



**Federal Energy Regulatory Commission
December 21, 2006
Open Commission Meeting
Statement of
Chairman Joseph T. Kelliher**

Item M-1: Process for Assessing Civil Penalties (AD07-4-000)

"One of the most important changes to the laws we administer made by the Energy Policy Act of 2005 was in the area of enforcement. For the first time, the Commission was granted significant civil penalty authority. The ability to impose civil penalties is the heart of the enforcement authority at most regulatory bodies.

Before the Energy Policy Act, the Commission's authority to impose civil penalties was quite limited. We had no legal authority to impose a civil penalty for violation of the Natural Gas Act, and no legal authority to impose a civil penalty for most violations of the Federal Power Act.

I encouraged Congress to strengthen the Commission's enforcement authority, by establishing an express prohibition of market manipulation and granting us civil penalty authority comparable to other federal regulatory agencies. I believed that we needed new regulatory tools to discharge our historic duty to protect the consumer.

Congress agreed, and the Energy Policy Act both established an express prohibition of market manipulation and strengthened our civil penalty authority. I thank Congress for granting us this new authority.

We moved quickly to implement our new enforcement authority. The first step was issuance on the Enforcement Policy Statement, which explained our commitment to firm but fair enforcement. The Enforcement Policy Statement also explained that our goal is compliance. We intend to develop strong compliance cultures in the companies we regulate, and will use our civil penalty authority to that end. The second step was issuance of the anti-manipulation rules.

We take the third step today, issuing a Statement of Administrative Policy that explains how we will assess civil penalties when we take enforcement actions under the various statutes we administer, principally Part II of the Federal Power Act, Natural Gas Act, the Natural Gas Policy Act of 1978, and Part I of the Federal Power Act.

The process we will use to assess civil penalties for violations of these various laws will not be uniform, it will vary from statute to statute. That is driven by differences in the laws themselves.

With respect to Commission enforcement actions, I would expect that in many cases they would result in settlements. Settlements allow us to stretch our enforcement resources, and conduct investigations across a wider field. They also benefit consumers, by delivering benefits such as disgorgement of profits sooner that would be possible under litigation.

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However, not all enforcement actions will result in settlement. In those instances, we are prepared to litigate. This order lays out the process we will use to assess civil penalties in enforcement actions that do not result in settlement.

This Statement of Administrative Policy demonstrates our continued commitment to firm but fair enforcement.”