what facilities should be operated by the RTO, with regard
12 to costs, what assurances should there be for cost recovery,
13 and who reviews those costs. Is that a Commission
14 responsibility or is it a shared responsibility with states
15 also, state regulatory bodies. And lastly, we'd like to
16 hear your thoughts on license plate rates and transition
17 periods, a matter that's been subject to a lot of debate, I
18 believe, in the development so far.

19 With that, I'll turn it back to Shelton.

20 MR. CANNON: I would like to maybe have a short
21 opening statement from each of the panelists. Start with
22 you, Craig.

23 MR. BAKER: Thank you very much for the
24 invitation to talk today. When Kevin called me and asked me
25 to participate, he started by saying keep your comments

1 short, so I'm going to do that. AEP has significant
2 experience with RTO development. We're working in three of
3 them at the moment.

4 And Kevin also said to me, Craig, I always
5 thought cost recovery is important to you, and I said, yes,
6 it is, because of all that involvement, so I look forward to
7 the dialogue around these topics, which I think are very
8 important and look forward to talking with the rest of my
9 panelists.

10 MR. CANNON: Very good. Commissioner Irvin?

11 MR. IRVIN: We don't have these fancy mikes where
12 I come from. Craig, you are obviously not a politician. I
13 was too short. Anyway, let me start by thanking Mr. Kelly
14 for inviting me about an hour ago to get on here and fill
15 in, which this is an absolutely key or one of the key areas
16 because this is one of the areas that separates the East
17 from the West and just the difference that we have in the
18 different type of models or whatever you want to call them,
19 just different systems.

20 Briefly, for the people that don't know me out
21 here, which you're lucky if you don't, I'm the President of
22 the Western Conference of Public Service Commissioners. I
23 am not here speaking on their behalf. However, we are going
24 to be taking up this very topic of the RTOs and FERC in our
25 meeting in Philadelphia coming up with the western

1 commissioners. I know that there is a meeting that the
2 western governors are very interested in, not only the
3 proceedings and what happens today, but there's a meeting of
4 CRPSI in a couple of weeks and I know the western governors
5 are planning to attend and participate in, which will be the
6 first time because of the RTO and some of the line siting
7 issues that are facing in Congress and such and some of the
8 pricing issues on here, so it will be interesting.

9 And then I have the unique background which
10 somewhat is puzzling to me or not, before I became a
11 regulator, which I'm not sure was a good idea or a bad idea,
12 I was actually the president and CEO of a company that had a
13 thousand employees and I'm not sure which is easier or which
14 is more fun at the present time. But this has been a
15 tremendous experience. And to the Chairman and to the
16 Commissioners, I do appreciate, since the Arizona
17 Diamondbacks have been very good at pinch hitting and set
18 national league records, I don't mind pinch hitting at all.

19 And so I look forward to today's conversation. I
20 certainly have some thoughts and ideas on a few things and
21 we'll get into them. I'd like to hear some of the other
22 panelists first, and then get in and answer some of these
23 questions directly, not only from my perspective and talk to
24 my colleagues out in the Western states and such. So thank
25 you.

1 MR. CANNON: Thank you, Commissioner.

2 Sue?

3 MS. KELLY: Thank you. I very much appreciate
4 the opportunity to speak today. Thank you for inviting me.
5 Despite the fact that I'm ever popular, some people may not
6 know who I am. And since it's not immediately apparent what
7 my party affiliation is, because it's just listed that I'm a
8 principal with Miller, Balis & O'Neil, I thought I would
9 briefly explain who I am and why I'm here.

10 I'm a lawyer in private practice, I have an
11 undergraduate degree in interdisciplinary studies which
12 suits me well for the RTO development task. I've spent 20
13 years doing energy law. I lived through Orders 436, 500,
14 636, 888, 2000, and so I have views on how this should and
15 should not be done.

16 MR. CANNON: You're not that old.

17 MR. KELLY: Believe me, I am.

18 (Laughter.)

19 MR. KELLY: And I have views, for example, on the
20 issue of whether we should do one pro forma tariff or allow
21 regional tariffs and I can share those with you at the
22 appropriate time. Since 1982, I have tried to cultivate a
23 client base that comports with my own personal beliefs.
24 I've tried to represent end use customers. I represent
25 primarily municipalities, cooperatives, I do some work for

1 governmental entities, legislators, state PUCs, but my goal
2 is to try and represent the consumer viewpoint, and I've
3 made it my mission to do that since 1982.

4 However, none of them could be induced to sponsor
5 me today.

6 (Laughter.)

7 MR. KELLY: They don't know what I'm going to
8 say, and I don't blame them. So I'm speaking only for
9 myself and all of them have plausible deniability. The
10 topic here is cost recovery and then rather than go through
11 the questions, I thought I would just give you some off-the-
12 top hopes and fears for this topic.

13 The first is, I'm hoping we'll have large,
14 independent RTOs that facilitate truly competitive wholesale
15 markets that end users can actually play in. Ms. Guthrie
16 yesterday made a great point. How do I do this as an end
17 user. And she's Chevron/Texaco. If she can't figure it
18 out, what's a residential consumer supposed to do.

19 I hope that they will treat all transmission
20 owners, both jurisdictional and non-jurisdictional,
21 comparably for purposes of cost recovery and participation.
22 I hope we'll end up with RTO rates that actually facilitate
23 the goal of competitive power markets, and that produce the
24 behaviors we want to incent. Be very careful what you
25 incent because you will get it.

1 And we support broad generation choices for
2 users. We want a rate design that will facilitate that.
3 And we want a Commission that cares truly, madly, deeply for
4 end users because nobody else in the wholesale market is
5 really going to do that.

6 Professor Oren, yesterday, made a wonderful
7 point. He said everybody's here looking at the fiduciary
8 interest of their shareholders as they design the wholesale
9 market. They're going to be looking for their way to game
10 it. That's their job. And it's this Commission's job to
11 ensure that it can't be gamed and that it actually works to
12 benefit consumers. That's your statutory mandate.

13 I'm hoping for a Nixon-in-China result from this
14 Republican Commission. You may be able to do what the
15 Democratic Commission could not. You might actually get to
16 the finish line on RTO formation, and I hope that you do.

17 My fears, however, is that RTO formation gets so
18 bogged down and loaded up with monetary concessions to this
19 group and to that, that we end up no better off than we
20 really started. We have monetary concessions to those who
21 must be induced to hand over their facilities to the RTO to
22 operate.

23 And I have to say, I attended the oral argument
24 in the D.C Circuit this morning on Order 2000, which is why
25 I couldn't be here, and I got to listen to representatives

1 of the transmission owners argue you can't take away our
2 Section 205 filing rights and give them to the RTO. Even in
3 the RTO environment, we, the transmission owners, must make
4 the filings. Arguments like that really concern me.

5 I'm worried that there'll be second class cost
6 recovery from non-jurisdictional transmission owners. I'm
7 concerned there'll be market structure concessions to those
8 who have the energy and the will to tell you how they should
9 be formed, but who will then game them. And I'm really
10 concerned that you're going to fail to deal head on with
11 market power, as you must do.

12 So my fear is a Rube Goldbergian pork barrel
13 encrusted system, and I hope it doesn't happen.

14 MR. CANNON: How do you spell Rube Goldbergian?

15 (Laughter.)

16 COMMISSIONER MASSEY: Shelton, could you admonish
17 members of this panel to not beat around the bush, to just
18 tell us what you think really.

19 (Laughter.)

20 MR. CANNON: Thank you, Sue.

21 Mr. Newman?

22 MR. NEWMAN: This is a tough position to be in.
23 I should have moved down at least a couple of seats here.

24 (Laughter.)

25 MR. NEWMAN: It's going to be hard to follow Sue.

1 I'm Bill Newman, Senior Vice President,
2 Transmission Planning and Operations for the Southern
3 Company, a large southeastern utility and I won't bore you
4 with all the statistics but we're in the neighborhood of the
5 generation that we operate for ourselves and others, in the
6 neighborhood of about 45,000 megawatts.

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1 Southern Company supports the development of a
2 robust wholesale market, and we believe that RTOs can
3 contribute to that development, large RTOs.

4 However, I think we need to remember that the end
5 goal is not just robust wholesale market; the end goal is
6 lower costs to consumers, which Sue has very ably stated.
7 And, at least the existing degree of reliability that we
8 have now.

9 The reason I mention that is in our region we now
10 have very low costs. We're about 15 percent below the
11 national average, and we certainly have extremely high
12 reliability.

13 Now with the expansion of generation in our area,
14 very large amounts of generation, the need to build more
15 transmission is going to bring that reliability into
16 question if we don't get it built. And I want to talk some
17 more about that in just a minute.

18 Today we are working with Public Power in our
19 region to form an RTO that doesn't look like Swiss cheese.
20 And why is that important? Well at least in the region we
21 are in, Public Power is a major owner of transmission--a
22 large, larger owner, particularly in Georgia, but all around
23 our area. They operate their own control areas in some
24 cases, and in some cases the transmission lines are
25 inextricable from the rest of the system. It is the same

1 lines, and they have joint use of that through a process
2 that we call the Integrated Transmission System in Georgia.

3 And we think--I don't see how you make it work
4 without including those transmission owners. I could name a
5 lot of them that you would recognize over most of South
6 Carolina--Sam T. Cooper, Oglethorpe Power, Alabama Electric
7 Co-Op, South Mississippi Electric Power Authority, and so
8 on.

9 Overall, I would say we need good, sound public
10 policy with strong participation by state regulators. And I
11 will give you a few additional examples of that here in a
12 second.

13 In our area we are building large amounts of
14 transmission. I heard today, and I have heard all along,
15 that we need to build more transmission. Well, being a
16 transmission operator at this time I think that is certainly
17 necessary. We are operating, as you should, in any system
18 close to the edge. If you don't, then you have overbuilt.
19 But today we need to build some more.

20 I am concerned about how much that is, though.
21 Today we have about \$3 billion of investment in
22 transmission, and within five years we will move to \$6
23 billion. That is doubling the existing investment in five
24 years.

25 Under some scenarios, if we look at all of the

1 generation that has been announced in our area, that number
2 could be as high as \$9 to \$12 billion. I have heard it said
3 that it is a small percentage of total investment, but \$9-
4 to \$12 billion is a lot of dollars any way you look at it.

5 So my concern is, with it being as difficult as
6 it is to site lines, to build transmission, that we do not
7 send signals that cause people to build generation in
8 locations that make it more difficult to export that power.
9 And I think you know some of the classic examples.

10 One that I am fond of relating is a study that we
11 made that said it is about two to three times as expensive
12 to build transmission lines on a per-megawatt basis as it is
13 to build pipelines. Most of the units that are being built
14 are gas units.

15 It is, in my opinion, much less reliable to build
16 the units all in one area, particularly let's say at
17 wellheads, and that's where you see them being built now,
18 and then build enough transmission to export that power.

19 This is a cost-recovery issue, by the way,
20 because if you build the generation and then you are
21 compelled to build enough transmission to export that and
22 you've got 50, 75,000 megawatts in our area--and I can point
23 to those kinds of numbers by the way--to build that amount
24 of transmission today's policy makes it look like you would
25 roll together the recovery of those costs.

1 Customers in the area where you are building all
2 those units may not see as great a benefit as some in other
3 areas who would receive the power from those units.

4 I think it is critical in terms of public policy
5 issues because, regardless of who has the right of eminent
6 domain, I don't think anybody wants to condemn one acre of
7 land more than is necessary, and the public has a right to
8 expect that we do not overbuild. And there are pricing
9 signals that can be sent to generators in advance of their
10 construction, unlike LMP which only gives you a signal after
11 you are into a mess that would help with the location of
12 those units.

13 My way of thinking of it, even if you don't
14 declare which load particular units serve, you would at
15 least expect to send signals that caused the generation to
16 be distributed across the Eastern U.S., not located in one
17 particular place. Exceptions being hydro because that's
18 pretty well specified where that is.

19 Another exception might be mine-mouth plants, but
20 our own studies indicate it is cheaper to ship coal than it
21 is to build mine-mouth plants.

22 There are some state jurisdiction issues that we
23 are extremely concerned about. You might imagine why. The
24 state regulators are charged with protection of end-use
25 customers, lowest reasonable cost, and ensuring reliability.

1 Well why am I so concerned about that?

2 You might recognize that about 90 percent of our
3 revenues come from the state jurisdictions, and it is a
4 pretty tough spot to be caught in between two sets of
5 regulators if they disagree. So it is critically important
6 that the states' concerns be considered.

7 Thank you.

8 MR. CANNON: Thanks, Bill.

9 Mr. Ward?

10 MR. WARD: I am Steve Ward. I've been Maine's
11 public advocate since 1986, and I have worked in that office
12 since 1982. And although I am not speaking for NOCA, I am
13 also president of NOCA. It's the National Organization of
14 Consumer Advocates with offices in 40 states that are
15 charged by statute to represent consumers.

16 My interest clearly is speaking on behalf of
17 retail consumers, although I can echo much of what we have
18 heard from Sue earlier already on this panel.

19 I just want to say a few words about the
20 interests of NOCA members. As I understand them, I work
21 with six colleagues in a small office. That is an average
22 size for a state consumer advocate agency. My budget is
23 about a million dollars.

24 We certainly do not have the resources to
25 actively and consistently and continuously participate in

1 proceedings at FERC or, for that matter, in the formation of
2 a Northeast RTO. Nonetheless, my office has been active in
3 that process and often is active in FERC proceedings.

4 That is all the more reason why an issue that is
5 of great interest to me, and also NOCA members, is
6 stakeholder input in the RTO process and stakeholder input
7 in this kind of forum.

8 I should say I admire your stamina for scheduling
9 this week, seeing up these sessions and paying the kind of
10 close attention that you have been paying. I think it is
11 very constructive, and I am also grateful that you have
12 invited at a number of points representatives from the end-
13 user perspective to be part of these panels.

14 The State of Maine has had a fairly successful
15 experience so far with retail competition. Eighty percent
16 of industrial customers--let me be accurate--80 percent of
17 the power sold to industrial customers now is being sold by
18 competitors.

19 Thirty percent of the power serving the
20 commercial class is being sold by competitors. And for
21 residential customers, costs are lower than they were before
22 restructuring.

23 There has also been some success in getting the
24 kinks out of the wholesale markets in the Northeast. So my
25 sense of the process that you are involved with here is a

1 sense that we need to make sure we don't lose the gains that
2 have already been achieved, and we keep the momentum going
3 for improving and perfecting competitive markets.

4 In that context, I think it is critical that
5 there is representation of stakeholders perhaps on a sector-
6 weighted basis with input that is considered by an RTO, and
7 that there are ways of having that input receive formal
8 consideration by the RTO board.

9 With respect to the issues we're talking about
10 this afternoon, one size certainly does not fit all. There
11 are any number of factors that make great sense in the
12 Northeast that probably do not make much sense out West.
13 And I am quite happy and grateful for the opportunity to be
14 here.

15 MR. CANNON: Thank you.

16 Mr. Wright?

17 MR. WRIGHT: Good afternoon. My name is Matthew
18 Wright. I am a senior vice president for strategy and
19 planning for Scottish Power's U.S. Division, which of course
20 whose principal operating company is PacifiCorp.

21 In a prior position with PacifiCorp I was the
22 officer responsible for regulatory matters in six Western
23 States: Oregon, Washington, Idaho, Wyoming, Utah, and
24 California. So I feel I have a sense of what it takes to
25 get approvals through our state bodies, as well.

1 I am very pleased to be invited to participate in
2 this important dialogue that the Commission has initiated on
3 RTOs.

4 As you know, PacifiCorp, although with eight
5 other Western transmission owners and many stakeholders, is
6 actively engaged in the development of RTO West.

7 We at PacifiCorp take the development of a
8 politically sustainable and successful RTO very, very
9 seriously. So I am delighted to be here.

10 For PacifiCorp this means we need to work
11 collaboratively to develop an RTO proposal that not only
12 meets the requirements of Order 2000 but one that will win
13 the approval of our state public utility commissions.

14 Our states, as are we, are rightfully concerned
15 with the impact of RTO West on PacifiCorp's retail customers
16 and therefore cost recovery and cost shifting, the dual
17 topics for this panel, are of paramount importance to us and
18 our customers and our regulators.

19 Your staff has identified a series of important
20 questions for us to discuss, and I look forward to
21 addressing those questions. I hope also that we can focus a
22 dialogue on several additional issues such as the importance
23 of mitigating cost shifts as RTOs become operational, and
24 the elimination of rate pancaking at the seams among the
25 proposed Western RTOs.

1 I look forward to the dialogue to come, and
2 naturally the views I express will be my own and, in some
3 cases, Pacificorp's. They will not necessarily represent
4 the positions of all the RTO West filing utilities.

5 So thank you for the opportunity to join today.
6 I should add, out of an abundance of caution and the need to
7 get through security, I need to leave about 3:30 to catch a
8 flight back to Portland this afternoon. When I leave,
9 Richard Glick, our Director of Government Policy, will
10 substitute for me.

11 Thank you.

12 MR. CANNON: Thank you.

13 I will turn it over to questions now. Go ahead,
14 Joe.

15 MR. POWER: Let me jump in and go first here.

16 Sue, you spoke that you were concerned about
17 there being a fair method for small transmission owners to
18 be compensated within RTOs. That is an issue that I have
19 seen cropping up in some of these.

20 Do you have a preferred method? Do you have
21 something in mind there that you would like to share with
22 us? Or is that a general concern of yours?

23 MS. KELLY: Well, the line between contested
24 cases and policy is sometimes fine, so I am going to try and
25 stay on the policy side and not get into any trouble.

1 I will just note that municipal and cooperative
2 transmission owners have revenue requirements associated
3 with their transmission facilities. If they are going to
4 put those into an RTO and join in the party, they would like
5 to see that revenue requirement recovered on the same basis
6 as everybody else's revenue requirement.

7 There has been some question about that in
8 specific cases. I don't want to go there, because I don't
9 want to get anybody in trouble, but I think some of the
10 issues that arise is, for example:

11 Well, your transmission is radial. It goes out
12 to your load. It doesn't help anybody but 'you'! Why
13 should we pay for that?!

14 To which we would respond: Well, guess what? In
15 our network service rates we have been paying a load ratio
16 share of your transmission facilities, including all your
17 radials that don't go to any load but yours that don't help
18 us, for many years. And we've been paying our radials on
19 top of that, which you refused to build because you wouldn't
20 build out to us because we're only six customers a mile and,
21 you know, we're just not worth it.

22 And that is something I would like to detour
23 there a little bit. Economic efficiency is wonderful. We
24 heard two days of it. But, you know, those of us who
25 provide service in rural areas where if you went on whether

1 strictly it's economically efficient to provide service many
2 of us would have kerosene and candles. You know, we are
3 concerned that social policy and economic efficiency must be
4 balanced.

5 But put that point aside. I guess our point is
6 that everybody's radials should be included, including ours.
7 If there are cost-shift implications from that, let's
8 quantify them. Let's figure out what they mean to the end-
9 use customer, and let's deal with them.

10 But we do not want to be treated as second-class
11 citizens and have our transmission treated as second-class
12 transmission facilities because we have not been a FERC-
13 regulated entity in the past.

14 MR. CANNON: Can I flip Joe's question a little
15 bit and make it to all the panelists? Which is: Is there
16 any reason why this Commission shouldn't have RTOs have a
17 standard set of criteria for what facilities are included or
18 are not included in RTO rates? Whether they begin with, or
19 come from a public power entity, or whether they come from
20 an investor-owned entity?

21 MR. BAKER: I can start. The topic that Sue
22 brought up is a very difficult one and has been very
23 contentious, and it obviously revolved around what people
24 think are transmission (a), and whose ox gets gored as far
25 as recovery is concerned. That is clearly why we have had

1 the problems.

2 The FERC went a long way, I believe, in Order 888
3 in setting out a Seven-Factor Test that defines what
4 transmission is.

5 I believe that the facilities that fit under that
6 Seven-Factor Test are the appropriate facilities to be
7 classified as transmission, be put under RTO control, and be
8 included in rates.

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1 In general, I would think that would not include
2 radial lines. It may include setting a specific voltage
3 level is not necessarily the answer. The answer is what the
4 functionality is and do these facilities really support
5 regional transfers. And that is the criteria that should be
6 looked at, I believe, in determining what facilities get put
7 in.

8 MR. NEWMAN: Could I try a shot at that too
9 because being an engineer, I like to have a good engineering
10 answer, and the seven-factor test gives you that and makes
11 you feel warm and fuzzy. You've got something you can hang
12 your hat on which is awfully hard to find nowadays. But I
13 don't think that's the right answer, and let me tell you why
14 I think it's not, even though I argued that for the longest
15 time. This is an argument, by the way, in our own company.
16 If you want to spend a couple of hours of heated debate and
17 probably never reach a resolution, you bring this up and
18 we'll argue about it and never resolve it.

19 I have often said that, and I'll use 46 kV as an
20 example, and I'll give you a little bit of the
21 characteristics of 46. In our system it's always right;
22 therefore by some functional definitions it's distribution,
23 right? Well, many wholesale customers are served off 46 kV.
24 You will have jurisdiction over those, right, wholesale
25 customers? It could be 12 kV. Well, if many of the

1 customers are served off of 46 kV and 46 kV has been
2 traditionally been called transmission as in your
3 transmission accounts appropriately, but is radial in
4 nature, it's really not much different than the 115 kV which
5 might could be networked by adding another line and just
6 connecting them together. There are physical reasons why
7 you don't operate 46 in network and carry network parallel
8 flows, physical reasons because of the design of the system.

9 But because there's so many wholesale customers
10 served off that level, I could say 69 also. That's operated
11 in a similar fashion in our area. I think what is just as
12 important is what is it used for. And we could say what is
13 bulk power delivery? Does anybody here know? And is it 50
14 megawatts, 20 megawatts, 10 megawatts, what makes it bulk
15 power. Is it network flows? That's the argument I like to
16 use as an engineer. I don't think that's appropriate. I
17 think that for our area, and I think it's typical of at
18 least all the regions I'm familiar with, the 46 kV, 69, 115,
19 235, and 765 in some areas is all considered to be
20 transmission and I think it would be appropriate to treat it
21 all as transmission.

22 Sue made a good point about the radials and how
23 they are included in rates, and she may be surprised to hear
24 that I agree with her. I think that it is very difficult
25 for somebody to picture one municipality, for instance, has

1 a loop around the city and the average transmission cost is
2 higher than the average transmission cost for the region
3 they're in. By throwing their assets into that region, they
4 have free access to the rest of the whole region with no
5 additional transmission fee. That is the result of
6 arithmetic. It seems a little peculiar, but I don't know
7 how to sort amongst it, and I would say if they really are
8 part of the transmission system, they ought to be rolled in
9 and included, 46 kV and above.

10 MS. KELLY: I'd like to speak to this issue as
11 well. My understanding of the seven factor test was that it
12 was developed to help discern the line between state
13 jurisdiction and federal jurisdiction when unbundling took
14 place. I'm not so sure that's necessarily the best test to
15 apply in this particular instance. It was designed for a
16 different purpose.

17 My new-found friend, Bill and I, agree --

18 (Laughter.)

19 MS. KELLY: -- on this issue, and I would like to
20 bring the competitive aspect of it to light as well. He's
21 absolutely correct that a lot of wholesale customers,
22 including many of my clients, are served off of these
23 facilities, IOU facilities of lower voltage. If those are
24 not included in the RTO, either for operational or for rate
25 purposes, then my feet are to the grid, you know, my ability

1 to get out of Dodge, that last important and vital link is
2 still not subject to the RTO, and I still can be
3 discriminated against in my usage of it.

4 So we want to see an inclusive approach to what
5 facilities the RTO operates and maintains and has a say over
6 who gets to use. Completely aside from the rate aspect of
7 it because we're served off it. It increases our cost to
8 have a pancake where that last separate facility is going to
9 be separately charged to us and is not going to be in an RTO
10 rate.

11 So we would prefer to see a broader, more
12 inclusive approach taken as part of RTO formation to have a
13 broader definition of transmission, have a bright line
14 definition, because the seven factor test comes down, I've
15 written opinion letters on the seven factor test for clients
16 and it comes down to how many angels can dance on the head
17 of a pin.

18 You know, your idea of flows going one way may
19 not be mine. We need a bright line, quick, decisive test.
20 I come out at 69 but you know I'm a honor interdisciplinary
21 studies major, so I'll defer to Mr. Newman on that.

22 MR. INGRAM: Sue, both Craig and Bill agree on
23 the functionality test, is that how you would make that
24 determination also? Or?

25 MS. KELLY: Well, I guess one of the seven

1 factors is, is it used to serve wholesale load. Or is it
2 only for retail. Well, if it's used to serve wholesale
3 load, you have jurisdiction over it. There's competitive
4 implications from it. I think that should be included as a
5 general rule.

6 I mean, you can call it function, you can call it
7 competition, but I think that if you want to have effective
8 RTOs that truly do prevent discrimination and allow
9 everybody equal access to the system, it has to be broader
10 rather than narrower, you know, you're not going to get that
11 from doing 345 kV backbone and above.

12 MR. POWER: So you would say the facility, even
13 if it was a 12 kV, if there's a reseller at the end of that
14 of that line, that while normally might be considered a
15 distribution facility from an engineering perspective, to
16 the extent there's a wholesale seller at the end of that,
17 that those facilities should be under the control of the RTO
18 as well. Would you draw the line at jurisdictional
19 facilities regardless of whether they're performing
20 engineering transmission function or a sales for resale?

21 MS. KELLY: Well, if I were queen, I probably
22 would.

23 MR. POWER: You're not?

24 MS. KELLY: No. No, I'm not queen. I think that
25 argues against frankly the bright line test as well, maybe a

1 69, but if it's used for wholesale. There's also an
2 intermediate, the Alliance has what they call an
3 intermediate set of facilities where they are actually
4 rolled into the RTO rates but not actually controlled by the
5 RTO, we could look at those kinds of things. I was very
6 nervous about that in between category of facilities because
7 they defined it much more broadly, but that is a possible
8 halfway house for situations like that.

9 I understand that if you're going to do a bright
10 line test that there's always going to be iffy situations
11 just on either side of bright line, but I do favor
12 standardization, I do not favor having every line looked at
13 under the seven factor test; that will take forever.

14 MR. INGRAM: Mr. Ward?

15 MR. WARD: Yes, I just wanted to make the comment
16 that a flat black and white test, anything less than 69 kV
17 is not transmission, I don't think is a useful approach. I
18 think there needs to be consideration of all these gray
19 areas and jurisdictional gray areas as well where a state
20 PUC has a legitimate interest in understanding the extent to
21 which the unbundling process will leave with them, the
22 ratemaking authority and the extent to which ratemaking
23 authority comes here, and to establish a bright line test I
24 think might be a difficult proposition.

25 In Maine, for example, there are a fair number of

1 generators who are on 34-1/2 kV circuits and these are
2 small, renewable generators that are cited for voltage
3 support in the Maine woods or in your hydro sites. So I'd
4 be a little uneasy in simply disqualifying their generator
5 lead as the kind of investment that ultimately is FERC's
6 responsibility.

7 MR. NEWMAN: It is the question of how many
8 angles can dance on the head of a pin; if it wasn't, we
9 wouldn't have those hours of argument that produce no good
10 results. Serious engineers trying to figure out and it
11 really is very difficult. And I understand the points here
12 but at the same time, if it's 12 kV for instance, but has a
13 wholesale customer, yes, you would have the jurisdiction to
14 set those rates, but having those in an RTO and a
15 transmission tariff is an entirely different matter,
16 certainly not under their control. And that's not a matter
17 of grasping at something, it's matter of the transmission
18 system is complicated enough already. When you throw the 46
19 kV in my version is under overall direction of the RTO but
20 the actual operation of it, if it's included in the RTO, you
21 can't buy a big enough building to put the operators in.
22 And you need local knowledge of that.

23 At 12 kV, the situation is even more exacerbated.
24 Every street in the state probably has a 12 kV line or
25 something like that. It just doesn't make sense and

1 somewhere you have to come back to that.

2 There is a perverse signal, by the way, sent with
3 the pancaking that Sue was talking about, and I'll just
4 mention it. We've recognized it for some time. If you have
5 two rates, one is the higher voltage transmission and one
6 that's an adder for the lower voltage. Generally the lower
7 voltage stuff is not quite as reliable as the higher voltage
8 because of conductor spacing and all that sort of thing.

9 So what you do is you charge somebody the higher
10 voltage rate and the lower voltage rate so they get a lower
11 quality service for a higher rate. The first thing they
12 want to do is to move to the higher level voltage, right,
13 and we use all efforts to do that. Once you get there, then
14 you have to make that a radial system because you can't
15 support the fault currents and other technical reasons.

16 So it's a perverse set of signals. That's one
17 reason I think it needs to be rolled together.

18 MR. CANNON: Craig?

19 MR. BAKER: I go back to I think the function is
20 important, even when we look at whether there is a reseller
21 on the end. I don't know where you stop that and it's
22 somewhat consistent with what Bill says, in a retail world,
23 retail competition, the reseller could take title at the
24 meter, and does that then start to say you go further and
25 further down into distribution facilities and start

1 classifying everything ultimately as transmission. I go
2 back to if you say does it really perform a function of
3 serving bulk power supplies, and I know that's a difficult
4 determination to make, as opposed to radials that serve a
5 single distribution system or a single set of customers. I
6 think we have to look at what function it really performs.

7 MR. CANNON: Mr. Wright?

8 MR. WRIGHT: I don't think there's a bright line
9 voltage test. However, there does need to be some sort of
10 functional test here. You know, the purpose at the end of
11 the day is to make the markets work better and more
12 efficiently and the West at least has had an attempt at a
13 functional test where we try to identify paths based upon
14 transfer capabilities within congestion zones between
15 congestion zones and in and out of the RTO. It's not
16 perfect. I think there will always be a degree of
17 subjectivity here but I think the further that you drive
18 down the voltage levels the much more complicated it will
19 become.

20 MR. CANNON: Commissioner?

21 MR. IRVIN: Yes. I've been listening to the last
22 couple of days and I'm absolutely fascinated as how big this
23 RTO continues to grow. And as to what functions it is or
24 isn't going to do. And right now, I think it's just going
25 to do everything which is rather fascinating to me because

1 it's basically a can't.

2 Let's first of all, I think one of the things
3 that has to be done that I haven't seen yet, and it goes
4 back to yesterday's conversations and today's and I talked
5 to the Chairman about this briefly a few minutes and some
6 other people. And I think one of the challenges that you,
7 the Commissioners on FERC, have to do is first of all define
8 what rally is this RTO going to do. I mean, what I see this
9 is, it's a management congestion function to see that
10 transmission from the wholesale power, whether they be owned
11 by incumbent utilities or by independent power producers, is
12 able to get to the load, which is a retail market, in a fair
13 and indiscriminate manner.

14 What I'm hearing all of a sudden now is all of a
15 sudden now this is a market, the RTO is a market. And I
16 don't believe it is a market. I believe it's a management
17 function. It's a congestion function. And I think we have
18 to define and define what that goal is. I think that we
19 might be running into the problem.

20 I look at our neighboring state of California,
21 moving too big too fast is a recipe for disaster. Clearly,
22 California was a state that had some ideas and had
23 absolutely no experience in how to move. And they moved in
24 an absolute utter disaster. If this RTO, which I believe
25 ultimately will happen, there has to be a blueprint. Is it

1 the intention of FERC is to have a national wire system? If
2 that is the goal, it is not going to happen overnight. It
3 is not going to happen in a short time with an RTO. So if
4 that is the goal, that has to be clearly defined, and I
5 haven't heard that definition yet coming out of anybody yet.

6 Clearly, the West and the East are two distinct
7 markets. You have two distinctions in certain parts of the
8 East, some in the area of the East and the South where you
9 have retail competition, and you have no retail competition.
10 Clearly in the West I know of no market where there is any
11 retail competition whatsoever. California was as close as
12 there was, and now that's been put on hold and it's
13 basically gone, and two major utilities are facing
14 bankruptcy there, as we all know.

15 Earlier this morning Commissioner McMinn talked
16 about the gas as being a potential model. I would have to
17 respectfully disagree with the Commissioner on that because
18 that's why we have the gas volatility and the gas price
19 spiking. In fact, there's a docket before the Commission
20 looking right now at even was that done properly or was
21 there some hanky panky going on with that?

22 So clearly, I don't think that that is a model.
23 I think what we have to do is get focused onto what is this
24 RTO going to do, and that is going to be to transport power
25 from those producers to the switching stations.

1 The other problem you're going to have is if the
2 RTO becomes all incumbent, I can only look at the telephone
3 situations that have taken place, and that will be what is
4 facing FERC is what's facing the FCC, and that is, who is
5 going to be the ultimate administrator of, who is going to
6 handle all the complaints that are going to come in?
7 Clearly it's not going to be the FERC. Clearly it's not
8 going to be the RTO. It's going to be the local
9 commissioner who what I'm hearing is going to have
10 absolutely no jurisdiction over this transmission as such,
11 which is clearly wrong.

12 There's also the states rights issue. And, for
13 example, in the state of Arizona, I'm not even sure that I
14 as a commissioner, even if I wanted to, has the authority
15 under the state constitution to transfer the pricing
16 authority to an RTO over to the RTO from the Commission
17 because it is embedded in the state constitution that the
18 Commission shall set just and reasonable rates, and it's not
19 even under the purview of the state legislature to do that.
20 It is strictly ours. So we run into that states rights
21 problem right there. I don't know of any other states. We
22 may be unique in that area.

23 But let's not, again, go back and making this
24 thing so big and cumbersome it is not going to be
25 successful, because we have to go back to the main goal and

1 the function of what this thing is going to do, and that's
2 congestion management.

3 And the other side that I look at is when we
4 talked about the question, and I'll just throw it out, when
5 you talk about assured recovery, no, I can't as a
6 commissioner, as a state commissioner, I couldn't tell
7 anybody that they'll have assured recovery, because I don't
8 know if that's just and reasonable at the present point in
9 time. Are we talking about an RTO that is going to be
10 serving loads in California and in Wyoming and in Washington
11 and I'm going to have my constituency in Arizona have to
12 foot that bill? That isn't going to fly in Arizona.

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1 So I can't guarantee those utilities in my area. Now if we
2 set some sort of licensing, as we call it, the license plate
3 approach to pricing, then that might be more palatable. But
4 they've all got to get there, and it's got to be done
5 equally.

6 So you're going to have to, and then going back
7 into this morning's discussions, I think the tariff rates
8 are somewhat set there. So maybe that's some food for
9 thought and we can discuss some of those things. But I'm
10 just saying this thing is getting all over the board with
11 individual interests and such, and we're losing focus of
12 what is the goal, where is it going to go, and we need to
13 have definitely my challenge to FERC is let us know, because
14 then I think we can get there.

15 MR. CANNON: Well, I think tomorrow morning's
16 panel will be able to get into some of the issues of how
17 we're going to share jurisdiction with the states and work
18 through some of the very issues that you --

19 MR. IRVIN: I wouldn't guarantee that.

20 MR. CANNON: Again, we're going to remain
21 optimistic.

22 COMMISSIONER MASSEY: Shelton, can I shift gears
23 just a minute? There's some parts of the country that have
24 a lot of gas pipelines, a lot of gas production facilities
25 where there's a lot of gas-fired generation being built in

1 those regions because it's close to pipeline facilities or
2 close to production. Louisiana is an example.

3 Now if those facilities are built for the purpose
4 -- if generation is built in that region primarily for the
5 purpose of exporting, selling into other markets, and it
6 requires transmission upgrades, would any members of the
7 panel comment on how that ought to be priced? I know that
8 there is concern that's been expressed by the state of
9 Louisiana that if all of those new transmission costs are
10 rolled in -- and this may be one of the points you're
11 raising, Commissioner Irvin -- if all those costs are just
12 rolled in, that it's going to increase the transmission
13 rates for local consumers and they're not going to get a lot
14 of benefit from it.

15 On the other hand, they may benefit substantially
16 from the new generation that's being built that can sell
17 into that market and lower their cost. So how would you
18 balance all of this out with respect to whether the
19 transmission upgrades ought to be rolled in or priced
20 incrementally if the primary purpose for the upgrades is to
21 export to a different region?

22 MR. NEWMAN: Can I try that?

23 COMMISSIONER MASSEY: Mm-hmm.

24 MR. NEWMAN: Because it is an issue for us also.
25 There's a lot of gas in Mississippi and South Alabama.

1 There's large gas fields around the Mobile area and so on.

2 And whenever we looked at planning for generation
3 in a vertically integrated fashion where you can add up the
4 total cost of transmission and compare it to the cost of
5 generation located near the wellheads, we found that there
6 was a limit to how much generation you could put in a
7 particular area without massive transmission, I mean
8 massive. Hundreds of millions of dollars of improvements.

9 There's generation stability issues, cases that
10 have been before this Commission resolved, they're not here
11 now, that were brought in question of whether more
12 generation could be added in that area.

13 Now with that in mind, and it's being relatively
14 easy to site in those states compared to other states, we
15 see a lot of generation going in. I can give you rough
16 numbers, but it's in the tens of thousands of megawatts and
17 I'll make a comment here about my friends from TVA and
18 Entergy. They've each quoted numbers that are even higher
19 than that. That generation is not needed in that area. But
20 it could drive down cost. But if you have that amount and
21 there's only a few thousand megawatts of export it's clear
22 you have to build some more transmission.

23 If we don't send any sort of locational signals
24 at all, zonal or something, then you have no long-term, no
25 long-range signals for what it will cost for transmission.

1 And if all the generation is built and the transmission is
2 not in place yet, you do have congestion. You've defined
3 congestion by doing that. So the locational marginal price
4 will tell you that's the case. So then you go out and build
5 how much transmission? My numbers might indicate as much as
6 just for Southern, \$3 to \$8 or \$9 billion a transmission.

7 That's not the right answer. It's not the right
8 answer for cost. It's not the right answer for the citizens
9 in the states in my opinion, because it will cost them more,
10 and besides that, that's an awful lot of transmission being
11 built in that area doesn't need to be built if the
12 generation was located nearer where it was needed.
13 Pipelines are also a little easier to build and more
14 economical.

15 So first of all, there needs to be some signal
16 sent. What signal? Well, I could tell you zonal pricing
17 might do that. But if you don't send some long-term signals
18 -- and we already have them building. They have broken
19 ground and they're putting the units in place and we're
20 doing our best to connect them up, and we have 17,000
21 megawatts that are signed up now and another 30,000 that
22 have requests in. Now there's no way you need that much
23 generation in that whole area. TVA is reporting similar
24 things and so is Entergy.

25 So I think that's, no matter how we have to do

1 it, and I'm not an economist, I think the zonal pricing
2 sends some signals. You could still provide network service
3 and have zonal rates. You just have to look at where the
4 load is that's being served by that unit. And if you say
5 you don't want to designate which load that unit serves, and
6 that's typical with the merchant plant, then you could at
7 least look to see inside that region what is the excess of
8 the power that they're selling above what the generation is
9 in that area, and you can find a way to come up with it. A
10 zonal rate sends a signal. We have one that we'd like to
11 share with you.

12 But if you don't do that at all, I can see state
13 commissions objecting strongly to billions of dollars of
14 additional investment and questioning seriously how much
15 advantage they got when they've already decided that in our
16 region, 13 to 14 percent reserve margins are fine. So now
17 you have 25 to 30 percent, 50 percent, 60 percent. It would
18 be really hard for them to justify recovering that magnitude
19 of investment. And I don't think it's the right thing to do
20 for reliability either.

21 If you have that much generation in Mississippi,
22 let's say, and you have an ice storm like occurred a few
23 years ago and take down a lot of the transmission in North
24 Mississippi, you won't be able to get the generation out of
25 there at a time when you really needed it somewhere else.

1 To my knowledge, the pipelines weren't frozen up and didn't
2 fall down because of the ice. It really makes more sense
3 reliability-wise as well as overall economics, to locate it
4 near where it's actually to be used, especially with gas.

5 You mentioned the gas units. Especially with gas units.

6 COMMISSIONER MASSEY: Others please comment on
7 this if you'd like.

8 MR. WRIGHT: I'd just make an observation. I
9 think this is the key to the debate in many respects because
10 any pricing regime, it has to be more interested in the
11 incremental decisions than historical investments. Embedded
12 costs are what they are. It's too late to influence through
13 economically efficient price signals the location of
14 existing load and existing generation. That is all sunk.
15 It's all where it is. And therefore, the debate between
16 things like license plate rates or postage stamp rates is
17 not about economic signals, it's just about cost shifting
18 and what you can do to get things up and running.

19 The interesting bit is the incremental
20 investment. And to my mind, that's exactly where we need to
21 send the price signals. And from my perspective, we need to
22 send the price signal that is the most accurate price signal
23 for that investment, and that is a full cost to the
24 incremental generator. I think if you roll that into
25 everybody else, then you just dilute the very thing that

1 you're trying to do.

2 At the end of the day, it might mean there's a
3 lot of transmission built near to gas pipelines. But the
4 reverse is, the flip is, the generator wouldn't be building
5 there if there wasn't a demand for generation, if they
6 didn't think they could see an economic return for that
7 generator, despite the transmission costs that they will pay
8 for. And customers would benefit from the fact that, again,
9 the generator wouldn't be building there if there wasn't a
10 need for generation, and there'd be an overall benefit for
11 consumers through bringing down wholesale prices.

12 So I think it's important that we send a full
13 signal to incremental generation.

14 MR. NEWMAN: That's a much better than I had, and
15 that's what I want to say is the bottom line. As near as
16 you can, you ought to send that incremental pricing signal.
17 By the way, we had a lot of mention of pipelines as things
18 we can learn from and so on. And if you go from Louisiana
19 to the eastern border of Alabama, you pay a rate for gas
20 delivery. And if you go to the eastern side of Georgia, you
21 pay another rate. There is a zone there. There's a
22 recognition of distance.

23 If you don't recognize distance with transmission
24 rates -- distance with gas pipelines, then you're going to
25 send some perverse signals. You will. People will locate

1 in the wrong places. But as near as you can determine, I
2 think the incremental cost should be picked up by those that
3 trigger it. The reason I say as near as you can determine,
4 it is a difficult call.

5 I think you can do that. There's a method that
6 was introduced to me by some folks from Energy. They called
7 it participant funding. And it gets some people to look at
8 the ability, their own ability, a generator, to invest in
9 transmission and get the financial transmission rights that
10 come with that transmission. And it begins to measure how
11 badly do you want it. If it's a good location, you'll be
12 happy to do that. But something more creative than just
13 rolling it all together, because it sends some real
14 difficult signals.

15 CHAIRMAN WOOD: How do any of these proposals
16 work to benefit the customer having the wide choice, Sue's
17 point -- are you going to answer this for me? Because I'll
18 let you do it for me.

19 (Laughter.)

20 CHAIRMAN WOOD: Although they're not paying you
21 -- you're on your own dollar today, okay?

22 (Laughter.)

23 CHAIRMAN WOOD: How do we, if the incrementer --
24 I'm sorry, Matthew. If the new generator is bearing all the
25 costs of the incremental transmission investment, does the

1 same thing happen for the old generator? Do you allocate
2 then transmission back to the old generator? Maybe the old
3 incumbent.

4 MR. WRIGHT: It's too late. It's too late to
5 influence that decision.

6 CHAIRMAN WOOD: Well, but it at least puts it on
7 some parity for the purchasing customer as opposed to just
8 billing it straight to the customer wouldn't it?

9 MR. WRIGHT: The effect will show up in wholesale
10 rates. So if we get generation locating where it's most
11 efficient to generate, then over time, rates will come down.
12 If it's too expensive for the generator to build that plant
13 because they've got to pay a fortune in transmission, well,
14 they should build it somewhere else to some degree.

15 So we have to I think try to send some signals to
16 the new generation.

17 CHAIRMAN WOOD: What does that do, though, to the
18 accessibility, to the size of the market that the customer
19 can get?

20 MR. NEWMAN: I don't think it changes it, myself.
21 But the existing generation has been planned in conjunction
22 with transmission and derived the lowest possible overall
23 cost. I think all utilities have done that. They're
24 charged with doing that. And here what we're doing is
25 trying to provide some substitute for that with a pricing

1 signal, because anybody can locate a plant anywhere they
2 want to and we're obligated to build transmission to serve
3 that, okay?

4 But when you're looking at vertically integrated
5 planning, you took care of that by looking at the overall
6 cost. We don't do that now, can't do that now. So it's a
7 substitute for that. And I don't think it makes any
8 difference as to how much -- how large a market they can
9 access if they look for point-to-point service and they're
10 located in that area and see the incremental cost of that,
11 then they can access whatever market they have paid to
12 access.

13 CHAIRMAN WOOD: Based on the last panel, we're
14 doing a lot of network service. And as you point out, I
15 think fairly, the merchant generators could go a lot of
16 different directions, and I expect as these markets get much
17 more liquid and versatile, they'll do just that. If you
18 really don't have a path anymore, how does something like a
19 zonal rate really do the trick?

20 MR. NEWMAN: I think I can draw it for you and
21 take a shot at that. But if somebody's selling, if they're
22 selling day-to-day with nonfirm service, it's not an issue
23 anyway. It's only the access fee we're talking about, okay?
24 And if they're selling outside of a given region and you
25 draw the zones, then they would pay a higher rate if they've

1 asked for firm service. If they've asked for a giant
2 circle, then they would pay either some average of those
3 zones or for each of the zones if they want to access
4 something that's well removed from there. I think we can
5 put together a construct that shows that you can send that
6 signal.

7 By the way, the same signal would be sent to
8 existing generation serving network load. For instance, in
9 Southern, large area. There's a lot of generation in the
10 Mobile area. And if the excess of generation that was
11 there, if there was an excess of generation above the load
12 in this area, and let's say you call that one particular
13 zone, then it would have to serve some other zone and it
14 would have to pay more. The existing utility would pay
15 more. Don't do that today. That's probably not going to be
16 a popular position back home.

17 But we've decided that if you're going to send
18 locational signals, and this is a big enough issue to
19 introduce something different, then we're going to have to
20 suffer along with the others who are in place now if you're
21 going to send decent signals. So you would send that signal
22 for everybody.

23 CHAIRMAN WOOD: I'd love to hear a generator on
24 this if somebody wants to write in comments from the
25 generator's side, I'd love to see this issue. Because from

1 talking with Mr. Newman's CEO, this clearly is a huge issue
2 for your company, and I'd like to just see some thoughtful
3 analysis done, get you guys on the other side of the fence
4 on the RTOs, that would be great.

5 MS. KELLY: I'd like to just try and put a number
6 of random thoughts in there that kind of maybe present the
7 other side of this or middle road between the two.

8 The first thing is, when we say that the costs
9 are going to be paid by the generator, unless they go into
10 bankruptcy, unless they never make any sales, that's a
11 fallacy. Because as Ms. Guthrie said, all costs roll down
12 to load. So the only issue is, how are we going to pay for
13 them? How are we the load going to pay for these costs, and
14 what are we going to get back for it?

15 And I guess my thought is is that if you pay for
16 it in terms of a transmission network upgrade -- I'm not
17 talking about the actual costs of connecting the generator.
18 I'm talking about a network-associated transmission upgrade
19 to move that power around the grid -- and that upgrade has
20 been found to be needed by an RTO participatory planning
21 process, I feel a lot better about that being rolled into
22 rates and me paying that once.

23 If you put it in the generator's charges and you
24 have this -- you know, I listened all day Monday, all day
25 Tuesday in awe about the bid-based economically constrained

1 RTO run. You know, the beautiful central market we're
2 talking about. But if they're recovering their cost of the
3 transmission that they had to pay and when they make those
4 bids and we're paying the market clearing price in every
5 hour, I may pay that over and over and over again. And I
6 may pay it for a megawatt of generation that really didn't
7 incur those costs but everybody got that fabulous market
8 clearing price in the last increment taken in that hour.
9 I'd rather pay it once than many times.

10 So I guess actually I'm more in favor that if the
11 transmission is found by a participatory planning process to
12 be something that the region needs, then I think I'm willing
13 to pay that. I am, however, not willing to sit back there
14 passively pay and not have any rights to use the system,
15 which gets to another issue, which is how are we going to
16 divvy up those valuable rights, those FTRs, FGRs, you can
17 call them Ray, you can call them Jay, but who's going to get
18 them, okay? And my answer is, load should have them.

19 Because the whole point is we're trying to
20 develop a system here where the end users, where the load-
21 serving entities are the ones that can pick from a broad
22 universe of generators over a robust transmission system.
23 Everything I know I learned from Broadway musicals. I can
24 think of "The King and I". You have Anna and the King of
25 Siam. He's explaining to her why he can have many wives,

1 but no wife can have more than one husband. He says because
2 a woman is like a flower, and men, you know, are the bees,
3 and the men go from flower to flower to flower, but we would
4 never want the flowers going from bee to bee to bee.

5 (Laughter.)

6 MR. IRVIN: There's nothing wrong with that.

7 (Laughter.)

8 MS. KELLY: Amen, brother.

9 (Laughter.)

10 MS. KELLY: But what we have going on now, very
11 interestingly enough between the load side and the
12 generation side is a struggle as to who's going to be the
13 flower and who's going to be the bee.

14 (Laughter.)

15 MS. KELLY: If you have a very overly complicated
16 system of congestion management rights that only Enron can
17 figure out and they've locked up all the FGRs or FTRs or
18 whatever it is, then they take it wherever they want. The
19 actually effective control the transmission, and I'm a
20 flower. I have to take whatever generator is willing to
21 come to me. I do not want that. I want to be a bee.

22 (Laughter.)

23 MS. KELLY: I want to be able to control those
24 rights. I want to be able to go to generators.

25 COMMISSIONER MASSEY: Sue, there are some

1 problems we can't solve.

2 (Laughter.)

3 COMMISSIONER BREATHITT: And, Sue, furthermore,
4 you wouldn't be having this conversation had it not been for
5 the two prior Democratic administrations that got us this
6 far.

7 MS. KELLY: Amen. And I am a card-carrying
8 Democrat. I will reveal that admission against interest
9 here.

10 COMMISSIONER BREATHITT: I've had that bee in my
11 bonnet for 30 minutes.

12 (Laughter.)

13 MS. KELLY: I just don't want to be a wannabee.

14 (Laughter.)

15 COMMISSIONER BROWNELL: It's only Wednesday,
16 kids. There's two more days of camp to go.

17 MS. KELLY: Anyway, let me close out here by
18 saying I think you get my drift.

19 (Laughter.)

20 COMMISSIONER MASSEY: Can we have Sue on every
21 panel from now on?

22 (Laughter.)

23 MR. BAKER: I have a couple of random thoughts.
24 I hate to jump in right now, because I don't have any
25 analogies that are even close, so I'm not even going to try.

1 I guess there are a couple of things. I have a couple of
2 random thoughts as well. I believe there has to be some
3 cost causation to help a generator site correctly. I mean,
4 they are avoiding costs by deciding to locate where fuel,
5 transmission and water meet. And if they have to move any
6 of those things, they'll incur greater cost. So if they put
7 stress on the transmission grid, it is I think a logical
8 extension to have them pick up some of those charges.

9 I think there are ways to do that, it seems to
10 me, and Bill started down that path. We saw it in Britain,
11 for example, one of their initial designs was to say that if
12 you located generation in the North Sea area and needed to
13 transmit all the way to London, your interconnection charge
14 -- not your charge to transmit in real time and compete
15 effectively -- but your startup charge was significantly
16 higher than it would be if you located your generator in the
17 city of London. Now that had other issues of whether you
18 could locate a generator in the city of London, but the
19 concept is a good one. And we need to recognize it.

20 And I support the idea of looking for some form
21 of distance sensitivity, some zonal to incent people to
22 minimize the need to construction new transmission. I'm a
23 transmission owner, and I like to build transmission where I
24 can, but I think from a policy standpoint, it's good to
25 minimize that as much as we can.

1 The question Commissioner Massey asked originally
2 I think didn't get directly addressed, I didn't think, so
3 I'd like to just take a pop at it. And it's really a short
4 run issue, it seems to me, of potential trapped costs. We
5 have state jurisdictions which, as we've heard from a state
6 regulator who's sitting next to me, he's not necessarily
7 interested in picking up cost for shipping power outside of
8 his state. I'm in 11 states. We do business in 11 states,
9 and I've heard that comment more than once.

10 As I look at it, AEP over the next five years
11 could be looking at a cost of \$1 billion in order to
12 interconnect all the generators that would like to connect
13 to the AEP system. And if I have a situation where through
14 the RTO I can expect to collect maybe 10, 15, 20 percent of
15 that because that's all the wholesale load that is served
16 through the RTO, and I can't collect on the other 80
17 percent, that produces a significant cost problem for AEP in
18 trying to meet this desire to get a robust market and get
19 more generators interconnected, which we support.

20 MR. WARD: Could I offer a loose end comment also
21 on the same question that Mr. Massey threw out? The comment
22 concerns the practice in New England which some years back
23 did adopt a postage stamp rolled-in procedure for pricing,
24 and that caused for people in northern New England a fair
25 amount of pain as we supported various reserve margins and

1 other costs associated with new generation in southern New
2 England.

3 I would hate to have to bite that bullet twice.
4 And I certainly wouldn't support having a zone smaller than
5 at least the six New England states that currently comprise
6 the pool for which there is this postage stamp rate.

7 Generally speaking, my approach would be to try
8 and socialize those costs in a larger pool. And I am a
9 supporter in general of the Northeast RTO efforts whenever
10 they come to fruition in the expectation that that will
11 provide benefits in terms of lower energy costs and enable
12 the transmission-related burden of getting that energy to
13 market to be affordable.

14 MR. IRVIN: A couple of comments. Let me first
15 of all clarify that I'm not opposed if you have an RTO and
16 it sets a flat tariff rate similar to gas for the
17 transmission to get the product from Point A to Point B, I
18 don't have a problem with that. But when it's not done
19 fairly or properly, and as Susan pointed out, when I may be
20 paying for the same thing over and over again, then I think
21 consumers have a legitimate complaint to make.

22 One of the things we've done in Arizona when it
23 comes to siting, and I've heard a couple of comments today
24 on siting of generation and such, we have a problem in
25 Arizona in that we don't have any gas. It all comes from

1 basically Utah or New Mexico and through the pipelines
2 there. And yet, Arizona has been a very proactive state in
3 approving power plants to be built there. Yet we are not in
4 this condition that California is in. We have enough
5 generation to meet our needs through the programs that are
6 there, but for future needs, we'll need to meet them.

7 One of the things that we've done, though, is we
8 have required and said, hey, it is your, the generator's
9 responsibility to get you connected to the grid. It is not
10 the consumer's responsibility. These are wholesale,
11 independent merchant power plants that are being built.
12 They are not regulated plants. So, therefore, we can't
13 determine whether they're used and useful or prudent or not.
14 We have to show that there could be a need in the state of
15 Arizona that they plant be used. But we have no guarantee
16 that that power now is left to serve load in Arizona. That
17 power can be served to -- sent to California, it could be
18 sent to Utah or wherever.

19 So one of the things in order to protect Arizona
20 citizens is, number one, they're not responsible for this
21 power plant. That's the responsibility of the utility or
22 the IPP that's building it. And it's their responsibility
23 to see that they have the fuel, whether it's gas or coal or
24 whatever, it's their responsibility to get the fuel to that
25 location. If that becomes a cost to them building that

1 plant, then my idea, what I'm saying is under the wholesale
2 market and the idea for building all these power plants, in
3 order to get a competitive wholesale market, is I can sell
4 cheaper than you because I can build something cheaper than
5 you. I can manage better than you.

6 At some point in time if we are going to develop
7 competition, if we are going to develop competitive markets,
8 utilities are going to have to start assuming some of the
9 risk. Regulators can no longer serve as the insurance
10 policy for utilities to say, gee, we'll pass it all on
11 because, you know what? That plant was built and you chose
12 to built it, and since regulators approved it, therefore
13 it's good. They have to start assuming the risk.

14 So if they're building a power plant and it's not
15 a must-run generation plant, then they have to assume some
16 of those risks, and some of those risks in my opinion happen
17 to be to see that they can get their product at least to the
18 grid. And that's where the RTO then takes over, saying once
19 they make the connection to the grid, no on the transmission
20 system, the RTO's responsibility as a management facilitator
21 is to see that they can now have that equal access to all
22 portions of the grid. But they need to get, in my view, to
23 get connected to the grid.

24 CHAIRMAN WOOD: Jim, what if they pay their cost
25 to get it to the grid but maybe 20 miles up the grid,

1 Southern Company needs to do an upgrade from 135 to 345 kV
2 or something, and that cost is \$80 million bucks. How do
3 you deal with the \$80 million?

4 MR. IRVIN: What you're looking at and I view is
5 with your tariff rates is that goes just like any other --
6 this is going to be a regulated monopoly. This is not going
7 to be open in terms of free market. So if they have to,
8 they can apply a rate case or whatever in all the users, and
9 if that means that you have to add an extra .1 cent or
10 whatever it is to the entire transmission cost, assuming
11 that that is going to be freely used and that's a necessary
12 bypass and isn't going to help just one segment of the
13 population in there.

14 You need to look -- and that's where the RTO and
15 the benefit of the RTO is going to be is to look at that
16 facilitator and look at the picture as a whole to see if
17 this transmission can be distributed equally and evenly,
18 just as with natural gas. You don't make the distinction
19 delivering gas from El Paso to Phoenix. But once it gets to
20 the Phoenix market and it goes out on the distribution
21 lines, then it's divided up differently and the cost may
22 change. And the driver of cost of natural gas is not the
23 transmission, the driver of costs and our spikes going up
24 and down has been at the generation standpoint. It's been
25 at the producers. And they're the ones that are driving it

1 and such and we don't have a great deal of competition in
2 gas because you have so few choices. At least in
3 electricity we might move in that direction by having all
4 these various independent power producers, and that will
5 allow them, if they want to build. If Enron wants to come
6 in and build a plant in Arizona and they can get the
7 necessary and proper approval, it really doesn't matter to
8 me where they build it, assuming that they meet the
9 appropriate environmental requirements and such like that.

10 But if they choose to build a plant in Yuma,
11 Arizona and they want to serve load in Phoenix, they've got
12 to get connected to that grid. It's the grid's
13 responsibility to see that the capacity is there and that
14 the demand is there, and that's why when you get the line
15 siting issues and various things, you need the
16 communication. And one of the functions of the RTO has to
17 be an information provider to both state regulators, to not
18 only you at FERC, but also to the utilities to make sure
19 that there is that available capacity, and if not, what is
20 going to be built to meet that demand.

21 I think, and we've heard some conversations, and
22 I have no problem with transmission companies. I think an
23 RTO can exist with both public and private because we have
24 those. The West is connected through public and private and
25 we cannot operate throughout the West, and that's one of our

1 cost shifting issues, is that key issue of public power
2 versus private power and DOE transmission lines versus say
3 an APS line or a So Cal Edison line and such like that. And
4 how do you get onto that? Who's going to pay that? We need
5 to connect. You do not get power from Hoover Dam into
6 Phoenix, Arizona on anything but a DOE line. Who pays that?
7 The taxpayers.

8 And they've got to be part of this interconnect.
9 So if we're going to do the RTO and the federal government
10 wants to recover some of those costs, we're going to have to
11 look at bringing them in on board on this thing and getting
12 their buy-in with the private power so we can have this
13 system so it meshes and the consumer pays once and only once
14 for the transmission cost.

15 In fact, I proposed an idea which we're looking
16 at in Arizona a little bit which is kind of a for-profit
17 transco which brings everybody in, but everybody basically
18 has a share of it. And there's independent ownership and
19 the transco is responsible for building transmission. They
20 get O&M. They get research, and they're responsible. You
21 need new transmission lines, they build it. They get a rate
22 of return. It's a flat tariff rate. It's a set rate. And
23 they start with zero money in the budget. At the end of the
24 year, they end up with zero money in the budget because at
25 the end of the year all the profits from that transco are

1 distributed amongst the shareholders equally before taxes,
2 and that's where they get their return on investment.

3 But the transmission operates and moves ahead
4 and supplies the needs of bringing power from the
5 independent power producers to the retail market or wherever
6 it needs to go. And the key to that and the highway for
7 that is the independent -- and I do mean independent -- RTO
8 to move it from the producers, or once they get onto the
9 grid, to the distribution companies who now then distribute
10 it and should probably receive an access fee because
11 they're the ones from the state standpoint that's going to
12 have to be regulated, because they're the ones that are
13 going to get the complaints.

14 CHAIRMAN WOOD: I know you have to go. I want to
15 ask you, though, because coming from the far West, in light
16 of what we've heard from Bill and from Jim, I'm still coming
17 back to this issue. How do you capture what was good about
18 the vertically integrated utility making the decision
19 between at that point regulated generation and regulated
20 transmission in a world where you have unregulated
21 generation and regulated transmission? Is the only solution
22 that you have to attribute cost back to the new generator?
23 Is there some other way that that point that I think Bill
24 articulated pretty well a moment ago can be addressed that
25 we're not talking about yet?

1 MR. WRIGHT: If there is, I guess I don't see it.
2 We're not talking about the full incremental cost, I think
3 we are really talking about the connection cost. So to the
4 point earlier, if it's the straw that breaks the camel's
5 back 100 miles away on a remote transmission line, that's a
6 different issue. I think the incremental generator
7 shouldn't always be the one that has to pay for sort of
8 backbone upgrades that sort of transmit power hundreds of
9 thousands of miles.

10 I'm talking about the actual connection, the
11 physical connection.

12 CHAIRMAN WOOD: Compared of those two things,
13 we're talking 100 million versus less than 10 million. I
14 mean, the local connection is usually, particularly for a
15 generator that's smart enough to build close to the
16 transmission grid, pretty trivial cost compared to the
17 network upgrades that several of them being in the
18 neighborhood would put on the system aren't they?

19 MR. WRIGHT: I think it depends. I think you'd
20 have to come up with standards as to -- because you could
21 clearly game that. So if they just connected a mile or two
22 to a grid that they knew was woefully inadequate and sought
23 to spread that cost over the majority of customers, I think
24 you could come up with standards and in fact, this is going
25 to be a reference to U.K., have come up with standards where

1 it would be a certain amount of incremental capacity
2 required, and if it were over that level, they would be
3 responsible for more of the backbone reinforcement.

4 One potential issue that gets caught up in this I
5 thought maybe is worth mentioning is somebody mentioned
6 distance related. What I'm talking about isn't necessarily
7 distance related, certainly with respect to existing
8 investment, because those decisions have long been taken.
9 But I wouldn't want to see any disincentive for things like
10 renewables which might be remotely sited because of wind and
11 blows in the remote parts of the world.

12 And there may be good public policy reasons as
13 well for encouraging fuel diversity, where again, you know,
14 the absolute perfect next increment of investment might not
15 be the best one from a public policy perspective. But I
16 think those things can be worked out as well.

17 CHAIRMAN WOOD: Steve?

18 MR. WARD: I just wanted to make a comment that
19 in my corner of the country, ISO New England I think has
20 done a pretty good job in attributing to the system -- I'm
21 sorry, to the generation project developer, the new gas-
22 fired unit or whatever, the system upgrade costs, even if
23 they're not anywhere near that location. So that if a 345
24 kV circuit has to be beefed up in the next state, those
25 costs can be attributed to the generation project developer

1 and are paid by that project.

2 CHAIRMAN WOOD: So you have direct attribution,
3 and then the separate issue, you have postage stamp
4 collection of what has not been attributed back to the
5 generator?

6 MR. WARD: That's right. And the third layer is
7 you move towards locational marginal pricing during
8 congestion so that you have then a third price signal in
9 response to congestion that is overlaid on top of the
10 postage stamp rate.

11 But the basic question about how much should the
12 generator pay for the harm they might do in Bill's case, 50
13 miles down the same circuit, is dealt with at the front end
14 by ISO New England.

15 CHAIRMAN WOOD: That's done after some sort of
16 interconnection study is done?

17 MR. WARD: Yes, exactly.

18 CHAIRMAN WOOD: And that's dependent on where you
19 are in the queue as to where those costs, that they fall on
20 you or on the guy behind you?

21 MR. WARD: That's correct. The queue at one time
22 was 50,000 megawatts in New England. Because not all those
23 projects were going to survive, there was an enormous amount
24 of controversy about exactly how these system upgrade costs
25 get dealt with. The regime we've now arrived at is actually

1 I think fairly fair and fairly workable.

2 CHAIRMAN WOOD: I think the answer, because
3 that's a clearly a different one than we took in ERCOT, but
4 the answer is just given an answer so that people then know
5 what the way is.

6 MR. WARD: That's right.

7 CHAIRMAN WOOD: And I'm open. As you all know, I
8 have been a very strong advocate for rolling it all in and
9 postage stamping it across. But if there's a better fix out
10 here than what I saw have great results in ERCOT, I'm there.
11 Just give me an answer.

12 MR. BAKER: I think one of the things, and I
13 don't have a proposal, but one of the things we need to
14 think about is, are there ways to, going back to the all-
15 resource planning, is there a way to take some of the system
16 benefits that result from a generator locating in the proper
17 spot and feeding that back to the generator in the way of
18 reduced costs? If in fact they locate a generator to reduce
19 system losses, if they in fact find some way that it reduces
20 the congestion going back to the transmission rights, can
21 you give them increased amount of transmission rights, which
22 will translate not so much into a cost to them, but a
23 reduction in cost, and incent them to go somewhere else?

24 CHAIRMAN WOOD: So it's a two-way street, then?

25 MR. BAKER: Yes.

1 MR. IRVIN: Mr. Chairman, and again, those where
2 -- you have your differences between the East and the West.
3 Because in the West, we have the -- TFR stands for Firm
4 Transmission Rights. It doesn't stand for Financial.
5 You've got that, and I think one of the panelists this
6 morning articulated that, and correctly so.

7 And I go back to one of the comments that one of
8 the panelists here made is that I think that the FERC would
9 be making a very grave mistake to make this a one-glove-
10 fits-all approach. You clearly have two distinct areas in
11 East and West that have some unique problems, and then
12 there's going to be some standardizations that possibly
13 could go if the decision is to build a national transmission
14 system, as has been defined as a goal in say gas pipeline.

15 But that has to be clearly defined first. And
16 then you have to look at the areas. Just like the Southwest
17 -- Arizona, New Mexico, Colorado -- is diversely different
18 than the Pacific Northwest. In California -- we won't
19 discuss them.

20 (Laughter.)

21 MR. IRVIN: For a variety of reasons. But there
22 are those distinctions. And I think while you can try to
23 standardize and move in that direction, again, I look at the
24 more appropriate go slow approach and handle these issues
25 and taking the differences in there, and then you've got the

1 states rights jurisdiction matters in there too.

2 And I look at some of the questions that are also
3 posed here. The other one you've got is say question three,
4 which hasn't really been addressed, is recovery of past
5 investments and expenditures made to comply with Order 2000.
6 Well, first of all, you've got to make a determination. How
7 much of the transmission has already been paid for? And is
8 there any recovery of that? And the answer is no. That's
9 already paid for. So why should you have to pay twice for
10 that?

11 And those are key issues that need to be made,
12 and I'm sure the utilities would love to get paid twice for
13 it. But if I'm a utility executive, I'm going to argue and
14 say, hey, we should be compensated, kind of like a stranded
15 cost issue. But I'm a regulator, and my job is at this
16 point in time to get reasonable rates at a fair cost. So
17 that has to be taken into consideration.

18 MS. KELLY: Can we go back to your postage stamp
19 rate discussion? Like Commissioner Brockway said she was a
20 Hogan gal, which took me aback, but I am a postage stamp
21 gal, and I think that there's a lot of merit.

22 MR. IRVIN: I thought you were a bee.

23 (Laughter.)

24 MS. KELLY: Until I get to be a bee. At the
25 moment I'm still a gal. But I think that the instinct of

1 rolling costs that are found to be needed, you know, the
2 existing ones that are there. The gentleman from Pacificorp
3 is right. You can't do anything about them. They're sunk.
4 You can try to recover them twice by levelizing your rates,
5 but that's a different story.

6 (Laughter.)

7 MS. KELLY: Assuming they're there and you're
8 recovering them once, those are in your rates. To me, new
9 additions in the regions that are found by the RTO planning
10 process to be necessary and you get into difficult questions
11 there. What if the generator who comes on now causes that
12 expansion to be accelerated from three years out to two
13 years out or one year out. How do you deal with the fact
14 that the fact they're coming on may accelerate a facility
15 which was needed down the road anyway but now all of a
16 sudden may be needed sooner? And those are difficult issues
17 which I think should be worked out in a participatory
18 planning process.

19 And once you get past that and you have your
20 regional transmission, I guess my view is it's best to
21 try and provide access to the largest universe of generators
22 at the same basic rate as you possibly can. When you go to
23 zone or mileage-based rates, you immediately start to bias
24 the number of generators that you can get to. And coming
25 from a gas background, I have lived through many a pipeline

1 rate case where you have, you know, Zone SL, Zone 1, Zone 2,
2 Zone 3, Zone 4. But there you had one long line pipeline.
3 It could be Texas Gas, it could be Texas Eastern.

4 But the point is, it was somewhat more
5 appropriate to think about distance-based pricing in that
6 pipeline environment, where here, you know, first you have
7 to figure out, well, what part of the system am I actually
8 using for my transaction? As we all know, that's a lot more
9 difficult in electricity to figure out than it is in gas.

10 Now you may be able to do it. The IDC and the power of
11 distribution factors. Well, sure, you could do it. But
12 why? Especially when we're layering on top of this an
13 immensely complicated locational marginal pricing scheme, if
14 that's the way you choose to go, which according to Ms. Manz
15 provides all the signals that you need as to where
16 generators should locate. I mean, this is going to do
17 everything, including cook your breakfast.

18 (Laughter.)

19 MS. KELLY: So if it can do that, then why do we
20 need to load onto a distance based or zonal rates, which are
21 supposedly doing some of those same functions? So I'd try
22 to argue for simplicity and getting to the broadest universe
23 of generators where you can. And that's my thoughts on
24 that.

25 MR. IRVIN: Mr. Chairman, on that zonal rates,

1 industry, and let the distribution companies or whomever get
2 down to that retail level. But you can't do that until we
3 have a wholesale market developed and we have this
4 transmission highway to get there. And I think that's one
5 of the problems that developed in California was they didn't
6 have the transmission highway. They clearly didn't have a
7 wholesale market, and there was no retail market. And what
8 they subsequently ended up with were high prices and
9 blackouts.

10 CHAIRMAN WOOD: Nora?

11 COMMISSIONER BROWNELL: Jim, with all due
12 respect, I got out of the telephone business for a reason,
13 and that's because I don't think the model is working. So
14 let's not replicate that here. I see Mr. Ward agreeing.

15 Secondly, and I want to keep the conversation
16 going, and I appreciate your insights. And Craig, you said
17 some things earlier that I think we could expand on. But
18 there are no generators on this panel, and I would like to
19 encourage them to send in their comments. I feel as if
20 we're missing an important part of the segment of the
21 distribution system and of the whole industry. And so I
22 just want to comment on that.

23 MR. IRVIN: My point, Commissioner, and I agree
24 with you on the telephone. And you and I had that
25 conversation. We don't disagree on that. It's an idea, and

1 you can look at ways to do things. That's all I'm saying is
2 there are thoughts and ideas out there to look at an RTO
3 model, which is what you are wrestling with here.

4 MR. POWER: Mr. Newman, you know the problem that
5 the policy we have currently with generator interconnection
6 cost doesn't send the right price signal. And you seem to
7 advocate a zonal rate design that would make it more costly
8 for generators to locate in one lump area and then serve
9 load somewhere else, such as they might be incented to
10 locate elsewhere and alleviate the problem you're having
11 with the clusters.

12 With respect to license plate rates versus
13 postage stamp, do you see either one of those helping
14 alleviate that problem? Do you prefer one?

15 MR. NEWMAN: Yes. I think the license plate
16 rates could, depending on what size region you choose for
17 that. But if you go to postage stamp, then you've removed
18 any signal. There are no signals if you just have a postage
19 stamp rate.

20 I think if there's some way to cause the
21 generation to be well distributed in the Eastern
22 interconnection, you don't need the zonal rates and so many
23 other things. That's what the purpose is. If it's not well
24 distributed, you'll have to build an awful lot of
25 transmission. It's difficult enough to build what we need

1 today, let alone 50 percent to 100 percent more.

2 But by themselves, I don't think they solve the
3 problem. If you have postage stamp and that it covers one
4 of those regions, it begins to send a postage stamp for here
5 and postage stamp -- begin to call it pancaking when you do
6 that, right? Okay. A postage stamp here, and if you go
7 across two regions --

8 MR. POWER: Well, I was thinking one postage
9 stamp rate for the whole region, not individual stamps.

10 MR. NEWMAN: Okay. But if you do that, what you
11 got is you have a big postage stamp that sends off signals.
12 You can have a smaller postage stamp, which is really where
13 we are today. Southern is a giant area, and you can go
14 across the whole region, which in some directions is
15 probably 600 or 700 miles, for \$1.35 a kw month. Other
16 areas you can find where you can go across a third of that
17 distance for \$1.30. And what you're aiming towards is
18 having larger regions, right, without pancaking?

19 But one of the outcomes of that is that you don't
20 send any distance sensitivity. Now you can go back and put
21 in some zones, and certainly they must be reasonable because
22 the gas pipelines -- and I understand Sue's point about
23 they're easier to define -- but they send a signal. And by
24 sending that signal, if you don't send one for transmission,
25 it forces all the generation to one area. I can tell you

1 sites that were located 100 feet on the side of the dividing
2 line just so that they could capture the lower gas cost.
3 And, oh by the way, that next state also had a fuel
4 separation fee of 15 percent. They do recognize those
5 signals, and we see it every day.

6 MR. POWER: But then there's Sue's point about
7 your taking certain generation options away from customers
8 when you go to zonal. I would prefer something more like
9 Mr. Nelson talked about where you have -- there's benefits
10 for location --

11 MR. NEWMAN: I don't think you take them away.

12 MR. POWER: But you want it no cost so to speak.

13 MR. NEWMAN: Nothing's for free. Everything
14 costs. It's a matter of who pays for it. But you don't
15 take any options away because if you sent that signal, they
16 would locate closer to or more well distributed and closer
17 to the loads we're talking about.

18 MR. POWER: What about the issue of, you know,
19 you have to build an upgrade for a generator interconnecting
20 in your area. But under license plate rate design, if that
21 generator delivers its load to another entity, the
22 transmission rate is the other entity's rate, presumably the
23 RTO collects that and through the revenue distribution
24 protocol would funnel it back to that person. So you've
25 made an upgrade, you don't get the money.

1 MR. NEWMAN: Okay. That's not the method I would
2 advocate for sure.

3 (Laughter.)

4 MR. NEWMAN: I've never seen it explained that
5 way, but I'll take your word for it.

6 MR. POWER: Well, that's an issue in the license
7 plate debate with respect to generator interconnect upgrades
8 cost. And that's sort of why I asked you, you know, why I
9 wanted to get your views on license plate versus postage
10 stamp as it relates to interconnection cost.

11 MR. NEWMAN: That's an even more perverse set of
12 signals --

13 MR. POWER: I didn't mean to wake you up on that
14 one.

15 (Laughter.)

16 MR. NEWMAN: I don't think anybody would really
17 advocate that that has to recover their investment or go to
18 a state commission and ask them for a rate increase. But I
19 understand that some of the methods that have been proposed
20 do exactly that. That sends absolutely the wrong signals.
21 And I think you're going to get a lot of pushback from that.

22 MS. KELLY: I'd like to amend my prior statement
23 about being a postage stamp gal. Just to let you know that
24 I realize that a flash cut immediately to a postage stamp
25 over a large region would cause screaming and yelling and

1 people marching up Capitol Hill and that some kind of
2 political compromise has got to be made here. It's going to
3 have to be some kind of transition.

4 Virtually every ISO that you start out approving
5 already has some kind of license plate. I understand the
6 need for that. And, you know, reasonable people can work in
7 over a transition period to an end state rate design. I
8 don't think that transition period is ten years, by the way.
9 But, you know, a reasonable period.

10 CHAIRMAN WOOD: I should call attention to your
11 earlier test which I subscribed to deeply, that you ought to
12 look at the ultimate impact on the retail customer what a
13 cost shift is.

14 MS. KELLY: Yes.

15 CHAIRMAN WOOD: Retail customers that see a cost
16 shift of 4 cents on their monthly bill don't march on
17 Capitol Hill.

18 MS. KELLY: Correct.

19 CHAIRMAN WOOD: I'm trying to reconcile what you
20 two are saying and I'm going to give it a shot here.

21 MS. KELLY: Okay. My buddy.

22 CHAIRMAN WOOD: Well, yeah.

23 (Laughter.)

24 CHAIRMAN WOOD: In the spirit of the day.

25 MS. KELLY: You got it.

1 CHAIRMAN WOOD: He doesn't want to have to build
2 uneconomic transmission as he defines it. You want to have
3 access to the broadest possible market without having those
4 distortions. And then I heard a great idea from down here
5 that maybe you give kind of a bonus to somebody that
6 actually sites in a way that benefits the grid, the general
7 cost of transmission, maybe see costs in the RTO, looks at
8 certain parts like we heard yesterday. Southwestern
9 Connecticut needs some generation so bad it can taste it.
10 Maybe you get that bonus there. The bonus is reflected in a
11 credit against your future transmission cost or something
12 like that. And then if you site in South Alabama where you
13 don't need one more plant or the whole thing is going to
14 bust, then you automatically are allocated in a fixed up
15 front payment.

16 Because I'm worried about if you have the
17 subsidies or rate signals sent over the entire life of that
18 asset rather than an up-front deal, you tend to distort the
19 price signal more. So I'm wondering if you could have a
20 postage stamp rate but rather than dumping everything into
21 it as I would generally lean toward, you dump only into it a
22 portion and then you allocate back to either in a reward or
23 a penalty to people who site in a manner that doesn't
24 benefit the overall transmission grid at the time that the
25 study is being done.

1 Does that kind have your cake and eat it too or
2 am I missing something?

3 MS. KELLY: Well, that's always possible. I tend
4 to rely heavily on the idea of the participatory planning
5 process. Let's get past parochial interests. Let's find
6 out what's need for the whole region. I understand the
7 response to that is, you know, this is Red China, five-year
8 plan, you know, it's very bad. Centralized planning is bad.

9 I personally think it has a place. But while you
10 were talking, I started thinking about a provision in the
11 grid Florida proposed tariff. I'm not getting into the
12 litigated issues in that case, I'm just noting for you that
13 in that tariff filing there's actually a provision where if
14 a particular transmission facility is found by the planning
15 process to be needed in year four, but somebody wants it
16 faster, say we really need it in year one and we're willing
17 to pay to get it on the system in year one, that they can
18 pay some kind of allocated share of that to get it there
19 year one instead of year four. That's an example of some of
20 the kind of split the baby approaches that you're talking
21 about here, and I think they're very useful.

22 CHAIRMAN WOOD: Well, I'm wondering, and the
23 forum that you point out may well be the place where that's
24 done if it is in the broad, what's-good-for-the-system
25 analysis that's hopefully as fact based as it can be, and

1 then you find that certain places have really a negative --
2 not a positive impact on the system and other things do,
3 that along with the issues of accelerating investment.

4 MS. KELLY: And which was discussed before about
5 having a planning process that not only takes into account
6 transmission, because I agree with Commissioner Brockway
7 that we shouldn't limit our thinking that way, that we
8 should think about demand-side management, that we should
9 think about locating discrete generators at places on the
10 system. That might be the most cost-effective approach. I
11 know that kind of smacks of IRP, but it does make a lot a of
12 sense if it's properly done.

13 What worries me is that we may all agree, yes,
14 this transmission needs to be built and it doesn't matter
15 whether we say year four or year six because it ain't going
16 to get built at all, and that goes back to the issues of
17 parochialism and the 12 selectmen in each municipality in
18 Connecticut.

19 CHAIRMAN WOOD: Right.

20 MS. KELLY: And maybe only legislation can solve
21 that. But the states have got to get over this. I just
22 have to say that. I've got to get that off my chest. We've
23 got to build transmission, and if everybody looks at it as
24 just, well, that doesn't help my municipality, we're all
25 going to strangle.

1 CHAIRMAN WOOD: I have to say, I've testified
2 down the street that I think state commissioners, of which I
3 was recently one, are bigger than that, even if we are from
4 Texas or Arizona or Pennsylvania, we can still think about
5 the greater good rather than having to federalize that
6 problem.

7 But let me get back to this because I'm perplexed
8 at this very important issue -- not perplexed. I'm just
9 puzzled by it, and I want to get a fix to it because it's
10 very critical, because investment signals are something I
11 know Nora and I have talked a lot about with each other and
12 with people in Wall Street and all that. Sending the
13 signal, it's great to settle all the kind of regulatory
14 underbrush, but if no capital flows into the party, you
15 really aren't doing much.

16 Is there a streamline aspect to this that we're
17 missing? I will say in Texas it was pretty fast. You built
18 and it built to you and the money came back within 12 months
19 and it all kind of worked. But what are we doing in the way
20 of investment signals here both to building a plant and to
21 building a transmission line?

22 MR. BAKER: I don't think we're doing much.

23 CHAIRMAN WOOD: Good or bad, or just much at all?

24 MR. BAKER: Nothing. And so it's not getting
25 transmission built. It's getting generation often sited in

1 the wrong location.

2 I think there's a couple of things when you think
3 about the debate we're having here. We're debating license
4 plate versus postage stamp. Both are rates that have a
5 history but may not have a future. When you look at them,
6 they have real problems. If I do a license plate rate, the
7 high cost state let's say says why would I put anything more
8 in that's going to help the neighboring state? And I
9 realize that's parochial. But they would like to see if
10 their transmission system is being used, the transmission
11 system of the companies that reside there, they'd like to
12 see some recovery of those dollars flowing back to the
13 ratepayers in that jurisdiction.

14 So I think when you look at license plates,
15 you're not building in the idea that to reach the
16 competitive sources that Sue wants to reach, you're
17 accessing everybody's transmission grid and you have to
18 recognize that.

19 So I think you have to come up with an approach
20 that rolls in all of the transmission facilities. And we
21 could go back to the debate of what is a transmission
22 facility. But roll it all in. But it's not necessarily a
23 postage stamp is the rate design that you want. I don't
24 have another one. I think we need to do research as far as
25 what new rate design would send the signals around locating

1 generators, would incent transmission -- people who are in
2 the transmission business to build new transmission lines in
3 order to reduce the cost of congestion, and thereby reduce
4 the cost of generation. But I think we have to look first
5 at ruling everything in. But then a new rate design, so we
6 can use one of the two, and each of the RTOs has kind of
7 chosen one of the two as an interim measure. But we should
8 be looking three, four, five years for something from these
9 RTOs that is brand new and very different than what we have
10 today.

11 MR. INGRAM: If I could follow up on that, Steve.
12 What Craig is suggesting, does that sort of fit the model
13 you discussed earlier about the New England that you've got
14 two or three levels?

15 MR. WARD: Yes. That was very much consistent
16 with what I was suggesting and my understanding of the way
17 it operates in New England.

18 The other thing that occurs to me is if you talk
19 about a regime where there's an incremental signal that
20 stimulates investments in generation in the right location
21 or the new transmission line, something very similar to that
22 can occur as well when you have a demand response. And I
23 really do think it's useful to have the market disciplined
24 by a demand response which is a fairly subtle mechanism and
25 it's one that only regulators can help create, it seems to

1 me.

2 So if there is a locational marginal price, or if
3 there's this kind of incremental signal for investments, it
4 could stimulate wholesale consumers, retail consumers to use
5 less at those places on the map where it really matters.

6 And I think that's quite desirable.

7 MR. INGRAM: And you'd be fine with an LMP signal
8 on top of a postage stamp rate. And Sue, my sense from you
9 earlier was that you might be comfortable with that. You're
10 not sure that LMP is the answer to lay on top of the postage
11 stamp?

12 MS. KELLY: I think you've accurately stated my
13 reservations. But I believe all those learned people on day
14 on and day two, it's the way to go. I just don't know if I
15 believe.

16 CHAIRMAN WOOD: And the reason for that is just
17 lack of experience under LMP or?

18 MS. KELLY: Well, not only lack of experience
19 under LMP but we have had some experience in LMP, using "we"
20 very loosely, the co-op community has in a load pocket down
21 on the Eastern shore where the experience with LMP has been
22 horrific in terms of not enough FTRs because of the
23 simultaneous feasibility studies that were discussed.
24 There's not enough FTRs to go around to hedge everybody in
25 that load pocket.

1 There's a lot of money being paid by a very few
2 co-ops on the Eastern shore. It works great when there's a
3 competitive market I think. But when you have market
4 imperfections, you still have people who are owning
5 transmission who also own the generation in that same
6 region, what is their incentive to build to relieve the
7 congestion, especially if they hold the FTRs and they're
8 collecting the revenues?

9 We had a really bad situation there. SO even in
10 a market where it works, especially for cooperatives who are
11 often in load pockets who are often on the end of
12 constrained facilities, it could be just terrible. So I am
13 extremely fearful. And that's what I was talking about.
14 That if you don't deal head on with this market power issue,
15 you may mandate a universal market design for everybody that
16 looks great on paper and the people at Harvard and MIT and
17 Stanford think it's all a great thing, but when you
18 implement it in practice, real consumers just pay through
19 the nose. And relief is a long time coming. And putting in
20 new generation on the Eastern shore, diesel doesn't really
21 work because it's a nonattainment area. There's not enough
22 natural gas down there.

23 We face real world problems. So I just pray
24 whatever market design you implement that you be absolutely
25 vigilant to make sure that mitigating measures are

1 immediately implemented when it appears it's going to
2 shortsheet somebody's bed. And that's one of the reasons I
3 am so concerned is because this is a real life example to
4 the co-op community of how you can get -- oh, well, I won't
5 try.

6 (Laughter.)

7 CHAIRMAN WOOD: I got the word. It's one of
8 those toolbox things, okay?

9 (Laughter.)

10 MR. BAKER: One of the concerns I have about the
11 LMP is I have yet to see a translation of LMP into building
12 more transmission. I have seen the transfer value between
13 generators and customers. In some cases one wins and the
14 other one loses, and sometimes it flips the other way. But
15 I have yet to see any real documented evidence that that is
16 what has caused transmission owners to build new
17 transmission.

18 CHAIRMAN WOOD: Now I have to say I did hear
19 yesterday that there's about three-quarters of a billion
20 dollars of transmission under construction in PJM right now.
21 But I don't see any PJMers here.

22 MS. ROSENQVIST: I'm here. I'm bleeding a little
23 bit, but I'm here.

24 CHAIRMAN WOOD: You had your day yesterday. You
25 were doing pretty fine.

1 (Laughter.)

2 MS. ROSENQVIST: I'll let the others talk, but we
3 do have another --

4 CHAIRMAN WOOD: I thought I wrote that down. So
5 something is sending a signal, and I'm not necessarily on
6 the LMP bandwagon either, but I did get a sense from some of
7 your concerns here that it does start to impress upon people
8 where generation ought to be located. And that may be one
9 of the things I know Bill was talking about.

10 MR. NEWMAN: It does, but it's an after-the-fact.
11 It's an after-the-fact thing. If you go ahead and build a
12 lot of generation in an area and then build transmission
13 because it's there, then if you don't build it you see LMP
14 signals you should have built it. You need something more
15 proactive than that. After you have a system in place, you
16 begin to get those signals.

17 What we're facing is a massive amount of
18 generation that's being built with no proactive signals.
19 Once they're in place, yes, you're going to have stranded
20 generators and you're going to have a different in price
21 between two regions. So then you go build more
22 transmission, right? Maybe not a good decision to start off
23 with.

24 MR. BAKER: And going back, I believe that PJM is
25 building a lot of transmission. I don't have information to

1 the contrary. The question I'm raising is one, we are all
2 building a lot of transmission because of new generators
3 coming on, system upgrades. Is LMP in fact translating into
4 transmission that is being built specifically to relieve
5 congestion? That's the question that I would raise. And it
6 may be. But I just haven't seen it. I've just seen that
7 big lump, that I'm building this much. I have LMP.
8 Therefore, it works to build transmission.

9 MR. NEWMAN: It could be traditional N minus 1
10 contingency planning that's producing that too. I'm sure
11 the folks from PJM could address that. But that will go on
12 no matter what. General load growth will cause additional
13 projects.

14 CHAIRMAN WOOD: It's the congestion uncongesting
15 that we need to find out about.

16 COMMISSIONER BREATHITT: But also, Bill and
17 Craig, a lot of people I think have determined that the
18 generation business is a good line of business to be in.

19 MR. BAKER: Absolutely. But so is transmission.

20 CHAIRMAN WOOD: It's just easier to recover your
21 money in generation because the markets are starting to
22 clear up. And then when Jim and his colleagues and us kind
23 of are at the duking it out over jurisdiction over
24 transmission, all you guys that want to build it just think
25 why in the hell would I run this gauntlet? I'll go do

1 something else. So you go buy the utility around the world
2 instead of building transmission here. I want you building
3 transmission here. We're going to find a way to get out of
4 this box. I'm just frustrated that I haven't just -- it
5 hasn't just set up right here for us to do it. We'll get
6 there.

7 COMMISSIONER BREATHITT: Craig, how many years
8 have you been working on that one line?

9 MR. BAKER: I think we're closing in probably on
10 12 to 14 years.

11 MR. IRVIN: To echo a point that Craig made, I
12 mean, yes, we approved the transmission line, or the
13 Commission. I wasn't on the Commission -- ten years ago for
14 one of the utilities to build it, and they still haven't
15 built it. In fact, they're right now in the line siting
16 process. I think Craig makes an excellent point that
17 there's nothing that guarantees that just because that money
18 is there or whatever, that transmission is going to be
19 built.

20 The other aspect that we as regulators -- and I
21 know it's got to be -- another problem out West which comes
22 out is, we've got areas of high cost transmission in very
23 low or small load areas too. And that goes back to maybe
24 Craig's problem. It's going to have to be addressed, or
25 maybe someone on the panel here can discuss it.

1 And so do we then go to distributive generation
2 locally there, or do you build that transmission line, and
3 which gets cheaper? Because you've got that problem. And
4 maybe a \$400 million plant is not going to be the same, and
5 it might be cheaper to build that transmission. But the
6 transmission clearly is higher cost in that rural area than
7 in an urban area. And then we had truly that problem in
8 many, many of our Western states.

9 MS. KELLY: I don't want to leave the impression
10 in any way and did not mean leave the impression that it is
11 the states' problem that new transmission is not being
12 built. Let me just note going back to Craig's line, that
13 the Virginia Corporation Commission has issued the
14 authorizations they were supposed to issue. It's the
15 federal Forest Service. So sometimes you look at the enemy,
16 and the enemy is us.

17 There's a lot of different reasons why these
18 things happen, and I just want to make sure you all know
19 that.

20 CHAIRMAN WOOD: Thank you for the tip. We have
21 friends.

22 (Laughter.)

23 MR. IRVIN: And I suppose along with that
24 transmission issue, one of the things that I should point
25 out, you get into line siting and such, and that's the

1 cooperation among states. And I think it should be noted
2 when you get into these things that I am not aware of any
3 transmission line in the West United States that has not
4 been built due to two state jurisdictions not getting along
5 or seeing a need for that transmission. To my knowledge,
6 every line that's been in there has been built whether the
7 plant was sited in Arizona and the line is being built and
8 the end load is served in California.

9 That line is built and usually what happens is,
10 for example, I just gave you, it might be PG&E and Arizona
11 Public Service Company that may have built that line. It's
12 certainly not a DOE line. But those lines have been built.
13 And those cost have been taken care of. So I think that's
14 something else to take into consideration.

15 And when you get into that, you get into the line
16 siting issues that Susan brings up and such like that is,
17 you start running into all kinds of jurisdiction. And I
18 think Commissioner Breathitt brought up yesterday is, is the
19 FERC suited for those line siting issues? You don't have
20 that experience. And then you're getting into all kinds of
21 local jurisdictions, issues like that that are really an
22 impediment to line siting that are a tremendous cost to
23 utilities that they have to take in. That takes a long time
24 to build these transmission lines.

25 COMMISSIONER BROWNELL: But, Jim, let me comment

1 that one of the messages I think, and certainly those in the
2 business can speak to it more eloquently than I, one of the
3 reasons that Wall Street is so skeptical is in fact we do
4 not have a siting situation regardless of who does it, and I
5 don't care.

6 But the point is that it is so fragmented and so
7 expensive and so time consuming and so unpredictable that
8 the capital just isn't there to get done what we need to get
9 done. And you may not have had any applications that were
10 turned down or projects that didn't happen, but I wonder how
11 many projects -- and this isn't limited to the West -- we
12 don't ever see because people take a look at the odds and
13 say it's not worth my time or money.

14 MR. IRVIN: Well, one of the problems out West is
15 the fact that the Western United States hasn't built any new
16 transmission for a long time. And now it's having to be
17 addressed because there was a high building curve back in
18 the '60s and '70s when a lot was built and you had a high
19 reserve demand. Now with the advent, and that's catching
20 up, and you're starting to see some of those things moving.

21 And that's why I think an RTO is going to be
22 advantageous into certain aspects if it's done properly.
23 But done absolutely the infantile stage I think also creates
24 impediments.

25 The government regulations, environmental, et

1 cetera, are going to be there whether you have an RTO or
2 not. The U.S. Forest Service is going to be there whether
3 you have an RTO or not. And those risks are still going to
4 be there. I think there has to be some certainty in order
5 for the capital markets to get in, I think there needs to be
6 a certainty in creating a wholesale market, and the RTO can
7 serve this best function to guarantee the success of that
8 wholesale market to deliver their product, and then you'll
9 have that.

10 But we're not going to get away from BLM, Forest
11 Service and local jurisdiction of the county or the city as
12 to what they're going to do with their transmission. And
13 what will happen is, they'll get to the point where even if
14 the feds give enough, you'll have tremendous court battles
15 and you'll still have the neighborhoods and their rights on,
16 gee, my property value went down, and then where are we at?
17 And we're not solving the issue. And then it's going to go
18 back to the local areas, whether it be the local court that
19 handles it or the federal court. It's going to take forever
20 to do it.

21 MS. KELLY: I know one issue that we have not
22 touched on, and I'm assuming you want to at some point
23 during this panel, is the issue of innovative, you may call
24 them, or incentive or whatever, rates. And this discussion
25 kind of treads close to that. Because the issue is, well,

1 if you get incentive rates that may attract the capital that
2 is required to build new transmission.

3 And I know that the position of many investor-
4 owned utilities is, you know, we need a lot of money if
5 we're going to go out and take the risk and the negative PR
6 of building transmission. I guess my thought on that is we
7 need to make sure that if we are spending ratepayer dollars
8 to incent new transmission that we are spending them wisely
9 and that we are getting the results that we are supposed to
10 be getting for that money.

11 For example, if we are going to be giving
12 incentive rates to build a transmission project, it should
13 be put out to bid. We should try and find out who's willing
14 to build it the most cheaply. A lot of RTO proposals that
15 have been filed with you contain a right of first refusal
16 for incumbent transmission owners to build the facility, and
17 they're the ones who get to decide if somebody else does it.
18 But yet at the same time, they're asking for an incentive to
19 build it. I guess if you're going to spend ratepayer monies
20 on an incentive, we need to find out who's willing to build
21 it at the lowest cost and how much of an incentive is really
22 necessary.

23 Something else that concerns me is the idea of
24 enhancing rates of returns on existing facilities on the
25 chance that maybe they'll use that money to go out and build

1 new ones. It takes me way back to my early gas days where
2 they increased the area rates for natural gas in the hopes
3 that they would do more drilling, and one large energy
4 company promptly drilled for oil on the floor of the New
5 York Stock Exchange and bought Montgomery Ward.

6 (Laughter.)

7 MS. KELLY: You know, so you just want to make
8 sure that whatever you're doing, you get the results for it.
9 So I would ask that you look that in any incentive rate
10 proposal that comes in to you very carefully and evaluate
11 those claims very carefully to make sure that whatever
12 incentives you do give get the results that you want and are
13 a good use of ratepayer monies.

14 Cost benefit analysis was included in the
15 regulations that you did on incentive rates. The ones I've
16 seen so far are either (a) just not there at all, or (b) are
17 woefully inadequate.

18 COMMISSIONER BREATHITT: Sue, what about the
19 regulatory predicament that we found ourselves in here where
20 state commissions will give a 12 to 13 percent return, and
21 the returns at the commission are 8, 9 and 10. And as
22 facilities may get transferred to our jurisdiction, that's
23 something that we've already been faced with in some rate
24 cases. And it wouldn't necessarily be raising return vis-a-
25 vis, because it's an incentive, but it would be more because

1 transmission cost of service on those facilities that are
2 coming under your jurisdiction, not just the rate of return
3 on them.

4 COMMISSIONER BREATHITT: If there are any Staff
5 sitting around the table here --

6 MS. KELLY: Are you guys understanding what I'm
7 saying here? That it's the totality of the rate picture and
8 not just the equity allowance?

9 MR. IRVIN: Commissioner, on that point, I could
10 put out that the FERC could also set some guidelines and
11 then have the states justify. If the FERC determines a rate
12 of return is 9 or 10 percent and a state says it's 13
13 percent, then let the states justify that, which is exactly
14 what Sue is saying. There might be some justification which
15 will provide that information.

16 One of the biggest problems we don't have is that
17 good communication on these individual basis.

18 COMMISSIONER BREATHITT: But if it's litigated,
19 they would have to do it.

20 MR. IRVIN: If it's litigated, then that's --

21 COMMISSIONER BREATHITT: Formally.

22 MR. IRVIN: Right. But it's still going to --
23 you're going to have an end result and an order, whether it
24 comes from the state or from the FERC here, there's going to
25 be an order. Then it should be justified and fully

1 explained as to why you have a 13 percent return in a state
2 versus a recommend or 10 percent at the federal level.

3 MR. POWER: Yes. The point is you've got to look
4 at apples and apples. If you have a different rate base at
5 federal and you don't at state, you can't just look at one
6 aspect in cost of service. You've got to look at the whole
7 ball of wax.

8 MR. IRVIN: And I believe that's exactly Susan's
9 point. And I know Nora's done it from the state level is
10 when we look at the recommendations that come from any
11 federal agencies, we have to compare what they're saying to
12 what the utilities are telling us as regulators on the local
13 basis and try to compare and get those apples and apples so
14 we can make some sense out of that so you can get the
15 possible. And that's where you come up with those
16 differences.

17 What I'm hearing is that that type of information
18 isn't necessarily being shared, or maybe all the questions
19 by various staffs aren't being asked to get that information
20 from the utilities, because it's there.

21 COMMISSIONER BREATHITT: Well, I have been an
22 advocate of having more parity with federal rates of return
23 and state rates of return.

24 24

25 25

1 MR. WARD: May I make a comment here?

2 COMMISSIONER BREATHITT: Yes.

3 MR. WARD: There's a different format in this
4 Commission as compared with most the states. There's no
5 rates subject to refunds that take effect immediately in
6 most states of which I've practiced or I'm familiar for
7 ratemaking. So the upshot is many states authorize a rate
8 of return that includes a projection for an attrition year
9 or a forecast period and you're making long projects of what
10 rate base will be, what expenses will be, what revenues will
11 be.

12 That's a different methodology from an historic
13 as-build kind of determination for transmission rates. And
14 in Maine where the Maine PUC essentially has delegated the
15 entire transmission rate-setting function to this
16 Commission, has conceded jurisdiction completely. I hear no
17 complaints from the Maine utilities that they're getting
18 short-changed when they come here. It's a different
19 methodology. But that difference does not create
20 unfairness, at least they're not telling me it creates
21 unfairness.

22 MR. GLICK: If I could just add a couple things.
23 First of all, on the issue of state versus FERC rate-of-
24 returns, obviously we're trying to incent RTO formation as
25 well. Clearly, we do need to have an apple to apple

1 comparison. I think that's very important. But at the same
2 time, we don't want to encourage utilities not to join RTOs.
3 I think we're trying to incent them, and we want to make
4 sure that, you know, there's clearly using some other sticks
5 here in market-based rates and so in terms that have been
6 discussed in terms of being able to, you know, whether you
7 should join an RTO or not, but at this point, FERC's still
8 not going down the line and saying, you absolutely have to
9 join an RTO. We certainly don't want to create that
10 disincentive.

11 Secondly, on the issue of incentive rates for the
12 construction of new transmission, and that's we support
13 that, that's a very important component, I think it's also
14 important that we don't provide incentive rates only for
15 certain types of RTOs such as transcos versus other RTOs.
16 There may be various reasons. For instance, we have a
17 strong reason for not joining a transco versus joining an
18 RTO. We want to make sure Bonneville is part of the RTO and
19 there's some issue about for-profit transcos there.

20 So I think it's important, when the Commission is
21 considering providing transmission, incentive transmission
22 ratemaking, to not just say, well that's only going to be
23 available for for-profit transcos. It's also important for
24 that to be available to other transmission owners that may
25 join another type of RTO.

1 MS. KELLY: I really want to second that point.
2 You're absolutely correct that incentives need to be
3 available no matter which type you choose. There's been
4 some recent Commission precedent that's come out that makes
5 it look like, if you're an ISO, somehow you're not going to
6 get any incentive rate but if you join a transco and divest,
7 you know, can take back passive ownership, but I'm not going
8 to go there, that was discussed in the Court of Appeals this
9 morning. So I'm just not going there.

10 But the point is, is I think you don't want to
11 bias which way they're going to go. I think they have to
12 make incentives available equally. And also that impacts
13 jurisdictional versus non-jurisdictional utilities because
14 there's a lot of non-jurisdictional utilities can't join a
15 transco. So if you're going to only make incentives
16 available for that, then we have that problem to deal with
17 as well.

18 I would also like to note that there are two ways
19 to deal with getting transmission built. One is to, the
20 claim is it is incredibly risky, therefore we must have a
21 higher rate. You can also deal with it by making it less
22 risky. And then that may obviate the need for that extra
23 percentage, you know, two or three or four, or whatever they
24 are saying they need.

25 I know NRECA has been floating around on the Hill

1 draft legislation that would talk about if a transmission
2 facility's built, it's controlled by an RTO, not necessarily
3 owned by one but it's controlled by one and is built
4 pursuant to a planning process that the RTO controls and
5 it's considered to be needed for the region than cost
6 recovery of the transmission facility over the life of the
7 asset would be guaranteed. That's another way to assure
8 Wall Street that it's okay to lend money for this kind of
9 activity or to support this kind of activity financially.
10 You can either increase the rate of return or you can lower
11 the risk.

12 MR. BAKER: Sue, a question on that. How would
13 that work, how does the guarantee work both on a federal and
14 a state level?

15 MS. KELLY: This is -- first of all, it's not my
16 legislation.

17 MR. BAKER: If I said that, I apologize.

18 MS. KELLY: So I just know it exists and I will
19 only give you the answer that I can give you with all the
20 caveats that are attached to that. I think the presumption
21 is, is that if it's built through an RTO planning process,
22 it's a facility that's a wholesale facility will go into the
23 wholesale rates. This Commission is I believe required by
24 the provisions of that legislation to make the cost get
25 recovered through the RTO's rates and cost of service.

1 As to the state aspect of it, you'll have to talk
2 to the state representatives.

3 MR. BAKER: And I think that's one of the
4 perceived risks that Wall Street sees is the question of
5 will you get recovery in all jurisdictions who are paying
6 you something for transmission.

7 MS. KELLY: Well, if we had all loads on the
8 tariff and we had all wholesale transmission recovered in
9 rates, that split would disappear. I would just note that.

10 MR. IRVIN: You know, and I would say from the
11 states' standpoint, if it's going through a central planning
12 process and it is necessary and is part of the whole package
13 and the costs are equally shared amongst everybody that's
14 going to benefit from it, I don't see that the states would
15 have a problem in passing that cost on. So I'm not seeing
16 the financial risk. I think where the risk comes in is if a
17 utility comes in and wants to build a spur that's only going
18 to benefit them to upgrade their system, then there might be
19 some risks there that the utility that does that might have
20 a greater risk because it's only benefitting the few, and
21 maybe that section might have to absorb more of that cost or
22 something until that can be absorbed. But if it's going to
23 benefit the whole, and it's necessary in order to move power
24 from area to area, and the costs are going to be
25 proportionately distributed, I don't see the states throwing

1 up an argument to preclude that from happening.

2 MR. CANNON: Well, I've heard a lot this
3 afternoon and maybe it's because this is such a wide ranging
4 topic. I know Julie has been dutifully scribbling lots and
5 lots of notes up there. I'm not sure we're going to be able
6 to go through all of those and reach consensus on
7 everything.

8 I did hear some consensus around the notion of
9 some consistency about what does or does not go into the RTO
10 in terms of whether it's an IOU facility or whether it's a
11 public power facility. We could debate whether it would be
12 under the seven factor test, or under some legal definition
13 or whatever, but the standards ought to be roughly the same.

14 I was wondering if we conclude this panel a
15 little differently than what we've done some of the others
16 by having you all comment in turn on sort of three things.
17 One is what recommendations would you leave this Commission
18 with in terms of cost recovery for existing facilities that
19 would be turned over to an RTO.

20 Same question with regard to expansion of the
21 system, what recommendations do you have for us in terms of
22 trying to promote infrastructure development.

23 And third, recognizing that many of you operate
24 in any number of states and you are caught between sort of a
25 regulatory rock and a regulatory hard place of trying to

1 satisfy a lot of different masters on all this, what
2 recommendations would you have for us in terms of trying to
3 reconcile the state regulatory perspectives and prerogatives
4 as well as ours in terms of moving forward with RTOs?

5 Craig, you want to start?

6 MR. IRVIN: I thought we would start at that end.

7 MR. BAKER: I don't want -- you know, being Craig
8 Baker, I was always at the front of the line, you know, so I
9 always got asked the question by the teacher. You know, I
10 was hoping we'd change that.

11 I also work for AEP, you know, almost no matter
12 how it happens, I always get called first.

13 (Laughter.)

14 MR. BAKER: I think we've covered a lot these
15 things in the discussion. I think, when I look at this, the
16 cost recovery for existing, that's a an issue about what we
17 think are adequate rates of return, and we'll always debate,
18 you know, those things.

19 I think more you've got to look at the second two
20 that you mentioned, Shelton, as well as I'd throw a third
21 one on, which is making sure you get recovery of investments
22 in building RTOs that was on this list, but we really didn't
23 get a lot of discussion about.

24 MR. CANNON: I'm sort of including that in
25 existing costs.

1 MR. BAKER: Okay. Then I'll just go right to
2 that one. We support, a lot of companies supported the
3 voluntary nature and did a lot of work and invested people
4 and dollars in developing RTOs, some of which met the
5 standard and some didn't. But I believe it was done in a
6 good faith effort to meet what the Commission requirements
7 were.

8 Sometimes those sands have changed and moved
9 under us, and we may be looking at that again. And progress
10 is a good thing, but when we add new responsibilities for
11 RTOs, those will be additional costs that somehow need to
12 get recovered and what in effect may get stranded as a
13 result of something that we thought was the way to go before
14 that the Commission may have approved before and now
15 changes; we need to find a way to make sure we get those
16 costs recovered.

17 The expansions of the system I'd go back to what
18 I said earlier. I think we have to find ways to provide a
19 new set of rate designs which really get people to build new
20 transmission. I don't think the current approach really
21 causes people to do it. I think there's possibilities. I
22 mean, the idea of congestion management and the idea that
23 there are dollars saved by reducing congestion management if
24 some of that could flow to transmission owners, and
25 recognizing it's a monopoly and we have to keep a close eye

1 on that so that they don't exercise monopoly power, that's a
2 way I believe to do it.

3 From a state regulatory standpoint, I think I
4 heard some discussions about a lot more activity of joint
5 federal and state work. I think that's critical. I think
6 it's critical for making sure that the things that you want
7 to accomplish are translated down because the states are on
8 board and the states say that we support what you're doing,
9 and if it means that the companies and the state have to do
10 something, we'll support them doing it.

11 I also think that it works from a siting
12 standpoint. That's going to be a constant debate and we
13 talked about that. And if we can find some way that there
14 is regionalization looking at the siting as well as FERC
15 having, working together with the states because I don't see
16 it changing real soon, I think those are all ways we can get
17 progress. So I think the dialogue that's being proposed and
18 really working together between states and the FERC will go
19 a long way to helping the transmission grid.

20 MR. CANNON: Thanks, Craig. Again I think I've
21 always thought of one rejoinder here or one comment is that
22 I thought that the whole RTO process is a real golden
23 opportunity for entities to come in and propose new rate
24 designs. So I think the time is right for that. I also
25 think it's going to pose a lot of challenges to state and

1 federal regulators so I think the time is also ripe for
2 reevaluating the processes under which we work together on
3 these things.

4 MR. BAKER: And I agree, Shelton. I think the
5 Commission has posed that, and when I was saying I think we
6 need to come up with something new, I felt that the
7 Commission was eager to see new concepts and would support
8 them.

9 MR. CANNON: Commissioner Irvin?

10 MR. IRVIN: Let me start with -- first of all let
11 me start by saying that I think from my standpoint in my
12 term as a Commissioner, I have seen, especially in the last
13 18 months and it's even greater now, with the new Commission
14 seated, a much better cooperation from the federal and the
15 state and I hope and expect and I believe that will
16 continue, and I compliment Chairman Wood and Commissioner
17 Brownell for coming on board as well as the Commissioners
18 Massey and Breathitt who I think always encourage that but
19 may not have been able to do that under some past
20 administrations.

21 Let me go and answer your questions on existing
22 when you get to rate-of-return on an RTO. What I look at,
23 and from my hat as a regulator, it what I heard the last
24 couple of days, if we're talking about the RTO being a
25 market, then I can't see how we can return or there can be a

1 guaranteed rate of return or there's going to be recovery,
2 because the market should then recover all those costs for
3 the utility. That's the purpose that they have the market,
4 and the market should then bear that and they should
5 recover. So there can't be any guarantee. I don't know
6 what those are going to be.

7 I remember back in 1996 when this process
8 started, there were ideas that the rate to consumers would
9 decrease for electricity by 40 percent. We saw just the
10 opposite. So I think if we're looking at the RTO as a means
11 of a function to plan and facilitate and remove congestion,
12 then I think that that should be based on a cost basis and
13 should be guaranteed then that that return will be there
14 but only if it's going to be there from that standpoint.

15 When you look at rate of return on old
16 transmission, as I stated earlier, has taken into
17 consideration what has already been paid for. And that
18 should not be repaid for again. So you're going to have to
19 do that financial analysis to make sure you're not paying
20 for old assets twice. I mean that stuff has a long life,
21 and a lot of the transmission that's been taken out and
22 we've seen it in Telcom where you've got switches and
23 things that have been depreciated by the phone companies.
24 They're still in use and they're still getting compensated
25 for them but they no longer are appreciable assets and

1 they've already been paid for. So we have to make sure that
2 consumers are not being charged twice in there from a
3 regulatory standpoint.

4 With regard to expansion, a couple things. Yes,
5 I do believe that we do need to come up with some new rate
6 designs. There's no question that the existing methods,
7 whether they're postage stamps or license plates, or
8 whatever other term you want to come up with, I think you
9 have to come up with new and flexible, and I think part of
10 that has to be from a regulatory standpoint as we as
11 regulators have to respond more quickly to the market and to
12 the needs if we're going to be successful. Because if we're
13 going to take forever to make a decision on a new type of
14 rate, or even an old-type rate, whether you use postage
15 stamps or license plates, is we, as regulators, must respond
16 more quickly to the needs of the utilities to an ever-
17 changing market, and not take six months or a year.

18 I mean, we've got a case before us at the Arizona
19 Commission, I'm sorry to say, that took two years to settle
20 on a rate case. That is unacceptable, and in this new fast-
21 moving society can't be in. That's the greatest thing for
22 disincentive and as Commissioner Brownell brought about is
23 for capital markets not to invest is when regulatory
24 functions take too long, and I don't know what that is, but
25 we need to collectively, as Commissioners, come up with a

1 method of that.

2 When it comes to reconcile of what states want to
3 do, again we have to look at I believe it's been said now a
4 couple of times, one glove does not fit all approach. You
5 have certainly differences they've been brought out. The
6 New England area has certain constraints that are not in the
7 south. The midwest has different programs than the east
8 does and the west has different problems than those areas,
9 but even jurisdictions or areas in the west between the
10 north northwest and the southwest has different
11 requirements.

12 I think we need to recognize the geographical
13 differences and just the system differences there if you
14 want to get the states to buy in and not a one-glove fits
15 all. I think standards need to be developed, basic
16 standards, and then as in different regions different
17 standards might apply in order to get interconnect
18 agreements on those.

19 When it comes to siting issues, the western
20 states, as I understand from the Western Governors'
21 Association, are going to stand very strong on their rights
22 to they want the siting issues and they look at that from a
23 standpoint of saying that we don't want the federal
24 government coming into our states and telling us where a
25 power line is or isn't going to go. We feel we are the best

1 judges of where that is going to go, and we will cooperate
2 fully with the federal jurisdiction and the other state
3 jurisdictions in order to do that and to succeed in that
4 area.

5 I believe the western governors made it quite
6 clear and even some of my colleagues have made it quite
7 clear that if we're going to get and the federal
8 government's going to do that, there may be a fight and that
9 might, you know, get on to Capitol Hill. But a spirit of
10 cooperation in that area that has taken place can, should,
11 and will prevail, at least out in the west.

12 I do believe that the RTO, if set up properly,
13 can be a very valuable asset to developing the which I
14 believe eventually will come to a national transmission
15 system whereby we can move transmission around. But we are
16 a long way from doing that and I would encourage a step-by-
17 step process versus an entire west at one time. Because,
18 number one, we don't even have the interconnect to do it,
19 even if wanted to, and number two is, there's too many
20 political, as well as other differences in there to do that.
21 So we need to look at those and take those into
22 consideration, and then we can reach that goal of the
23 overall goal of an RTO and mesh those in together, if we
24 want to bring up say a western grid.

25 Again, I would look at, as a starting point for

1 that, as an idea for a starting point, is possibly the WECC
2 application. There are certainly some things that are
3 objectionable to it, but at least it's got some thoughts and
4 ideas on that.

5 MR. CANNON: Thank you very much Commissioner. I
6 think begins the whole RTO process here is just a golden
7 opportunity for a state/federal partnership. I'm going to
8 skip Sue because a long time ago, I found it's always best
9 to give her the last word.

10 (Laughter.)

11 MR. CANNON: Mr. Newman?

12 MR. NEWMAN: Thank you. That may be safe for you
13 but dangerous for me.

14 (Laughter.)

15 MR. NEWMAN: Because she may look like a
16 butterfly but I understand she stings like a bee.

17 (Laughter.)

18 MR. NEWMAN: I can give you some fairly short
19 angers and that'll surprise all my cohorts from Southern
20 that I can even do that.

21 Recommendations for cost recovery for existing
22 facilities turned over to RTO. Maybe I don't see the real
23 complications there. When you say turned over, I assume
24 that means control of. That's the real thing that you need.
25 Control of in setting the tariffs and that sort of thing,

1 not a financial turnover and so on.

2 That being the case, the states have their issues
3 and I can't offer you a quick solution for those but I think
4 FERC can set right, as you do now, for those things that are
5 wholesale. And once that's established, and I can recommend
6 different rates of return and all that sort of thing and
7 that's why I'm a little hesitant to do that because the bee
8 is coming here sooner or later.

9 But I don't see a mystery about that particular
10 area. If what you're talking about though is to charge
11 every customer in a retail jurisdiction the amount of the
12 tariff and make sure that gets reflected to them, then I see
13 that you have a problem and I don't have a good solution for
14 that because I personally don't think that's appropriate.

15 Terms and conditions of the tariff, certainly.
16 We take service under the tariff this day, and have for
17 years. I think that's appropriate, but in terms of
18 determining how much to charge, personally I don't think
19 it's appropriate but you'll have that debate with state
20 commissioners and whatever is resolved is what we'll do with
21 them I'm sure.

22 You asked about encouraging additional investment
23 and associated recovery. My typical answer is shorter
24 depreciation periods to reduce some of the risk. You may
25 have some other ways of doing that, some assurances to

1 financial markets and so on, quick processing of rate cases
2 having to do with transmission, maybe a formulary rate.
3 Formulary rates really make a lot of sense when you're
4 trying to encourage additional investment in something and
5 it's going to be going up and the average cost, and you know
6 that's going to happen, I mean, you know it is.

7 We've all said that today. A formulary rate
8 would help a lot in terms of being able to get dollars to
9 finance that. But part of that has to be to make sure that
10 the states are involved in those decisions. If it's a
11 pricing system that sends locational signals, they need to
12 be involved in that because if the cost of them are
13 tremendous, they are bound to speak up. It's their duty to
14 speak up and I know they will.

15 So if you make sure that the investment is
16 prudent, it's been well thought out, and involved the state
17 commissioners, shorter depreciation periods, maybe formulary
18 rate, I think you'll get the additional investment that you
19 need.

20 You mentioned something about reconciling state
21 jurisdictional issues and I have a question. Why do they
22 have to be reconciled?

23 I think FERC has set the wholesale rates for both
24 wholesale power and for transmission for a long time. If
25 what we're talking about now is setting all the rates, then

1 I think you have a lot to reconcile, and I don't have a good
2 snappy answer for that.

3 One would be, goodness, just pass some law that
4 says they must be passed through, but I have to go back home
5 and there are a lot of state regulators that would throw a
6 rock at me for that. So I think that I don't have a good
7 answer for you there except that I don't see that they have
8 to be reconciled. If you feel that they do, then you've got
9 a pretty good sized problem there. That's it.

10 MR. CANNON: Well I just, I feel like if we do
11 something at the wholesale level and something with regard
12 to transmission rates and the states aren't on board there,
13 that can create some real uncertainty in terms of the
14 investment community and whether they even want to make
15 those kinds of investments. And given your experience in
16 dealing and trying to make as many regulators happy as your
17 job involves, I was just wondering if you had any tips in
18 how we need to move forward?

19 MR. NEWMAN: Serious participation on their part,
20 that's all I can tell you. I mean, that's why we're here
21 now, and that's why you'll have those folks here tomorrow,
22 and I think without that, you may get where you want to go
23 but I think it will be a longer and harder road, and maybe
24 harder on us by a long shot. Thanks.

25 MR. CANNON: Thank you.

1 Mr. Ward?

2 MR. WARD: Yes, I want to begin with the third
3 question, the third concept, which is reconciling state and
4 federal interests. Again, I do think this Commission
5 deserves credit for inviting folks here morning and
6 afternoon all this week, and I hope you pursue this model of
7 exchanging concepts and debating them in a much more
8 interactive and consultative way. I think it's very useful
9 for retail end users, people I represent, also for
10 commissioners from state PUCs.

11 From the perspective of New England, I think the
12 track that you're on, the direction you're going, is
13 entirely compatible with the directions we've been going in
14 for some time. I don't see a collision course between a
15 states rights view in New England and this Commission's
16 intentions with respect to RTOs. So that third question is
17 the easiest one for me to handle.

18 The first question concerns what do you do with
19 cost recovery for existing facilities. Again, from New
20 England's perspective, where rates run bundled and where
21 FERC jurisdiction over transmission pricing is not in
22 dispute, it's a fairly straightforward concept. I
23 personally support spreading those costs over the widest
24 possible universe of paying customers, particularly for RTO
25 start-up costs.

1 If there are costs associated with getting ISO
2 New England off the ground, which are now stranded, as we
3 make progress eventually towards a larger entity, I don't
4 have any complaint about the mills per kilowatt hour that
5 would be associated in recovering those costs. I mean, they
6 are truly insignificant costs in terms of the end user.

7 The last concept concerned how do you incent
8 system expansion and I'm glad you asked that question
9 because I'm not somebody who is terribly comfortable with
10 incentive regulation. Maine in particular has had a long
11 history with creating incentives for the siting of QFs,
12 incentives for demand side management, incentives for
13 planning in general, we had a flirtation with not price caps
14 but revenue caps, and we learned a great deal, but customers
15 ended up paying the price as a result of that education.

16 It would be a shame if you jumped into a format
17 for incentive regulation without having really studied it
18 and thought it out and looked for the pitfalls, the trap
19 doors. Based on Maine's experience alone, and Maine now is
20 12 cents a kilowatt hour, it's well above the national
21 average, I urge you not to leap with both feet into the
22 incentive puddle and I hope, if you do, you don't get wet.

23 The last thing is incentives in the form of a
24 federal grant of eminent domain for transmission line
25 siting, I think is a really bad idea. And I hope you don't

1 go there. So I'll just leave it at that.

2 MR. CANNON: Thank you.

3 Rich?

4 MR. GLICK: Well I'm going to start with the
5 second question first because I really think the first and
6 the third questions really involve the same issue.

7 MR. CANNON: Sorry I asked them in that order.
8 Go ahead.

9 MR. GLICK: To advise my thought process here.
10 Well in terms of expansion of the system and infrastructure,
11 I think the issue of siting I'm going to leave that aside
12 because that's really an issue for Congress. I don't think
13 anyone thinks the Commission has that authority on its own.

14 But in terms of things the Commission can do to
15 encourage building more infrastructure transmission
16 facilities, we talked about it a little while ago, incentive
17 rates clearly if it's done correctly, the right type of
18 incentives to encourage new transmission construction. I
19 think that's pretty important.

20 But also as we discussed a lot earlier, when
21 Matthew Wright was up here, the issue of how do you price
22 transmission facilities is very important. I think it
23 depends what type of transmission facility you're talking
24 about. If you're talking about a facility that's built to
25 alleviate current congestion, that really benefits the whole

1 region, the whole RTO region, or a good part of the RTO
2 region, then there might be some benefits to pricing that on
3 a more socialized matter and where everyone picks up those
4 costs.

5 But if you're talking about trying to build
6 transmission facilities or interconnection facilities just
7 for one generating unit, you certainly don't want to send
8 out the signal that all customers are going to have to pay
9 for that because you might not be making the right decision.
10 It's not only a question of do you build the generating
11 facility in one place or do you build it in another place,
12 but there's also there may be other optimal things you could
13 do with the money, for instance, demand side management
14 could be more valuable than building that transmission
15 facility to interconnect with that generating unit. I think
16 there's certainly a variety of things I think we need to
17 take a look at and I think it would certainly send the wrong
18 incentive if we were to not take an incremental pricing look
19 on that type of transaction.

20 With regard to the first and third questions, I
21 think really the big key for a lot of jurisdictional
22 utilities here is we have to go back to our state public
23 service commissions and we've got to try to get these costs
24 passed through in retail rates and that's not always easy.
25 We either have, sometimes we have rate freezes, sometimes

1 there are other things going on that makes it difficult.

2 And again, we talked earlier about incentives;
3 you don't want to do anything to disincent utilities from
4 wanting to join RTOs. But I think it's important, at least
5 in the Northwest, we've had a regional process going for a
6 while now, making a lot of headway. We're going to be going
7 to our state commissions, working with a variety of regional
8 stakeholders and putting together something that hopefully
9 everyone in the region can live with.

10 The concern is if you go to FERC and you get a
11 whole different scheme imposed upon everybody, people might
12 not be comfortable, it'll be more difficult to go to the
13 state commissions and eventually get your prices passed
14 through, and I think that's something we need to consider as
15 we move forward.

16 MR. CANNON: Thanks.

17 And now, for the last word, and feel free, Sue,
18 to work in any Broadway musicals that you can to the three
19 questions.

20 (Laughter.)

21 MS. KELLY: If I were a rich man. Anyway, I will
22 take them in the order in which you gave them.

23 MR. CANNON: Extra points for that.

24 MS. KELLY: Thank you. I believe in cost
25 recovery for existing facilities you'll be surprised to

1 know. But, number one, it should be everybody's existing
2 facilities, not just jurisdictional transmission owners; it
3 should be all participating transmission owners.

4 Second, it should be no more than the cost of
5 their existing facilities however we figure that out to be.

6 I do not believe in bribing transmission owners to join RTOs
7 by giving them a big increase in existing costs. Many of
8 them have already made the commitment to join for mergers or
9 other reasons. We all I think three years down the road
10 have decided it's the right policy, that everybody should do
11 it, and they should do it.

12 I'm sorry they should do it as to the cost of RTO
13 formation, that question was raised. I believe, I realize
14 there's been a lot of bends and changes in the roads.
15 Believe it or not, the transmission owners are not the only
16 ones who have expanded a substantial amount of time and
17 money participating in RTO formation processes that may turn
18 out to be a cul de sac, shall we say, on the road to RTO
19 formation.

20 (Laughter.)

21 MS. KELLY: I've had clients that spent an
22 immense amount of money of my time in the last two or three
23 years to participate in that, so we all have scars, not just
24 the transmission owners, and let me start out from that
25 perspective.

1 That being said, I think cost recovery is
2 appropriate as long as everybody was acting in good faith
3 and it was a participatory process. What I don't want to
4 see is me being paid for the cost of attorneys to write
5 tariffs that treat me as a second class citizen on purpose.
6 And all I got was a coffee cup, you know. And those
7 processes were out there. Let me just say that.

8 So I think if it was a participatory process, and
9 everybody was acting in good faith, that's one thing; those
10 costs should be recovered. But if it was just one of those
11 things that was being shoved down our throats, then
12 seriously I do have a problem with paying those costs. The
13 problem is how to tell the difference. I understand that.

14 Regarding the costs of expansions. I think I've
15 discussed that earlier. If it's found to be needed for the
16 region by the planning process, then I believe that it
17 should be rolled in, and that the buy should be towards
18 rolling in and not incrementally charging everybody for
19 every last thing. I put a lot of weight on that planning
20 process and finding those facilities to be beneficial for
21 the whole region.

22 And I'm actually interested in the idea of
23 formulary rates over time as a way to deal with the cost
24 recovery concerns of transmission owners. That might be
25 something worth exploring, to keep, you know, for example,

1 an ISO from making a rate case every last time, you know,
2 one of its 15 TO members has an increase in costs. Maybe
3 formula rates is a useful administrative and regulatory way
4 to deal with that.

5 On the issue of the state/federal question, I
6 mean this is a huge problem. I really sympathize with you.
7 I went to the Supreme Court argument two weeks ago in which
8 this was discussed, and you are being whipsawed between the
9 Enrons of this world who say, you know, you should have gone
10 it all the way, you should have taken it all, and the states
11 that say how dare they take as much as they did. And
12 whatever you do, you're going to be sued by somebody most
13 likely. I mean that's just the way in which we live.

14 So I think you have to try and discern what the
15 right thing is and do that. And what I'm about to say is
16 one of the reasons why I'm here speaking on behalf of myself
17 alone. I come from the gas background where interstate
18 pipelines are FERC and FERC alone.

19 When I first started doing work in the electric
20 industry and I realized that all 50 states seemed to be
21 interested in collaring particular interstate high voltage
22 transmission facilities, and saying well those are ours to
23 regulate, I'm like what? You know. How could you ever run
24 a railroad this way? And I still think that today.

25 If it's an interstate transmission grid, it's

1 used for the benefit of everybody in the region, it should
2 be FERC's. The states should do retail, the FERC should do
3 wholesale. I don't know how we're going to get there, it's
4 probably going to require legislation. You know, it seems
5 like whoever wins, if you win in the Supreme Court, they'll
6 go to the legislature, but that's where it needs to be to
7 support a wholesale market in the long run. Everybody needs
8 to be on the same tariffs, rates, terms, and conditions. I
9 don't now how you get there. Good luck.

10 (Laughter.)

11 MR. CANNON: Well, I have no further questions.
12 I'd like to thank the panel and, Mr. Chairman, anything else
13 you want to add? Oh, excuse me.

14 MR. LARCAMP: Just one on any ideas about how we
15 get everybody on the new tariff and terminate the numerous
16 thousands of contractual arrangements that were entered into
17 in the old world?

18 We've not been successful in dealing with that
19 from 888 forward, so I'm just interested. Are there ways
20 that we consider perhaps being more prescriptive than we
21 were in the past to get everybody on the same tariff at
22 least within this decade?

23 MS. KELLY: I think if you construct a service
24 that is high quality enough and flexible enough and is
25 reasonably priced, they will come. I think a lot of the

1 reasons that people are holding on to grandfathered
2 agreements right now, and for example, some municipalities
3 and cooperatives that fought tooth and nail to get a decent
4 agreement back, you know, in the pre-888 days, you know,
5 they went to court, there was antitrust litigation, or
6 whatever. They got a deal that works for them, and it's
7 very difficult for them to give it up, especially in an
8 environment where when you translate that service to OATT
9 service -- we just went through that with one client --
10 there were attempts made to take us to the cleaners in the
11 process. So we're losing benefits that we had under that
12 grandfathered agreement.

13 So I think the trick to it is to make the service
14 attractive enough, flexible enough, correctly priced,
15 reasonably price, and I think they will eventually decide
16 that you've got the better mousetrap and may actually
17 migrate towards the service on their own.

18 MR. IRVIN: And I'd like to add that if a clear
19 direction of what this RTO is going to look like, is it
20 going to be strictly wholesale, or is it going to be
21 wholesale and retail, or is it going to be a mixture, then
22 you're going to be able I think to get a lot better buy-in.
23 But clearly, with the variety out there and just as we've
24 had in this discussion, not only this afternoon but
25 throughout this, the idea that the RTO is a market and then

1 it's retail functions, wholesale functions, people are going
2 to be skittish, and they're going to hang on to those
3 because they don't know where they're going to get burned,
4 and they're going to look for what's the best protection for
5 them because the one thing we all have to remember as
6 regulators is a public utility's first obligation, is not to
7 its customers, its first obligation is to its shareholders
8 if it's a private utility, a privately-held utility.

9 So in order to get them to change, I think it has
10 to come from a clear, definitive picture of what the RTO is
11 going to look like and what are the clear definitive goals
12 in the end result of this whole thing. And if that is a
13 national transmission grid, you know, so be it, but let's
14 come out and say that and let's work towards that.

15 MR. NEWMAN: You said within a decade and I think
16 that's achievable. You may have meant within a couple of
17 years but you did say within a decade. There are some major
18 transactions that I'm familiar with that the deal for the
19 power transaction was a combination of transmission and
20 generation recognized by the Commission at that time as some
21 of the transmission might have really been under-priced but
22 there was an overall deal there that they agreed on and
23 beneficial so on and so forth.

24 I would say if those have a term of another five
25 to seven years, that those would be very difficult to get

1 into. I mean, you're getting into existing, contractual
2 deals cut based on the whole deal. But others, in most
3 cases, I think you'd find most of the existing transmission
4 contracts today will expire well within ten years, and I
5 think that may not have been the real number you meant; you
6 may have meant a shorter number. Ten years shouldn't be at
7 issue at all.

8 If you do it very quickly, though, I think you'll
9 raise a lot of issues, more cost-shifting issues, obviously.

10 MR. BAKER: I think working off of what Bill said
11 that a lot of it is the people have these existing contracts
12 want to make sure they have the same reliability that they
13 have under the existing contract, and that they do not incur
14 more cost for sharing that reliability as a result of some
15 congestion management. So I think you have to find a way to
16 transition or to at least protect those rights if we're
17 going to move them under the other aspects of a tariff.

18 MR. LARCAMP: Do you think that if we kept price
19 constant for the remainder of the term, but sort of said the
20 new terms and conditions of the service under the new RTO
21 tariff will be controlling for such things as when you
22 schedule and those type of operational details that have
23 been negotiated in a variety of circumstances.

24 What concerns me is if there are numerous
25 contracts that fall into this, and I think we've been

1 blessed in sort of the tight power pool by not having this
2 problem very much, but in the non-tight power pool areas, we
3 do have a plethora of these special arrangements, and I'm
4 concerned about are we putting the RTO in a serious
5 operational problem if it must treat different customers for
6 using the system differently due to preexisting contracts?

7 MR. BAKER: I think that if you maintain the
8 economics, the operational aspects may not be as serious.

9 MR. NEWMAN: I agree with that. If the contracts
10 have some provisions that provide specific things that you
11 would have to go back and rework, as long as you could get
12 the power delivered reliably, all of those sorts of things,
13 I don't think that would be an issue to have in essence the
14 terms and conditions of the tariff. It is the dollar issue
15 primarily.

16 MS. KELLY: I think that's probably true in most
17 cases. There are, however, certain deals and the ones that
18 come to my mind are minority interest deals and nuclear
19 plants that are so sui generis that you're going to have to
20 work through that.

21 MR. IRVIN: The bottom line, and it doesn't
22 matter whether you're a regulator or you're a privately held
23 corporation, the bottom line is the almighty dollar, and if
24 it can be reasonably justified and stay there, as
25 Commissioner Brownell said, you're going to be able to get

1 the capital markets to buy in and then you'll get those
2 contracts and get everybody on that same tariff, but it's
3 going to have to be reasonable and just, and there's got to
4 be those guarantees in there.

5 MR. CANNON: Enough. Thanks.

6 (Whereupon, at 5:00 p.m., the meeting was
7 recessed, to reconvene the following day, Thursday,
8 October 18, 2001, at 10:00 a.m., in the same place.)

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