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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :  
CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC :  
CONSENT - MISCELLANEOUS :  
CONSENT MARKETS, TARIFFS AND RATES - GAS :  
CONSENT ENERGY PROJECTS - HYDRO :  
CONSENT ENERGY PROJECTS - CERTIFICATES :  
DISCUSSION ITEMS :  
STRUCK ITEMS :  
- - - - -x

882ND COMMISSION MEETING  
OPEN MEETING

Commission Meeting Room  
Federal Energy Regulatory  
Commission  
888 First Street, N.E.  
Washington, D.C.

Wednesday, March 2, 2005  
10:10 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN PAT WOOD, III, Presiding

4 COMMISSIONER NORA MEAD BROWNELL

5 COMMISSIONER JOSEPH T. KELLIHER

6 COMMISSIONER SUEDEEN G. KELLY

7 SECRETARY MAGALIE R. SALAS

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18 ALSO PRESENT:

19 DANIEL W. HAWKINS, Reporter

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## 1 P R O C E E D I N G S

2 (10:10 a.m.)

3 CHAIRMAN WOOD: Good morning. This open meeting  
4 of The Federal Energy Regulatory Commission will come to  
5 order to consider the matters which have been duly posted in  
6 accordance with the government and the Sunshine Act for this  
7 time and place.

8 Please join us in a pledge to our flag.

9 (Pledge of Allegiance)

10 CHAIRMAN WOOD: Before we start today, I want to  
11 acknowledge some folks from, a lot of you all that kind of  
12 follow the FERC, know that we have about a thousand  
13 employees here at our headquarters, but we have five  
14 regional offices; in San Francisco, Portland, Chicago,  
15 Atlanta, and New York, that do a lot of fine work on behalf  
16 of the Commission.

17 And we have the regional office engineers, deputy  
18 regional engineers, and dam safety supervisors. This is  
19 primarily our hydroelectric dam safety program that are out  
20 in the regional offices, about 150, 160 employees total,  
21 maybe 120 from two of our different divisions over in  
22 Projects.

23 So I wanted to recognize the folks here, and I'll  
24 ask you all to stand up and just welcome you back to the  
25 headquarters. We're glad to have you here.

1 (Standing) (Applause)

2 CHAIRMAN WOOD: And we don't get a lot of time, I  
3 think, to focus in these public meetings on hydroelectric  
4 issues, and I think that's a tribute to you all, because you  
5 handle the work so well on behalf of the public. Not only  
6 on the licensing side here, that we do get occasional issues  
7 here, but that very, very critically important  
8 responsibility of maintaining the safety and security of  
9 our nation's hydroelectric facilities.

10 It is honestly the most significant people-  
11 affecting thing that we do at this Agency. We do a lot of  
12 important policy issues that affect people's pocketbooks,  
13 but what you all do affect people's lives. And I've had the  
14 pleasure of getting to know you all, in the offices, as well  
15 as making some field trips; and Joe and I just recently did  
16 a trip back to Salida Dam to keep up with the progress down  
17 there.

18 But these are very significant projects, and I  
19 can't think you all enough for the expertise and quality and  
20 commitment you all bring to serving the public. So thank  
21 you for coming to Headquarters today; I know you all have  
22 got a busy day planned, but we wanted to tip our hat to you  
23 all and welcome you back to Headquarters.

24 Suedeen?

25 COMMISSIONER KELLY: I'd like to take this

1 opportunity to introduce an extern with us, Kristen  
2 Connolly. Kristen, would you stand up, please?

3 Kristen is an extern, she's a third year law  
4 student from Washington University in St. Louis, and we're  
5 very pleased to have her here. We're a little sad that  
6 she's going to be leaving us, but the firm of Duncan,  
7 Weinberg has the benefits of our loss. I just wanted to  
8 introduce her today, thanks.

9 CHAIRMAN WOOD: Thanks, Suedeen.

10 Just to add, next week on March 8th we're having  
11 our technical conference on the Principles for Efficient and  
12 Reliable Reactive Power, Supply and Consumption here at the  
13 Commission. And as you all know, when we talked about this  
14 earlier, reactive power is an issue that has a role to play,  
15 an unwelcome role to play by its absence in the August 2003  
16 blackouts in Northeastern North America.

17 So we wanted to focus, as a policy issue but also  
18 importantly looking at the engineering and the economics  
19 issues; and we have a full day planned for that on March  
20 8th, and it will be staff-led conference. So I hope we can  
21 get some wisdom and insight from that, and make some good  
22 policy decisions as a result.

23 There are a couple of items on the consent agenda  
24 that relate to the reactive power issue. They're not going  
25 away; they keep coming up as individual issues, and I think

1 like we did probably three years ago with generator  
2 interconnections, when you start to see enough data points  
3 out there, we want to make sure that they're all  
4 consistently dealt with in the policy arena. So that's  
5 really where we want to go with that next week. So I hope  
6 there's some good participation in that.

7 Madam Secretary?

8 SECRETARY SALAS: Good morning, Mr. Chairman, and  
9 good morning, Commissioners.

10 The following items have been struck from the  
11 agenda since the issuance of the sunshine notice on February  
12 23rd. They are:

13 E-5, E-19, E-30, E-33, E-37, E-63, E-71, E-74, G-  
14 7 and C-4.

15 Your consent agenda for this morning is as  
16 follows: Electric items E-1, 2, 3, 7, 8, 9, 11, 12, 13, 14,  
17 15, 16, 20, 22, 23, 28, 29, 31, 34, 38, 39, 46, 47, 48, 49,  
18 50, 51, 52, 53, 54, 55, 57, 59, 62, 64, 65, 68, 69, 73, 75,  
19 76, 77, 78, 79 and 80.

20 Miscellaneous items: M-1.

21 Gas items: G-3, 4, 5, 6, 8, 9, 11 and 12.

22 Hydro items: H-1, 2, 3, 4, 5, 6, 7, and 8.

23 Certificates: C-3 and C-5.

24 As required by law, Commissioner Kelly is recused  
25 from E-50 and G-9 on the consent agenda, and Commissioner

1 Brownell is recused from H-6, also on the consent agenda.

2 On E-48, Commissioner Kelly is dissenting in  
3 part, with a separate statement.

4 And Commissioner Brownell votes first this  
5 morning.

6 COMMISSIONER BROWNELL: Aye, noting my recusal on  
7 H-6 as required by law.

8 CHAIRMAN WOOD: Aye.

9 COMMISSIONER KELLY: Aye, noting my dissent in E-  
10 48.

11 COMMISSIONER KELLIHER: Aye.

12 SECRETARY SALAS: The first item for discussion  
13 this morning is A-3, which is Natural Quality Standards and  
14 Natural Gas Interchangeability. It's a presentation by Don  
15 Santa from the Interstate Natural Gas Association of  
16 America, Skip Horvath from the Natural Gas Supply  
17 Association, and Mark Hereth from Process Performance  
18 Improvement Consultants.

19 CHAIRMAN WOOD: Before you all start, we welcome  
20 you all back. We met last year, and then late last year in  
21 December you brought a good group to come give us a  
22 briefing, here on the third floor, on where things are going  
23 with these two issues that are starting to show up a lot on  
24 our dockets.

25 And we look to the Council's leadership on

1 getting some guidance on where are the consensus points on  
2 interchangeability and gas quality issues, as we move into  
3 the more diverse gas supply portfolio future and look  
4 forward to hearing where you all are. I appreciate your  
5 responding to my request to come today, because as we do  
6 with the folks from NAESB, we really look to help on these  
7 technical issues, and to some extent some policy issues from  
8 the industry to help get some buy-in and consensus so  
9 there's a healthy, happy future for us all.

10 So thank you for coming back and bringing the A  
11 team here with you.

12 @ MR. HORVATH: My pleasure, Mr. Chairman. Thank  
13 you very much. Don Santa and I are here today representing,  
14 on behalf of the Natural Gas Council-Plus, which is not just  
15 the Natural Gas Council, but basically all the associations  
16 our industry, the natural gas industry, touches. So we have  
17 the gas appliance manufacturer's representative, we have the  
18 LNG industry represented on the other side, on the supply  
19 side, the gas turbine manufacturers.

20 I'm not going to list everybody, but it's a broad  
21 group, not just the Natural Gas Council, and what we did was  
22 get together and have put together a consensus that I think  
23 is unprecedented. It's unprecedented for two reasons:  
24 breadth and commitment. Again, the breadth is larger than  
25 any of us have ever experienced before in the natural gas

1 industry, because while we have gotten together and  
2 presented to you consensus on this before, the issue  
3 represented just the natural gas industry. This is the  
4 first time we reached to our entire customer base and looked  
5 at other suppliers, domestic suppliers and included them as  
6 well.

7 The second thing is the commitment. There were  
8 dozens and dozens of meetings in Houston or Washington  
9 involving, going to the wee hours of the morning many times,  
10 to reach this consensus, and especially in the last month or  
11 two. And we're very pleased that we did reach 100 percent  
12 consensus on the items we're going to give you today. There  
13 are some items we didn't reach consensus on, and that's a  
14 subject for future work; but we're really pleased, having  
15 gone as far as we have.

16 And to continue, I'm going to turn it over to  
17 Don.

18 MR. SANTA: Thank you, Skip, and thanks to the  
19 Commission for the opportunity to be here today.

20 As Skip noted, the NGC-Plus Group is very proud  
21 of the accomplishments, particularly those of the technical  
22 work groups, and we believe that our efforts are going to  
23 help the U.S. gas industry and U.S. consumers deal with the  
24 challenges of shifting sources of both domestic and imported  
25 gas supply, and also new end use requirements.

1           Today we're not going to take you through the  
2 details of all results; those are documented in two  
3 technical light papers that have been distributed to the  
4 Commission, that I believe are available at the back of the  
5 room. There's one white paper on the hydrocarbon dropout  
6 issue and another on the natural gas interchangeability  
7 issue.

8           Instead, we're going to use the time today to  
9 describe how we think these results are going to be useful  
10 to the Commission and to the industry. And to do that, we  
11 have asked Mr. Kendall Hereth, a consultant and facilitator  
12 retained by the industry and its customers, to facilitate  
13 the technical groups and also facilitate the preparation of  
14 the white papers.

15           So with that, I'll turn it over to Mark.

16           MR. HERETH: Thank you, Don.

17           Good morning. Over the past year, we've had the  
18 good fortune to work with, as Skip stated, really the full  
19 breadth of the national gas value cycle. Really from supply  
20 and production all the way through end use. And that group  
21 of people has worked over the 12 months through a series of  
22 meetings, teleconferences as he said into the wee hours, to  
23 reach a consensus which we also call unanimity among this  
24 group with a lot of hard technical work.

25           We have a brief slide that summarizes our overall

1 technical work. The first point is that with respect to  
2 control of hydrocarbon liquid dropout that we reach  
3 consensus on a process to determine the basis for  
4 establishing limits. We worked hard at looking at  
5 historical data to try to find if there was a way we could  
6 define one limit that we could apply across the country.  
7 And we were unable, based on the data we had in hand, the  
8 technical information and the good engineering science, to  
9 come to one single number.

10           So what we did is we stepped back and we said,  
11 "Is there a way that we can help in this process by defining  
12 a systematic process that can be applied in a stepwise  
13 manner that has good science and engineering behind it?"  
14 And I'll add, we employed thermodynamics, we got into  
15 differential equations, we brought it all to the table, but  
16 we hopefully have put it in a very simple format that people  
17 can apply anywhere along the system.

18           Then when it comes to interchangeability, and  
19 really interchangeability and noncombustion end use, that is  
20 use as feedstocks, we looked at natural gas and said "What's  
21 this basis to go upon that." And we drew upon a long  
22 history that goes back probably 60 years. And we looked at  
23 the changing gas supply that we have today, we looked at the  
24 nature of the end use applications that we had today with  
25 tightening regulations, and we said there is no one

1 parameter that can help drive this.

2 A lot of people have looked at Wobbe, we looked  
3 at higher heating value. At the end we came up with four  
4 parameters that are summarized on the slide. We have a  
5 maximum Wobbe limit, we have a maximum higher heating value  
6 limit, we have a limit on butanes+, and we have a limit on  
7 total inerts. And when you take each of those in  
8 combination, it provides an envelope that provides for safe,  
9 reliable, protective of integrity of the system, and also  
10 assures good supply and brings as much supply in as we can  
11 find in this consensus group. So that's summarized on the  
12 slide there.

13 What I'd to do next is to share with you some of  
14 our experience over the past year, to hopefully give you an  
15 appreciation of how the process worked and where people have  
16 come from.

17 The first point is that we had really what we  
18 called a primary rule, although it often in meetings became  
19 a primary directive. Which was, if you had an issue, you  
20 could bring it to the table, but you had to support it with  
21 data or you had to support it with a good, sound technical  
22 argument. Because what we found early in the process,  
23 everybody's great at identifying the technical issues. We  
24 had issues around turbines, with environmental regulations  
25 on NOx, constraining; we had issues around appliances, we

1 had to make sure that we weren't going to have lifting and  
2 yellow tipping in appliances -- all very legitimate  
3 concerns. We didn't want to have knock in engines, and  
4 natural gas vehicles are industrial engines of which we have  
5 a huge population in this country. So we had to balance all  
6 those issues.

7           What we found very quickly is it was very easy to  
8 talk about the issues, we had to get them into buckets and  
9 manage them one-by-one by-one. The first thing we had to do  
10 was to get everybody to use the same vocabulary. In  
11 engines we talk about knock, in turbines we talk about auto  
12 ignition. So we had to talk about methane numbers in one  
13 context and convert to butanes and propane plus numbers in  
14 another. We had to bring everybody to the same vocabulary,  
15 the same view of combustion. There was a lot of deep  
16 history in combustion science, but we had to get everybody  
17 to come to the same view.

18           The next thing we had to was dispel a lot of  
19 myths. And over a series of about three or four months,  
20 everybody came to the table with their own perception of  
21 everybody else's business. Everybody thought LDCs did  
22 things a certain way, they thought pipelines were run a  
23 certain way, they thought that with gas turbines that "Well,  
24 geez, knocks isn't an issue, you can put on the front end  
25 controls, but you've got SCR on the back end." And what we

1 found over time is, in many instances in this country,  
2 you're going to need both.

3 So we couldn't simply sit back and say an end use  
4 environmental control was going to solve all issues. And we  
5 couldn't say that appliances could run with a full, robust  
6 range of natural gas and still be able to meet lifting and  
7 yellow tipping concerns.

8 We found that LDCs had some real constraints in  
9 terms of the types of supply they can take. So what we saw  
10 over time is, everybody learned more and more about the  
11 technical aspects of each other's business. What that meant  
12 is, it meant for much more give-and-take. It's had to have  
13 that on paper, it's hard to have in documents. So everybody  
14 educated each other about each other's business.

15 One of the key points was that everybody moved  
16 from their initial position. With respect to LNG suppliers,  
17 we identified early on four bands of supply, ranging from  
18 anywhere from 1400 up into the 1450 range, and we were sure  
19 at the beginning, in all fairness, that the suppliers  
20 believed they were going to be able to bring in all their  
21 supply without any treatment, without any kind of blending;  
22 and very quickly they learned early on, in seamed end use  
23 applications that were not going to permit that per se, and  
24 recognized there was going to be some need for blending in  
25 for treatment, before it could come into the country.

1           So if you take that from a production and supply  
2 standpoint, we looked at the end use side, and we saw that  
3 appliances had limitations on their rangeability. We also  
4 that areas in the Northeast and particularly in the northern  
5 part of the Midwest, that our supply range was historically  
6 in a plus or minus 2 percent range, a very tight range,  
7 because there's been a lot of coincidental blending in the  
8 pipeline system today.

9           And so what we found is we had to step back and  
10 look at our historical experience all across the country.  
11 We undertook a major effort to collect historical data and  
12 build on work the GRI had done in the early Nineties. And  
13 we looked at regional data from all over the country, and  
14 got comfortable with the fact in the group that we could  
15 probably work with a range of plus or minus 4 percent.

16           So you'll see as one of the primary factors in  
17 our technical findings on interchangeability that the  
18 primary first driver is to look at historical level, and a  
19 range of plus or minus 4 percent around that. That's really  
20 the driver. And that was supported by the appliance  
21 manufacturers, by the gas turbines, by the engines, by  
22 industrial boilers; everybody came to that consensus  
23 eventually.

24           But that did take some movement. As I mentioned,  
25 some of our LDCs have seen a plus or minus 2 percent. It

1       took their comfort level to build to see that they could  
2       deal with that plus or minus 4.

3               CHAIRMAN WOOD:  Is that measured both at the  
4       point where the gas is put into the interstate system and  
5       taken out, or just one of those?

6               MR. HERETH:  That's a great question.  Actually  
7       we worked really hard -- our primary focus was to look at  
8       end use, because that's where the interchangeability science  
9       is focused.  We tried to work back into the infrastructure  
10      and could not get there.  We, the group, could not get back  
11      further in the pipe, so to speak.  We really focused, and it  
12      took our effort to get the consensus around the delivery to  
13      the end use.  So the numbers you see there apply in end use.

14              CHAIRMAN WOOD:  Okay.  All four of these  
15      parameters?

16              MR. HERETH:  Yes, sir.  Exactly.

17              COMMISSIONER KELLY:  Mark, is it the case that  
18      although these parameters that you've identified apply to  
19      end use, they could be managed at different places?

20              MR. HERETH:  Absolutely.  The team would tell you  
21      that those parameters are the way to control throughout the  
22      system.  They're going to take a different view at various  
23      places in the system, but those four parameters provide the  
24      -- we began to use the term, an operating envelope; they  
25      really provide an operating regime where you can have, you

1 can protect pipeline integrity, you can have good safe  
2 operation, you can have reliable delivery and meet  
3 environmental performance standards.

4 COMMISSIONER KELLY: Thank you.

5 MR. HERETH: I think one of the other things that  
6 we found is that there was a lot of education that had to go  
7 on, that the concepts of cricondentherm -- of  
8 thermodynamics, of use of differential equations was out  
9 there on the edge for a lot of people when we began this  
10 process. And for us to talk about phase diagramming and  
11 thermodynamics, and to get all the end users to gain an  
12 appreciation; that was an essential part of this,  
13 particularly with liquid dropout.

14 And one of the great things about science is that  
15 we have that -- for those of you that have seen that phase  
16 diagram, it's a great thing that that curve turns on under  
17 in what's called a retrograde section, because if we didn't  
18 have that science, we'd have a bigger problem than we have  
19 today. And the good news is we worked with the LDCs to see  
20 how that curve behaves, the shape that it takes, and that we  
21 can protect their systems if we set the right limits. So  
22 it was a real key for people to take the time and understand  
23 the good science and engineering behind it.

24 I think one of the other key points was with  
25 respect to turbines. The turbine manufacturers had been

1 pushed rally hard with environmental controls on NOx  
2 emissions in particular, and also in their need to achieve  
3 greater efficiency has really been pushed to tighten down  
4 the operating regime that they have. So when we come along  
5 and try to push the gas supply, their initial position is  
6 'we can't handle a Wobbe' -- for example, one manufacturer  
7 said 'we can't handle a Wobbe above 1391.'

8 So we had a series of meetings, we asked them to  
9 go back and look at their data, we presented data showing  
10 what we've seen in various parts of the country, and they  
11 came back and they said, 'what we think we can do is by  
12 employing additional controls, potentially closed loop  
13 controls, additional engineering controls or equipment on  
14 the systems, we can probably get to 1400.'

15 So as we saw, the LNG suppliers, recognizing they  
16 need to make some movement, we saw the end users seeing that  
17 they needed to make some movement. It took a lot of back-  
18 and-forth over a lot of months.

19 The key I think is that, again with respect to  
20 the LNG supply is that we saw that the suppliers came to the  
21 table with that expectation, 'we've got to find a way to get  
22 supply in.' And one of the things that we found was that  
23 all participants appreciated that that need to balance, that  
24 need to get additional supply -- we saw the gap, it was  
25 apparent to everyone, but we needed to meet those end use

1 specifications as well.

2 I'll turn it back at this point. Thank you.

3 CHAIRMAN WOOD: Thank you, Mark.

4 MR. HORVATH: We had a few policy consensus  
5 items, but in the interest of time we'll wait for Q&A; maybe  
6 this will develop at that point.

7 We have a list of tough calls that the Commission  
8 is going to have to make; there's probably a lot of them,  
9 but four of them jump out, just four of them are fairly  
10 obvious.

11 One is, you're going to have to decide the  
12 procedural vehicle you're going to use going forward, to  
13 place the gas quality specs into the pipeline tariffs, and  
14 decide whether or not, it's all of the pipes or a subset of  
15 the pipes that you have to decide this on. We did not reach  
16 a conclusion or consensus on that item.

17 Secondly, a practical application of the  
18 plus/minus 4 percent, it's easy to say; plus/minus 4 percent  
19 some historical number. There's good data in many parts of  
20 the country, and FERC doesn't have that data; that data  
21 resides in the industry. And doing that in an inexpensive  
22 way is going to be a challenge going forward, and a process  
23 you'll have to manage.

24 Third, for both liquid dropout and  
25 interchangeability, you'll have to face the dilemma how to

1 prevent these varying local standards from driving the least  
2 common denominator parts of the whole country, so some  
3 locality with a particular constraint doesn't drive the rest  
4 of the country to something that restricts supply or causes  
5 end use issues in some other part of the country.

6 Finally, translating -- as Mr. Chairman, you  
7 noted, translating these end user market area -- I think the  
8 term I used was city gate -- specs into something that can  
9 be applied upstream will often be, the measures are, is  
10 something that we'll have to figure out together. It's  
11 going to be a tough call for you to make, because the  
12 incidental blending that occurs in pipelines, other things  
13 you can do are not necessarily -- it's not hard science,  
14 it's more engineering, and it goes across the country, and  
15 we'll just have to work with you on making that happen. But  
16 we're committed to it.

17 Now there are some gaps in our knowledge,  
18 otherwise we could have delivered much more to you today,  
19 and to identify those I'm going to turn it back over to Don.

20 MR. SANTA: Thank you, Skip.

21 One of the things the technical groups told us  
22 was that they recommend additional research and development  
23 particularly in connection with natural gas  
24 interchangeability.

25 Given the limits of the present knowledge on the

1 ability of appliances and other end use applications to  
2 accept a wider variability in the range of gas, the  
3 technical groups were uncomfortable expanding the  
4 recommended operating ranges.

5 In order to address this issue, the technical  
6 groups recommend an expedited cooperative research program  
7 that would, among other things, undertake the testing, the  
8 safety in environmental performance of new end use equipment  
9 and appliances with varying gas supply.

10 The knowledge that we would hope to gain from  
11 this research and equipment testing promises to make it  
12 possible for us to move beyond today's recommendations. For  
13 example, Mark has told me that if we could find a technical  
14 basis for expanding the interchangeability range from the  
15 plus or minus 4 percent to plus or minus 5 percent, this  
16 would greatly expand the range of gases that would in fact  
17 be interchangeable.

18 The technical groups estimate that the work will  
19 cost approximately \$5 million, that it would take about two  
20 years to expand the interchangeability testing program. And  
21 the groups encourage the Commission to take a leadership  
22 role in encouraging and facilitating this cooperative R&D  
23 that we believe should be a joint government/private sector  
24 co-funded effort.

25 We know that obtaining funding and combining

1       disparate research efforts can be daunting. Still, I think  
2       that there would be a tangible benefit if the end results  
3       made it possible for end users to accept greater variability  
4       in the natural gas stream beyond what historically has been  
5       seen.

6                     And that concludes our prepared presentation.  
7       Thank you very much for the opportunity, and your attention,  
8       and we're most happy to respond to any questions you may  
9       have.

10                    MR. HORVATH: And point out again, the Plus reps  
11       of the committee today are seated in the first two rows  
12       behind us.

13                    CHAIRMAN WOOD: First off, I want to thank you  
14       all and them, and all the folks that have been working on  
15       this for the last year.

16                    Let's hone in on the four policy issues first  
17       that you identified, Skip. The first one that you mentioned  
18       was the procedural vehicle. What are the pros and cons and  
19       what are the range of options there?

20                    MR. HORVATH: The range of options that were  
21       identified in the group are Section 4 filings -- all these  
22       are existing. Section 4 filings, the complaint procedure,  
23       that is a hotline procedure, so that's sort of a Section 5  
24       procedure. Policy statement is another option, and  
25       rulemaking is the fourth.

1                   Don, I think I've covered -- I'm sorry, Section  
2                   3, for the interchangeability as well, for LNG terminals.

3                   As far as pros and cons --

4                   CHAIRMAN WOOD: Let me just ask you a question.

5                   Would it be something as plain as at the city  
6                   gates you, Pipeline, shall ensure that these four criteria  
7                   are met for all gas you delivered at the city gate? Is that  
8                   an outcome?

9                   MR. HORVATH: That's the idea. Whether -- I  
10                  mean, if you decide whether what we've done is appropriate  
11                  at all locations, and figure that out, and which pipelines  
12                  it goes onto; but that's the idea, yes. Hydrocarbon  
13                  dropout is a procedure. If you turn to the very last page,  
14                  I think it's Appendix B of the hydrocarbon liquid dropout  
15                  paper, you'll see a procedure written by the engineers that  
16                  any engineer can follow to determine what appropriate degree  
17                  the cricondenthem or the temperature at which you don't  
18                  want to go below.

19                  You know, what that temperature ought to be for  
20                  each system, each part of the country, that will help you  
21                  determine that; but as Mark pointed out, there is no one --  
22                  you can't stick a number in that one, Mr. Chairman.

23                  CHAIRMAN WOOD: And does interchangeability, does  
24                  the dropout issue, that happens really -- I'm looking at the  
25                  slide that you all put up here a moment ago. It says

1 hydrocarbon liquid dropout, reach consensus on process to  
2 determine limit. That's the Appendix A format, Skip, you  
3 just referred to?

4 MR. HORVATH: The first bullet on that slide  
5 refers to Appendix B of the hydrocarbon liquid dropout  
6 paper. Interchangeability is --

7 CHAIRMAN WOOD: Fourth.

8 MR. HORVATH: Yes, summarized on that chart.  
9 Pretty succinctly.

10 CHAIRMAN WOOD: So the process by which that gets  
11 implemented is the first question, okay. There's a range of  
12 kind of existing Commission tools that we've got here for  
13 that, okay.

14 Second one is, does the plus or minus 4 percent -  
15 - what is the issue there? Does that not work everywhere?

16 MR. HORVATH: It's not that it doesn't work; it's  
17 that when -- actually, I'm to let Mark address this.

18 Mark, why don't you describe the sampling that  
19 was done to determine that plus or minus 4?

20 And how you go to the 4, as opposed to 3 or 5.

21 MR. HERETH: Okay. What we did is we went to  
22 members of AGA and APGA as well as members of INGAA. So we  
23 looked at pipeline deliveries and LDC receipts, and we said  
24 "What's our historical experience been?" We went back to  
25 existing data from '91 -- we looked at data at '96, and we

1 looked at data in the year 2002-2003.

2 And we said, "What is the range that we're seeing  
3 in these areas with respect to Wobbe and higher heating  
4 value. And what we typically saw was there was a range  
5 somewhere around a mean value of somewhere between 2 and 4  
6 percent.

7 We then looked at what end use applications could  
8 withstand and could take with safe, reliable operation, and  
9 we found that band to be about plus or minus 4 percent. So  
10 we saw a good match between the two.

11 But I think that one of the points that Skip  
12 wanted to make was that in some places in the country, that  
13 range has been a lot tighter because of the coincidental  
14 blending that we see. So you get into the Northeast, your  
15 range might be plus or minus 2 percent. You get into the  
16 middle part of the country, in Michigan, Minnesota, up in  
17 there, you begin to see that same tighter range.

18 Now the technical group believes that you can run  
19 that full range.

20 CHAIRMAN WOOD: And that's because, what aspect  
21 of the blending?

22 MR. HERETH: What happens is we get a lot more  
23 blending as we go up through the pipes, as we go up through  
24 the pipes that come out of the Gulf, they come out of the  
25 Anadarko, they come out of Yougatin Basin, they come out of

1 Canada. We get much more homogenization of the gas; it  
2 tends to become more uniform.

3 As we're closer to supply areas, you see a  
4 greater variability. So in Texas and Louisiana we saw our  
5 greatest variability. In the Houdonton area, in Kansas, in  
6 that area out in there, we saw the greatest variability. As  
7 we get up into the Northeast into Boston, or we get up into  
8 Chicago and Detroit, we see a great deal more  
9 homogenization, then that range tightens up.

10 CHAIRMAN WOOD: Are appliances able to handle  
11 stuff better in Texas and Kansas than in Massachusetts?

12 MR. HERETH: Well, the key is where they're set  
13 on rate, and this is really why we got to this range. If  
14 they're set on rate at let's say a Wobbe of 1350, if you do  
15 that plus or minus 4 percent, that means one thing. If  
16 they're set on rate lower or higher than that, it means the  
17 range has to be adjusted to where they're set on rate.

18 So that's why we say the primary concern is that  
19 plus or minus 4 percent.

20 MR. SANTA: Why don't you define set on rate.

21 MR. HERETH: The set on rate means where the  
22 appliance is set up, where it's set to be run with the gas  
23 that's supplied today in the infrastructure.

24 CHAIRMAN WOOD: That's calibration, that can be  
25 done on the equipment.

1 MR. HERETH: Yes, sir.

2 COMMISSIONER KELLY: Ultimately, then, we need to  
3 translate the specs that you gave us for end use to delivery  
4 or receipt points, right?

5 MR. HERETH: That's exactly correct.

6 COMMISSIONER KELLY: Did you work on that as a  
7 group and fail to come to a consensus, or is it a situation  
8 where we don't know technically how to achieve that?

9 MR. HERETH: Well, we worked on it and it became  
10 a very difficult task to take on, at the same time we were  
11 also trying to come to resolution on the end use  
12 specification. So we prioritized and really focused on  
13 reaching the consensus on the end use.

14 It's clear that it's a difficult task, that  
15 there's a lot -- the benefit that we have today is that  
16 there's a lot of coincidental blending that occurs on our  
17 system. The challenge we have is, every time we bring a new  
18 terminal on and we bring more and more cargoes in, we  
19 believe that's going to push the supply that we see along  
20 the coasts, whether it's in the Gulf, the Northeast, or out  
21 in the West. It will begin to push our domestic supply more  
22 and more inshore.

23 What that means is, we're going to begin to see a  
24 change in our supply, as we have from time to time, even  
25 with our domestic supply. So the challenge there is to look

1 and see how that's going to occur and the way it's going to  
2 occur so we can properly address that.

3 COMMISSIONER KELLY: In properly addressing that,  
4 is it most appropriate to look at the tariffs of the LNG  
5 terminals, or the import specs, or where the gas goes into  
6 the pipeline?

7 MR. HERETH: Ultimately you're going to -- what  
8 we heard from the suppliers and what we heard from the  
9 pipeline operators is we have to manage this issue that Skip  
10 referred to before, of managing to make sure that we're not  
11 being driven by a lowest common denominator approach, that  
12 somebody up the pipe is not driving a receipt point or a  
13 delivery into a terminal spec that's going to constrain  
14 supply throughout the whole country.

15 So the key is how you manage that process.

16 COMMISSIONER KELLY: And are you also implying  
17 that it needs to be managed on a terminal-by-terminal basis?

18 MR. HERETH: I'll have to tell you that we did  
19 not get through that -- that was an area we could not get  
20 through. We all recognize that the pipelines are the  
21 mechanism, and the terminals are the mechanism that you have  
22 from an administrative standpoint. It was really beyond the  
23 timing and our effort to be able to work through that back  
24 into the terminal or to the pipeline.

25 MR. HORVATH: I think it's safe to say, again,

1 that's a part of the tough calls you're going to have to  
2 make.

3 MR. SANTA: That was one of the issues that was  
4 the subject of some discussion among the steering committee  
5 on which we could not reach a consensus. The point was  
6 advanced by some that, given that the most identifiable,  
7 noticeable change that will take place in the gas over the  
8 next several years will be LNG terminals adding capacity and  
9 new terminals coming on that, on the one hand the argument  
10 was made 'well, why not address it via the Section 3  
11 authorization and put it there?'

12 At least until you had concluded the R&D and  
13 equipment testing to fine-tune the interchangeability  
14 standards, the argument on the other side was that 'well,  
15 interchangeability goes to end use and therefore ought to be  
16 applied at the city gate,' and that there was, at least in  
17 the view of those on that side of the argument, no basis for  
18 singling out the LNG terminals.

19 COMMISSIONER BROWNELL: Wouldn't it be hugely  
20 inefficient to do it on a terminal basis? I mean, it just  
21 seems to me just not a very effective way to do it. Isn't  
22 there a cost to that?

23 MR. SANTA: One of the things, Commissioner  
24 Brownell, that the group did not look at or get into was any  
25 type of economic analysis of where would be the most

1 economically efficient place to put these restrictions in  
2 place?

3 As has been noted, there is some incidental  
4 blending that occurs as different streams of gas merge in  
5 the pipeline system. By the same token, you give them the  
6 location of an LNG terminal, whether it is located on the  
7 Gulf Coast or whether it is located, for example, like with  
8 the Cove Point directly in a market area, I would say could  
9 have a pretty big effect on how much the adding the LNG into  
10 the mix is going to affect the gas that's seen by end users.

11 MR. HORVATH: We can appreciate that the level  
12 the group is in, because you have in some cases markets that  
13 are thousands of miles away from the source of the gas, and  
14 other cases that are tens of miles away. All we could do  
15 was look at the data that exists at the market, when the  
16 Commission decides how to apply it in Texas versus how to  
17 apply it in Delaware, it's going to have to be different.

18 COMMISSIONER BROWNELL: Uh-huh.

19 MR. HERETH: If I can add one point: One of the  
20 things that the suppliers told us early on in the process --  
21 this is the LNG suppliers -- is they wanted greater  
22 certainty; they wanted a better picture of what we were  
23 going to be seeing in the future, so they could plan.  
24 Because they're looking at long-term contracts.

25 As we worked through this we said 'If we can

1 provide these limits at the end use, and you can then begin  
2 to see where you're going to place your terminals, does that  
3 provide the kind of certainty that you need? Does that  
4 help?'

5 Obviously their answer was they'd like to have  
6 something back further in the infrastructure. But they said  
7 'If we see this 1400 and we see this 1110, an we see the  
8 limits in the system here, that will help us do the kind of  
9 planning that we need to do.' Because a Cove Point is very  
10 different when it's in a market area than when you're coming  
11 into Texas or Louisiana and you're going to go well up into  
12 the infrastructure all over the U.S.

13 COMMISSIONER KELLY: Historically, how has the  
14 industry handle blending? Blending that goes on today. How  
15 has it handled it; I assume it's an informal approach, but  
16 is it informal, is it formal? And who talks to who about  
17 what?

18 MR. HERETH: Well, pre-636, the pipeline  
19 companies had all the infrastructure, and literally had more  
20 control over the blending. Post that time, it's really at  
21 the discretion of the shippers, and the shippers drive that  
22 process. It's really outside of the control of the  
23 pipelines today.

24 Each of the white papers talks about the concept  
25 of contractual blending. A particular shipper can say 'I'm

1 going to place gas into a system at this location knowing  
2 that I can achieve some blending' you know, 'I might have  
3 had an LNG shipment at 1420, I might be able to deliver --  
4 if I control the gas -- to be able to ship it into the  
5 system, to get into the Henry Hub, for example, to get a  
6 blend-up that might be in the spec.'

7 We don't have a lot of experience of knowing how  
8 broadly that can be applied.

9 COMMISSIONER KELLY: And who says that's okay or  
10 that's not okay?

11 MR. HERETH: Well, today the shipper controls  
12 that, but it has to be done within the context of the  
13 pipeline specifications.

14 COMMISSIONER KELLY: So that gets back to your  
15 first recommendation, that at least for the gas quality  
16 parameter, that -- or the process for that should be in the  
17 tariff?

18 MR. HERETH: Yes.

19 COMMISSIONER BROWNELL: Can I just get a better  
20 handle on the research aspect of this? \$5 million, two  
21 years, that handles all of the information that we actually  
22 need? Because you referenced a couple of places that we  
23 don't have sufficient information and it all resides in the  
24 industry at this point.

25 Is that kind of the sum total of what we're

1 looking at in terms of expense here? And you also talked  
2 about a public-private partnership, so presumably the  
3 appliance manufacturers or somebody -- where does the  
4 private money come from?

5 MR. HERETH: Well, the idea is that it would come  
6 from the full breadth of the NGC+ value chain. So it would  
7 come from suppliers all the way through to end users. And  
8 the knowledge that we have about the way that the government  
9 funding works is that you need to provide cofunding. So the  
10 idea is to do it jointly with the industry and the  
11 government.

12 The value of that that we've seen in our  
13 experience, in safety, integrity and environmental is when  
14 you do a joint industry-government, it has credibility with  
15 the public, has credibility with legislators and people like  
16 yourself. It's very, very important to have credible  
17 information. So there is the value there in the cooperative  
18 effort.

19 But we would anticipate that the funding would  
20 come from the full breadth of supply to end use.

21 COMMISSIONER BROWNELL: And it would be a project  
22 that would be run, for example, by DOE, then? Is that the  
23 government agency you're thinking of?

24 MR. HORVATH: Yes, that's the one we're thinking  
25 of.

1                   COMMISSIONER BROWNELL: Okay. You only have two  
2 years to --? Is there any way to expedite that?

3                   MR. HORVATH: Well, we love when you say that.

4                   COMMISSIONER BROWNELL: That's my mission in  
5 life.

6                   MR. HORVATH: Absolutely. The technical people,  
7 and I'll look at Mark as I say this, we would love to have  
8 that research done more quickly than that, but we also  
9 recognize that to do the testing right, to apply the kind of  
10 rigor and good science you need to have, and to validate  
11 these studies and have them withstand scrutiny, we're really  
12 talking a two year time frame.

13                   COMMISSIONER BROWNELL: So you could really get  
14 the information you need probably pretty quickly, because it  
15 already exists in the industry, but it's the testing and R&D  
16 phase that is going to take the time.

17                   MR. HERETH: Just to give you an example, there's  
18 been a great deal of work done on auto-ignition and how it  
19 occurs, but generally it's been done in lower pressures. So  
20 if we go to volumes within NIST, we can find good  
21 information on auto-ignition. But when you go to higher  
22 pressures that you see in gas turbines, our depth of  
23 knowledge and our data isn't there.

24                   So to properly define auto-ignition, which helps  
25 us define the interchangeability constraints, the limits, we

1 need to develop deeper data there. Same thing, the greatest  
2 gain we can make is being able to stretch this envelope  
3 around appliances and turbines and other end use. If we can  
4 stretch that to 5 or 6 percent, we will have a huge impact  
5 on supply.

6 But we've got to have the appliance manufacturers  
7 and the turbine manufacturers and their end users believing  
8 that that is credible, it's safe, reliable, and they can  
9 meet their environmental standards. That's why the testing  
10 needs to be done.

11 COMMISSIONER BROWNELL: Do they feel -- I mean,  
12 appliance calibration is way beyond my experience, and since  
13 I try and touch my appliances as little as possible --

14 (Laughter)

15 What is the feedback that you get from those  
16 entities? That they think they can do it but they want the  
17 research because they want the safety; 'don't blame them.'

18 AUDIENCE: I'm Evan Gaddis, President of GAMA,  
19 and I represent the manufacturers.

20 I might say my people, also representing the food  
21 service industry and kitchen appliances. And first let me  
22 comment on the wisdom of, Mr. Chairman and the Commission to  
23 make sure that the manufacturer is represented here.

24 There are many issues of public safety involved  
25 here, and I will tell you that we have been a thorn in their

1 side as we went through this process. And we did  
2 compromise, and I think we came out with a very good plan  
3 here. There's a lot of work to be done.

4 But I don't want to you to get the idea that this  
5 is an easy process. I do fully agree that we have to do a  
6 lot more research; and it's not quite as easy as I see it  
7 presented here, that those appliances can be handled with a  
8 little tweaking; it just doesn't work that way.

9 We've got to have a predictable range that we can  
10 make that appliance work in, whatever it is -- and there are  
11 many different appliances -- and there is some tweaking when  
12 you install it, but you can't make 50 different products and  
13 make it reasonable, where people can afford to buy it.

14 So again, I really have to say, thank you for  
15 including us, and please make sure that we are in this  
16 process, through the research and so on.

17 COMMISSIONER KELLY: Do you all have concerns  
18 about the ability to get the data from the various industry  
19 segments? Is there a consensus that that data is available  
20 with a minimum amount of money, and that it will be  
21 provided? Or is there disagreement there?

22 MR. HERETH: That's a very good question, because  
23 one of the challenges that we had in the process was getting  
24 people to bring the data to the table. Because in some  
25 instances, it's their competitive edge. And that's the

1 challenge that you have here, is that when you're looking at  
2 trying to achieve a NOx limit of 10 parts per million or 5  
3 parts per million, if you're a turbine manufacturer and  
4 that's your competitive edge, you're not willing to bring  
5 that data to the table; and that's frankly one of the  
6 challenges that we faced. So we had to step back and go at  
7 that from another direction.

8 We got to a good end point, but it will continue  
9 to be a challenge going forward, is to manage confidential  
10 business information and to not take away people's  
11 proprietary position.

12 COMMISSIONER BROWNELL: Well, it sounds like you  
13 did a good job to this point, but there are a lot of  
14 challenges left in the next level of research.

15 Do you think that what you learned to this point  
16 can be applied easily and smoothly for the next two years of  
17 research? Or are there harder, more difficult challenges?

18 MR. HERETH: Well, I think if Evan gave any  
19 indication, there is no guarantee. I like to sit here and  
20 look at it as an optimist and say -- because I have an  
21 appreciation for our supply challenges, and believe me, his  
22 members do, too. But at the same time until we do the  
23 testing, you won't know that you can expand that range. So  
24 there's uncertainty, there's risk in endeavoring into that.

25 But that is the way to expand our supply.

1                   COMMISSIONER KELLY: The energy legislation is  
2 being worked on again. Is there anything that needs to be  
3 added to the energy legislation to further this effort? Or  
4 do you have all of the laws and cooperation that you need to  
5 get to an end result that's satisfy for the American people  
6 and for increasing our gas supply?

7                   MR. GADDIS: Well, if I could comment, what we  
8 talked about on R&D, and that is right now being reviewed, I  
9 think that's something we really need to stress. There is a  
10 lot of information that we need, if you want to expand this.

11                   And to further comment: I'm confident that I can  
12 get the industry's data, and that we're going to need more  
13 data. As brought up earlier, who to share that with is  
14 always going to be an issue because of the competitive  
15 issues, and we do a lot of work with DOE.

16                   But I must be honest, I'm not sure that's the  
17 right agency to do this right now, and that's something I'd  
18 like to discuss with the Council; we might want a private  
19 industry to do that, and it's only because it's who the  
20 information has to be shared with, and it's not that  
21 anybody's hiding anything; it's all competitive edge.

22                   MR. SANTA: The one thing I would add in response  
23 to your question, Commissioner Kelly, is that the budget  
24 constraints and what is happening with the DOE budget and  
25 the R&D budget, in particular in the area of oil and gas has

1       gotten a fair bit of press.

2                   It's interesting to me that the National  
3       Petroleum Council, in 2003, signaled work on the  
4       interchangeability as being a priority. One of the DOE labs  
5       last fall had a conference down in Houston on R&D issues  
6       related to Listening, and the interchangeability issue was  
7       highlighted among those issues.

8                   So clearly it's been signaled as a policy  
9       priority. If it's that big a policy priority, some  
10      authorization, some appropriation of funds to see that this  
11      research happens and that the government side of that  
12      cofunding could come through, I think would be very  
13      important.

14                  COMMISSIONER BROWNELL: I'm assuming, because as  
15      appliance manufacturers your market is larger than the U.S.,  
16      that the Canadians are well-represented in that they're  
17      actually building -- I visited with a Canadian friend and  
18      they have a town that is welcoming LNG in Calgary, we're  
19      pleased for them.

20                  Are we including them so that we're consistent,  
21      since we're one market, effectively?

22                  MR. GADDIS: We are.

23                  COMMISSIONER BROWNELL: Good.

24                  CHAIRMAN WOOD: I notice we don't know if we have  
25      two years to wait; I heard a boatload left Malaysia to hook

1 up to the Accelerate plant this next week. So the future is  
2 here.

3 We will put these out for comment, these two  
4 documents. I think Andrew told me, and Andy Hilliard has  
5 been working, and Ed Merrill and staff working with you all,  
6 to do over 30 day comment time, and get feedback.

7 The exit question here is: All right, at this  
8 point, what does our agency do next? Should we assist in  
9 getting some governmental R&D money here? Okay, we'll help  
10 in that effort. But what concrete steps can we do to take  
11 where you are here and move forward?

12 MR. HORVATH: We think you ought to challenge the  
13 industry by calling the table conference sometime after your  
14 comment period is up, to really have us come to the table,  
15 not so much -- you notice you didn't hear a whole lot of  
16 dissention. That's because we agreed that now we would  
17 speak with one voice.

18 But as we go back now and take a look at our  
19 consensus items and where we agreed to disagree, we're going  
20 to be having our own individual positions as associations,  
21 all of us. And I would think that the table conference would  
22 be the first time you can sort of say 'Okay, put it all on  
23 that table. Tell us how you think it will work, each one of  
24 you.'

25 And I think what you will do is you will end up -

1 - you'll ideas coming out as themes and you'll be able to  
2 pick and choose among them. So let me suggest that that be  
3 the way you go. Anything from the procedural vehicle you  
4 use to "How does this work, exactly, in the field" kind of  
5 question.

6 CHAIRMAN WOOD: Okay.

7 COMMISSIONER KELLY: And in the next two years we  
8 anticipate increasing LNG supplies coming into the country,  
9 but we won't have, it sounds like we won't have a solution  
10 to the interchangeability issue. Is that correct? Until  
11 the research projects --

12 MR. HORVATH: I think that's correct.

13 MR. SANTA: It's my impression that what has been  
14 posed here, the plus or minus 4 percent within the band  
15 between the 1400 and 1200, is proposed as a guideline that  
16 could be used. The hope would be that if the R&D is  
17 conducted, if the equipment testing is conducted and, being  
18 an optimist like Mark, if it proves in fact that there is  
19 the ability to accept more variability, that at the end of  
20 that period you perhaps could relax those standards, which  
21 would bring in more supply at less cost.

22 MR. HORVATH: It's probably safe to say that the  
23 group took a very conservative approach, and it's unlikely  
24 research is going to show you need to tighten those  
25 standards.

1                   COMMISSIONER KELLY: So as an interim it should  
2 be more or less workable?

3                   MR. SANTA: As Phase I.

4                   MR. HORVATH: You have a basis to work from  
5 there, clearly.

6                   COMMISSIONER KELLY: Thank you.

7                   COMMISSIONER BROWNELL: You know, you have really  
8 done remarkable work here, and I do commend you, and I  
9 didn't think when we started this process you would be this  
10 far along, so thank you.

11                   I think that part of it is the fact that you  
12 adopted this rule which I think we're going to etch in stone  
13 maybe out in the hallway, and I would like -- the primary  
14 rule about the stakeholder who is going to make a technical  
15 assertion, it had to be backed up with facts -- there's a  
16 concept.

17                   MR. HERETH: That's why --

18                   (Laughter)

19                   COMMISSIONER BROWNELL: You know, I hope, let's  
20 apply the same discipline to the comments, save everybody  
21 the rhetoric and just kind of cut to the chase. And thank  
22 you for doing that. I'm loving that, in that's the first  
23 commandment, maybe the only one. For this purpose. For the  
24 FERC purposes.

25                   (Laughter)

1                   CHAIRMAN WOOD: Joe?

2                   COMMISSIONER KELLIHER: One question for Mr.  
3 Gaddis.

4                   Currently, do most gas appliances meet, can the  
5 accommodate a band between 1200 and 1400?

6                   MR. GADDIS: Our knowledge, as we know it right  
7 now, I would say yes. And again, there are issues out there  
8 -- you know, depending on who you talk to in the food  
9 service industry -- and I must say that I don't represent  
10 most of them; I think I will in the future --

11                   (Laughter)

12                   -- but there are issues out there on what they  
13 call under-firing and over-firing, and a good example, let's  
14 say the appliances in McDonald's or Burger King. They're  
15 set to a certain range.

16                   If the gas doesn't fall in that, it doesn't cook  
17 your product, it doesn't light when it's supposed to light,  
18 and things like that. So there are a lot of issues out  
19 there. But from what we can see right now, between 1200 and  
20 1400, using Wobbe, that's going to cover most of the bases.

21                   COMMISSIONER KELLIHER: Okay. And my other  
22 question had to do with the point that Skip raised about  
23 local requirements.

24                   How are local requirements established currently?  
25 Are they established by municipality or state commission, or

1 by an LDC?

2 MR. HORVATH: Well, the data resides in the LDCs,  
3 and pipelines. It's not like there's a database out there;  
4 we're starting to create one. And what the group did was  
5 sample the country geographically; you're looking at -- make  
6 sure all the regions were represented, but we did not  
7 blanket the country.

8 I'm going to ask Mark and Don to add to that.

9 MR. SANTA: Commissioner Kelliher, I think that  
10 one of the points here is that the gas supply historically  
11 has not been completely homogenous, that there has been some  
12 variability across regions, that as was noted for --  
13 although you have a region that's fed by multiple supply  
14 areas before that supply becomes homogenized, but the gas  
15 that's being consumed in Denver, Colorado is not necessarily  
16 the same as the gas that's entering the city gate in New  
17 York City or some other place.

18 One of the points that was made in the  
19 discussions was that for the local distribution companies,  
20 the end users to have some confidence they wanted to see gas  
21 that looked like or was within a reasonable range of what  
22 they historically have seen.

23 COMMISSIONER KELLIHER: Okay, so these are ranges  
24 that the LDCs as buyers have sought, rather than  
25 requirements that a state or municipality has imposed.

1 MS. TRAWEEK: If I can just join in, I'm Lori  
2 Traweek with the American Gas Association.

3 Just to reiterate what's been talked about in  
4 terms of how the appliances or the local values are set, the  
5 key is to know what kind of gas you can receive so that you  
6 can make sure that the appliances are set to be able to  
7 accept that gas. And obviously that's not something that  
8 can fluctuate, as Commissioner Brownell has said also.  
9 Nobody wants to touch the appliances on the outside or  
10 inside any more than they need to.

11 So if you know what kind of gas you're getting to  
12 the appliance and the appliances can be rated as such,  
13 you're in great shape.

14 So in establishing this local, it really is the  
15 experience in terms of what over the years the utilities are  
16 delivering to the end user, and then knowing that within  
17 this plus or minus 4 percent range, which means there can be  
18 some fluctuation, your appliance will be able to operate  
19 safely and reliably under those conditions.

20 COMMISSIONER KELLIHER: Thank you very much.

21 COMMISSIONER KELLY: One last question regarding  
22 the data that you're gathering. Is it the kind of  
23 information that you will need to update regularly? Or is  
24 this a research project that when it's over, it's over.

25 MR. HERETH: I think that what we find among most

1 of the technical people is they would say that we need to  
2 keep the data updated periodically, because as we see more  
3 LNG coming on, more domestic supply that's different, and of  
4 Davonian shale, we get more coal seam, it's going to change  
5 the nature of our supply.

6 One of the things we learn is we need to keep  
7 better track of where it is. So it would be something that  
8 needs to be done periodically.

9 COMMISSIONER KELLY: And will the Natural Gas  
10 Council take the responsibility for that? Is that where  
11 it's going to lie? Have you discussed it yet?

12 MR. HORVATH: No, we've not discussed it yet. I  
13 think we'll wait to see what the Commission does with the  
14 information we've given them, and then take the next step  
15 after that.

16 COMMISSIONER KELLY: Thanks.

17 And Skip, when was the first meeting that you  
18 had? It seems like it's been less than a year.

19 MR. HORVATH: Our first meeting was two days  
20 before Christmas in -- two Christmases ago. I know that  
21 because I got hit on the head for calling a meeting at that  
22 point. We had a huge turnout; people flew in from around  
23 the country; and that's when we knew we had a tiger by the  
24 tail, and opened it up to the rest of the industry.

25 So a little over a year we've been at this.

1                   MR. SANTA: And then the first technical group  
2 meeting, I believe, was February of '04.

3                   COMMISSIONER KELLY: I'd like to add my  
4 congratulations and thanks. I think you've done an  
5 extraordinary job and really an historic effort at  
6 cooperation among so many members of a very diverse  
7 industry. Thanks very much.

8                   MR. HORVATH: Thank you very much.

9                   CHAIRMAN WOOD: See you in about two months.

10                   (Panel excused.)

11                   SECRETARY SALAS: The next item for discussion is  
12 A-4, Information Assessment. This is a presentation by  
13 Ginny Strasser, who is the team leader for the Commission's  
14 Information Assessment Team.

15                   @ MS. STRASSER: Good morning, Mr. Chairman and  
16 Commissioners. It's a pleasure to be here this morning. I  
17 am going to be telling you about the work of FERC's  
18 Information Assessment Team, also known as FIAT.

19                   Approximately one year ago the Chairman asked me  
20 to convene an interoffice team, and we were charged with the  
21 task of assessing the Commission's information needs to  
22 promote greater transparency in the electricity markets.

23                   We got together and began to think through how to  
24 achieve that goal, and we actually ended up with three goals  
25 that we set out to undertake in the past year.

1           The first goal, indeed, was to look at the  
2 information needs in the electricity market. In addition to  
3 that, the second goal was to look at the Commission's  
4 current collections across the board, not just in the  
5 electricity market, and to look at ways to reduce the  
6 reporting burden on the public. And out of the 60-odd  
7 collections that the Commission currently has, we were able  
8 to look closely at around 20 of them. And as you'll hear  
9 later, we've come up with recommendations to streamline,  
10 reformat, move to e-filing or actually reduce the cost in  
11 hours of filling out information in at least 7 of these  
12 collections.

13           The third goal, which we set for ourselves, was  
14 to look at how other agencies handle their information  
15 collections and their responsibilities with OMB under the  
16 Paperwork Reduction Act, and to see if we could design a  
17 model of how this agency could put in place an ongoing  
18 review of the Commission's current and new and evolving  
19 information needs, so that we didn't need to pull together  
20 an ad hoc team from time to time as we've been doing. And  
21 we proposed a plan that we hope will be put in place and  
22 will continue the work that we've begun.

23           In the past year, almost exactly a year ago to  
24 this day, I presented to you, the Commission, the Team's  
25 goals, and then we began our work. And first we met with

1 staff from every program office and sounded them out on  
2 what, based on their normal work experience: What do you  
3 need? What information are you getting? How do you analyze  
4 it? is it coming in with the right frequency? Is it  
5 accurate? You know, Would you use it more if it came in  
6 electronically where you could pull it up on your computer?

7 We really went through just sounding out ideas,  
8 brainstorming. And in April, we submitted an interim  
9 report to the Chairman, presenting the staff-generated  
10 ideas. We then took those ideas and developed them into  
11 surveys.

12 There were two surveys; one was for the Goal 1,  
13 the new information needs in electricity, and the second was  
14 under Goal 2. And that again is, what current collections  
15 could we begin to reduce?

16 And we sent those surveys out, again to a  
17 sampling, larger sampling of FERC staff, and also to federal  
18 agencies, the trade associations, NARUC on behalf of the  
19 state commissions, and other federal power authorities.

20 After we got back the survey results and analyzed  
21 them, the team met with the trade associations on the  
22 electricity side, to bring greater clarity in terms of their  
23 responses and to hear directly from them what other ideas  
24 perhaps weren't even covered in the survey that they would  
25 like us to consider.

1           We summarized the results of those surveys,  
2           answers, and our evolving proposals in July for the Chairman  
3           and then began to really drill down and develop these  
4           proposals into recommendations. In October of 2004 we  
5           reported, the team submitted our tentative recommendations  
6           to the Chairman and to senior staff.

7           After more internal discussion, in January of  
8           this year we reached a consensus on the final  
9           recommendations that I'd like to present to you today.

10          The final recommendations fall into three that  
11          further the electricity market goals of Goal 1, and seven  
12          that further the goals of Goal 2, of how to reduce our  
13          collection burden. And the team is ready to draft these  
14          recommendations into proposed rules, hopefully to be ready  
15          late spring; and of course this will be done during,  
16          pursuant to normal rulemaking, there would be an opportunity  
17          for comment. At the moment this still at a very early stage  
18          of development, and the public will have a chance to comment  
19          on anything that is put before you for a vote if it goes out  
20          as a proposed rule.

21          The team has also submitted a plan of how to  
22          implement a continuous review process, and steps are being  
23          taken to put that plan in place.

24          Turning to the Goal 1 Final Recommendations. The  
25          first is to adopt or modify new definitions and

1 methodologies, and before I explain what the definitions  
2 cover, I'd like to just explain that these are definitions  
3 that NERC has a task force developing. NERC's reliability  
4 version 0, which was issued on February 6 and which this  
5 Commission has adopted as required under the OTS simply  
6 incorporated existing standards. But NERC also has a long-  
7 term ATC task force in place that apparently intends to  
8 report back to the standing committees in March; I think the  
9 date is March 16th. And it's those standards that they're  
10 developing that will hopefully come up with more uniform and  
11 helpful definitions.

12           And the definitions for Total Transfer  
13 Capability, Available Transfer Capability, Transmission  
14 Reliability, Margin and Capacity Benefit Margin stated  
15 separately by region.

16           At that point the Commission will have these  
17 standards to look at and can decide whether to adopt or  
18 modify them, and the team would work to then draft a rule  
19 that would adopt these standards, and require that they be  
20 posted to OASIS.

21           In addition, the suggestion was to come up with a  
22 more uniform definition of simultaneous import capability as  
23 it affects available transmission capability in each area,  
24 and require that be posted on OASIS as well.

25           This should not really be an increase in

1 reporting burden for the companies, since they're already  
2 required to report this information to OASIS; although the  
3 team acknowledges that changing the calculations and the  
4 software to reflect those calculations will have an initial  
5 IT cost. But we feel the burden of promoting greater  
6 transparency will far outweigh those initial costs.

7           The third Goal 1 recommendation is to obtain  
8 standardized, generation run status information on a  
9 confidential but routine basis. This information is  
10 relevant to both the economic dispatch and market power  
11 analyses that the Commission performs, and the team  
12 recognizes that this is also confidential information, and  
13 very proprietary; so the suggestion is to, somewhat of a  
14 variance of trying to create a market transparency. The  
15 Commission needs this information for market oversight and  
16 would benefit from getting it even on a confidential basis.

17           Turning to the Goal 2 recommendations. Currently  
18 the Commission has about 60 collections, and in the course  
19 of the year the team was able to look at 20 of those and try  
20 to identify the low-hanging fruit, the ones that were most  
21 likely to benefit from some kind of analysis of how to  
22 reduce the burden or that staff admits to some extent it's  
23 not analyzing the information as it comes in as well as it  
24 might.

25           So we looked at about 20 collections and out of

1 all of the proposals, we came up with 7 of them we think are  
2 ready to be drafted into rules. But clearly there's more  
3 work to be done, looking at our current collections.

4 The first that we propose today is the FERC Form  
5 73. This is the Oil Pipeline Service Life Data. It's  
6 depreciation late information. And we've come up with a  
7 suggestion that would basically streamline this collection.  
8 First we propose deleting outmoded filing procedures, which  
9 would have the benefit of eliminating the cost to the filers  
10 of having to hire consultants and would reduce the filing  
11 from maybe 20 pages to 14 pages.

12 We also recommend providing the option to file  
13 this information in Excel spreadsheet format, which would  
14 certainly be easier for staff and others who -- this is  
15 public information -- to access, to search the text and  
16 build analytic tools.

17 And finally, there are several individual data  
18 requirements that we suggest can be eliminated, such as  
19 identifying utility codes, which is no longer needed.

20 The next collection that we looked at and have a  
21 recommendation on is FERC 512. This is the Application for  
22 Preliminary Permitting of hydroelectric power projects.

23 The first suggestion we have is to change the  
24 filing requirement of progress reports from semiannual to  
25 annual filings. And the second is to eliminate the need to

1 identify, at the preliminary permit stage, proposed  
2 generation market area and related power system information.

3 It's premature to ask for this information at  
4 this early stage, and in addition the collaborative process  
5 allows for an exchange of information before the license  
6 application is filed, and so we really feel that this is  
7 unnecessary to require.

8 The third recommendation addresses FERC 516, also  
9 known as Order No. 580. This is the Nuclear Plant  
10 Decommissioning Trust Fund. These are guidelines that  
11 require an annual report, trust fund, of assets and  
12 liabilities.

13 We suggest eliminating the need for utilities  
14 that own nuclear units to file information on each purchase  
15 and sale of investments. It actually was never the intent  
16 in the initial drafting of this requirement that we get that  
17 much detail. Some companies only file summaries, and the  
18 filing is about that thick (indicating) and others are  
19 filing every individual investment, sale and purchase, and  
20 the filing is yea thick (indicating) and it's not needed for  
21 our analysis.

22 However, we would require the continued internal  
23 maintenance of this information and records, and we want to  
24 assure the prudent management of trust funds. We have  
25 coordinated with the NRC on this proposal and received word

1 from them that they have no objection to our making this  
2 kind of change.

3 Number Four is FERC 520, it's the application for  
4 Authorization of Interlocking Directorates. This is a  
5 statutory requirement to assure that there are no conflicts  
6 of interest among affiliates, and the first improvement we  
7 recommend is to require the e-filing of FERC 520 data.  
8 Require this, of course any of the e-filing initiatives  
9 promotes e-Government initiatives, and moreover, it would  
10 improve the efficient review, compliance review of this  
11 information.

12 This recommendation really needs to be looked at  
13 together with -- the next slide -- Form 561, which is the  
14 Annual Report of Interlocking Directorates, and FERC 566,  
15 which is the Annual Report of Utility's 20 Largest  
16 Purchasers.

17 Again, the hope of these collections is to avoid  
18 inappropriate business practices with customers. And we  
19 would suggest requiring the submission of this information  
20 in electronic, web-based format such as spreadsheets or  
21 tables.

22 And internally, to create a database for staff to  
23 cross-reference the captured information so that we can  
24 coordinate that information, together with the FERC 520  
25 filings, and facilitate compliance reviews.

1                   Number Five is the FERC 523 collection. These  
2                   are the applications for Authorization to Issue Security and  
3                   Debt to Finance Operations. The Commission, when it gives  
4                   this authority, is for two years of approval; and in  
5                   reviewing these filings, we suggest converting the filing to  
6                   electronic, web-based format for exhibits, and for text  
7                   filings to be in PDF. Currently everything is filed paper  
8                   and in narrative format.

9                   Converting it to electronic filing would  
10                  facilitate easier staff financial analyses of the data. And  
11                  we've done a very cursory, preliminary assessment of the IT  
12                  costs, and we're told by the IT people that this would not  
13                  really be more costly to do this way than currently, handing  
14                  in on paper.

15                  The Sixth recommendation regards FERC 576. This  
16                  is the Report by Certificated Pipelines of Gas Service  
17                  Interruptions to Wholesale Customers. And this  
18                  recommendation, together with the next one, recommends  
19                  streamlining the filing method, updating the method,  
20                  standardizing the filing format; however, providing for CEII  
21                  protection to safeguard pipeline security. And again to  
22                  develop an internal tracking method when this is e-filed so  
23                  that we can notify especially the Office of Energy Policy of  
24                  these filings, and staff can then perform an efficient,  
25                  timely regulatory response and determine what utilities need

1 to do to address the problem.

2 So again, the same with Number Seven, FERC 588,  
3 which is the Emergency Natural Gas Sale, Transportation, and  
4 Exchange Transactions. When system conditions, less than  
5 available gas supply we need to know that, and we need to  
6 know it quickly, and we need to be able to respond to it  
7 quickly. So we make the same kind of streamlining  
8 suggestions for this filing.

9 Turning to our third goal, which is -- our  
10 proposal is to create a standing cross-office team charged  
11 with the ongoing review of new and current information  
12 needs.

13 Our ad hoc team is one of many that has been  
14 called together over the past several years, and it's  
15 apparent that we can do a better job and need to do a better  
16 job, both at the point where we are going to OMB seeking  
17 approval or clearance -- their three-year clearance approval  
18 for a new collection or for an existing form to be  
19 reapproved. And also in terms of just looking at our  
20 information needs. And this is a cross-office, an agency-  
21 wide responsibility; it's hard to pigeonhole it in any one  
22 office.

23 So we do propose a standing team of staff that  
24 would rotate in, but with a permanent head to this effort to  
25 provide continuity. And to distinguish this team from the

1 FIAT, we've come up with a new name, which is ICAT, which  
2 stands for Information Collection Assessment Team.

3 And as you can see on the screen, we've come up  
4 with a logo, the tiger. And I just wanted to show you all  
5 the mascot, right here (holding up tiger toy). This is Hit  
6 Cat.

7 And our tiger will always be on the prowl to look  
8 to improve information needs and to reduce reporting  
9 burdens.

10 So with that, I'd like to introduce the team.  
11 It's been a pleasure and an honor working on this project.  
12 This has been a great deal of fun. The team as a group has  
13 developed, esprit de corps has done a fabulous job.

14 And the members of the team are: Samuel Berrios  
15 from the Office of Market Oversight and Investigation; Bill  
16 Blome in the General Counsel's Office. I'm including Jim  
17 Caruso although he retired in September because he was a  
18 wonderful contribution. Ed Fowlkes in the Office of Energy  
19 Policy, Joe Lynch in the General Counsel's Office, Mike  
20 Miller in the Executive Director's Office, Pat Morris in  
21 OMOI, and Michelle Veloso in the Office of Markets, Tariffs  
22 and Rates, and last but certainly not least, Nicole Wilson,  
23 who has been our IT consultant and a great value to the  
24 team.

25 And with that, if I may ask them to stand up and

1 be recognized. (Team standing)

2 CHAIRMAN WOOD: Nice job.

3 (Applause)

4 MS. STRASSER: And that concludes my  
5 presentation. I'm happy to take any questions.

6 CHAIRMAN WOOD: Ginny, thanks. And I want to  
7 thank the team, as we talked about and picked this off and  
8 made a public presentation last year; the General Accounting  
9 Office, I think right after the California crisis, had  
10 looked at the information capabilities of our agency, of EIA  
11 and good government. And we came up pretty short, and I do  
12 appreciate that the first step here in the Goal 1  
13 presentation will make a significant improvement toward that  
14 effort. I know a lot of back-and-forth came about as a  
15 result of what was a much longer list of things that, to  
16 make it better and working through the practical aspects of  
17 it, we really do need to monitor markets. And I thought the  
18 recommendation here looked not only doable but it looked  
19 like they would be significant enhancers of our oversight  
20 capability.

21 Of course I like the good government aspect, of  
22 making more and more things electronic around here, so that  
23 we can respond quickly to the data, particularly all the  
24 interlock issues and the 204 filings and the things that,  
25 quite frankly are the bread and butter that we don't pay a

1 lot of attention to because the staff has handled it so well  
2 all these years. But that doesn't mean we can't do it in a  
3 much more user-friendly and time-efficient manner.

4 So thanks for that.

5 I had to ask Tom Herlihy to move forward with  
6 implementing that recommendation with a formal designated  
7 staff person to read that.

8 And what I've enjoyed so much about meeting with  
9 this group is you've got folks from each of the offices, and  
10 talk about a silo-busting exercise, this has kind of been  
11 that from Day One, and I think it is not only good for this  
12 project, but that's a good template for the agency and a lot  
13 of our other silo-busting exercises that bring together  
14 expertise from across the agency. So that's very, very  
15 helpful.

16 Any other thoughts? I think the plan is that we  
17 will put this forward in items for the Commission and  
18 proposed rulemakings and others in the next several weeks.

19 COMMISSIONER BROWNELL: My hope is we will  
20 continue to be and perhaps be more vigorous in our  
21 information collecting review, and as we confront, I think,  
22 more information needs that we be a little more disciplined  
23 and apply some kinds of principles before we reach out and  
24 ask. I know that I harp on this almost every meeting, so  
25 consistency is good.

1                   I think this is a good start, but I think we have  
2 a long way to go. I'm sure Princeton thanks you for  
3 adopting their tiger as your motto -- and if there are any  
4 Princeton folks in the room, be sure and get permission, we  
5 don't need any patent infringement suits.

6                   (Laughter)

7                   Thanks, Ginny.

8                   COMMISSIONER KELLIHER: I had two quick  
9 questions.

10                  Some of the OASIS changes that you propose, is  
11 there some overlap with the OASIS 2 proposed rule that the  
12 Commission issued almost five years ago? And I think it  
13 might propose some of these changes.

14                  MS. STRASSER: Actually, my understanding of  
15 OASIS 2 is that it covers something different. It covers  
16 reservation, electronic reservations, and there's a NAESB  
17 group that is developing OASIS 2, and we have staff that's  
18 monitoring that effort very closely.

19                  COMMISSIONER KELLIHER: Okay.

20                  MS. STRASSER: So what we're talking about here  
21 is kind of the next version of OASIS 1, rather than what  
22 we're calling OASIS 2.

23                  COMMISSIONER KELLIHER: OASIS 1b, maybe.

24                  Another question: I thought you said we have  
25 something like 60 data requirements. Do these data

1 requirements, the information that we collect, is it  
2 generally information we need to discharge our statutory  
3 responsibilities? Are any of the 60 collecting information  
4 that we don't need but that we think is of value or interest  
5 to outside parties?

6 MS. STRASSER: Of the 20 we looked at, I would  
7 have to say -- first of all, the purpose of all of the  
8 collections originally was that the Commission needs it.

9 COMMISSIONER KELLIHER: Right.

10 MS. STRASSER: Of the 20 we looked at, we did  
11 look to see if we're holding onto collections simply because  
12 others use it but the Commission no longer does.

13 And the closest example we came to that is where,  
14 vendors such as Platz was looking at information, the  
15 collection -- that the Commission collects as well as  
16 perhaps EIA, and packages that information. And the Office  
17 of Markets, Oversight and Investigation, OMOI, in particular  
18 benefits from analyzing what Platz issues. However, Platz  
19 could not be packaging that information and turning it back  
20 to staff for analysis if we weren't doing the collecting.  
21 And the public also relies on these kinds of aggregated  
22 information.

23 So there's an indirect need for the Commission,  
24 even if there's no longer a direct analysis of what's being  
25 filed. And that's the closest we came to being able to say

1       that we're only collecting it because someone else needs it,  
2       but we need it, too.

3                   COMMISSIONER KELLIHER: Thank you very much.

4                   COMMISSIONER KELLY: I just want to say thank you  
5       very much, Ginny and the team. It's a great undertaking; I  
6       know that you've worked on it for a long time, but I can see  
7       why it took so long. It seems very comprehensive, and we  
8       appreciate your work.

9                   MS. STRASSER: Thank you.

10                  CHAIRMAN WOOD: And I appreciate the personal  
11       participation of you and your folks to actually look through  
12       this at the highest level. I think that sends a strong  
13       signal to all the staff, that this is a very important  
14       attribute of government, that we don't just keep  
15       mushrooming, that we actually cull out what we need and  
16       replant the forest when we have to. So good government at  
17       work.

18                  Ginny, before you leave the table, I want to take  
19       this opportunity to recognize you because it's, you all may  
20       or may not know, Ginny will be leaving FERC in the near  
21       future. She came here about ten years ago from the ICC  
22       where she represented that Commission before the Federal  
23       Courts of Appeal on judicial review of the ICC decisions.  
24       And she started here at FERC as assistant general counsel  
25       for General and Administrative Law in OGC, and former

1 chairman Hecker tapped Ginny to lead the then-newly formed  
2 Office of Administrative Litigation back in '97 or so? '98?

3 MS. STRASSER: I think it was '99.

4 CHAIRMAN WOOD: Okay, and when the first OAL was  
5 disbanded by Chairman Aber, Ginny joined the Market  
6 Oversight and Enforcement section of the Office of General  
7 Counsel and delved into market monitoring and oversight  
8 issues, where I think she whetted her appetite for a lot of  
9 what happened in the FIAT program. And also at that time  
10 cosponsored, kind of our initial efforts to do some of this,  
11 that when I came on board I certainly noticed, took notice  
12 of the reports, and Ginny certainly elevated that as well.

13 When OMOI came over and took that into being,  
14 Ginny went to OAL and became a senior counsel, and ably  
15 resolved a number of cases, high profile cases, resolving  
16 Enron's ownership interest in 30 qualifying facilities under  
17 PRPA which were subject to a lot of congressional scrutiny;  
18 and she and her colleagues on the staff handled that process  
19 very well and very ably for the public.

20 In the last year, in addition to her duties in  
21 OAL, she spent a lot of time on the project that we just  
22 talked about; and I appreciate your personal leadership and  
23 your sense of team building, and I think, as from what I  
24 understand marked your entire career. We'll miss you a lot,  
25 want to thank you for your contributions to FERC, and wish

1       you all the best. And we give you a career service award in  
2       that regard.

3                       (Applause)

4                       (Presentation of service award by Chairman Wood)

5       MS. STRASSER: Thank you all.

6                       (Witness excused.)

7                       SECRETARY SALAS: The next item for discussion is  
8       A-5. This is regulation of cash management practice by  
9       Nicholas Coughlin, accompanied by Mary Lauermann and Janice  
10      Garrison Nicholas.

11      @              MR. COUGHLIN: Good morning, Mr. Chairman and  
12      Commissioners. My name is Nicholas Coughlin and I'm with  
13      the Office of Market Oversight and Investigations, Division  
14      of Financial Audits.

15                      With me this morning from the Office of Market  
16      Oversight and Investigations are Janice Garrison Nicholas  
17      and Mary Lauermann.

18                      My presentation today discusses the review of  
19      compliance filings required by the final rule, Order 634A,  
20      Regulation of Cash Management Practices.

21                      This compliance review was performed by staff  
22      members from the Division of Financial Audits over the past  
23      ten months. In November 2001 the Commission's auditing staff  
24      undertook a preliminary audit review of transactions related  
25      to transfers of cash. In March 2002, the review transition

1 to a nonpublic investigation of cash management practices at  
2 FERC jurisdictional companies.

3 The investigation identified two main issues.  
4 The first issue concerned certain unwritten cash management  
5 arrangements under which the cash of regulated companies  
6 were swept in the accounts of less creditworthy parent  
7 companies to the potential detriment of ratepayers of the  
8 regulated subsidiaries.

9 The second issue related to certain loans  
10 obtained by Enron Corporation subsidiaries Trans Western  
11 Pipeline Company in the amount of \$550 million, and Northern  
12 Natural Pipeline Company in the amount of \$450 million,  
13 where the proceeds were later transferred to Enron  
14 Corporation in exchange for promissory notes that were  
15 subordinated to other Enron Corporation debt.

16 The size of the loans and the fact that Enron  
17 Corporation almost immediately filed for bankruptcy  
18 protection raised the issue of whether the Commission should  
19 take action to protect the ratepayers of the regulated  
20 subsidiaries involved.

21 In response, the Commission issued a Notice of  
22 Proposed Rulemaking on cash management practices on August  
23 1st, 2002. The Commission issued a final rule on cash  
24 management practices on October 23, 2003. The purpose of  
25 the final rule was to protect the ratepaying customers of

1 FERC-regulated entities by providing greater transparency of  
2 cash management programs.

3 Under the final rule, any company that  
4 participates in a cash management program and files a FERC  
5 annual report must comply with the final rule and submit its  
6 cash management agreement to the Commission. The final rule  
7 requires cash management agreements to be in writing,  
8 specify the duties and responsibilities of the cash  
9 management program participants and administrators, specify  
10 the methods for calculating interest and for allocating  
11 interest income and expenses, and specify any restrictions  
12 on deposits or borrowings by participants.

13 Also, the final rule requires jurisdictional  
14 companies to maintain documentation supporting the cash  
15 management program.

16 The final rule became effective on December 1,  
17 2003. The final rule required companies participating in a  
18 cash management program to file a copy of the agreements  
19 with the Commission within ten days of the effective date of  
20 the final rule or entry into a cash management program and  
21 thereafter, within ten days of any subsequent changes to the  
22 agreement.

23 In March 2004, the audit staff began a compliance  
24 review of cash management filings made with the Commission.  
25 160 cash management compliance filings were made. Of the

1 160 filings, 18 filings were statements of non-participation  
2 in a cash management agreement and/or negative assurance;  
3 and 142 filings were actual cash management agreements.

4 Of the potential 529 companies which submit a  
5 FERC Annual Report, the 160 cash management filings were  
6 made on behalf of 238 FERC Annual Report filers. Audit  
7 staff reviewed each cash management agreement to determine  
8 if the reporting requirements of the final rule had been  
9 met. Audit staff determined that 139 of the 142 cash  
10 management agreements were found to be fully compliant. The  
11 three remaining companies, Duquesne Light, Endicott  
12 Pipeline, and Equitrans, L.P., have submitted revised  
13 agreements which are now fully compliant with the final  
14 rule.

15 Recognizing the cash management agreements were  
16 filed by 238 of the 529 Annual Report filers, audit staff  
17 performed additional analysis in an effort to identify any  
18 companies not complying with the final rule requirement to  
19 submit their cash management agreement.

20 Staff reviewed FERC annual report forms; Forms 1,  
21 1F, 2, 2A, and 6, and found no information indicating  
22 noncompliance. In addition, audit staff researched SEC-  
23 regulated Public Utility Holding Company Act registered  
24 holding companies. This was done because typically, holding  
25 companies and their subsidiaries can turn to money pooling

1 arrangements to take advantage of increased investment and  
2 borrowing capability.

3 24 of the 29 SEC registered holding companies  
4 and/or their FERC jurisdictional subsidiaries had filed a  
5 cash management agreement with the Commission. For the  
6 remaining five holding companies, staff reviewed various SEC  
7 orders and documentation, and found no indication or  
8 evidence that these five holding companies participate in a  
9 cash management program.

10 Going forward, as part of future audits, the  
11 Division of Financial Audits plans to include audit steps to  
12 verify whether jurisdictional companies are complying with  
13 the requirements of the final rule.

14 And that concludes my presentation, and I'd be  
15 happy to answer any questions.

16 CHAIRMAN WOOD: One of the main reasons I wanted  
17 to put this on the public meeting is it is good to see  
18 closure, and I appreciate the diligent efforts not only of  
19 the staff but of the companies to comply with what was in  
20 the rule that we adopted, kind of in the, kind of blow-back  
21 from all the Enron collapse and the billion dollars that  
22 were transferred at the last minute there, away from  
23 regulated pipelines to the parent that then went bankrupt.

24 And I think we took a pretty balanced approach in  
25 that rule, it isn't quite as prescriptive as we had proposed

1 in our notebook, but I think nonetheless resulted in a lot  
2 more transparency here.

3 Again, appreciate you all's diligence and the  
4 company's diligence in getting to 100 percent compliance  
5 right away, and I think that's a good news story. So those  
6 are worth putting out as well as some of the other ones that  
7 we do. So thanks.

8 (Panel excused.)

9 SECRETARY SALAS: The next item for discussion is  
10 a presentation on the Market Based Rates agenda items that  
11 the Commission adopted today on the consent agenda; and this  
12 will be a presentation by Jerry Pederson, Deborah Leahy, and  
13 Steve Rodgers.

14 @ MR. PEDERSON: Good morning.

15 On this agenda, the Commission acted on 13  
16 market-base rate cases that involved the generation market  
17 power screens. The orders find that 11 of the studies  
18 passed the indicative screens, and on that basis satisfies  
19 the Commission's generation market power standard. In two  
20 cases, the orders find that the applicant study indicates  
21 that it fails the wholesale market share screen; and  
22 accordingly, the Commission institutes a Section 206  
23 proceeding so that the Commission can take a closer look at  
24 whether the company has market power in generation.

25 Of the cases that pass, six are requests for new

1 market based rate authority, and five are triennial review  
2 filings. The new filings involve both power producers and  
3 power marketers. Also included in these passes are two wind  
4 generators; Trimont Wind is an approximate 101-megawatt wind  
5 power electric generation facility in Minnesota, and Mindota  
6 Hills owns a 50-megawatt wind facility in the ComEd control  
7 area.

8 Both Trimont and Mindota have taken advantage of  
9 the Commission's allowance of streamlined applications. In  
10 particular, Section 3527 of the Commission's regulations,  
11 which provides that applicants shall not be required to  
12 demonstrate any lack of market power in generation with  
13 respect to sales of capacity constructed after July 9, 1996.

14 With respect to the triennial review cases that  
15 pass the indicative screens, two orders are of particular  
16 note: Avista Corporation and Idaho Power Company. Those  
17 orders involve IOUs that are outside of an RTO, but  
18 nevertheless pass the indicative screens and have otherwise  
19 been found to satisfy the Commission's standards for market  
20 base rate authority.

21 This concludes our presentation, and we're  
22 available for questions.

23 CHAIRMAN WOOD: Great. Thanks, Jerry.

24 Any questions?

25 Great. Nice job. Thanks.

1 (Panel excused.)

2 SECRETARY SALAS: Next for discussion we will  
3 have a joint presentation of E-44, HQ Energy Services, and  
4 E-45, New York Independent System Operator. It's a  
5 presentation by Jamie Chabinsky, Deborah Ott, and Kathy  
6 Waldbauer.

7 @ MS. CHABINSKY: Good morning, Mr. Chairman and  
8 Commissioners. I'm Jamie Chabinsky, and with me are Debbie  
9 Ott and Kathy Waldbauer.

10 The draft orders before you in Items E-44 and E-  
11 45 address two separate cases remanded to the Commission by  
12 the United States Court of Appeals for the District of  
13 Columbia Circuit. Both cases involve the New York  
14 Independent System Operator, or NYISO, in its exercise of  
15 its authority under a particular provision in its tariff.

16 This provision, common to both remands, concerns  
17 NYISO's temporary extraordinary procedures, or TEP. The  
18 initial purpose of the TEP provision in NYISO's tariff was  
19 to enable NYISO to address unanticipated market design flaws  
20 so as to prevent immediate harm before seeking tariff  
21 changes through its stakeholder process.

22 Both remands involved events that took place in  
23 2000, although the specific dates do not overlap. While  
24 both remands involved TEP, the two cases involved different  
25 facts and events. Additionally, one of the two cases

1 involves allegations that NYISO violated its tariff.

2 MS. OTT: In E-44, the draft order addresses  
3 events that occurred on May 8th and 9th, 2000, when the  
4 NYISO control area experienced an unexpected capacity  
5 shortage, and was thus forced to dispatch generating  
6 capacity from the Blenheim-Gilboa pump storage hydroelectric  
7 facility that had been offered to the real time market at  
8 very high bids.

9 NYISO concluded that the increase in prices that  
10 resulted from the use of Blenheim-Gilboa's bid as the  
11 clearing price on May 8th and 9th was the result of a market  
12 design flaw, because the bidding system prevented the New  
13 York Power Authority, NYPA, which operated Blenheim-Gilboa,  
14 from communicating its bidding preferences.

15 NYPA preferred not to sell Blenheim-Gilboa's  
16 energy, but would be willing to do so to maintain system  
17 reliability. By offering a high bid, NYPA was trying to  
18 signal this dual preference.

19 NYISO concluded that its market design was  
20 flawed, because it did not allow NYPA to communicate these  
21 preferences, and it invoked its TEP authority to recalculate  
22 prices for those two days.

23 In earlier orders, the Commission denied  
24 complaints, requesting that NYISO be directed to restore the  
25 original real time market clearing prices. However, on

1 appeal to the D.C. Circuit, the court remanded the case to  
2 the Commission to address two issues. First, whether NYPA  
3 could have achieved its desired result by using a different  
4 bidding strategy; and second, whether NYISO's market design  
5 prevented NYPA from bidding its opportunity costs into the  
6 market.

7 In the draft order, upon further review, the  
8 Commission finds that NYPA could have achieved its bidding  
9 goals, and also finds that NYISO's market design permitted  
10 NYPA to bid its opportunity costs. Under the TEP, a market  
11 design flaw is defined as a market structure giving rise to  
12 situations in which market conditions or the application of  
13 NYISO's procedures would result in inefficient markets or  
14 prices that would not be produced in a workable, competitive  
15 market.

16 The draft order finds that NYISO's market design  
17 permitted NYPA to bid its opportunity cost into the market  
18 and to provide reliability assistance to the market at a  
19 price that it chose. Thus, NYISO's market design was not  
20 flawed and NYISO could not use its TEP authority in these  
21 circumstances.

22 The draft order directs NYISO to reinstate the  
23 original market clearing prices for energy for the real time  
24 market on May 8th and 9th, 2000.

25 MS. WALDBAUER: In E-45, the Commission rules on

1 NYISO's refusal to exercise its TEP, authority to  
2 recalculate prices for a different period, February and  
3 March 2000, during which market abnormalities were found in  
4 the non-spinning reserves market.

5 A group of load serving entities, or LSEs, argued  
6 that NYISO's market design was flawed because it excluded  
7 both Blenheim-Gilboa and suppliers on the western side of an  
8 east-west constraint from bidding into the reserves market.  
9 The LSEs asserted that because there was market flaw, NYISO  
10 should have corrected prices under its TEP authority.

11 NYISO did not do so, believing that other  
12 measures would be more effective in addressing the market  
13 abnormalities, and the Commission upheld NYISO's decision.

14 On appeal, the court remanded the following  
15 issues to the Commission: First, whether NYISO properly  
16 exercised its discretion not to invoke TEP, to recalculate  
17 prices; second, whether NYISO violated its tariff by  
18 permitting interdependent determination prices for spinning  
19 and non-spinning operating reserves during these months; and  
20 third, whether NYISO violated its tariff by permitting the  
21 Blenheim-Gilboa plant to be modeled into the system in such  
22 a way as to prevent the use of its capacity for operating  
23 reserves.

24 Finally, the court required the Commission, in  
25 the event that a tariff violation was found, to either

1 provide refunds or else explain why refunds would not be  
2 appropriate.

3 The draft order finds that NYISO did not abuse  
4 its discretion by refraining from exercising its TEP  
5 authority to recalculate prices. The TEP, as drafted in  
6 NYISO's tariff at the time, provided that NYISO may take  
7 extraordinary corrective actions to correct a market design  
8 flaw, not that it must do so.

9 When NYISO discovered the pricing anomalies in  
10 the reserves markets, it chose not to use its TEP authority  
11 because it did not view the problems found there as the  
12 result of a market design flaw; but rather as the result of  
13 high concentration levels and related bidding behavior.

14 Therefore, the Commission found that NYISO  
15 properly refrained from providing relief under its TEP  
16 authority.

17 With regard to the question of whether NYISO  
18 violated its tariff, the draft order finds that NYISO did  
19 not violate its tariff by permitting parties to contract for  
20 the Blenheim-Gilboa's plant output in such a way as to make  
21 that plant unavailable to provide reserves.

22 While that facility satisfies the criteria in  
23 NYISO's tariff to be able to supply operating reserves,  
24 there's nothing in the tariff to suggest that it must do so.

25 The draft order also finds that NYISO did violate

1 its tariff by not pricing spinning and non-spinning reserves  
2 separately. However, the draft order explains that in  
3 determining whether to order refunds, the Commission must  
4 also consider equity considerations. The circumstances  
5 here, NYISO's policy of not pricing spinning and non-  
6 spinning reserves separately, did not provide an improper  
7 windfall because it resulted in efficient market clearing  
8 prices for least cost dispatching energy to customers.

9 Therefore, the draft order does not require  
10 refunds. This concludes our presentation.

11 CHAIRMAN WOOD: Thank you.

12 When we have remands like this that are five  
13 years old, I think it's -- particularly when the court's  
14 decisions honestly kind of went the exact opposite way on  
15 the same provision, although it was two different instances,  
16 I think it was worth putting out that it's hard to reconcile  
17 court cases like that when they come back.

18 But I think between the two cases here, we did a  
19 job that I think will work well on appeal. The bigger  
20 question, though, is how important it is to get the rules  
21 right and get the implementation of the rules right; not  
22 only Commission, but importantly at the utility, in this  
23 case the RTO, ISO.

24 Five years is a long time to wait to clean  
25 something up, and I think as we know from -- and I think

1 we've got another couple cases on this agenda from  
2 California, each meeting has several and I think we're well  
3 past the 100 subdocket number for E00095. It's so critical  
4 to get these right up front and to have them be tested  
5 through -- I think stakeholder processes are one way to test  
6 them; I think we just heard in a very different context how  
7 important it is to take data from the natural gas quality  
8 and have that be tested; but to have tested this unusual  
9 facility, which I think is a pump storage facility -- which  
10 are different, and we've got them in every region of the  
11 country, and they are just very different animals that are,  
12 you know, it's not like dispatching a natural gas plant --  
13 but this one to have shown up in both of these cases, where  
14 the courts went just the opposite way is important about how  
15 important it is to model.

16 And I do think, certainly having the authority  
17 here to allow the ISO to kind of do it, but there is I think  
18 appropriate. I know we've done that for NYISO as well. It  
19 gives them some discretion to call these emergency  
20 procedures into place; but the better thing would be to not  
21 have to do them at all, because we've modeled and thought  
22 through what the issues are, whether they're an electric or  
23 gas or even hydroelectricity.

24 So let's just sort of assign those two, and I'm  
25 glad we found a way to reconcile the two court cases, and I

1 think successfully so.

2 Joe?

3 COMMISSIONER KELLIHER: As staff indicated, the  
4 orders, E-44 and 45 address whether or not New York ISO  
5 properly exercised its authority under TEP, and I do support  
6 the resolution the Commission has proposed today and the two  
7 orders, and I will vote for the orders.

8 But I think that really the most important  
9 question is one that isn't on remand from the courts before,  
10 and isn't really reflected in the orders; and that's whether  
11 TEP, itself, is an improper delegation of authority to New  
12 York ISO, and whether the Commission has improperly  
13 delegated Section 205 authority to New York ISO.

14 And it's interesting that exactly one year ago  
15 today the D.C. Circuit issued the U.S. Telecom decision, and  
16 it laid out what the law and delegation is; and I think  
17 since it is the anniversary, I'd have a few choice quotes  
18 from the decision.

19 In U.S. Telecom, the D.C. Circuit laid out the  
20 general rule on delegations of federal authority; namely  
21 that delegations of federal authority to outside parties are  
22 soon to be improper absent an affirmative showing of  
23 congressional authorization.

24 And the D.C. Circuit also explained that  
25 rationale for that prohibition on delegations. One

1 rationale is that when an agency delegates power to outside  
2 parties, lines of accountability may blur, undermining an  
3 important democratic check on government decision-making.

4 Another rationale is that delegation to outside  
5 parties increases the risk that these parties will not share  
6 the agency's national vision and perspective, and may pursue  
7 goals inconsistent with those of the agency and the  
8 underlying statutory scheme.

9 And I think those rationales are entirely  
10 reasonable. If you look at what we've done with TEP, or  
11 prior Commission did with TEP, under TEP, NYISO was  
12 authorized to change wholesale power rates in the event it  
13 determined that a market design flaw was impairing market  
14 prices. And in that circumstance, my understanding is New  
15 York ISO has subjective discretion to reset rates at a level  
16 where it thought it would guess or estimate prices would  
17 have been but for the design flaw.

18 I think it's very discretionary, what we've  
19 allowed them to do. In my view the TEP does represent a  
20 delegation of the Commission's authority under 205 to set  
21 rates, and if you apply the law in delegation from U.S.  
22 Telecom, the question then is there something in the Federal  
23 Power Act that would allow us to delegate ratemaking  
24 authority to a public utility? I don't see that there is  
25 anything in the Act that allows us to do that.

1           Also, the way I understand TEP, it delegates more  
2 authority than we ourselves have under the Federal Power  
3 Act, so even if we could under the Act delegate, we can't  
4 certainly delegate more than we have.

5           That under the Federal Power Act, the Commission  
6 can change rates retroactively in the event of a tariff  
7 violation, and in the absence of a tariff violation, we can  
8 change rates prospectively but not retroactively. But under  
9 TEP, New York ISO is authorized to reset rates in the  
10 absence of any tariff violation, in the absence of any rule  
11 violation, and to do so retroactively.

12           So I think what we have done here is delegate  
13 more than the Commission itself possesses. And I think the  
14 fact that the Commission can review decisions by New York  
15 ISO, and that's certainly what we're doing today, I don't  
16 think that diminishes the extent of the delegation, because  
17 TEP is such a subjective grant of authority to the New York  
18 ISO that our review of their decisions would I think tend to  
19 be limited to whether there's an abuse of discretion.

20           Since they're given so much discretion I think it  
21 will be, as a practical matter, hard for us to find that  
22 there has been abuse. And I do recognize TEP was narrowed  
23 in December of 2001 slightly, and perhaps it's because the  
24 Commission recognized the extent of the delegation that it  
25 had undertaken a number of years previously; but I do

1 believe the Commission should reexamine TEP, and determine  
2 whether it is an improper delegation of the Commission's  
3 ratemaking authority in the context of the Section 206  
4 proceeding. And if we determine it's an improper  
5 delegation, I think it should be excised from the tariff.

6 So I do support the orders, but I do think  
7 there's a bigger question that we have to grapple with.

8 CHAIRMAN WOOD: And the TEP, itself wasn't  
9 something somebody argued about in this case; so the court  
10 really didn't speak to it.

11 COMMISSIONER KELLIHER: Right, the court didn't;  
12 they just took -- they didn't examine whether it was an  
13 improper delegation, and that's not a question they've asked  
14 us to address. But I do support the orders, but I do think  
15 there's a bigger question.

16 CHAIRMAN WOOD: About the underlying tariff  
17 itself.

18 COMMISSIONER KELLIHER: Yes. We may be dealing  
19 with a correct application as to one of the quarters of an  
20 improper delegation.

21 CHAIRMAN WOOD: Anybody else have any thoughts?

22 Good job, folks. I know that was not an easy  
23 one, and I appreciate the proper response to the court's  
24 remands.

25 Let's vote.

1 COMMISSIONER BROWNELL: Aye.

2 CHAIRMAN WOOD: Aye.

3 COMMISSIONER KELLY: Aye.

4 COMMISSIONER KELLIHER: Aye.

5 (Panel excused.)

6 SECRETARY SALAS: Next for discussion is G-1.

7 This is Enbridge Energy Company, it's a presentation by

8 Jennifer Lucas, Bob Fulton, and Joe Athley.

9 @ MS. LUCAS: Mr. Chairman, Commissioners, my name  
10 is Jennifer Lucas, and I'm a member of the General Counsel's  
11 office. With me today are Bob Fulton and Joe Athley from  
12 OMTR.

13 The draft order designated G-1 addresses the  
14 spearhead pipeline project proposed by Enbridge Energy  
15 Company. The project will reverse the flow of an otherwise  
16 idle crude oil pipeline to provide transportation of  
17 significant, newly available reserves of Canadian crude oil  
18 to U.S. refiners in mid-continent area.

19 The increase in Canadian production is made  
20 possible by new technologies that enhance the producer's  
21 abilities to extract crude oil from Western Canada's  
22 abundant oil sands and its heavy crude reserves.

23 Existing pipeline facilities previously  
24 transported crude oil from Cushing, Oklahoma to Chicago  
25 markets. However, reversing this idle pipeline will allow

1 the Canadian production to offset dwindling domestic supply  
2 from the mid-continent area thus permitting greater  
3 utilization of existing refineries in that area.

4 Use of the existing pipeline facilities also will  
5 allow Enbridge to reactivate the pipeline by January 1,  
6 2006, compared with the considerably longer time required to  
7 construct a new pipeline. Further, the project will allow  
8 both volumes of Canadian crude oil to replace more expensive  
9 and less reliable foreign imports into the Gulf Coast.  
10 Additionally, use of the existing facilities will result in  
11 considerably less environmental impact than would the  
12 construction of a new pipeline traversing the same route.

13 The reversal process will include moving,  
14 relocating and adding pumping stations, as well as changing  
15 metering facilities. A newly constructed pipeline  
16 traversing the same route would cost approximately  
17 \$339 million, or \$179 million more than the estimated  
18 \$160 million cost of the spearhead project.

19 The staff will be pleased to answer any questions  
20 you may have.

21 CHAIRMAN WOOD: I had the neat opportunity to go  
22 visit this oil production in Northern Alberta a couple of  
23 years ago, and I encourage you all to do it, too. It's nice  
24 to know that our future energy supplies don't have to  
25 necessarily come on a boat but can come on a pipeline, even

1           though it's from our sister country to the north.

2                         And I appreciate the staff's creativity here, I  
3 know there are some new policy issues. I encourage anybody  
4 interested in these issues to read the order, G-1. But I  
5 think this is the kind of creativity we need to take on  
6 infrastructure, particularly when it's already in place; you  
7 know, the difficulties of siting new infrastructure, we hear  
8 about it in almost every breath we take.

9                         Here's one that was able to be done and get  
10 refitted for a lot lower price tag than building a brand new  
11 one. So that's a good thing, and thought it would be worth  
12 putting a little spotlight on it. So thank you all for your  
13 work in getting it up to us.

14                        COMMISSIONER BROWNELL: Can anybody put in  
15 context for me 125,000 barrels? I should know the answer to  
16 this, but I don't, I confess. How much difference can that  
17 make in the market that will receive it?

18                        MR. ATHLEY: Well it's a significant amount. I  
19 think the thing is, this is just the tip of the iceberg and  
20 there's going to be much more. In fact, Exxon-Mobile is  
21 planning to reverse a pipeline, and they may be filing here  
22 this summer. They actually want to take Canadian down into  
23 the Gulf to compete with refiners down there.

24                        So I think what it is is a first step, because  
25 this oil sands is supposed to double in production in the

1 next ten years, so there's definitely a possibility of a lot  
2 more crude coming in.

3 CHAIRMAN WOOD: That's a good step. All right.  
4 All right, let's vote.

5 COMMISSIONER BROWNELL: Aye.

6 CHAIRMAN WOOD: Aye.

7 COMMISSIONER KELLY: Aye.

8 COMMISSIONER KELLIHER: Aye.

9 (Panel excused.)

10 SECRETARY SALAS: Our last item in our discussion  
11 agenda this morning is G-2, Williston Basin Interstate  
12 Pipeline Company, a presentation by Richard Howe and Wayne  
13 Guest.

14 @ MR. HOWE: Mr. Chairman and Commissioners, the  
15 draft order in G-2 responds to a remand by the United States  
16 Court of Appeals for the District of Columbia Circuit of the  
17 Commission's orders, on the Order No. 637 compliance filings  
18 by Williston Basin Interstate Pipeline.

19 The court held that the Commission had not  
20 adequately justified its CIG Granite State discounting  
21 policy. Under that policy, discounted rate firm shippers  
22 are committed to retain their discounts when using a  
23 secondary point at which similarly situated shippers are  
24 receiving discounts.

25 Among other things, the court was concerned that

1 the new policy could undercut the ability of pipelines to  
2 use selective discounts to maximize their revenue from  
3 customers with competitive alternatives, by making it more  
4 difficult for the pipeline to limit its discounts solely to  
5 those customers.

6 The draft order finds that the Commission cannot,  
7 at the present time, support the necessary finding under NGA  
8 Section 5, that any benefits of increased competition  
9 achieved by the CIG Granite State policy outweigh the cost  
10 to captive customers of reduced revenue from selective  
11 discounting.

12 Therefore, the draft order permits Williston to  
13 remove its tariff provision implementing the CIG Granite  
14 State policy. The draft order also states that other  
15 pipelines who have implemented that policy, pursuant to  
16 orders that are now filed, as an amount final, may make  
17 limited NGA Section 4 filings to remove their tariff  
18 provisions implementing the policy.

19 Finally, the draft order points out that the  
20 Commission is making a more comprehensive review of its  
21 discounting policy in the Notice of Inquiry Proceeding in  
22 Docket No. RM05-2-000. And the Commission will take a  
23 broader look at its overall discounting policy in that  
24 proceeding.

25 That concludes my presentation.

1                   CHAIRMAN WOOD: Thank you, Richard.

2                   In the great words of Kenny Rogers, "Know when to  
3 hold them and know when to fold them" and I think this is a  
4 fold them. So it's a remand that matters, and so we talk  
5 about them publicly.

6                   So ready to vote them.

7                   COMMISSIONER BROWNELL: Well, thanks, Kenny.

8                   Aye.

9                   CHAIRMAN WOOD: Aye.

10                  COMMISSIONER KELLY: Aye.

11                  COMMISSIONER KELLIHER: Aye.

12                  (Panel excused.)

13                  CHAIRMAN WOOD: Thank you all very much. We will  
14 do our closed meeting in about 30 minutes.

15                  So the meeting is adjourned.

16                  (Whereupon, at 12:13 p.m, the open meeting  
17 concluded.)

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