

**Testimony of
Commissioner Pat Wood, III
Federal Energy Regulatory Commission
before the
Committee on Energy and Natural Resources
United States Senate
July 26, 2001**

Mr. Chairman and Members of the Committee:

Thank you for the invitation to appear this morning. I share the view that the nation needs a robust, affordable, reliable electricity sector. Almost ten years after Congress laid out a vision of competitive power markets in the 1992 Energy Policy Act, the goal is largely unfulfilled. There are some well-functioning competitive power markets in the nation, but most of the nation's customers are not in them.

I believe the FERC has sufficient statutory authority to do much to fulfill Congress' vision already, but, based on personal experience as a state regulator in Texas, a ringing legislative reaffirmation of this goal, either through clarifications or changes in the law, or more informally, through hearing such as this one, will speed the advent of coast-to-coast competitive power markets.

To address the points in the Chairman's recent White Paper.

1. Transmission Jurisdiction

It would simplify and clarify FERC's ability to create truly open, competitive electric markets if FERC has clear authority over all interstate transmission. Unless every transmission owner participates in Regional Transmission Organizations (RTOs) of some sort, there will remain barriers of legality, cost, and time that will slow the entry of new

generators and increase the wholesale and retail costs of electricity. This should not be viewed as a raid on state jurisdiction, but a necessary step to provide some needed certainty for investment in this crucial industry. Transmission is a critical component of the electric power industry, but on average, it only makes up about 5-7 percent of the total retail cost of electricity. Having one agency making the calls on cost recovery and nondiscriminatory treatment of customers makes a lot of sense.

I wholeheartedly agree that interconnection rules and procedures should be standardized, to minimize the cost and barriers for new generation. A related issue is how costs of new interconnection should be borne – my colleagues and I have already agreed to address both of these issues more globally in the near future. I also believe the FERC has a leadership role to play in establishing interconnection rules and procedures for small-scale, distributed generation as well.

2. Reliability

Maintaining grid reliability is a basic duty of utilities. Over the years, industry members have devised a number of standards that govern reliable operation of the grid. More often, in recent years, pure reliability standards have come under some tension with the needs of a robustly competitive marketplace. Combining the responsibility for balancing reliability and competitive open access in the regional transmission organizations makes a lot of sense. FERC should be given clearer authority to enforce

(either through the RTOs, or directly, if necessary) all rules against any party who fails to adhere to the standards.

3. Rates and market power

Without question, FERC should promote competitive markets; I doubt an additional legislative mandate is required. Workable competition in a market is a prerequisite for deregulation of an electricity market, and adequate infrastructure and balanced market rules are the defining characteristics of workable competition. FERC has a number of tools already to ensure that these events occur in the correct sequence, but one additional tool might be helpful: the ability to assess administrative penalties for violations of the law or Commission rules. (This would also encompass reliability infractions mentioned above).

Vigilance is the price of liberty. FERC must watch over these markets as the cop on the beat walks through neighborhoods to keep them safe. In recent weeks, the FERC has made notable strides toward meeting this challenge but more work will be required. We must have ongoing, aggressive, sophisticated market surveillance together with RTOs and state regulators. We must couple this with the understanding of how to know when a market is working properly, how to diagnose when and how markets go awry, and how to intervene in ways that are effective without destabilizing future investment in the sector.

Markets work far better when all buyers and sellers see accurate price signals. Because this necessarily involves both state and federal regulators, coordination is

necessary to pursue a host of customer-focused goals: demand-side resource participation in power markets; combined heat and power and classic energy conservation measures; access to advanced technologies such as real-time and demand-metering, distributed generation, and energy storage; and other measures that give customers more control and options over their energy use and its costs.

4. Regional Planning and Siting

Transmission investment is more than just who sites the facility; it involves a full and engaged process of planning, consultation and execution. Placing the responsibility for regional transmission planning in the hands of RTOs makes a lot of sense as RTOs will have the clearest view of what new transmission is needed to facilitate competition and enhance reliability. A proper balance of state and federal responsibility might go something like this: the regional RTO makes a pure engineering determination that a specific need exists for certain amounts of transmission in certain portions of the grid. Either a competitive process or a direct designation is used to determine who will build such a facility. Then the relevant state or states focus on line routing and environmental issues, ideally through a multi-state regional regulatory process. Given the urgent need for many new transmission lines to relieve reliability constraints or economic constraints in the national grid, some time limit for action could be placed upon these state-specific approvals -- for instance, if a state or regional transmission authority has not acted upon

a transmission project within one year of the filing date, then the case should be sent up to FERC for formal review.

5. Market Transparency Rules

Workable markets rest on a foundation of good, accessible and timely information. If there is too little information available to market participants, players' decisions may be poorly founded and risks and their costs increase as they leave money on the table. Other information crosses the line into strategic, business-critical data that helps individual competitors more than it helps the market as a whole. Overall, we need to create market rules and authority that assure the collection and fair dissemination of market-supporting data on market transactions. But we should rethink which data we need and how we collect, process and use these data – it does no good if we collect the wrong information, or collect it so late and hold it for so long that it has no value to market participants. I do not have any specific recommendations at this time, but I will be working with my fellow commissioners and staff at FERC to better understand what we need to do to improve market information and transparency.

6. Tax Provisions

It is important that tax laws are not used as excuses by certain market players to not move aggressively toward competitive power markets. In that regard, proposals to address public power and cooperatives' private use restrictions and investor-owned

utilities' current disincentives to transfer transmission assets to RTOs should be addressed in legislation.

7. Other

I have been of several minds about the best location of customer protection duties such as customer information labeling and slamming/cramming prevention. Rather than house these duties at the Federal Trade Commission, I think they might fit better at the FERC. This would be good not only for the issue, but for the FERC. As state commissions do, FERC would benefit from being closer to the people directly impacted by our regulation. It also makes "good government" sense to have one federal agency overseeing electric matters, not several. A regulator that has all aspects of an industry under its umbrella can generally be more effective and efficient in balancing the many interests involved.