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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 MARKETS, TARIFFS AND RATES - GAS :
CONSENT ENERGY PROJECTS - HYDRO :
CONSENT ENERGY PROJECTS - CERTIFICATES :
DISCUSSION ITEMS :
STRUCK ITEMS :
- - - - -x

893RD COMMISSION MEETING
OPEN MEETING

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

Thursday, June 30, 2005
10:15 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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19 ALSO PRESENT:

20 JANE W. BEACH, 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: Before we begin today's meeting,
4 I would like to make an announcement that we have the-- the
5 Canadian and U.S. agencies have signed an agreement to
6 continue cooperating on the oversight of the electricity
7 grid to make sure that this electricity grid that we share
8 is as reliable as possible. And so I am the fourth of four
9 signatories for this and I'm going to execute, on behalf of
10 the FERC, our agreement to this document in both French,
11 which is a challenge for a Spanish-speaking boy -- and
12 English -- which is often also a challenge for me.

13 (Laughter.)

14 CHAIRMAN WOOD: But I want to say that this
15 document now, and I'd like to introduce to you all and ask
16 them in a moment to speak, Tom Wallace, who's Director of
17 the Electricity for Natural Resources, Canada; and Kevin
18 Kolvar, who is the head of the Transmission Distribution
19 Shop at our Department of Energy, are here today. And they,
20 and then a fourth representative for the Provincial
21 Governments in Canada, which are the state counterparts
22 north of the border have also executed the terms of
23 reference. And this is a formal establishment of a
24 Bilateral Electric Reliability Organization Oversight Group
25 with government representatives from both countries.

1 This bilateral group will work to help the
2 Electrical Reliability Organization, or the ERO as its
3 known, to be established by pending energy legislation and
4 before our Congress as we speak. This will allow it to work
5 effectively on an international basis. That's good news for
6 Electrical Reliability in North America.

7 This group includes our staff from FERC, the DOE,
8 NRCAN in the Canadian Federal Provincial Territorial
9 Electricity Working Group of the Canadian Council of Energy
10 Ministers. They also have state/federal issues north of the
11 border as well.

12 The group began in February 2004 at a meeting
13 here at the FERC. And since that time the bilateral group
14 informally has met frequently--most often by telephone--to
15 discuss the international organization of a new reliability
16 organization subject to oversight by the regulators in both
17 nations. The group has sponsored three workshops in Canada
18 and in the U.S. to explore issues of how the two sovereigns
19 can cooperate to oversee a multi-national organization.

20 As part of this effort, the bilateral group
21 drafted for discussion some general principles about how our
22 governments could cooperate to set up the truly
23 international ERO, which will move into high gear once the
24 pending energy legislation is adopted.

25 These principles were discussed with electric

1 stakeholders from both countries at a workshop held in
2 Toronto just last week. Our agencies are enthusiastic about
3 the success of our cooperative discussions. Today's
4 document expresses our intent to continue addressing
5 bilateral issues through the bilateral group as new
6 government-to-government and government-to-industry
7 reliability issues come up.

8 The formal establishment of the working group by
9 this terms of reference should improve an already excellent
10 working relationship between our two countries and between
11 the agencies involved in reliability oversight, and I look
12 forward to the working group continuing its good work on
13 behalf of the customers in both countries.

14 And I want to extend a warm welcome to you, Tom.
15 As well, I'd also like to introduce and welcome David
16 Burpee, who's the senior advisor for Renewal and Electrical
17 Energy Division at the NRCAN. David's there. Lisa Jackson
18 is the acting director for Renewable Electrical Energy
19 Division at NRCAN. And we're always honored to have here,
20 from the Embassy, Paul Connors, who's the First Secretary
21 for Energy. Welcome back, Paul.

22 We also, as always, appreciate Kevin being here
23 and we want to thank the hard work of David Meyer, who has
24 been a steadfast participant ever since the blackout. And,
25 actually, way before the blackout, but particularly on these

1 issues from the Department of Energy.

2 I'd like to ask now, Tom, for any comments you
3 may have.

4 MR. WALLACE: Well, thank you very much for the
5 warm welcome, Pat. And I very much appreciate you taking
6 time out from what I understand to be a very busy agenda to
7 sign the Agreement that has been I guess the fruit of very
8 good collaborative work between our two governments and
9 FERC-DOE over the past year.

10 I may just introduce myself. I'm here as the
11 Co-Chair of the Federal Provincial Territorial Working Group
12 on Electricity Reliability that we've established in Canada
13 to, in some sense, organize our act north of the border. I
14 co-chair this group with the Government of Ontario and the
15 Deputy Minister of Ontario as well as our Deputy Minister
16 are signatories of the agreement that Kevin and Pat have
17 signed today.

18 The groups that we are constituting today
19 formally, as Pat mentioned, really have been in operation
20 for almost a year now. And while we are, in some sense,
21 institutionalizing the terms of reference for this group,
22 we've been quite active over the last year in getting on
23 with the job.

24 And as you see in the document, one part of the
25 job was to develop some principles that we could agree to on

1 both sides of the border for the governance of the ERO, and
2 various other issues associated with establishing it.

3 Pat mentioned the three workshops we've had, the
4 most recent one in Toronto. And we're still going to be
5 continuing to work on the Draft Principles that have been
6 developed to date.

7 I thought I might take a couple of moments here
8 to outline some of the principles that we developed that are
9 particularly important from a Government of Canada
10 perspective. We're pleased to see an increasing consensus
11 on some of these principles.

12 The first point is we think, obviously, effective
13 governance and representation are important as the Electric
14 Reliability Organization is set up if it is to operate as an
15 international organization on both sides of the border. And
16 we more or less -- a principle that's been elaborated is
17 that there should be representation on the Board of Trustees
18 and some of the key committees sort of in proportion to the
19 net energy for load of various jurisdictions.

20 We've also agreed sort of on a, or to elaborate a
21 principle dealing with funding whereby each jurisdiction
22 would be responsible for collecting the funding required to
23 support the ERO in their jurisdiction and for the allocation
24 of that funding among the various stakeholders.

25 Remand is another issue that we attached

1 particular importance to, and have elaborated the concept as
2 is in the energy legislation that a regulator can approve a
3 standard or remand it back to the ERO, but would not be able
4 to change the standard.

5 The enforcement of standards is also very
6 critical and the principles that have been elaborated would
7 require that FERC and regulatory authorities in Canada have
8 the option of either relying on the ERO to enforce the
9 standard or the respective regional entity to which
10 enforcement has been delegated. So it's up to each
11 jurisdiction to really make the decision on enforcement
12 within their area.

13 As Pat mentioned, the Draft Principles are really
14 a continuous work in progress as we get feedback from the
15 various stakeholders. We had about 60 people, I think, at
16 the meeting in Toronto last week and a number of people from
17 Canadian jurisdictions, but we were really happy to see the
18 strong participation we had from south of the border as
19 well.

20 Just to sum up, we are very pleased with the
21 progress we've made over the past year. Very pleased, Pat,
22 that you've invited me down on your last day in office. And
23 I guess on behalf of the Government of Canada, I'd just like
24 to thank you. You've been a good friend to Canada and wish
25 you all the best in your future endeavors.

1 CHAIRMAN WOOD: Thank you.

2 Kevin Kolvar is the director of the newly formed
3 Department of Energy Office of Electricity and Energy
4 Assurance. Kevin, we're glad you're here today, too.

5 MR. KOLVAR: Thank you. Thank you, Pat.

6 Tom, welcome. Thank you for coming down -- you
7 and your colleagues.

8 As Pat mentioned, this group formally began a
9 year ago but its roots really go back to the initial
10 collaboration between the United States and Canada following
11 the 2003 outage and the work that we did to publish the
12 final August 14th Blackout Report.

13 Both my staff and I have enjoyed working with all
14 the parties and we look forward to building on what I think
15 are already very successful collaborative efforts. We have
16 an outstanding working relationship and I think it can only
17 get better.

18 We are very pleased by the Terms of Reference. I
19 think they show great work by both countries. And the Terms
20 of Reference that have been signed today will help to create
21 a foundation for the ERO and I believe they are an important
22 step toward the timely and effectively creation of that ERO,
23 particularly, given the tight time line that will follow
24 should legislation pass in the next month or so and the
25 tough timeframe that FERC will have. I think this is a good

1 step forward.

2 The timing of this meeting could not be better,
3 and as the week's events demonstrates, the U.S. Government
4 is moving forward on several fronts. And even as we were
5 working with our Canadian colleagues to finalize the Terms
6 of Reference, the Senate earlier this week was passing their
7 version of comprehensive energy legislation that includes
8 the mechanism to create the ERO, and that's not by
9 coincidence.

10 It demonstrates that the government Executive, it
11 demonstrates that the Legislature understand the importance
12 of this and are moving forward. I think as most people
13 know, the President has asked the Congress to complete its
14 work on this legislation by August so that he may sign it
15 into law. And, given the recent progress, I think we have
16 good reason to be optimistic.

17 Pat, as you said, the formation of the ERO will
18 be a great asset to the reliability of the grid and this
19 bilateral group will continue to work together with
20 stakeholder involvement to make the grid dependable and
21 modern.

22 And, finally Pat, on behalf of the Department of
23 Energy, I want to thank you. In your time as chairman, you
24 have had a clear, unmistakable and very positive impact on
25 progress toward an efficient and modern electricity system.

1 And we thank you and we will miss you.

2 CHAIRMAN WOOD: Thank you very much.

3 Well, in wrapping up, thank you folks for coming
4 our way this time. I think next time it's in your country,
5 but it will be a different person in my shop. But look
6 forward to that.

7 I want to also recognize the folks who do provide
8 the continuity from the FERC side, and Kevin Kelly and Joe
9 McClellan are at the top of that list and I want to just
10 thank those two guys for what they've done to work this out
11 today.

12 Tom, I want to give you the two copies for the
13 Canadians and here's yours for the DEO and I've executed
14 ours for the FERC. This will be available on our webpage if
15 anybody's interested in the Terms of References, but I do
16 think they've been widely circulated.

17 I want to thank you all for coming today.

18 (Applause.)

19 (Pictures taken.)

20 CHAIRMAN WOOD: We will ask that this open
21 meeting will come to order to consider the matters which
22 have been duly posted in accordance with the Government in
23 The Sunshine Act for this time and place. We'll start as we
24 always do with the pledge to our flag, so please join us in
25 that.

1 (Pledge recited.)

2 CHAIRMAN WOOD: Before we do the consent agenda,
3 I'd like to comment on a few notational orders which have
4 gone out since our last meeting from items that were
5 discussed in this last cycle.

6 Before I do that, I'd like to recognize the hard
7 work that the Secretary's office has done throughout my
8 term, and specifically for this agenda. A number of items
9 were stricken from the agenda, not because we didn't do them
10 but because we did them early. So I want to thank, not only
11 the Secretary's office for getting those out in the past
12 several days, but also for all the staff's hard work, both
13 in the Commissioners's offices and in the program offices
14 who have gotten that up here.

15 I'd like to thank Magalie, and you and your
16 staff, for the professionalism in ensuring that these have
17 been issued in a timely fashion.

18 Among those Orders were a couple I'd like to
19 mention. Early this week we issued a transmission pricing
20 policy order, and in an effort to remove barriers to the
21 formation of independent transmission companies we clarified
22 our policy on passive ownership of ITCs by signaling a more
23 flexible approach toward passive ownership, equity ownership
24 of ITCs by market participants. This is a change from where
25 we had been before.

1 To improve the performance and efficiency of the
2 grid's operation, we've spotlighted the critical need to
3 expand the nation's transmission grid system and increase
4 power grid investment. This action is another step toward
5 policies that will encourage development of a more reliable
6 transmission grid. So I think there's a theme here.

7 On other items, we passed and put out just
8 recently an accounting for pipeline assessment costs. We
9 interpret our existing accounting rules to provide specific
10 guidance on how jurisdictional natural gas entities shall
11 account for the costs related to an integrity management
12 program required by the Department of Transportation's
13 Office of Pipeline Safety.

14 We've required that companies expense those costs
15 in the period incurred except where the entity replaces a
16 retirement unit as part of a remedial action taken pursuant
17 to an integrity management program. Those costs should be
18 capitalized, not expensed, to the appropriate plan account.
19 This order is effective for expenditures made on or after
20 January 1st of next year.

21 A third item deals with SoCal Edison's trunkline
22 recent declaratory order request. We here approve two
23 segments, but not a third of the trunkline facilities that
24 had been requested by SoCal Edison to be included in the
25 statewide cost allocation for the SoCal Edison. This is a

1 project that was used or is proposed to be used to support
2 the development of three to four gigawatts of renewable
3 energy capacity in the Tohachipee Mountain area of Southern
4 California. This order -- actually, from which I dissented
5 in part, and I believe Nora concurred in part, should be
6 able to move the ball forward on development of significant
7 and diverse supplies of energy to meet the needs in Southern
8 California.

9 I'll make another announcement on another
10 notational item in just a moment. So, at that point, Madame
11 Secretary.

12 SECRETARY SALAS: Good morning Mr. Chairman.
13 Good morning Commissioners. The following items have been
14 struck from the agenda since the issuance of the Sunshine
15 notice on June 23rd. They are E-25, E-27, E-30, E-41, E-73,
16 G-16 and H-5.

17 Your consent agenda for this morning is as
18 follows -- electric items -- E-5, 6, 13, 17, 18, 23, 24, 26,
19 29, 31, 33, 39, 40, 42, 44, 56, 57, 61, 62, 64, 65, 66, and
20 68. Miscellaneous items -- M-1. Gas items -- G-1, 5, 7, 8,
21 9, 10, 11, 12, 13, and 15. Certificates -- C-8.

22 Commissioner Kelly is not participating in the
23 following items on the consent agenda, E-44, E-64, and E-68.
24 Specific votes for some of the other items on the consent
25 agenda are as follows -- E-5, Commissioner Kelly concurring

1 with a separate statement; E-56, Commissioner Kelliher
2 dissenting with a separate statement; E-66, Commissioner
3 Kelliher dissenting in part with a separate statement; G-5,
4 Commissioner Brownell dissenting with a separate statement;
5 G-10, Commissioner Kelly dissenting in part with a separate
6 statement and Commissioner Brownell goes first this morning.

7 COMMISSIONER BROWNELL: Aye, noting my dissent on
8 G-5.

9 COMMISSIONER KELLIHER: Aye, noting my dissent on
10 E-56 and dissent, in part, on E-66.

11 COMMISSIONER KELLY: Aye, noting my dissents and
12 my not participating status in the cases mentioned by the
13 Secretary.

14 CHAIRMAN WOOD: And I vote aye.

15 SECRETARY SALAS: The first item for discussion -
16 -

17 CHAIRMAN WOOD: Hold on. Let me mention a couple
18 of things in that just to help the folks that try to go
19 through the end trails here.

20 A couple of items I wanted to mentioned were just
21 approved in the consent agenda. E-5 is a petition of the
22 governors of New England to establish a proposed regional
23 state committee and a New England states committee on
24 electricity. We reviewed action on this and deferred action
25 so the petitioners could address the issues that were raised

1 by protestors through stakeholder procedures.

2 In this order we concluded that the proposal
3 could benefit from further discussion and attempts to
4 encourage cooperation among the petitioners and the market
5 participants that did not agree with some aspects of the
6 proposal. We also clarified the reject of the rate schedule
7 by ISO New England and provided further guidance so the ISO
8 and stakeholders to create a funding mechanism. I should
9 note that Commissioner Kelly concurred on this item.

10 E-6 was a Montana-Alberta tie-in. Here we
11 accepted for filing Montana-Alberta Tie, Ltd.'s MATL's open
12 season report, which described the procedure that its going
13 to use for selling capacity on a proposed transmission line
14 connecting existing lines in Montana to those in Alberta,
15 Canada. We don't have a lot of interconnections north to
16 south out in that region and so this would actually be a
17 non-utility coming forth and seeking to develop a
18 transmission line to run from Alberta to Great Falls,
19 Montana. We conclude in this order that the open season
20 process was non-discriminatory, fair and transparent.

21 In G-15, the price index policy statement, the
22 Commission granted a request for clarification of our
23 earlier policy statement from last year on natural gas and
24 electric price indices relating to a safe harbor provision
25 for data providers. The purpose of the safe harbor

1 provision is to encourage market participants to report
2 without fear of enforcement action for inadvertent errors.
3 In this order we clarified that so long as the data provider
4 has adopted and is following the standards of the policy
5 statement from 2004 for reporting entities that the safe
6 harbor provision would apply to that company, even if it's
7 not specifically subject to the Commission's market
8 behavioral rules.

9 Then, M-1, the Commission amended its electronic
10 tariff filings notice of proposed rulemaking to address
11 concerns regarding the burden and costs of converting old or
12 non-conforming tariff materials into electronic format. The
13 Commission, in this order, proposed that the only current
14 tariffs in future agreements and not pre-existing non-
15 performing rate schedules in old agreements be filed
16 electronically. In this order we announced that we are
17 seeking comment on whether oil pipelines should utilize an
18 approach to tariff filing that would differ from the
19 approach used in the gas and electric industries. The
20 Commission also proposed to permit electronic service of all
21 initial and subsequent tariff filings upon the
22 implementation of E-Tariff filing. We'll hold a technical
23 conference on this filing software in the near future.

24 And, finally, I want to mention, as we have
25 several LNG matters on our agenda today, one of the missions

1 of the Commission is to educate the public on energy-related
2 matters. And, in that regard, I'd like to encourage those
3 interested in LNG to visit our webpage at www.FERC.gov to
4 learn more about LNG, the Commission's role and the
5 comprehensive regulatory stance that's being taken toward
6 terminals and tankers in the vaporization process.

7 So, Madame Secretary, back to you.

8 SECRETARY SALAS: The first item for discussion
9 this morning is C-2. This is Golden Pass LNG terminal LP
10 and it's a presentation by Webster Gray, Jennifer Kerrigan
11 and Walt McDaniel. I think we have Chris Zerby and Rich
12 Hoffmann at the table also.

13 MR. GRAY: Good morning Mr. Chairman,
14 Commissioners. I'm Webster Gray from the Office of Energy
15 Projects. Seated here at the table with me, as previously
16 noted, are Rich Hoffmann, Chris Zerby and Jennifer Kerrigan,
17 also from OEP and Walter McDaniel from OMTR.

18 Today we're reporting on the draft order in item
19 C-2, which is an LGN terminal and associated pipeline in the
20 Gulf Coast region. The draft order in item C-2 authorizes
21 Golden Pass LNG Terminal LP and Golden Pass Pipeline LP,
22 affiliates of the Exxon-Mobile Corporation, to construct and
23 operate the Golden Pass project.

24 The Golden Pass project will revaporize and
25 transport approximately 2.5 billion cubic feet of natural

1 gas in the LNG terminal to interconnections in Orange
2 County, Texas and Calaca Chute Parish, Louisiana.

3 Golden Pass LNG is located on a 477-acre track
4 zoned for industrial use on the banks of the Port Arthur
5 ship channel in Jefferson County, Texas. The facilities
6 would be used to import, store and vaporize approximately
7 2.0 bcf per day of LNG on average with a peak capacity of
8 2.7 bcf per day.

9 Some of the key facilities to be constructed
10 include an LNG marine terminal with a dredge-turning basin
11 and two protected berths; LNG storage facilities, including
12 five 155,000 cubic meter storage tanks and vaporization in
13 send-out facilities as well as other infrastructure and
14 support systems.

15 Golden Pass Pipeline will consist of
16 approximately 120 miles of 36-inch diameter pipeline, which
17 includes 43 miles of looping with a main line capacity of
18 2.5 bcf per day. The pipeline extends from the tailgate of
19 the Golden Pass LNG terminal to new metering regulating
20 stations at interconnections with AEP Texaoma Pipeline and
21 Transco. There's also a 2-mile, 24-inch lateral to the
22 Exxon-Mobile refinery in Beaumont. In addition to these
23 planned facilities, there are 11 existing pipelines
24 available for future interconnections. Golden Pass
25 anticipates putting the pipeline in service in 2008 or 2009.

1 In October of 2003, Exxon-Mobile and Qatar
2 Petroleum announced they had their agreement to supply LNG
3 from Qatar to the United States for a period of 25 years
4 with expected deliveries to begin in 2008-2009. Qatar is
5 said by EIA to have proven natural gas reserves in excess of
6 900 trillion cubic feet. Golden Pass LNG and Golden Pass
7 Pipeline took part in the Commission's pre-filing process,
8 which allowed for expedited and inclusive processing of the
9 application.

10 The United States Coast Guard, U.S. Army Corps of
11 Engineers, U.S. Department of Interior, Fish and Wildlife
12 Service, Department of Commerce, NOAA, National Marine and
13 Fishery Service and the EPA participated as cooperating
14 agencies assisting with the preparation of the Environmental
15 Impact Statement. Because of this early participation of
16 affected stakeholders in the NEPA pre-filing process,
17 Jennifer Kerrigan, our environmental project manager and her
18 team, were able to prepare and issue the final Environmental
19 Impact Statement in 10 months from the time of application.

20 The map of the Gulf Coast region here shows 23
21 new amended or modified, onshore and offshore, LNG projects
22 that the Commission and the Maritime Administration Coast
23 Guard have been evaluating recently. There are currently
24 two LNG terminals in operation as well as seven new
25 terminals, plus one terminal expansion that had been

1 approved and are now under construction or undergoing final
2 design or procurement. And there's a Golden Pass LNG
3 project near Port Arthur, Texas, which is under your
4 consideration today. Additionally, Commission staff and
5 Maritime Administration Coast Guard are currently reviewing
6 12 more projects in various stages of the NEPA process.

7 There are many more staff members than you see
8 here today that helped on this project, and we would like to
9 recognize them in spirit, if not in name. It was truly a
10 team effort. That concludes the presentation.

11 CHAIRMAN WOOD: Webster, thanks. Thanks for that
12 presentation. Thanks for your work.

13 Commissioners?

14 (No response.)

15 CHAIRMAN WOOD: This one is about 2.8 miles from
16 property that I own and I'm very familiar with this site. I
17 appreciate the effort that staff went through with some of
18 the mitigation issues there, particularly, during the
19 construction period that were of greatest concern to the
20 more proximate residents in that area. And thank the Coast
21 Guard and the civilian pilots and the safety issues here
22 were very well handled and I appreciate the cooperation that
23 we have had with the sister agencies on this and so many
24 other projects. Your FEIS, again, was well done and I
25 support the order as you've presented here today.

1 COMMISSIONER KELLY: I appreciate, Pat, having
2 had the opportunity to go to your hometown and see the ship
3 channel and see the site of the facility. And I just want
4 to mentioned that I know wetlands was one of the issues,
5 specifically, the loss of wetlands where the facility will
6 be built. And Golden Pass will acquire and donate 309 acres
7 of forested wetlands. And they're also going to use dredged
8 materials to reestablish wetlands in other areas, including
9 an area of 244 acres of restoration within the J.D. Murphy
10 Wildlife Management area. I know that that will please the
11 people in your hometown.

12 CHAIRMAN WOOD: All right. Let's vote.

13 COMMISSIONER BROWNELL: Aye.

14 COMMISSIONER KELLIHER: Aye.

15 COMMISSIONER KELLY: Aye.

16 CHAIRMAN WOOD: Aye.

17 SECRETARY SALAS: The second item for discussion
18 is C-3. This is KeySpan LNG LP. It's a presentation by
19 Todd Ruhkamp, who is accompanied by Dave Swearingen, Joel
20 Arneson, Rich Hoffmann, and Chris Zerby.

21 CHAIRMAN WOOD: While the staff is walking up, I
22 want to acknowledge and express our appreciation for the
23 presence today of Congress James McGovern and Mayor Edward
24 Lambert of Fall River and also staff members representing
25 Congressman Kennedy, Frank and Senator Reid. Thank you all

1 for being here today.

2 MR. RUHKAMP: Good morning Chairman Wood and
3 Commissioners. My name is Todd Ruhkamp from the Office of
4 Energy Projects and today I will be discussing the draft
5 Order in Item C-3 involving KeySpan LNG's request under
6 Section 3 of the Natural Gas Act to upgrade and operate an
7 LNG import terminal at its existing LNG storage facility in
8 the City of Providence, Rhode Island. And also Algonquin
9 Gas Transmission's request to construct and operate 1.4
10 miles of 24-inch pipeline in order to transport the natural
11 gas from the proposed terminal upgrade to the interstate
12 pipeline system.

13 Some of the staff members who worked on item C-3
14 are seated here today, including Dave Swearingen, who
15 managed production of the Environmental Impact Statement,
16 Joel Arneson, our legal advisor from OGC, and once again,
17 Chris Zerby and Rich Hoffmann, also from OEP. Also on the
18 team is Bob Sheldon from OMTR, who evaluated rate and tariff
19 issues for the Algonquin Pipeline.

20 A series of public meetings were held to discuss
21 KeySpan's proposals and for Commission staff to receive
22 input from concerned citizens and local government officials
23 regarding the proposals. Additionally, a meeting open to
24 the public and attended by members of Rhode Island's
25 Congressional delegation and other state and local officials

1 was held at the Commission's headquarters on March 17, 2005.
2 Those attending the meeting presented their views and
3 discussed their concerns about the LNG terminal proposal
4 with Chairman Wood and Commissioner Kelly.

5 Many filings from concerned parties as well as
6 the project's sponsors indicate that the two prominent
7 issues to be weighed in determining the public interest
8 standard with regard to the proposed facilities are the
9 well-documented critical gas demand needs in the New England
10 region as well as the safety concerns of the citizens and
11 their community resources.

12 In essence, KeySpan is proposing to construct a
13 new LNG import terminal.

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1 It proposes to do so by converting its
2 existing LNG storage facility into an LNG import terminal.
3 In making this conversion, Keyspan does not propose any
4 modifications to its existing LNG storage tank, impoundment,
5 or facility site, none of which meet the current Department
6 of Transportation safety standards for LNG import
7 facilities.

8 Keyspan did execute a term sheet with BG LNG
9 Services for the full capacity of the proposed terminal, the
10 gas of which will be sent out from the terminal at a rate of
11 up to 375 million cubic feet per day, into Algonquin's
12 proposed facilities.

13 In addition to the delivery of 375 million cubic
14 feet per day to Algonquin, Keyspan states that the
15 facilities will continue to deliver up to 150 million cubic
16 feet per day of vaporized LNG to New England Gas Company,
17 and approximately 20 million cubic feet per day from its
18 truck-loading operations.

19 The Staff prepared an Environmental Impact
20 Statement for the Keyspan Project. While there are many
21 complex components to the final EIS, we'll focus upon the
22 issue critical to determining the public interest as it
23 relates to Keyspan's proposal.

24 The existing Keyspan facility began operations in
25 May of 1974, prior to the adoption of the Federal LNG Safety

1 Standards in 49 CFR Part 193, in 1980. During more than 30
2 years of operation, the facility provided winter storage
3 services with the tank filled exclusively by LNG trucks,
4 except for a single barge delivery in 1974.

5 The Draft EIS determined that the proposed
6 transformation of the existing facility into a new LNG
7 import terminal, supports the need for the existing LNG
8 storage tank and facilities, to be modified as necessary to
9 meet the current LNG safety standards.

10 As a result, the Draft EIS recommended that
11 Keyspan perform an analysis of how its existing storage and
12 sendout facilities would comply with the current federal
13 safety standards.

14 In response, Keyspan stated that it would need to
15 make major modifications in order to bring its facility into
16 compliance with the current safety standards.

17 Keyspan stated that the cost of these
18 modifications would exceed \$35 million and require the
19 removal of the LNG storage facility from service for two to
20 three heating seasons. Based upon these findings, Keyspan
21 contends that it would not be feasible for the existing
22 facility to meet federal safety standards.

23 In this proceeding, for the first time, the
24 Commission has been presented with a proposal to construct a
25 new LNG import facility that would incorporate an existing

1 LNG storage facility.

2 The Draft Order finds that it is not in the
3 public interest to authorize the construction of such an
4 import terminal, where components do not meet the current
5 federal safety standards required for other new LNG import
6 terminals in the United States.

7 The policy announced here is based upon the need
8 to maintain the impressive safety record of the LNG
9 industry, which is due to the array of safety requirements
10 the Commission imposes in authorizing LNG facilities.

11 Without meeting the full spectrum of reasonable
12 safety requirements, the Draft Order finds that Keyspan's
13 proposals are not consistent with the public interest, thus,
14 the Draft Order does not authorize Keyspan's proposals.

15 As a consequence, the Draft Order dismisses
16 Algonquin's related pipeline application. This concludes
17 our presentation.

18 CHAIRMAN WOOD: Thank you, Todd. Any thoughts
19 from Commissioners?

20 COMMISSIONER BROWNELL: I appreciate the hard
21 work that you did. This is a difficult decision to make,
22 because we're confronted with what is a new situation in a
23 region that desperately, desperately needs it.

24 But I appreciate the work that you did in kind of
25 carving out what I think is an appropriate development of

1 the policy that addresses the very real concerns that
2 neighbors, residents, communities, and all of us have about
3 maintaining that impressive safety record.

4 And so I just want to point out that this is a
5 very thoughtful analysis, that I think sets some pretty
6 clear standards for future development and expansion. I
7 hope people will read very carefully and understand that the
8 very detailed way in which it does address safety standards.

9 This is a country known for maintaining high
10 public interest and standards for the customers that it
11 serves. We look at the LNG industry, of course, in Japan
12 and Portugal and Spain, where they do, in fact, have
13 facilities of this size and larger, in urban areas. I've
14 seen a number of them.

15 And yet I appreciate that fact that I think our
16 standard is higher, and we'll continue to work to address
17 those concerns.

18 But I don't want to ignore the fact that this
19 region, indeed, is in need of facilities, and I appreciate
20 the efforts of the Company to address some of those needs,
21 and regret that it simply didn't meet the tests that we
22 require.

23 So, thank you for your hard work, and, I think,
24 your willingness to listen to an array of opinions from the
25 public, from the informed experts, and from all of the

1 stakeholders who have been involved in this project.

2 CHAIRMAN WOOD: Joe?

3 COMMISSIONER KELLIHER: I agree with Commissioner
4 Brownell. I think that this actually is a very important
5 Order. And I agree with what Nora said about LNG import
6 capacity.

7 It does appear that New England does need
8 additional LNG import capacity, and if that is not provided,
9 gas prices will be higher and there may be supply problems,
10 particularly during the heating season.

11 But the Commission finds that this project is not
12 in the public interest for safety reasons, not for economic
13 reasons, but for safety reasons.

14 And this Order, I think, is important because it
15 demonstrates that the Commission applies very high safety
16 standards to new LNG import facilities, and it shows our
17 commitment to protect public health and safety.

18 Although the Keyspan storage facilities are
19 existing facilities, the import facility that's proposed, is
20 new. What we're doing here in this Order, is applying
21 existing federal safety standards to new LNG import
22 facilities, notwithstanding the fact that the storage
23 facility is existing.

24 And we conclude that the project does not meet
25 the current standards, and find that it's not in the public

1 interest. I think that is the right call, so I do support
2 the Order.

3 COMMISSIONER KELLY: I recall our meeting, Pat,
4 when you and I met with those parties concerned about the
5 development of this facility, and at that meeting, the issue
6 of the inability of the facility to meet current standards
7 as a new import terminal, came up.

8 And I want to wholeheartedly express my approval
9 for the policy we announce in today's Order, that new import
10 facilities must meet current safety standards.

11 CHAIRMAN WOOD: I'll associate my sentiments with
12 those of all of my colleagues, and call for a vote.

13 COMMISSIONER BROWNELL: Aye.

14 COMMISSIONER KELLIHER: Aye.

15 COMMISSIONER KELLY: Aye.

16 CHAIRMAN WOOD: Aye.

17 SECRETARY SALAS: The next item for discussion is
18 C-7. This is Weaver's Cove Energy, LLC. It's a
19 presentation, again, by Todd Ruhkamp, who is accompanied by
20 Rich McGuire, Rich Hoffmann, Chris Zerby, and Jay O'Malley.

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1 MR. RUHKAMP: The draft order in item C-7
2 concerns Weaver's Cove Energy's application under Section 3
3 of the Natural Gas Act requesting authority to site,
4 construct and operate an LNG terminal in Fall River,
5 Massachusetts. Additionally, Mill River Pipeline filed an
6 application under Section 7(c) of the Natural Gas Act to
7 construct and operate two new lateral pipelines to transport
8 the vaporized natural gas to interstate pipeline facilities
9 of Algonquin Gas Transmission. Mill River also requests the
10 related blanket certificates.

11 Seated with me today are Rich McGuire, the EIS
12 manager from OEP; Jay O'Malley from OGC and, once again,
13 Chris Zerby and Rich Hoffmann from OEP. We would also like
14 to acknowledge Joe Dooley and Laura Kane from OMTR and Buu
15 Nguyen, the certificate manager from OEP.

16 Weaver's Cove proposes to construct an LNG
17 terminal with a peak day send out capacity of 800 million
18 cubic feet per day on the site located on the Tauton River
19 in the City of Fall River, Massachusetts. The proposed LNG
20 terminal would be located on the site of a former petroleum
21 terminal in a Designated Port Area already identified under
22 the Massachusetts Coastal Zone Management Program as being
23 set aside for water-dependent industrial uses. The proposed
24 facilities include a marine berth and LNG storage tank,
25 vaporization facilities and an LNG truck distribution

1 facility. LNG will be transferred into trucks for
2 transportation to peak shade and storage facilities and
3 vaporized LNG will be delivered into the pipeline laterals
4 to be constructed by Mill River.

5 Consistent with the Commission's Hackberry
6 Policy, Weaver's Cove does not propose to offer open-access
7 service or maintain a tariff or rate schedule for service
8 from its proposed facility. Weaver's Cove has executed a
9 binding precedent agreement with Medtis Energy for the
10 entire capacity of the LNG terminal.

11 Mill River proposes to construct and operate two
12 24-inch diameter pipeline laterals that will contact the
13 outlet of the Weaver's Cove LNG terminal to Algonquin's
14 pipeline system. The proposed western lateral will extend
15 2.5 miles from the Weaver's Cove facility to Algonquin's G-
16 22 lateral pipeline. The norther lateral will extend 3.6
17 miles from the LNG terminal to Algonquin's G-1 laterals.

18 In August 2003, Mill River held an open season
19 for bidding for the pipeline capacity, which resulted in a
20 precedented agreement with Metis for firm capacity totalling
21 400,000 deciterms per day in interruptible capacity of
22 400,000 deciterms a day for a term of 30 years at maximum
23 recourse rates.

24 A series of public meetings were held to discuss
25 Weaver's Cove proposals and for Commission staff to receive

1 input from concerned citizens and local government officials
2 regarding those proposals. Additionally, a meeting open to
3 the public and attended by members of the Massachusetts
4 congressional delegation and other state and local officials
5 was held at Commission headquarters on January 24, 2005.
6 Those attending the meeting presented their views and
7 discussed their concerns about the LNG terminal proposal
8 with Chairman Wood and Commissioner Kelly.

9 There were a substantial amount of filings
10 submitted by the City of Fall River and other parties in
11 opposition to the proposed facilities on safety,
12 environmental, site acquisition and other issues. Most of
13 these were in response to either the draft or final
14 Environmental Impact Statements that were prepared for this
15 project. A primary consideration before you here is whether
16 the Weaver's Cove facilities can be constructed and operated
17 safely. We've taken a number of steps to ensure detailed
18 consideration of safety and security issues regarding the
19 proposed LNG import terminal and related LNG vessel
20 operations.

21 Recognizing the public concern, the U.S. Coast
22 Guard, in coordination with the Commission staff, initiated
23 a series of workshops with local law enforcement agencies
24 and port stakeholders to develop the procedures and
25 resources required to manage the safety and security of LNG

1 vessels while moving through Naragansett Bay and unloading
2 LNG at the dock. An initial vessel transit security plan is
3 summarized in the FEIS. This process was the most extensive
4 effort ever performed in Commission staff's consideration of
5 an LNG import project and will serve as a blueprint for
6 evaluating future proposals.

7 In response to comments from local agencies about
8 security and emergency management costs that could be
9 imposed on state and local agencies, the draft order adopts
10 the FEIS recommendation that Weaver's Cove be required to
11 prepare additional project-specific security and emergency
12 plans that detail funding of all costs to implement those
13 plans that may be incurred by the affected agencies.
14 Weaver's Cove must also prepare an initial emergency
15 response plan, identify emergency evaluation routes prior to
16 construction and develop emergency response plans with local
17 officials throughout the construction period.

18 The draft order also requires Weaver's Cove to
19 incorporate into the final design of the terminal numerous
20 improved features regarding the safe operation of the
21 facility.

22 The draft order finds that the project would meet
23 federal safety standards. It could be operated safely and
24 would have limited adverse environmental impact. These
25 conclusions are based upon the construction and operation of

1 the project in accordance with Weaver's Cove's proposed
2 mitigation and also the environmental mitigation measures
3 recommended in the FEIS. The draft order authorizes
4 Weaver's Cove, under Section 3 of the Natural Gas Act, to
5 site, construct and operate its proposed LNG terminal in
6 Fall River, Massachusetts subject to the conditions set
7 forth in the order.

8 Additionally, a certificate of public convenience
9 and necessity is issue to the Mill River under Section 7(c)
10 of the Natural Gas Act authorizing it to construct and
11 operate it's proposed pipeline facilities as well as the
12 corresponding blanket certificates.

13 This concludes our presentation.

14 COMMISSIONER BROWNELL: Tom, could you or one of
15 your colleagues give a little more detail about the
16 continued involvement of the project staff to oversee the
17 implementation of some of the requirements that we've given
18 you. You talk about an initial vessel transit security
19 plan. You talk about working with the Coast Guard. You
20 talk about some pretty extensive emergency plans, and I
21 think in order for the public to be fully comfortable
22 they're going to know that there are various agencies
23 involved as this moves forward to ensure that the
24 requirements are being met. Do you want to say our we and
25 other agencies actually do that?

1 MR. RUHKAMP: One of these three gentlemen will.

2 MR. HOFFMANN: Sure, Commissioner. It's actually
3 a multi-part, as you recognized. It continues on with --
4 first of all, the order requires that the company sort
5 through a number of other permitting issues that it still
6 has to deal with to complete any number of different issues
7 such as dredging, issues with the site itself -- development
8 of the site itself, and we'll continue to monitor all of
9 those.

10 In addition, we have requirements for the company
11 to submit very detailed, final designs to us, which we will
12 put through another series of reviews between us and the
13 Department of Transportation, and as things relate to Coast
14 Guard operations, the Coast Guard also. The order has
15 additional requirements for the company to put together an
16 emergency response plan that they have to coordinate with
17 local officials before we will authorize construction. So
18 we'll put that through a review process, too.

19 As we get to the point that the permits are all
20 issued, and some of the outstanding ones, as have been
21 testified on the Hill, are very important state approvals
22 under the Coastal Zone Management Act and the Clean Water
23 Act. But, as we get to the point of construction, all those
24 preliminary issues are met and construction is authorized,
25 then we will have a continuing presence throughout their

1 construction period with periodic inspections of the
2 facility as its being constructed, as design changes are
3 made and we'll carry that all the way through commissioning
4 of the tank as they start to test out equipment and before
5 it goes into service, ultimately.

6 And then, after that, we continue to inspect it
7 annually during operation of the facility, require a
8 reporting from the company -- and that's a continuing
9 relationship that we have to make sure that it can operate
10 safely.

11 COMMISSIONER BROWNELL: And do we have a process
12 in place, because there have been obviously concerns by
13 congressional representatives, customers, local community
14 members, that we will be available to answer any questions
15 as those plans developed. I'm delighted about our webpage
16 because one of the challenges, I think, for everyone has
17 been the enormous amount of really bad, misinformation out
18 there about what LNG is and what the issues really are.
19 They're not to be ignored, but they are to be managed and
20 have been, of course, for many years. So tell us how the
21 public can get more information as the plans develop.

22 Will we be holding more meetings to tell people,
23 to educate people, to communicate as we move along?

24 MR. HOFFMANN: Well, that's certainly something
25 that we could do, but at this point -- I mean there is a way

1 that people could communicate -- continue to communicate
2 with the Commission in that docket. And, if that happens,
3 we'll respond to those kinds of issues.

4 COMMISSIONER BROWNELL: Mark.

5 MR. ROBINSON: We'll also have in the development
6 of the emergency response plan a series of interactions with
7 the local and state officials that have expertise in
8 emergency response, and it's quite likely that we'll have
9 sessions in the area that can involve the public. It's
10 something that we'll make a decision on as we go forward.
11 But there is an ongoing interaction with the public between
12 the staff and the local representatives of the public
13 concern that will continue through the life of the project.

14 COMMISSIONER BROWNELL: I just think we ought to
15 make an extraordinary effort to be on the ground, to hold
16 community meetings because I think the community needs the
17 assurance. But, more importantly, I think the community
18 hasn't been given good information and I think we also owe
19 them that. So let's talk about how we can really be
20 aggressive in that regard. Thanks.

21 COMMISSIONER KELLIHER: I support the order and I
22 think Nora and staff have brought out that we've made a
23 number of significant safety improvements to the proposed
24 project. So we have required those improvements in order to
25 find that the project is in the public interest. Also, our

1 approval is not unconditional. There are some hurdles that
2 remain in front of this project. They have to still obtain
3 CZA, consistency determinations from Massachusetts and Rhode
4 Island and they still have to resolve legal issues
5 respecting the site. So we have made significant safety
6 improvements and I support the order.

7 COMMISSIONER KELLY: As this order recognizes,
8 the New England region's demand for natural gas is predicted
9 to keep growing and the region only has enough delivery
10 infrastructure to meet winter peak demands through 2010.
11 And this project would increase the availability of natural
12 gas supplies in the New England market. However, I do not
13 believe that this projected need for greater gas supplies
14 and delivery infrastructure in the New England area
15 outweighs potential safety, environmental and socioeconomic
16 concerns related to this project. Therefore, I do not find
17 that it is consistent with the public interest to site,
18 construct and operate this new LNG terminal in Fall River,
19 Massachusetts.

20 There are currently proposed LNG projects that
21 present alternatives for providing new sources of natural
22 gas for the New England area by 2010. There are, for
23 example, two approved eastern Canadian LNG terminals that
24 are now under construction. They are expected to be in
25 service by late 2007 or 2008. The Bear Head LNG facility in

1 Nova Scotia will be able to initially vaporize and send out
2 about 1 bcf per day of natural gas to the Maritime and
3 Northeast Pipeline System, which runs from Nova Scotia to
4 Massachusetts. Further expansion of the facility could
5 allow natural gas deliveries up to 1.5 bcf per day, and a
6 second terminal, the Irving Oil LNG project in New
7 Brunswick, will be able to vaporize and send out about 1 bcf
8 per day of natural gas.

9 For New England to receive new supplies of
10 natural gas from either of these Canadian LNG facilities,
11 the Maritime and Northeast Pipelines would need to be
12 expanded. That pipeline has reported that it plans to
13 expand its system to increase its capacity in Atlanta,
14 Canada and New England to meet new market demand arising,
15 based on the significant interest in its recently held open
16 season. This expansion of the Maritime's Pipeline system
17 will allow it to deliver new supplies of gas to markets in
18 eastern Canada and New England.

19 Tennessee Gas has also announced a non-binding
20 open season for its Atlantic supply expansion project, which
21 is also designed to respond to the development of LNG
22 terminals in eastern Canada and Maine. There are also
23 proposed offshore projects, namely, the Neptune LNG project
24 and Accelerate Energy projects that could provide a new
25 source of imported LNG in the New England market area.

1 The proposed site for this project raises safety
2 concerns with respect to a worse case, intentional breach
3 scenario related to the LNG terminal and the LNG vessel
4 transit along the 21 nautical miles from the entrance of
5 Naragansett Bay at Fenton Point through Mt. Hope Bay and
6 then through the relatively narrow Tauton River.

7 The final Environmental Impact Statement
8 estimates that it would take four hours for LNG ships to
9 travel up to the proposed LNG terminal and adjacent
10 populated communities would be exposed to potential transit
11 hazard. Also, a temporary hazard would exist around the
12 slip during part of the 10- to 12-hour period while the LNG
13 vessel is at the dock and unloading cargo.

14 Although the order requires Weaver's Cove to
15 develop an initial emergency response plan, including
16 evacuation in coordination with local emergency planning
17 groups, fire departments and state and local law enforcement
18 to be filed with the Commission, these state and local
19 groups have raised significant concerns in this proceeding
20 regarding their ability to cope with such emergencies in the
21 affected, heavily-populated areas.

22 This project would also create adverse impacts on
23 aquatic resources. To allow LNG ships to transit, dock and
24 turn in the Tauton River, Weaver's Cove must permanently
25 deepen the existing navigation channel and a portion of the

1 east channel to 37 feet. The horizon dredging would take
2 place within the existing 400-foot wide channel and the
3 turning basin would need to be permanently enlarged and
4 deepen to 41 feet.

5 The project would require dredging of about 191
6 acres of river and bay bed. Although mitigation would
7 lessen the impacts, there would be unavoidable adverse
8 effects of the existing environments such as the temporary
9 loss of 6.2 acres of winter flounder spawning habitat and a
10 permanent loss of winter flounder spawning habitat resulting
11 from the deepening and widening of the turning basin. This
12 area serves as an important winter flounder spawning and
13 juvenile development habitat.

14 In addition, there would be entrainment and
15 impingement of larva and eggs during the operation of the
16 LNG terminal when ballasted water would be withdrawn from
17 the river by ships during offloading of LNG. A total of 980
18 million gallons of water could be withdrawn each year from
19 the river each year for ship ballast. These withdrawals
20 could entrain and impinge larva and eggs. The cumulative
21 impact of these losses would further stress the fish
22 populations in Mt. Hope Bay and Naragansett Bay.

23 This project will also cause disruptions to the
24 community. For example, vehicle traffic delays resulting
25 from temporary closure of the Brighten Street Bridge could

1 be as long as 16 minutes and the possible temporary closures
2 of the Pell Bridge, Mt. Hope Bridge and Bragga Bridge,
3 ranging from 6 to 8 minutes during every LNG vessel transit.

4 In addition, the safety and security zone
5 enforced around each LNG ship and around the ship unloading
6 facility while the ship is docked would widen the area
7 restricted to boaters. This would cause additional impacts
8 on recreational boating and fishing as well as commercial
9 fishing activities.

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1 Under the circumstances presented in this case, I
2 do not believe it is consistent with the public interest,
3 under NGA Section 3, to site, construct, and operate a new
4 LNG import terminal at Fall River, Massachusetts, and,
5 therefore, I will respectfully dissent from this Order.

6 CHAIRMAN WOOD: Thank you, Sudeen. I actually
7 feel differently on that issue, but I respect that we can
8 look at this differently, as we do.

9 I happen to think that the balancing that's
10 required under the statute here, actually compels the
11 approval of this project today.

12 I am really mindful of that. I'd spent a lot of
13 time on the Draft EIS before we met with the Mayor and the
14 other officials from up there, and also, of course, on the
15 final, as it was actually substantially added to.

16 I do have to say that I think the mitigation
17 placed here -- Joe, you pointed this out -- I think the
18 mitigation placed here -- I think it's what we have to do.
19 It may actually make the project a difficult one to get
20 through, but I think we have to do, as we did with Keyspan,
21 but were unable to get to yes on.

22 We have to give the answers here that are the
23 right answers. I think the Coast Guard is an important
24 party in this equation, in the discussions we've had
25 probably for the last year on this issue, and particularly

1 the ones that are reflected in the preparation of the FEIS
2 here.

3 I think it's very clear that we have -- we are
4 depending upon the expertise of the agency charged with the
5 safety on transit.

6 I guess, as an aside, I got a cell phone call
7 from my mom yesterday as she was waiting in traffic on the
8 bridge where part of the Chenier plant was being
9 constructed, and a big piece went across the bridge, and she
10 said, I'm late for church, but I'll sit and talk to you,
11 instead.

12 (Laughter.)

13 CHAIRMAN WOOD: So I think I've learned to just
14 say yes, ma'am, to that one.

15 But I think that the inconvenience issues here
16 are not trivial. I think that they affect everybody. I
17 think that's going to be, again, I think, an obstacle for
18 the ultimate construction of this plant, to get that signoff
19 and approval of the emergency evacuation routes.

20 But I think it's going to have to happen. I look
21 at the numbers, and I hope that these other plants come
22 about.

23 Sudeen, I can't bet on somebody's, and I
24 recognize, as I've said before, we will probably be
25 approving more LNG plants than get built. But I don't want

1 to get the Commission back into the business, as we were in
2 the '50s, of picking through the government agencies,
3 picking the winner and the loser.

4 I think that identifying projects that meet the
5 high standards that are set under our statutes and those of
6 the states that will now have to be enforced through the
7 Coastal Zone Management authorities of Massachusetts and the
8 Clean Water Act authorities there, as well, which are, I
9 think, a very big hurdle to cross.

10 We've got to say whether they meet our criteria.
11 We've laid them out. They are the right criteria, I think.
12 I thought about this for really three years, because LNG
13 wasn't as much a part of our world in 01.

14 But they met the criteria here. We put the
15 mitigation in place. I think the mitigation for the
16 environmental issues, I think, may actually lengthen the
17 time it takes to get this project to market, if it's built,
18 but I think, again, that it's the right thing to do.

19 And for those reasons, I think we have to say
20 that where the things are met and they're met solidly and
21 they're met through the mitigation that we order be done in
22 advance and be committed to, and the approvals that we
23 require be obtained in advance, which they will be required
24 throughout here, that this is the right way to do business.

25 And for that reason, I recognize that this has

1 been a tough issue. The meeting you and I had with the
2 elected officials and the parties involved here, plus all
3 the reports that we've gotten and the letters we've gotten
4 from the citizens involved here, I recognize this is not, in
5 the short term, a popular decision, but in order to have
6 sufficient natural gas in the winter, and what was certainly
7 the coldest cold snap I've ever heard of in our country in
8 the last -- certainly the time that I've been on the
9 Commission -- is not a story I want to live with, either.

10 The balancing act that we're required to do,
11 doesn't just look at the short-range impact, but looks at
12 the long-range economic health of really the oldest region
13 of our country.

14 I think we owe it to the balancing that we are
15 called upon to do, to do the right thing here, and, in my
16 mind, I will vote yes on this Order and vote to approve the
17 permit granted to the pipeline for the LNG facility.

18 With that, why don't we go ahead and vote.

19 COMMISSIONER BROWNELL: Aye.

20 COMMISSIONER KELLIHER: Aye.

21 COMMISSIONER KELLY: Nay.

22 CHAIRMAN WOOD: Aye.

23 SECRETARY SALAS: Next on the discussion agenda
24 and for discussion only, we have E-3. This is Bonneville
25 Power Administration, PacifiCorp, and Idaho Power Company.

1 SECRETARY SALAS: I think the Commissioners would
2 like to discuss E-3. This is Bonneville Power
3 Administration Pacific Corp and Idaho Power Company.

4 COMMISSIONER KELLY: Thank you. I wanted to
5 highlight this order. It is a draft declaratory order that
6 provides preliminary guidance to Bonneville Power
7 Administration, Pacific Corp and Idaho Power Company
8 concerning their proposal for a regional transmission
9 provider in the northwest to be called Grid West.

10 The petitioners in this case are approaching a
11 point in the development of Grid West where they must decide
12 whether to proceeding a developmental board. Before they do
13 so, they have sought the Commission's guidance concerning
14 eight questions. I'm not going to elaborate on all of them
15 here, but some of the significant ones -- a few of the
16 significant ones included whether the Commission could
17 review an application by Grid West under the principles of
18 Order No. 88 and not under Order No. 2000, and not the ISO
19 Principles of Order No. 888, whether Grid West could satisfy
20 the independent requirements of Order No. 2000 even though
21 it will not initially, at least, seek RTO status.

22 And petitioners sought assurance that, should
23 they seek RTO status in the future, they would not have to
24 change their governance. The petitioners also wanted us to
25 discussion withdrawal rights of Bonneville and the

1 investural utility participants in Grid West.

2 I support today's order and I'm pleased that we
3 can provide guidance to the applicants on the issues they
4 have identified as being critically important to the further
5 development of Grid West. I believe that the parties have
6 developed a plan that meets their regional needs and
7 provides the flexibility necessary for them to garner the
8 support of the diverse interest of the Northwest Grid.

9 This plan which they propose, which we are not
10 here approving today, but forms the basis for their request
11 for declaratory order, takes into account the unique
12 character and needs of the Pacific Northwest. And I also
13 believe it is significant that the parties find it best for
14 them to form Grid West as a public utility that sells
15 transmission services and not as a regional transmission
16 organization. As we state in our order, we will not ask
17 Grid West to comply with Order No. 2000's requirements.

18 I think that the progress of the Grid West
19 initiate demonstrates that it's possible to reach consensus,
20 even among those with very different points of view, and for
21 those of you who have worked in the Northwest and
22 participated in this process you know that it attempts to
23 bring together with consensus parties with widely divergent
24 views. I'm impressed that the participants in Grid West
25 have taken the substantial time that's been necessary to

1 answer questions posed by others in a very detailed and
2 thorough manner. For instance, the group has held a series
3 of seminars on the risks, the rewards and the costs related
4 to Grid West implementation. With this information, parties
5 can make informed decisions about their support for the
6 proposal.

7 And, finally, I think it's important to recognize
8 the leadership of Bonneville Power, of Pacific Corp and
9 Idaho Power for seeking assurances that they believe are
10 needed to keep Grid West moving forward and for placing
11 these issues front and center.

12 COMMISSIONER BROWNELL: I join Suedeen in
13 commending the parties for coming together and taking some
14 first steps. I think we saw a report out of PBA maybe six
15 months ago that gave a pretty compelling and slightly
16 frightening story of the need for some coherent regional
17 planning process that addresses the future of the Northwest
18 who is confronting yet, once again, a bad hydro year. Who
19 is confronting growth issues and maybe slightly behind in
20 confronting those growth issues, an economy that's again
21 taken off in California. So I feel good about this first
22 step and our comments on it. I will be concurring because I
23 am concerned about what is a very complicated governance
24 process that could, in fact, easily lead to the gridlock
25 that we saw in California that really, I think, exacerbated

1 problems there.

2 And so while I am agreeing with this order, I
3 encourage the parties to really look at what they've
4 established and how it works and be pretty rigorous about
5 setting some benchmarks for themselves. And, if this one
6 doesn't work, to come in and make some changes. We've seen,
7 as stakeholders, processes evolve in other areas that people
8 are today stepping back and saying, whoa, we're not making
9 decisions fast enough. We're getting to the lowest common
10 denominator decisions that are not actually as effective in
11 surgical in dealing with issues, particularly economic
12 issues, as we'd like them to be.

13 And while I appreciate the Northwest is very
14 different, I think the experience of organizational
15 processes is the same regardless of region or industry or
16 issues and I really hope that they'll continue to refine
17 this because it will be a tragedy to get a gridlock
18 situation where critical decisions could not be made.

19 So congratulations to the parties, but I think
20 you're going to get some experience and you're going to need
21 to keep working on this. And I think there are other places
22 that can inform it and I hope that people share what has
23 gone own in their own regions.

24 COMMISSIONER KELLIHER: I think this is an
25 important order as well and it may provide sufficient

1 regulatory certainty to all the development of a regional
2 transmission group in the West. The declaratory order, as
3 Sudean said and Nora said, addresses a number policy
4 questions that are important to the region and that have so
5 far impeded development of some kind of regional
6 organization, and one of them is Bonneville jurisdiction.
7 What would the Commission's jurisdiction be over Bonneville
8 if it were to participate in an RTO or another regional
9 organization? Would the Commission have more jurisdiction
10 over Bonneville than it does currently?

11 The order is very clear, no. The Commission does
12 have some limited jurisdiction over Bonneville under the
13 Northwest Power Act, but we do not get more jurisdiction
14 over Bonneville by virtue of their participation in RTO, and
15 that's true for other transmission owners, transmission
16 needs in the region that are largely unregulated by us --
17 municipal utilities, for example in the public utility
18 districts. It's very clear that our jurisdiction would not
19 be expanded by virtue of their participation in a regional
20 transmission organization.

21 And we're also clear, I think, the last time I
22 saw the order we were clear on withdrawal. That Bonneville,
23 for example, could withdraw. And, if I'm wrong -- if I'm
24 misstating it, please correct me. Bonneville could withdraw
25 from an RTO if it were to participate in one approved by the

1 Commission.

2 Now we also address an issue important to the
3 regional about existing transmission contract. Does the
4 Commission respect existing transmission contracts? Will we
5 grandfather those contracts? Now we provide guidance in
6 those and other areas, but we also do have some precedent.
7 We've acted on some of these questions. They're not new
8 questions in this region that are arising for the first time
9 in this region. The transmission contract issue we
10 addressed last year when MISO came to the Commission and
11 asked us to abrogate over 300 transmission contracts.

12 Now the Commission did not do so. It set up a
13 process to encourage settlement. So we were not quick to
14 abrogate contracts. I think we did the right thing with
15 MISO and that precedent can be relied on, to some extent, in
16 the West. We also have some precedents with respect to
17 PMAs, and that's Southwest Power Administration was a member
18 of SPP and I believe they're either withdrawing or have
19 withdrawn and we're not somehow try to prevent that. So we
20 do have some precedent in this area and I think we can
21 provide some good guidance and hopefully we will see some
22 progress in the region.

23 Now there's one other question that I don't think
24 as asked that we were asked in the petition for declaratory
25 order, and that's one that has been troublesome, at least,

1 to me for a while. Is the perception that the Commission
2 would not tolerate a day when RTO and insist that all RTOs
3 become day-two RTOs, and we do have some precedent in this
4 area as well. SPP is a day-one RTO. We approved it. And,
5 at least from my point of view, if they seek to remain a
6 day-one RTO -- I believe it's entirely their call whether
7 they want to move to day-two markets. That's a perception.
8 There are some false perceptions of the Commission out there
9 and I'm glad you're sitting down when I said that.

10 (Laughter.)

11 COMMISSIONER KELLIHER: And one of the false
12 perceptions is that one. We don't accept, tolerate day-one
13 RTOs and that is an issue in the West. It's not addressed
14 in the scope and within the four corners of this order, but
15 I just want to mention that. But I do support the order and
16 I hope we see some progress.

17 CHAIRMAN WOOD: I think we will and I'm not sure
18 if it's going to be because -- and I think these are
19 absolutely right orders and the right thing to do and I'm
20 thrilled to be voting on it before I leave. But I do think
21 that there might be a competitive alternative here now and
22 it was interesting to see the discussion, as I mentioned
23 before, about the potential changes that might happen at
24 Pacific Corp and adds a little bit, I guess, to the eastern
25 -- the section here, but there are a lot of overlapping

1 parties here that may decide they want to be an independent
2 Transco and most of the investor-owned utility members of
3 the original RTO West family actually did put forth early on
4 -- this was even before I got here.

5 Dan, what was it called?

6 MR. LARCAMP: RTO West.

7 CHAIRMAN WOOD: The ITC part of that -- not
8 Indigo. I don't remember. Anyway, there was another group
9 -- the Idaho Power and Pacific Corps and some of the others
10 actually said we want to be an ITC underneath an RTO
11 umbrella similar to what Enenergy had recommended doing way
12 back when in SBP. And I think those companies showed an
13 interest in independent transmission companies before and
14 may well do again. So it will be interesting to see how
15 those two events maybe spur each other along to get to the
16 core issues, which the Bonneville paper just addressed so
17 well. I've given so many copies of that paper around to
18 people to just say, folks, I don't care what you call it.
19 Let's just solve the problem. And, if there's an
20 institution we can use, WEC or whatever, that can provide
21 that leadership. Great. But, if something new needs to
22 come up, we want to give you all the comfort we can again,
23 which I thought we'd done in '02 with the RTO Rest Order,
24 but whatever it takes. I think it's our job to be patient
25 and helpful and to move things along.

1 And your point's a great one, Joe. The day when
2 RTO and SPB, which I understand now they're moving to what
3 they call the Day One and Half RTO in March of next year, I
4 think is a good move to put a real time, but not a day ahead
5 market in place at the nodal level. Across the footprint,
6 it's going to be a good move for them. And I think,
7 actually, they were planning to do that long ago when we in
8 ERCOT weren't even thinking about it. So I would say
9 there's a lot of variety of progression toward more
10 transparent, more competitive and efficient markets across
11 the country in this Commission for years to come will be
12 managing that delicate move, but it is important to get
13 moving. So the fact that they've asked these core
14 questions, which are pretty granular, means they're ready to
15 talk turkey here and I'm looking forward to reading about it
16 and hoping that will come to pass one way or the other out
17 in the West.

18 So are you all ready to vote?

19 COMMISSIONER BROWNELL: Aye.

20 COMMISSIONER KELLIHER: Aye.

21 COMMISSIONER KELLY: Aye.

22 CHAIRMAN WOOD: Aye.

23 SECRETARY SALAS: Next for discussion is E-4.

24 This is Exelon Corporation and Public Service Enterprise
25 Corporation. It's a presentation by David Hunger, Jim

1 Acres, Melissa Mitchell and Jan McPherson.

2 MR. HUNGER: Good morning Mr. Chairman and
3 Commissioners. E-4 is a draft order authorizing the merger
4 of Exelon and PSEG. The draft order finds that the merger,
5 as mitigated, will not adversely effect competition, rates
6 or regulation, and is therefore consistent with the public
7 interest.

8 Exelon analyzed the effect of the merger on the
9 relevant products and geographic markets in accordance with
10 the Commission's competitive analysis stream and found that
11 the merger would significantly increase market concentration
12 in the PJM energy and capacity markets. In order to address
13 the potential harm to competition resulting from the
14 increase in market concentration, applicants have committed
15 to divest 4000 megawatts of intermediate and peaking,
16 generating facilities located primarily in eastern PJM and
17 to offer energy from 2600 megawatts of nuclear capacity,
18 which applicants characterize as a virtual divestiture.

19 The draft order finds that the combined 6600
20 megawatts of divestiture and virtual divestiture adequately
21 addresses the merger's harm to competition in the relevant
22 energy markets. The draft order also finds that the
23 applicants have shown that the merger with the mitigation
24 proposed will not harm competition in any relevant capacity
25 market. In addition to the physical divestiture of 4000

1 megawatts of generating capacity, applicants have committed
2 to bid all of the remaining uncommitted capacity into the
3 PJM capacity market at the price of zero. Therefore, the
4 draft order concludes that they will not have the ability to
5 withhold capacity in order to increase the market clear and
6 capacity price.

7 The draft order finds that the virtual
8 divestiture effectively transfer control of the output of
9 2600 megawatts of nuclear capacity from the merged firm to
10 the purchasers because the merged firm cannot withhold the
11 energy from the market and the buyer of the firm right, not
12 the seller, determines where and to whom the energy is
13 ultimately sold.

14 In addition, applicants have committed to sell
15 all of the energy that is offered, regardless of the price
16 of the bids, at an independent auction and that will
17 oversee applicant's compliance with that commitment. The
18 draft order also finds that because applicants have
19 specified the location and operating characteristics of the
20 pool of fossil units eligible for divestiture, the
21 Commission is able to determine that any merger-related harm
22 to competition will be adequately mitigated.

23 The draft order also directs applicants to submit
24 an updated analysis of the merger's effect on competition
25 once the buyers and the actual units being divested are

1 identified. The draft order also finds that the combination
2 of applicant's generation and transmission facilities will
3 not harm competition, knowing that both companies have
4 transferred control of the transmission systems to the PJM
5 RTO. The draft order concludes that the transfer mitigate
6 the ability to use controlled transmission assets to harm
7 competition in the wholesale electricity markets.

8 Finally, the draft order requires applicants to
9 make a number of filings detailing their compliance with the
10 commitments they have made regarding the fossil
11 divestitures, the interim mitigation and the ongoing virtual
12 divestiture process.

13 This concludes staff's presentation and we'd be
14 happy to answer any questions.

15 CHAIRMAN WOOD: Thank you, David.

16 COMMISSIONER BROWNELL: David, give some detail
17 on those compliance filings because I think it's important
18 to recognize timelines and our concerns about making sure
19 that commitments are made because I've noticed we've seen a
20 few mergers where they haven't been. Also, talk about the
21 commitment of \$25 million in transmission investment and how
22 that gets managed in a way that doesn't force out
23 competitive projects that are already on the books.

24 MR. HUNGER: Sure. I'd be glad to, Commissioner.

25 First of all, a number of issues came up

1 regarding -- a number protestors raised the question or
2 raised the issue that at present we don't know who is going
3 to buy the units that are being divested. Okay. And
4 applicants have not specified the exact units that are going
5 to be divested. They've specified a pool of eligible units
6 that have certain operating characteristics and certain
7 locations that will be eligible for divestiture and we won't
8 know what the resulting post-mitigation market concentration
9 number will be until that's all settled.

10 One of the things is that they're going to come
11 back with an appendix A or an analysis of the market
12 concentration based on the actual sellers and the actual
13 units that are divested, and that's going to be 30 days
14 within the completion of the divestitures. That was a
15 contentious issue in the proceeding.

16 Applicants had originally imposed a number of
17 restrictions on the eligible buyers in order to make sure
18 that the concentration levels were where they could sort of
19 predict exactly where the concentration levels would end up,
20 and a number of protestors came back from a lot of different
21 perspectives saying that's not such a good idea. You may be
22 allowing the applicants to determine what the market's going
23 to look like, who the buyers. You may be sending
24 inefficient -- you may not have an efficient allocation of
25 resources where the person who values the resource the most

1 isn't able to buy it. So the lifted those restrictions and
2 also increased their mitigation offer.

3 So, again, we don't know exactly what the
4 post-merger mitigation concentration level is going to be,
5 but we were able to determine, with some reasonable
6 assumptions, that that number would be within the
7 neighborhood of the pre-merger concentration and therefore
8 make that conclusion. So they're going to have to come back
9 and specify.

10 They are imposing interim mitigation. Because as
11 the merger policy statement and precedent says the
12 mitigation has to be in place at the time of the merger
13 consummation and it's going to take up to 12 months to
14 complete the divestiture process. They originally were
15 going to take 18 months, but they've reduced it down to 12
16 months. So there needs to be a compliance filing showing
17 how they are complying with the interim mitigation. For the
18 virtual divestiture, there's an independent auction monitor
19 to oversee the virtual divestiture. They need to come back
20 and describe the process for choosing that monitor and show
21 how all their commitments are being -- how they're complying
22 with all their commitments.

23 So a number of issues that will be settled over
24 the next 12 months require compliance filings along the way,
25 and the key is the interim mitigation will be in place at

1 the time of the consummation.

2 MR. AKERS: I thin the bottom line is that there
3 is a definite timetable of 12 months. They cannot extend it
4 at the end of 12 months. If the divestitures have not
5 solved the concentration problem, then the Commission
6 reserves the right in the draft order to order additional
7 mitigation at that point.

8 MR. HUNGER: That's right.

9 You also asked about the \$25 million commitment
10 for transmission upgrades. When they came back with their
11 answer to all the protests, applicants made some additional
12 commitments. We talked about the additional commitments on
13 the generation side -- generation divestiture. They also
14 commitment to some transmission upgrades, speeding up some
15 identified projects. But also offered up \$25 million for
16 projects over five years for projects identified in the PJM
17 regional transmission expansion planning policy.

18 The order does not rely on that transmission
19 expansion. In its finding that the merger doesn't harm
20 competition. The divestiture is the key to that finding for
21 a couple of reasons. One reason is it's not altogether
22 clear that the transmission expansion that would have
23 happened anyway, which should be considered as mitigation.
24 The Commission's got precedent from the OG&E acquisition
25 case on that. But, once they made that offer, we received

1 protests from merchant transmission providers who were
2 interested in specific projects in the PJM queue, if you
3 will. The list of identified transmission expansion needs
4 where there's unhedgeable congestion and there's a chance of
5 economic expansion there, arguing that, one, one of the
6 projects identified by applicants was a project that this
7 independent merchant was planning on working on. And, two,
8 wanted to make sure that there was not -- the applicants
9 weren't crowding out what would be otherwise undertaken by,
10 perhaps, a merchant transmission provider and the order
11 makes it clear that it is not going to freeze out any
12 expansion that's already planned on by other transmission
13 providers.

14 Go ahead.

15 COMMISSIONER BROWNELL: Thanks. That answers the
16 question.

17 I just want to comment on what I hope people will
18 look at in this order, and you all have done a wonderful
19 job. And that is, our merger policy is quite clear that
20 what we look at the applicant's looked at that policy, put
21 mitigation on the table in response to issues raised, put
22 additional mitigation on the table and it is our
23 responsibility to be focused and disciplined on what we do
24 in mergers. And while mergers are difficult for states --
25 I've been through a bunch of them in the banking world, and

1 some of them as a state commissioner, I think we need to
2 focus on the larger picture, which is what is best for our
3 regions. And that is strong, capitalized companies who are
4 leaders and who have a blueprint for where they want to go
5 in the future that is clearly understood to bring value to
6 customers.

7 And so while the temptation in a merger is not
8 unlike the temptation in hydro relicensing, which is to pile
9 on, I think it's important that we all be focused on what
10 the needs are of the larger company and the value that they
11 bring to customers. So while there will be people
12 dissatisfied, I'm sure, with this, I think that the staff
13 and the intervenors and the applicants have been pretty
14 clear in answering the questions that have been raised that
15 are appropriate for this agency to address. And I would
16 hope that, as people are working in the states to address
17 issues, that they look at that kind of a focus and be pretty
18 surgical in what they need for the merger.

19 So I think this is an appropriate response to a
20 voluminous record and appreciate all the work that everyone
21 did to really address the issues that I think are important
22 to everybody. We spent a lot of time in the last three and
23 a half years talking about market power. I think this
24 addresses those issues. So thank you.

25 COMMISSIONER KELLIHER: I want to start off by

1 thanking the staff. I think you all did an excellent piece
2 of work on this. You worked very hard and you've given very
3 high quality advice to me and my staff. When we've had
4 factual and legal questions, you've answered them very
5 thoroughly and confidently. So I want to thank you for that
6 and say that I'm impressed and I'm not an easy person to
7 impress necessarily. So thank you.

8 I do support the order. When this merger was
9 announced, there were questions about what test would the
10 Commission apply in a merger. The Commission has acted on
11 mergers steadily over the past few years, but we hadn't
12 dealt with a large merger in a number of years. So there
13 were some questions as to would the Commission apply the
14 test as stated or would it be adjusting the test. And I
15 think what we're doing here is we're applying the same test
16 we've applied in over 100 different transactions in
17 virtually a decade and there's no reason to think that the
18 tests that we've applied in the past is inadequate and
19 that's what we're applying here.

20 Now the applicants relied on the Merger Policy
21 Statement and our well-established tests when they developed
22 their filing and their application -- the merger does
23 present some impacts on competitive markets, but they've
24 also proposed very robust mitigation. The merger of both
25 the physical and virtual divestiture in this order is 6600

1 megawatts. Now the only other time, to my knowledge, the
2 Commission has conditioned any merger on divestiture was
3 NPSW and there the amount of the divestiture was about 300
4 megawatts. So here we're dealing with 6600 megawatts. It's
5 really unprecedented at the Commission.

6 So the applicants took us at our word that we'd
7 apply the same tests. We wouldn't be moving the goal posts.
8 We didn't move the goal posts. They proposed mitigation and
9 we acted quickly, but I think we acted appropriately as
10 well. We have a sufficient legal record in front of us and
11 fact record to make a decision and so we do make a decision.
12 With the mitigation, we find that the merger doesn't have a
13 negative impact on raised competition regulation. So I d
14 support the order.

15 COMMISSIONER KELLY: I'd like to join my
16 colleagues in thanking you for the excellent work you did,
17 and I appreciate the analysis that you went through and
18 present in this order and I agree with it.

19 There's one other thing that I'd like to add that
20 I don't think has been discussed here yet today, and that is
21 that there are benefits to this merger as well as no harm
22 coming from it. And you did mention, David, transmission
23 upgrades that will occur and maybe wouldn't have occurred
24 without this merger. But the other really relates to
25 Exelon's outstanding experience in operating nuclear

1 generators.

2 Exelon has been very successful operating nuclear
3 units. Its fleet has approximately a 94 percent capacity
4 factor. That's a measure of how close a unit operates to
5 its maximum output. And for consumers, the higher the
6 better. PSEG also has and operates nuclear generators. The
7 capacity factor in PSEG's fleet is currently closer to 81
8 percent than 94 percent. It's expected that the merger will
9 result in the adoption of best practices and will, in turn,
10 result in PSEG's nuclear units increasing their capacity
11 factor, hopefully, to match Exelon's. And that result would
12 be a substantial increase in additional generation available
13 to customers without additional cost, and that is a truly
14 significant benefit to consumers.

15 CHAIRMAN WOOD: Good point. I just have to
16 concur with everything that's been said here and observed.
17 I think your point's a great one. I mean the divestiture
18 here of 6600 megawatts, and I think the virtual divestiture
19 is something actually we had in our Texas statute with the
20 Commission that I used to chair support as a market power
21 mitigation concept down there and never was actually used,
22 but here it is being used and I think it's a test that is
23 good.

24 Dave and I spent time talking about it, and the
25 team, as we were working through the numbers here. And

1 through Mr. Hunger's numerous studies and those that came
2 back from Mr. Bearing and from the other folks in the
3 proceeding. It's been a very fruitful few months here. I
4 guess I was a victim of my own wishes, but I said, you know,
5 everybody always talks about mergers being just this -- you
6 know, the folks that were here in the '90s talked about the
7 mergers. I said, well, we never had any big mergers. We
8 had the New Mexico merger. We had the last Ameron merger
9 since I've been here, but that's about it, and here's comes
10 the biggest one in history. So I guess you get what you ask
11 for.

12 But, for the points said, this is good. I think
13 it's a good point -- the one you made Joe -- we have a
14 standard. We've done these before. We might not have done
15 as many this big, but we've got a way to do it. And, if you
16 ring the bell, you get out the door. And they've rung the
17 bell and proven the case here that the mitigation will
18 address the market power concerns and these are very real
19 market power concerns. Quite frankly, I hope that with the,
20 perhaps, imminent repeal of PUCA that companies that are
21 wishing to merge may actually not look so close as to how
22 these market power issues on the generation side. That they
23 me be more dispersed over broader regions.

24 But, be what they may, we've got to take them as
25 they come in, and this divestiture of 6600 megawatts is

1 probably bigger than all but a handful of utilities in the
2 whole country, just in the divestiture part of this along.
3 So it's significant. It's right. I think the conditions
4 placed on, and thank you Nora for pointing out the details
5 on that publicly so that folks can understand those before
6 they get the order, are the right kind of conditions to make
7 sure that it's not just a wink and nod and we'll get it
8 done. But it's a commitment that we've got the ability to
9 get in there and ensure that these commitments are followed
10 up on.

11 So I think it's good. Thank you again for the
12 diligent work on the staff's part. I think we've always got
13 to be ready for these to go to hearing if we don't hear what
14 we need to hear through the filing and reply process. But I
15 appreciate the candor of the protestants and of the market
16 monitor and of the company in responding in a manner that
17 would allow us to approve this without a hearing. That's a
18 good thing. Good government at work.

19 So are we ready to vote?

20 COMMISSIONER BROWNELL: Aye.

21 COMMISSIONER KELLIHER: Aye.

22 COMMISSIONER KELLY: Aye.

23 CHAIRMAN WOOD: Aye.

24 While we're talking about market power, I'm
25 pleased to announce that earlier today Commission passed a

1 limitation vote three market-based rate cases that have been
2 pending before us since the last meeting. The first, an
3 Enenergy, in our examination of market power issues, we
4 issued an order setting for hearing Entergy's delivered
5 price test. And, in particular, internal constraints that
6 the delivered price test is part and parcel of its market
7 share screen analysis which the company submitted to us at
8 the end of last year. And the southern companies order we
9 also set for trial-type evidentiary hearing. Issues related
10 to the company's delivered price test as submitted to the
11 Commission earlier this year.

12 And I think Joe dissented in part in an item in
13 that order. And in Duke Power, after careful review of the
14 generation market power issues in the order issued today, we
15 revoked market-based rates for Duke in its control area and
16 require the company to provide default cost-based rates. So
17 that's the market power stuff for today.

18 So we'll move on to the West Coast.

19 SECRETARY SALAS: Next for discussion, we have a
20 group of three items. They are E-8, E-10 and E-72. All
21 related to the California Independent System Operator
22 Corporation and this is a presentation by Heidi Gruner, Mike
23 Henry, Eugene Grace, Pat Dalton, Roland Wentworth, Clifford
24 Franklin and Edward Ristway.

25 MS. GRUNER: Good morning. E-8, E-10 and E-72

1 are three proceedings that address and rely upon the
2 independent status of the California ISO governing board.
3 E-10 addresses the California ISO's petition for declaratory
4 order requesting that the Commission find that the
5 California ISO's proposed changes to its board of governors
6 selection process result in a governance structure that the
7 Commission finds acceptable. The California ISO proposes to
8 use an independent search firm to seek out board candidates
9 who will then be reviewed and rated by a stakeholders group
10 representing six-member classes.

11 The draft order concludes that the California
12 ISO's proposed board selection process is acceptable for
13 purposes of meeting the independence requirements of Order
14 Nos. A-88 and 2000 for the following reasons. It should
15 help ensure the appointment of future board members who are
16 independent, have strong expert credentials and have no
17 employment or financial conflict of interests.
18 Additionally, the draft order finds that the California
19 ISO's current board meets the independence requirements of
20 Order Nos. A-888 and 2000.

21 E-72 is a case on voluntary remand from the U.S.
22 Court of Appeals for the D.C. Circuit. In prior orders, the
23 Commission accepted Amendment 55 to the California ISO
24 tariff, which consisted of an enforcement protocol and
25 related provisions subject to, among other things, the

1 California ISO making a filing demonstrating that it has
2 established an independent governing board in compliance
3 with prior Commission orders.

4 As noted earlier, E-10 finds that the California
5 IOS's governing board is independent. Therefore, this draft
6 order finds that it is no longer necessary for the Cal ISO
7 to make a filing in this proceeding demonstrating that it
8 has an independent governing board. The draft order also
9 directs the California ISO to revise its tariff to indicate
10 that the California ISO's market monitoring unit may now
11 administer certain provisions of the enforcement protocol.

12 In E-8, the draft order accepts in part and
13 rejects in part, the California's proposed revisions to
14 Order Nos. 2003, 2003(a) and 2003(b) pro forma large
15 generator interconnection procedures and interconnection
16 study agreements. In addition, the draft order accepts in
17 part and rejects in part the large generator interconnection
18 agreement jointly filed by the California ISO and three
19 participating transmission owners -- Southern California
20 Edison Company, Pacific Gas and Electric Company and San
21 Diego Gas and Electric Company. The draft order also
22 accepts the conforming transmission owner tariff filings
23 submitted by these participating transmission owners.

24 Consistent with the finding in E-10 that the
25 California ISO's governing board is independent, this draft

1 order evaluates the E-8 filings under the independent entity
2 variation standard. Thank you.

3 CHAIRMAN WOOD: Thanks Heidi.

4 How would you characterize the items in that last
5 order as to what we approved and did not approve in the LGI.
6 They're kind of buckets of items. That would be an easy way
7 to describe that, Mike.

8 MR. HENRY: I characterize them as -- the ones we
9 approved are the ones that were consistent with our approach
10 to independent entities and the way that they would
11 administer the interconnection process. For example,
12 California and the participating TOs proposed that the TOs
13 themselves would conduct the studies and the draft order
14 rejects that proposal and requires that the California ISO
15 itself actually conduct the studies in order to be
16 consistent with our approach to independence and to make
17 sure that the California market receives the benefits of an
18 independent administrator.

19 CHAIRMAN WOOD: Thank you.

20 MR. HENRY: That's an example.

21 COMMISSIONER KELLY: I would point out, I think,
22 Mike, that most ISOs and RTOs follow that policy. Is that
23 correct?

24 MR. HENRY: That is correct. Yes.

25 CHAIRMAN WOOD: Go ahead.

1 COMMISSIONER KELLIHER: Brief comments. The E-10
2 order I want to start calling the day time order because I
3 think that's what we're doing and it would have been
4 appropriate if we voted on it on November 11th on Armistice
5 Day, but it's important to recognize that one of the causes
6 -- by some measures the primary cause of the Western
7 electricity crisis was poor market rules that operated in
8 the ISO market, and we have seen very slow progress towards
9 development of improved market rules in the ISO. And we do
10 find the current board is independent and I have confidence
11 in the new board and the new management, but I hope that
12 they will move along with greater dispatch than their
13 predecessors. We need MRTU to move a pace. It's been five
14 years now since the Commission has found inadequacy in their
15 rules and we're looking at least two more years before
16 they're revised.

17 Anyway, I support these order but I do think we
18 need accelerated progress on MRTU. I hope we'll see it.

19 COMMISSIONER KELLY: I agree with, Joe. I think,
20 not only the new board, but the new CEO of the California
21 ISO -- there's very promising development there and I think
22 we've already begun to see the effects that new leadership
23 is having very positive effects.

24 One of the important points to be made about
25 these three orders is that now that the ISO is certified by

1 us as independent it can take advantage of the independent
2 entity variation in our Order 2003. And that, in fact, is
3 what the ISO had done. That's significant because it now
4 gives the California ISO the flexibility that it may need to
5 deviate from our standard interconnection protocol
6 agreements as is necessary to meet their regional needs, and
7 I thank staff for their analysis of the filing that the ISO
8 made in E-8 and I agree that the deviations that they've
9 suggested and that we approve meet that standard.

10 CHAIRMAN WOOD: Well said. I think the Detente
11 Order is good. Chairman Ebert was here yesterday and we had
12 a chance to kind of briefly reflect on the fact I'm about
13 where he was when he was here last and one of the things he
14 suggested doing before he walked out the door is what's this
15 about this independence or we're out of here. I thought,
16 no, the time wasn't right for that. We waited another year
17 to do it and it wasn't really right then either and probably
18 won't have ever been right because the court told us exactly
19 how to play that card and independence is so critically
20 important.

21 We've had many different opportunities over these
22 years to think about what independence does when it works,
23 and I think in the comments you mentioned on the draft
24 Order, Norm -- what can happen if we get a little close to
25 the line--and I think it was an issue that was important to

1 bring up. I think the resolution that has come out of it,
2 while admittedly a mild one here in E-10, is a process that
3 looks a lot like it does everywhere else. I think we will
4 continue to depend, unlike we had to depend in other ISOs
5 and RTOs, on the goodwill of the chief executive of the
6 state to we really respect the stakeholder and the
7 governing board's process here that they set up, and I think
8 in the years to come the Commission will just have to watch
9 that.

10 I think that rather than getting hung up on the
11 words of the Bylaws and the process, which are critically
12 important, but it's important, as I think we recognize in
13 this order, look at what the outcomes are. I think
14 certainly from, not only getting to know the members of the
15 board, but also seeing their actions, I think there's
16 clearly a consistency with the type of broad-based regional
17 outlook, independent decisionmaking that we've seen
18 characterized in a number of the other ITOs and ISOs around
19 the country, and I think we've got to judge them on the
20 merits.

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1 The deference we grant them on the protocol and
2 on the C-2 case, and that we grant them on the Generator
3 Interconnection ruling in E-8 are the kind of deference I
4 think is due. And I think hopefully the kind of closing of
5 this chapter, wrapped up intimately in what happened in the
6 meltdown out there, was the inability of this institution to
7 respond.

8 The over-reaction to that created a bad
9 situation, but I think this is the proper balancing point
10 and will be a good one going forward. I do have high hopes.
11 I do think the next items we're going to talk about actually
12 indicate that, Joe, perhaps the end is in sight for the long
13 and tortuous evolution of their market redesign, and we will
14 take those up in just a second.

15 But detente, indeed. I think it is a good three-
16 pack here to vote on, and I am ready to do so.

17 COMMISSIONER BROWNELL: Can I just add something
18 about that, because I agree with Joe. And I share, as the
19 person who gets crazed on governance issues, I share a
20 little bit of discomfort but I understand that we are moving
21 the ball forward.

22 The reality is: We can pay very close attention,
23 and obviously will, but the price that California will pay
24 for a board that is less than independent, and a governance
25 structure that is nonfunctional I think will take care of

1 that for us.

2 This is a State with need of huge amounts of
3 investment. It is a State with a renewable energy policy
4 that is commendable but aggressive and will need close
5 coordination I think with all of the parties. And I think
6 those needs will not be met unless there is the assurance
7 that there will be a market design and market rules that
8 work particularly in tight situations, which we will see for
9 this summer and next to be sure--we hope not much longer--
10 and so we have in fact in place a kind of a compromise that
11 works that is largely dependent on the goodwill and the
12 independence of the board members that exist today, and we
13 certainly see that in incredible new leadership at the ISO.

14 But on a going-forward basis, as they said in
15 Grid West, I hope that California and the leadership in
16 California will continue to refine this, because that is
17 what the world is going to look at: How independent is this
18 board from political pressures that won't allow them to make
19 the right economic decisions for that State?

20 And indeed, that region, because it is, in spite
21 of all those unique differences, a region, an interconnected
22 region, that is interdependent perhaps more than they would
23 like.

24 But in any event, I hope this is a step but it is
25 one of many, and that ultimately we get to where I think,

1 Joe, you would really like to see us go.

2 CHAIRMAN WOOD: Well said. We're here all day.

3 COMMISSIONER KELLIHER: I just wanted to pick up
4 on what Nora said. I agree that I think California
5 consumers have paid a price for the failures of the ISO in
6 the past, and this ISO--both the board and the management--
7 have an opportunity to turn it around.

8 But to stick with our detente theme, President
9 Reagan used to say: Trust, but verify. We are finding here
10 that the current board selection process promises
11 independence. We're finding the existing board is
12 independent, but those are not irrevocable decisions. And
13 if we find the board in the future is not independent, we
14 have recourse.

15 So they have a great opportunity, and I hope they
16 will take advantage of it.

17 CHAIRMAN WOOD: Well said. Let's vote.

18 COMMISSIONER BROWNELL: Aye.

19 COMMISSIONER KELLIHER: Aye.

20 COMMISSIONER KELLY: Aye.

21 CHAIRMAN WOOD: Aye.

22 SECRETARY SALAS: Next for discussion we have a
23 joint presentation of two items: E-7, Public Utilities With
24 Existing Contracts in the California Independent System
25 Operator Corporation Region; and E-9, California Independent

1 System Operator Corporation.

2 This is a presentation by J.B. Shipley, Heidi
3 Werntz, Colin Mount, Dave Mead, Harry Singh, and Carlos
4 Clay. And let me note for the record that Commissioner
5 Kelly is not participating in these items.

6 MS. SHIPLEY: Good afternoon, Chairman, and
7 Commissioners:

8 E-7 and E-9 are two draft Orders on California's
9 energy markets. E-7 is a further Order on the California
10 ISO's conceptual proposal to honor existing transmission
11 contracts for ETCs.

12 The draft Order defines the universe of ETCs that
13 will be in place upon implementation of the ISO's market
14 redesign in February 2007; clarifies the appropriate
15 standard of review for each contract in question; and
16 provides the ISO and market participants with an accurate
17 accounting of the terms of the contracts.

18 E-9 is the latest in a series of Orders providing
19 the California ISO guidance on its proposed market redesign.
20 The draft Order addresses three elements of the proposal:

21 The clearing of demand bids at load aggregation
22 points;

23 The Hour-Ahead Scheduling Process; and
24 Market power mitigation measures.

25 The draft Order approves the ISO's revised

1 proposal to clear demand bids at the load aggregation point
2 level. It also directs the ISO to increase the number of
3 load aggregation zones to provide more accurate price
4 signals and help for instance hedge projection charges.

5 Additionally, the draft directs staff to convene
6 a technical conference on wholesale demand response in
7 California.

8 E-9 also approves the California ISO's proposal
9 to use an Hour-Ahead scheduling process instead of a full,
10 financially binding Hour-Ahead market.

11 The Order finds that on balance having the
12 California ISO move forward with LMP and a security-
13 constrained, financially binding Day-Ahead market outweighs
14 having a financially binding Hour-Ahead market at the
15 outset.

16 The draft notes, however, that the ISO was in the
17 midst of resolving a bid and payment issue for imports that
18 was the subject of a previous Commission Order. This issue
19 will soon be back before the Commission on compliance and a
20 possible resolution in that proceeding would be a full
21 financially binding Hour-Ahead market.

22 The draft Order largely approves the California
23 ISO's Market Power Mitigation Proposals premised upon the
24 Resource Adequacy Plan that the CPUC is currently
25 considering.

1 The mitigation accepted in the draft Order
2 provides the ISO with Local Market Power Mitigation for the
3 energy markets, a system-wide bid cap, and bid caps on
4 capacity procured for ancillary services and the ISO's
5 residual unit commitment process, or RUC.

6 Specifically, the draft Order accepts the ISO's
7 proposal to transition to a \$1000 per megawatt hour bid cap
8 in increments of \$250, but directs the initial cap to be set
9 at a hard cap of \$500.

10 It accepts the proposed elimination of system AMP
11 and approves the ISO's conceptual proposal for Local Market
12 Power Mitigation measures.

13 It rejects the ISO's proposal to reduce ancillary
14 services and RUC bid caps, and rejects Local Market Power
15 Mitigation of RUC bids.

16 The draft Order accepts the ISO's proposal to
17 compensate frequently mitigated units through the use of a
18 bid adder, and directs the ISO and market participants to
19 determine the appropriate bid adder level for such units.

20 Finally, the Order directs the ISO to reexamine
21 its scarcity pricing.

22 Approving the draft Order before you allows the
23 California ISO to implement by February 2007 a market
24 redesign that corrects fundamental design flaws in the
25 current market by implementing a security-constrained

1 integrated forward market and LMP.

2 The Order completes the Commission's suite of
3 orders giving timely guidance to the ISO on its market
4 redesign effort. The next step is for the California ISO to
5 file its tariff this November.

6 CHAIRMAN WOOD: Lovely. Commissioners?

7 (No response.)

8 CHAIRMAN WOOD: Thank you for getting this done
9 today. I know that you all worked extra hard over time to
10 get these two done, and thank you all back here on this
11 bench [looking behind him], as well, for doing these.

12 It is important I think to get to closure here,
13 and I do think the next piece-step, and I would put it on
14 the big ticket list, is the filing of the tariff in
15 November. That is important to keep them up.

16 We got a pretty clear read from the market
17 participants and the ISO leadership when we were out there
18 last month that they are committed to this date, and I
19 strongly encourage that to happen. But these are a lot of
20 tough calls--not tough, but I mean they are detailed. They
21 are the kind of guidance that we gave MISO a year-and-a-half
22 ago. They came back with a T--actually, they filed the TEMP
23 and then pulled it back as we gave guidance, and then came
24 back and refiled.

25 This is how we get there. It is iterative and

1 tedious, but it is the right way to do it because these are
2 important issues that, when they are decided and decided
3 cleanly and clearly up front, allow software to be written
4 just one time. And that saves a lot of money, and a lot of
5 training time for the people involved.

6 So it is certainly my wish that the E-9 Order,
7 particularly, leads to a very thoughtful transition from the
8 patchwork market design that we've got going there still
9 five years later into one that we can all look back in '07
10 and think that was a good thing to do; it provided the right
11 investment incentives; it provided the right market
12 efficiency; it provided the proper transparency so the
13 market can be well-overseen; and helped restore confidence
14 of customers in the ability of the electricity industry to
15 bring value to the State.

16 That is still sorely lacking, and I think will be
17 subject to probably some distortion and distractions in an
18 election campaign this fall, but nonetheless I think it is
19 incumbent on the ISO to keep their chin down and keep
20 plowing ahead as they did in the filing that led to this
21 Order.

22 So I am proud to support it. Again, we
23 appreciate you folks, not just for this but for the
24 California suite of Orders that have been on every meeting
25 since our first one, and it has just been an experience. So

1 I will leave it at that.

2 COMMISSIONER BROWNELL: Can I add to that,
3 though, because I feel remiss that we really never--we
4 should have a separate party for the California team,
5 because you guys have been in the trenches for so long with
6 just the groddiest most hideous issues of dealing with the
7 past and developing the future, and you are unsung heroes.

8 So, congratulations, and thank you.

9 MR. LARCAMP: The MISO team gets a party.

10 (Laughter.)

11 COMMISSIONER BROWNELL: The MISO team gets a
12 party, that's true. We're having that party, actually.

13 CHAIRMAN WOOD: The party actually is in my
14 office after this meeting for all. So please come up and we
15 will salute each team as long as it takes. We're here till
16 midnight--not quite till midnight, because my wife and I are
17 going out--but let's vote.

18 Joe, did you want to add anything?

19 COMMISSIONER KELLIHER: Let's vote.

20 COMMISSIONER BROWNELL: Aye.

21 COMMISSIONER KELLIHER: Aye.

22 CHAIRMAN WOOD: Aye.

23 SECRETARY SALAS: And the final item for
24 discussion is H-4. This is Public Utility District No. 1
25 of Pend Oreille County. It is a presentation by Jon

1 Cofrancesco, Tim Welch, Keith Brooks, and Ann Miles.

2 MR. COFRANCESCO: Good morning, Mr. Chairman and
3 Commissioners:

4 I am Jon Cofrancesco from the Office of Energy
5 Projects, and with me here today is Tim Welch from the
6 Office of Energy Projects, Ann Miles from the office of
7 Energy Projects, and Keith Brooks from the Office of the
8 General Counsel.

9 Before you today is a draft Order issuing new
10 license to the Public Utility District No. 1 of Pend Oreille
11 County for the 72 megawatt Box Canyon Hydroelectric Project
12 located on the Pend Oreille River in northeastern Washington
13 and northwestern Idaho. The project is situated in part on
14 federal lands, including lands of the Colville National
15 Forest and the Kalispel Tribe of Indians.

16 If granted, this new 50-year license would
17 provide for upgrading the project's four turbines and
18 rewinding its four generators thus increasing the project's
19 total installed capacity to 90 megawatts.

20 Further, license conditions will provide many
21 aquatic, terrestrial, recreational, and cultural enhancement
22 and protection measures, including water quality
23 improvements, upstream and downstream fish passage, trout
24 habitat restoration measures, and recreational enhancements.
25 License conditions would also require management plans for

1 wildlife resources, cultural resources, erosion control and
2 monitoring, shoreline development, aquatic plants, and
3 recreation.

4 Other Commission staff who contributed to
5 processing the license application and preparing the
6 environmental impact statements include: Ken Hogan, Ann-
7 Ariel Vecchio, Frank Winchell, Tim Welch, James Fargo, and
8 Keith Brooks.

9 Thank you.

10 CHAIRMAN WOOD: Thank you, Jon. Nora?

11 COMMISSIONER BROWNELL: Yes. This is yet another
12 difficult case. I thought maybe the last meeting would be a
13 cruise, buddy, but it just hasn't.

14 I think the effects--well the effects are pretty
15 dramatic, but particularly in the Kalispel Reservation,
16 recognizing that this project floods 10 percent of the
17 Reservation. And I think there was a lot of very passionate
18 feeling for that reason, and that reason alone we should
19 consider shutting the project down, but this part of the
20 country desperately needs the power that this project
21 provides. And I think that the mitigation we have imposed
22 addresses some of the issues.

23 But the issue of annual charges for use of Tribal
24 Lands is as yet unresolved, and we have told the parties to
25 go back and deal with that issue, and we are certainly there

1 to help, if necessary.

2 That is a pretty complicated issue both in terms
3 of what is adequate, and how we calculate that. But I hope
4 we find an equitable way to deal with that issue because
5 value is often in the eye of the beholder, and it is very
6 difficult on lands that don't have any market comparisons to
7 actually come to that reconciliation.

8 But it has been an issue that periodically comes
9 up. We spent a lot of time this week trying to find a magic
10 answer. We don't have it, alas, but I am hoping the parties
11 are very aggressive in looking for a model that actually
12 addresses those issues.

13 And I appreciate the kind of passion and emotion
14 that these kinds of projects generate, but respect the fact
15 that we have tried to balance the various needs. So thank
16 you for your hard work, because I think you were an integral
17 part of the process that tried to do that.

18 COMMISSIONER KELLIHER: I dissent in part on this
19 Order.

20 In this Order, the Department of Interior has
21 exercised its mandatory conditioning authority under Section
22 18 to prescribe certain fishway proscriptions, and our
23 record shows that those fishway proscriptions are not
24 supported. At least it's clear in the Final Environmental
25 Impact Statement that they're not supported.

1 It's not clear in the Order, though, and I think
2 it should be clear in the Order. I think it is a matter of
3 Due Process for the licensee. If it's true that agencies,
4 federal and state agencies, have mandatory conditioning
5 authority, they sometimes have proposed conditions that are
6 arbitrary and capricious, that don't have any support in the
7 record. And when they do that, it presents us with a
8 dilemma. Do we accept these conditions that have no basis
9 in the record, that are unsupported and are perhaps
10 arbitrary and capricious? Or, do we reject the license?
11 And sometimes I think we've actually rejected licenses when
12 agencies have submitted contradictory, unsupported mandatory
13 conditions.

14 So it puts us in a difficult position. But I
15 think it is a Due Process issue for the licensee. If we
16 have to accept the mandatory condition we think is
17 unsupported and we're including it in the license and
18 issuing a license, I think our record should be plain that
19 we think the condition is unsupported.

20 Because the licensee's only alternative to
21 overturn the condition is before the courts. And if our
22 record is not clear, if we try to mask that disagreement
23 with a conditioning agency, I think we have acted unfairly
24 towards the licensee because we will have really impaired
25 their chance of getting some kind of justice before the

1 courts.

2 So I appreciate the need for comity, particularly
3 with a sister federal agency, but I think we should make our
4 disagreements plain and just use the most polite language
5 possible, revealing that their condition is unsupported by
6 the record.

7 We should do that in a polite way. They won't
8 appreciate it, I'm sure, but I think Due Process for the
9 licensee demands it. So that's the basis for my dissent,
10 and I'm just sorry I wasn't able to persuade my colleagues
11 to agree with me. I'll keep on trying.

12 COMMISSIONER KELLY: Well thank you, Joe. I
13 understand your position, but I think it is very clear that
14 Congress gave that authority to the Department of Interior.
15 And to the extent that the Department of Interior does not
16 respect to the Due Process rights of the applicants, that is
17 an issue that they are responsible for and have to remedy.

18 The last is very clear that it is our
19 responsibility to accept without question Department of
20 Interior's mandatory conditions, and the licensee's redress
21 lies with them, not with us. And I really don't think we
22 should get into the role of evaluating whether Interior has
23 done its job or not.

24 We will continue to discuss this, I'm sure.

25 COMMISSIONER KELLIHER: And I don't want to be

1 disagreeable, but I think--

2 (Laughter.)

3 COMMISSIONER KELLIHER: --comma, but, comma,
4 however--

5 (Laughter.)

6 COMMISSIONER KELLIHER: --but I think it is our
7 record that the courts would be reviewing. So I think it is
8 incumbent upon us to have it in our record, since that is
9 what the courts will be looking at.

10 COMMISSIONER KELLY: And we can continue this
11 discussion--

12 (Laughter.)

13 COMMISSIONER KELLY: --later. I'll give you my
14 response to that.

15 CHAIRMAN WOOD: I'm out of here.

16 (Laughter.)

17 CHAIRMAN WOOD: Joe did persuade me. Joe did
18 persuade me and he is right. I should add, though, that it
19 is in our record. Correct?

20 COMMISSIONER KELLIHER: It is.

21 CHAIRMAN WOOD: What has not been done is it has
22 not been highlighted in the Order. And I would agree with
23 you that I think an Order should tell what our staff has
24 found.

25 The court will find that, with a little more

1 effort than us pointing the way, but I will join you, and
2 when we get it out the door I will call my dissent a
3 concurrence and I think that is why we have you guys here.

4 You all are wonderful staff, and I have loved
5 working with you for four years, but ya'll's job is to
6 ascertain the truth and to get at it the best way you can,
7 and to put those comments out there and let the light of day
8 see them.

9 I think at this point it really is not ours to
10 review, though. It is the court's. And so it is just a
11 question of do we make it easier for the court or not. And
12 I think the applicants have sufficient incentive with the
13 expensive project to do the required fish passage
14 enhancements that are required by Interior here.

15 This project has been a big one. It has been
16 very politically sensitive from that area. We have heard a
17 lot from--former Representative Nethercutt who was very
18 involved in this, and asked for deference several times to
19 try to work it out with Deputy Secretary Griles and others,
20 and I'm sorry they weren't able to do so but it's our job
21 also to let people work their differences out. And when
22 they can't make a decision, to move forward and I think
23 getting this project approved ultimately it may be economic
24 to continue even with the fish passage. But that's
25 something that will have to be figured out in the future.

1 But for today, I'm content to join you, Joe, as a
2 concurrence and I vote to move the Order today.

3 COMMISSIONER BROWNELL: So I've heard all the
4 discussion I need, aye.

5 COMMISSIONER KELLIHER: Nay. Do I say "nay" or
6 "no"?

7 CHAIRMAN WOOD: Nay, in part. Or is it "nay"
8 altogether?

9 COMMISSIONER KELLIHER: Well, yes, dissent--I say
10 'aye,' with a partial dissent?

11 COMMISSIONER BROWNELL: Whatever.

12 CHAIRMAN WOOD: You're call.

13 COMMISSIONER KELLIHER: With a partial dissent.

14 COMMISSIONER KELLY: Aye.

15 CHAIRMAN WOOD: Oh, gosh, I don't do this often.
16 Concur in part.

17 COMMISSIONER KELLIHER: Well you just say "aye."

18 (Laughter.)

19 COMMISSIONER KELLY: That's right.

20 CHAIRMAN WOOD: Aye, with a concurrence, with a
21 separate statement. I get flomoxed on my last vote of my
22 life.

23 (Laughter.)

24 CHAIRMAN WOOD: All right. I have a couple of
25 things I want to do. There are two folks that I want to

1 give a little special recognition to.

2 The first of these is Bill Hederman. Bill, three
3 years ago you took the draft to come back to the public
4 service side of the fence when we needed it so badly to set
5 up a Market Oversight capability that would not only be
6 perceived to be credible but that would be robust and would
7 be sustainable.

8 You did the equivalent of what is I think one of
9 the hardest things to do in government, and that is the
10 equivalent of a public-sector startup. We had no incubator.
11 I wasn't clever enough to think up, as we did later with the
12 development of the Reliability Division, to put it under the
13 warm nest of a big boy from West Virginia--

14 (Laughter.)

15 MR. ROBINSON: You took it away a little.

16 (Laughter.)

17 CHAIRMAN WOOD: --but we put you out there in the
18 Agency as a stand-alone office. It was important to me. It
19 was important to the Agency to establish the capability to
20 get up on that horse quickly, and you did. You did a very,
21 very hard job of bringing in and creating an office of over
22 100 people, half from the outside--which we haven't had to
23 do, ever--and stars from the inside of the Agency to come
24 together and to integrate not only the new responsibilities
25 but the culture change within your office and within the

1 Agency that was necessary to accommodate this new and
2 necessary function.

3 I will always be grateful to Senator Domenici and
4 Clay Sell, who was his budget aide at the time, who gave us
5 the money back before I even became Chairman to get going on
6 this process, and thank all the qualified folks we
7 interviewed, but we chose you to do it and you did it well.
8 For that, I want to present you with an Exemplar of Public
9 Service, which is our Agency's highest award, and thank you
10 for us.

11 (Applause.)

12 (Presentation of the award.)

13 CHAIRMAN WOOD: Fifteen years ago I came to FERC
14 as a little runt, I guess, and wasn't married, didn't even
15 have a steady girlfriend, and my mom was far away, and so
16 somebody had to take care of me and give me my hugs in the
17 morning and make sure that my language stayed nice, and that
18 I didn't look like a slob. Not only did she do that, she
19 has been a phenomenal asset to this Agency.

20 I told her yesterday that she is genetically
21 happy.

22 (Laughter.)

23 CHAIRMAN WOOD: There are people that are, and
24 she is one of the few. You know I'm talking about Margaret
25 Nelson who is my dear friend.

1 (Applause.)

2 (Presentation of award.)

3 CHAIRMAN WOOD: I didn't time that too well. She
4 knows everything I do in my life, except for this one.

5 (Laughter.)

6 CHAIRMAN WOOD: I think she knew about Hederman,
7 but she didn't know about her. I think, for anybody who
8 doesn't believe in a God, you ought to now because only a
9 good man or a good woman--I'm not sure what the gender of
10 the Supreme is--

11 COMMISSIONER BROWNELL: We are!

12 (Laughter.)

13 CHAIRMAN WOOD: It's a 2-2- vote.

14 Only a benevolent, good Being good create Margy
15 Nelson. It has been a pleasure to be her friend and to be
16 her kept charge for the last four years, and for a long-ago
17 two years before that.

18 I would say I'm going to miss her, but she's
19 moving to Texas, too.

20 (Laughter.)

21 CHAIRMAN WOOD: So, Margy, thanks for everything.

22 COMMISSIONER BROWNELL: Okay, you do not escape
23 unscathed. We have a few very dignified things that we're
24 actually going to do.

25 The temptation, Pat, for me was to talk about the

1 language lesson that your colleagues, actually, sent to FERC
2 staffers from Texas in June of 2001, and I'm not going to
3 read it all because I'm going to enter it into the record in
4 its entirety, but they warned us about kind of understanding
5 or told us a little bit about the language we might expect:

6 Peach and nectarines, they look alike but taste
7 different.

8 Pollinate early and often. Well, God knows,
9 you've done that.

10 (Laughter.)

11 COMMISSIONER BROWNELL: Chop off the high
12 sunflowers.

13 On a well-bathed dog, all the fleas go to the
14 tail anyway.

15 (Laughter.)

16 COMMISSIONER BROWNELL: I think one of the
17 favorites that people talked--well, I'm not reading that
18 one, oh, no--

19 (Laughter.)

20 COMMISSIONER BROWNELL: It rots on the doorstep
21 no matter how far away we build the house.

22 (Laughter.)

23 COMMISSIONER BROWNELL: My own favorite was that
24 kind of endless discussion we had about heads on the steak
25 and pasta at one of our first meetings and, to confess,

1 people would say to me: What did he mean?

2 And I said, you know, I love 'em and I haven't a
3 clue, just go with the flow.

4 (Laughter.)

5 COMMISSIONER BROWNELL: But in any event, I
6 thought it was important to be a little more reflective in
7 that, and I found a wonderful leadership speech by Colin
8 Powell, which I thought was appropriate since Michael is a
9 friend of yours, and I know why he gets the big bucks. It's
10 a great speech. So I'm going to speak from it, General, and
11 I hope you don't charge me, but I think it is appropriate
12 here in Lesson Number One--and he said this, I didn't, so I
13 know everyone will not believe this:

14 "Being responsible means sometimes pissing people
15 off. Good leadership involves responsibility to the
16 wealthier of the group, which means that some people will
17 get angry at your actions and decisions. It's inevitable,
18 if you're honorable. Trying to get everyone to like you is
19 a sign of mediocrity. You avoid the touch decisions. You
20 avoid confronting the people who need to be confronting.
21 And you'll avoid being different, offering differential
22 awards based on differential performance because some people
23 might get upset."

24 Well I thought about yesterday where I recognized
25 that laws are only as good as the people who implement them,

1 and you're the best. And we don't want you to feel lonely--
2 I know Kathleen, and she's not going to respond to this,
3 but, sweet pea, good luck.

4 (Applause.)

5 (The gift of a gavel set is presented.)

6 COMMISSIONER KELLIHER: Mr. Chairman?

7 CHAIRMAN WOOD: Yes, sir.

8 COMMISSIONER KELLIHER: May I be recognized?

9 CHAIRMAN WOOD: Yes, sir. Absolutely.

10 (Laughter.)

11 COMMISSIONER KELLIHER: The roast is going to
12 continue a little while longer.

13 (Laughter.)

14 COMMISSIONER KELLIHER: When you made your
15 announcement, I thought a lot about how we should
16 commemorate your term as Chairman. As you know, I'm someone
17 who likes history, and I like military history, and there's
18 a tradition in the military when the commander of a unit
19 leaves he is given a flag of that unit.

20 In the Civil War--so it made me start thinking
21 along those lines--in the Civil War, regiments had a battle
22 flag. It was individual for each regiment and unique to
23 that regiment, and something they would look for in the
24 middle of the battle and they would rally around it.

25 When a regiment fought in a battle and it honored

1 itself in some way, the battle name was inscribed on the
2 flag. At the end of the war, if you were a regiment that
3 had really covered itself in glory, you had 20, 30 different
4 battles inscribed on your flag.

5 If you were in garrison duty in Washington, D.C.,
6 you probably didn't have anything on your flag.

7 (Laughter.)

8 COMMISSIONER KELLIHER: So those inscriptions
9 were very important. It was something the regiments really
10 prized. Only if you went through battles, could you have
11 your flag inscribed.

12 So it just seems appropriate for you to have a
13 battle flag, just like a Civil War regimental colonel, and
14 we would like to present one to you.

15 (The flag is displayed.)

16 COMMISSIONER KELLIHER: And just to be clear,
17 what is inscribed is a battle--the other way--this is our
18 best guess of the major battles that you fought as chairman
19 at FERC.

20 Now there are a lot of skirmishes that aren't
21 listed here.

22 (Laughter.)

23 COMMISSIONER KELLIHER: So it's really the
24 biggest battles. Now if this were a real Civil War
25 regimental battle flag, it wouldn't be so neat. It would

1 have bullet holes in it--

2 (Laughter.)

3 COMMISSIONER KELLIHER: --and tears in it. And I
4 thought about going out to the woods and doing that, but I
5 thought someone might see me and I would really hurt my
6 prospects.

7 (Laughter.)

8 COMMISSIONER KELLIHER: So I would like to
9 present you with your battle flag.

10 (Applause.)

11 (Flag is presented.)

12 CHAIRMAN WOOD: That's just awesome. Thank you.

13 COMMISSIONER KELLIHER: And I don't know if Susan
14 Court is listening in Ireland, but all I had was the kernel
15 of an idea. Susan Court and Tammy Semega really carried it
16 through, and Cathy Tripodi on my staff. So I think they did
17 a good job of it.

18 CHAIRMAN WOOD: Thank you. Lovely, lovely,
19 lovely.

20 COMMISSIONER KELLY: Well, and continuing the
21 flag theme, I wanted to give you a flag from the State of
22 Texas, which would have been an historic event that a member
23 of the State of New Mexico would honor a member from the
24 State of Texas.

25 (Laughter.)

1 COMMISSIONER KELLY: However, I learned that you
2 already have six flags from the State of Texas. So, in lieu
3 of that, we have a flag from FERC and a Flag of The United
4 States of America, and it reads:

5 "Pat Wood III, Commissioner, June 5, 2001-August
6 31, 2001; Chairman, September 1, 2001, to June 30th, 2005."

7 You've been an outstanding Chairman. I'm glad
8 that you were my first Chairman.

9 (Laughter.)

10 COMMISSIONER KELLY: I'm going to miss you. I'm
11 even going to come to Texas to visit you.

12 (Applause.)

13 (Flags presented.)

14 CHAIRMAN WOOD: Gosh, it just came so fast. The
15 hundred-day march just went like a dream. And I have to
16 tell ya'll, you ought to resign, or retire, or die more
17 often, but not really do it.

18 (Laughter.)

19 CHAIRMAN WOOD: Don't worry, I'm going.

20 COMMISSIONER BROWNELL: There will be regions of
21 the country in shock here.

22 (Laughter.)

23 CHAIRMAN WOOD: I just want to say on a personal
24 note, it has been so touching to be here today and to be
25 doing this. It's kind of heavy for a guy that's just 42,

1 but let me go on and say what I wanted to say.

2 History tends to be pretty kind to those who
3 swing at the pitch, so all that--I'm fine with just letting
4 others digest what's happened at this table and at this
5 Commission for the last four years. I think I would rather
6 use this opportunity today to reflect on what mattered to me
7 more--

8 (A knock from the audio booth is heard.)

9 (The Chairman turns on his microphone.)

10 (Laughter.)

11 CHAIRMAN WOOD: --that is, all the wonderful
12 people who work here. The people who touched me, who
13 challenged me, who made me think, who made me laugh, who
14 made me change my mind. And I've had the delightful
15 opportunity over the past two weeks to take the leave of all
16 my friends on staff here at the Commission in individual
17 office parties, and I want to say this one last time to all
18 of you here at the Commission, what I said to them:

19 Thank you for what you are doing for the country.
20 There are a lot of other things that you all, from
21 Commissioners down to the newest hire could be doing other
22 than working here, but you've chosen to offer your time, and
23 sweat, and talent for the public interest, and I'm deeply
24 grateful for all that you do, for your attitude, sense of
25 mission, excellence, and dedication again to the public

1 interest.

2 I've heard this from the lips of a man who for
3 the last 10 years has been my boss, George W. Bush, and
4 because I know he means it, and he told me just again last
5 week, that alone has motivated me to work for the last
6 quarter of my life for that man in the public arena. His
7 steadfast support of me and of our team, even when it has
8 been very hot in the kitchen--the battle flag has flow --
9 has given me the confidence to pursue his pro-market, pro-
10 customer vision for the energy and, in my earlier job,
11 telecom industries.

12 He and Mrs. Bush have been so kind and supportive
13 of me and Kathleen and our family, and the country is lucky
14 to have them both in the White House. As in Texas, he has
15 consistently given me great colleagues to work with: Nora,
16 Joe, and Suedeem, you're just ideal friends and workmates
17 and it's just going to be really hard.

18 I have to thank also President Clinton, too, for
19 the great opportunity to work with Curt Ebert, with Linda
20 Breathitt, and Bill Massey who kept their cool and their
21 integrity under really the greatest challenges our Agency
22 has ever faced. It was an extremely hot kitchen, and I
23 thank the staff who supported them before we got here.

24 It will be tougher than you three can imagine
25 come, I don't know, a few days from now that I won't be

1 wondering by your offices for a chat about policy, or
2 politics, or kids, or travels, or home ownership and home
3 construction. You and your fine staffs, these good friends
4 and folks back here on the back bench, who I just love and
5 respect, have done so much for the collegial work atmosphere
6 around here.

7 It has never been this good, and I hope ya'll
8 keep it that way. That matters so much. It helps us
9 actually deal with the unforgiving workload that would
10 otherwise exist here and this would be a sorry job, but it's
11 a joyful job because of the quality of people that I get to
12 work with and see every day.

13 The courts will pass judgment on our efforts, the
14 ones today; the ones last week; the ones next week; and I
15 expect we will keep up our record on winning on most of
16 them, the big ones, hopefully all of them, but so much more
17 comes from our work here together than just voting on the
18 Orders:

19 The FERC-on-the-road technical conferences that
20 we did;

21 Our joint meetings with other agencies, including
22 that lovely one at the NRC which I'm still trying to figure
23 that one out;

24 Our closed enforcement and surveillance
25 briefings;

1 Road trips, the brown bags, just the down time
2 that we spent together, it is just a wonderful thing to have
3 a multi-member Commission not only for the comraderie but
4 for the contribution that each of us brings to making good
5 decisions.

6 I really feel like the give-and-take that we have
7 done, including on these momentous Orders today, has made
8 our decision stronger. And very few times, I think--and I
9 can honestly say this, having it done in the past--have we
10 had to water down Orders to get the votes, or to get them
11 out the door, and result honestly in muddled policy.
12 Because of your creativity and thoughtfulness, I have
13 learned what synergy means because I've lived it.

14 Joe [Kelleher], you will be an excellent leader
15 for our Agency. The President just announced a few moments
16 ago that you will be the next Chairman of the Agency, and I
17 am delighted at that, and honored, and thrilled.

18 (Applause.)

19 CHAIRMAN WOOD: We Texans can have some Hollywood
20 timing here. That just came in.

21 (Laughter.)

22 CHAIRMAN WOOD: The phrase "gentleman and
23 scholar" comes to mind about you more than any person I have
24 ever known. You are thoughtful. You are patient. And you
25 are genuine. And I think these traits will serve you and

1 the Agency as well as they have your sweet wife Karen and
2 those great kids, and I just wish you all the very, very
3 best.

4 My dear Suedeem, my fellow Sunbelter, we've got
5 to offset these Yankees up here.

6 (Laughter.)

7 CHAIRMAN WOOD: I'll miss that great laugh, our
8 roadtrips, our frequent chats just on the couch, or walking
9 down the hall. Thank you for keeping me balanced and open-
10 minded. I think the example that you set is something I
11 wish the rest of the government could learn about
12 bipartisanship, and I want so badly for the country that
13 atmosphere to come back to our government. But it's got to
14 start somewhere, and I'm glad it started here with you.

15 I am so glad that you made it here, both of you.
16 Ya'll suffered way too long. That is more than any human
17 ought to do, and I know the Lord has good special rewards
18 for you in Heaven, but I hope they are fun here, too, as
19 well, because they have been for me. I just think you both
20 displayed grace and serenity through that process while the
21 two of us were dying to get you here.

22 And my soul mate, Nora, the Pennsylvania gale
23 force wind beneath my wings.

24 (Laughter.)

25 CHAIRMAN WOOD: I can't even begin to tell you

1 how much your friendship, support, and vision have meant to
2 me all these years. Not just these four, but the ones
3 before that when you helped us set up the Texas market so
4 well.

5 Your tart tongue, your sage advice, your sense of
6 humor, and your courage are an irresistible package, and I
7 will miss you so very, very much.

8 We all know that you are only as good as your
9 staff. That's the truism in this town, and I will say it
10 loud and clear because it is certainly true for me. Mine
11 was an extension of my own family.

12 You heard me talk about the heart of our office
13 team, Margy Nelson, who was again my surrogate mom here when
14 I did my first tour of duty; and the incomparable Alison
15 Silverstein who for some unknown reason sacrificed nine
16 years of her life to put up with me that could have been an
17 easy life of leisure, but she gave it up in Austin to work
18 at my side. And she and her husband and the good folks at
19 her job at Motorola were kind enough to let her come work
20 with me here at my side, and I want to thank her, and my
21 other outstanding first teamers: Andrew Soto, and Larry
22 Crocker, and Rob Gramlich, who really helped shape the
23 policies that the Commission pursued the last four years.
24 Ya'll were, in addition to being great professionals, a hell
25 of a lot of fun to work with every day. It was just a fun,

1 fun existence that I hope to have sometime in the rest of my
2 life, but if I don't, I'll live off the memories for the
3 rest of it.

4 Team number two, you guys stepped up to the
5 challenge: Dion, Derrick, Jason, you folks have stepped
6 right in and not missed a beat. You've done me very proud,
7 and I thank you for giving up what you were doing to come up
8 and work with me.

9 The office isn't complete without the other folks
10 who make it happen, and my dear Gloria--there she is. And I
11 want to thank the other folks over the years: Pam Fox,
12 Jackie Hunter, Angie Cooper, Chris Green, now Cary
13 Peterseck, and all the wonderful stars who have done a great
14 job making every visitor to my office feel like they've just
15 stepped into Texas.

16 I will miss that warm envelope of support and
17 affection each morning. It's a nice way to start the day.

18 With that, I want to extend my deep gratitude to
19 the Energy Bar, to the other Energy professionals and folks
20 outside the Agency who have worked so hard on so many of the
21 things over the last four years, from the Southeast and
22 Northeast RTO mediations that we started off, onto the
23 endless TAPS, Quality Bank, and SFPP Oil Litigation, and I
24 just want to say it here for the record to the Energy Bar:
25 Can ya'll please just settle those two cases as a parting

1 gift for me?

2 (Laughter.)

3 CHAIRMAN WOOD: The former Commissioners, so many
4 of whom were here yesterday to celebrate the Federal Power
5 Act, who have been a wonderful support group for all of us,
6 and I think it is just a wonderful, wonderful brotherhood
7 and sisterhood that we've got from the folks that have been
8 here before.

9 Of course we can't let it pass without
10 recognizing Jerry Langdon and Mark Allday who were wonderful
11 bosses for me here, but also importantly first introduced me
12 to another boy from Midland, Texas, about ten and a half
13 years ago who got me on this track.

14 I want to thank the many talented and hardworking
15 industry representatives who worked for the regulated
16 companies, their competitors, and their customers whom I
17 respected for their professionalism and integrity.

18 A special thanks to the leaders and the staff of
19 all the diverse trade organizations, trade associations, who
20 contributed and continue to contribute so thoughtfully to
21 our policy development, and I'm going to name a number of
22 them here and I hope I don't miss any, but if I do please
23 know it's in my heart:

24 NEMA, AGA, APGA, Consumers Union, KM, EEI, EPSA,
25 NGSA, INGA, IPAA, ELCON, the National Petroleum Council, the

1 Natural Gas Roundtable, NURECA, APPPA--I said too many
2 "p"s--APPA, EPNI from New York, WPTF, IEPA in California,
3 CEA Canada, CECA, and so many others.

4 On the staff here, my right hand--I had a couple
5 of right hands, if you kind of think of me turning into an
6 octopus it's probably true--Tom Herlihy, that poker-faced
7 New Hampshire native, who was my Executive Director for this
8 whole term, was an excellent and thoughtful administrator of
9 our Agency's resources.

10 He's not here today. He had some needed spine
11 and neck surgery this morning. I keep checking my
12 Blackberry for both Joe's announcement and for Tom's, and
13 he's out and will be home tomorrow. So he's doing fine.

14 Tom made some of the hardest calls along the way,
15 as a good business acumen requires be done. With Alison and
16 Susan Court he was the integral part of the CEO half of my
17 job duties here as Chairman.

18 Thanks to the hardworking professionals in the
19 Office of Executive Director, we are on sound financial and
20 organizational footing. Due to a lot of hard work by so
21 many, we've also achieved what a very few government
22 agencies have achieved: the full integration of our
23 Strategic Plan, our Business Plan, our Annual Budget, and
24 Detailed Performance Measurement Performance Review.

25 We were the first Agency to receive governmental

1 approval of our Senior Executive Service Pay For Performance
2 Program. And our Human Capital Program Plan--which is
3 really how we are going to plan for the future as we have
4 retirements and bring new people in--has been held up as a
5 model.

6 We have made employee training an imperative, and
7 recruited bright, young, and seasoned talent as well to the
8 Agency so that we can always be ready for the next
9 challenge, whatever it may be.

10 Janet, Cathy Nocero, before her Margaret Rowell,
11 thank you and all the HR team for all your leadership in
12 those important parts of what we do.

13 Mike Mrozowski, you made our Summer Intern
14 Program and Stay-In-School Program one of the most desirable
15 places for a young person to be in government. This program
16 has always been very special to my heart, for some reason,
17 just because I think it is an important part of our future
18 is to groom them, and to motivate them, but also to get
19 reinvigorated by the vitality they bring. So please keep up
20 that program and make it a good strong one.

21 I am grateful to the Union--Joe, Song, and
22 Marion's leadership there--and to the Diversity Council.
23 Dennis Melvin was the leadership of that. For their
24 contributions to me and to a better, more tolerant and
25 responsive workplace.

1 For those of you who made the quality of life
2 here at FERC better, I say thank you. I'm thinking about
3 the Health Club and the Health Center, our Child Care
4 Center, the Sunrise Cafe who catered this Canadian thing we
5 had this morning, the meeting with the folks that signed the
6 Treaty today.

7 The great Security Team: The Guards on every
8 part of our entry to this building that is staffed by people
9 who are diligent and nice but do their job well.

10 The Combined Federal Campaign Team Leaders,
11 especially Miriam, Clayton, and Ed Gingold who just
12 redefined generosity, each year just benefitting year to
13 year to year better for contributing to our community here.

14 Tammy Semega, the Logistics Team who never let us
15 down. Heidi Hedberg and your team for all the hard work
16 making sure that we publicly and frequently recognize and
17 award employee performance.

18 The Holiday Party planners. And I should add Ross
19 Glasgow, the beer contest that I never won.

20 (Laughter.)

21 CHAIRMAN WOOD: And I've got to say it, Bev and
22 Mary, on my first meeting here, and I'll say it again today
23 on my last, it's great to work in an Energy Efficiency
24 Award-Winning building with a solar panel on the roof. We
25 walk it like we talk it, folks.

1 All right, Magalie, you and the hard-working
2 agenda team in the Secretary's office, are the front-line
3 face of our Agency to the public. And Dockets and Registry
4 taught us all to listen to the customer. Keep doing so.
5 Accuracy and timeliness are important, and you and your team
6 consistently delivered.

7 Thank you for coming over from the FCC to be our
8 Secretary. You and all that fun team in OSEC have made me
9 proud.

10 We couldn't have made as much progress toward a
11 user-friendly, more paperless environment without our IT
12 contractors and the support team under Emory Gargon and
13 Frenanda Young who listened to the customers and made our
14 Agency truly a 21st Century E-masterpiece.

15 I'll say it here before I go: Thank you, OGC,
16 for not flaming the building over the conversion to Word
17 from Word Perfect.

18 (Laughter.)

19 MS. MARLETTE: We're waiting until you leave.

20 (Laughter.)

21 CHAIRMAN WOOD: Change is hard, even for agents
22 of change, dear Cynthia.

23 Tom Russo and our Web Team have also done so much
24 to make the Agency accountable and accessible to America.
25 Hardly a week goes by that I don't get a compliment from the

1 outside on our Agency's user friendliness and accessibility.

2 Dan, my blocker and tackler and my right hand,
3 you and that outstanding OMTR team have done so much good
4 for the country.

5 Mike McLaughlin, Anna Cochrane, Jamie Simler,
6 Steve Rodgers, you all have ably led a superb and diverse
7 regional team with diverse and great talent from this
8 agency.

9 And as if the day-to-day action on the 30- and
10 60-day statutory items wasn't hard enough, the OMTR team
11 with a good and full capable assist from OGC has also been
12 the policy-making part of our Agency. Picking up the pieces
13 of the broken Western energy market, pushing hard--and
14 rightly--to establish the organized, transparent, customer-
15 benefitting wholesale power markets across the country,
16 facing up and being honest about market power concerns,
17 stream-lining the large and small power plant
18 interconnections. The Gelinias Report Team, the MISO Team,
19 the California Team, the El Paso Teams, the Gas Quality
20 Team, you're about solving problems, and that's what we get
21 paid to do.

22 Shelton Cannon, Kevin Kelly, Dick Neill, you have
23 been trusted advisors and friends to me, keepers of
24 institutional knowledge, and mentors to our next generation.
25 Thank you for your candor and your wisdom.

1 My long-time friend Terri Marshall, no one knows
2 how much trouble she went through and how hard she worked to
3 keep you out of trouble--

4 (Laughter.)

5 CHAIRMAN WOOD: --and on time, and under budget.
6 And, Dan, you've achieved the near-impossible: Turning an
7 old gas guy into a coal fan. So, God Bless West Virginia.

8 (Laughter.)

9 CHAIRMAN WOOD: And even though she's not here,
10 Kentucky, too.

11 One of the people I have long admired is the
12 brilliant Alice Fernandez who I so trusted during the gas
13 days of Order No. 636, and who led the Standard Electricity
14 Market Design Rule Team. She is one of the best and
15 brightest FERC has ever had, and I think of her almost every
16 day as she is battling with a tough brain tumor. I look
17 forward to the day when her--our vision of a pro-customer
18 wholesale power market not just benefits 70 percent of the
19 country but everybody.

20 Among the many people that I got to deal with as
21 a regulator, I truly enjoyed the working relationship I've
22 had with the boards and staffs of the RTOs and the ISOs:
23 Goren von Whele, Bill Meussler, now Mark Lynch, Phil Harris,
24 Nick Brown, Terry Winter, and now Yakut Mansur, Tom Noell,
25 Tom Schafer in Texas.

1 I particularly want to applaud Jim Torgus and
2 John Baer and the team and the stakeholders at MISO who have
3 gone from scratch to a full-service RTO in just my short
4 time here at the Commission.

5 Independent operation of the transmission grid
6 isn't just a nice idea, it's the future. And you folks and
7 your fine staffs have brought a lot of value to our economy
8 on both the reliability front and the market front.

9 Keep listening to your customers and making them
10 better, making the operations better, and pave the way for
11 evolution to independent ownership of the grid where it
12 makes sense.

13 Thanks also to our staff who have opened offices
14 in Folsom, in Carmel, and in Little Rock. Having new
15 pioneers on the front line has made a lot of difference, and
16 I think will continue particularly this summer.

17 And, Dan, I want to thank you for your
18 willingness to take on the task of incubating our newest
19 division, the Reliability Division, and hiring that great
20 Joe McClellan to come lead it up.

21 Alison did so much to lay the groundwork for the
22 successful launch of the division with the hiring of our
23 outside experts, to whom I will always be indebted for their
24 giving us the capability to hit the ground running on
25 handling a role that will be such an important, big part of

1 our agency's future.

2 The blackout brought us into new and positive
3 relationships with NERC, DOE, and the industry. Mike Gent
4 and Eruchard Druan at NERC have become good friends and
5 collaborators, and I look forward to watching that
6 relationship between FERC and NERC evolve as we all get a
7 secure and reliable continental transmission grid.

8 And while we have always been a part of DOE, that
9 relationship has never been better. Thanks to my old friend
10 Jimmy Glockfelty, and Kyle McSlerro, and now Clay Sell, and
11 Kevin Kolovar, and the Davids, so many of them, both at NERC
12 and DOE, and Sam Bodman is an excellent secretary and we are
13 lucky to have him at the Energy Department.

14 I have truly appreciated the close collaboration
15 that I've gotten to have particularly after the blackout
16 with the CEOs of many of the electric utilities: Earl Nye,
17 Mike Morris, Wayne Brunette, and Jose Delgado, and so many
18 others have been to visit often since the blackout
19 particularly as we've worked from our respective bully
20 pulpits to keep everybody's eyes focused on reliability
21 while Congress labors to get the mandatory reliability rules
22 enacted.

23 This role for FERC, this bully pulpit role, isn't
24 explicitly in the statute but it is what public interest
25 demands that we do, and it is so much stronger when we do it

1 together.

2 I have really enjoyed, and just saw again for the
3 last time this morning, developing a personal and
4 professional relationship with so many Canadians, not just
5 through the blackout and the ERO issues as we saw today, but
6 on the gas and the oil side.

7 My first Canadian meeting was early on in 2001
8 with the ebullient Energy Minister, Murray Smith, from the
9 Province of Alberta, and it just started from there. My
10 counterpart, Ken Volman at the National Energy Board,
11 together with my Mexican counterpart Deonesio Perez Hacome
12 from Mexico, are good friends and colleagues and I think the
13 three of us put a human face on NAFTA that I know you all
14 will continue.

15 The Provincial regulators in Canada, particularly
16 Quebec's Jean Paul Thiere, Ontario's Howard Wetson, and
17 Alberta's Neil McCrank, have become also good friends and
18 close collaborators. And the many, many gas, oil, and power
19 industry leaders from Canada much like the ones here in the
20 U.S. who have been so excellent and upright and thoughtful
21 to deal with. And what an important relationship for our
22 country to have with our neighbors to the north.

23 Mark Robinson, the infrastructure man. Thank you
24 for the culture of excellence and the delivery of results
25 that have consistently characterized the Agency's largest

1 office. With my pal Rob Cupina at your side, and a
2 fantastic leadership team, Ann Miles, Tom DeWitt, Berne
3 Mosley, Joe Morgan, Rich Hoffmann, Gus Gumas, and Jeff
4 Wright from our new Infrastructure Group--and thank you for
5 setting that up--you and the Energy Products family have
6 consistently delivered for the country and for us.

7 Both the Hydropower and Gas Pipeline Programs are
8 well run and effective, and our LNG Division is a big part
9 of our present and future.

10 I salute all the fine professionals that we have
11 in the Projects Program areas and all those that I've gotten
12 to know from walking on the floor that are too many to name
13 today.

14 Balance is such an important part of what we are
15 about here, and the public trust that we have garnered is in
16 large part due to ya'll's thoroughness and professionalism
17 in balancing the country's needs for affordable energy
18 supplies with our Nation's values for safety, environmental
19 stewardship, and security.

20 Reliance on the new ILP process from Order 2002,
21 Tim, and the NEPA prefiling process on the LNG and Pipeline
22 side will benefit the country for years to come.

23 I have a special fondness and appreciation for
24 the hard work of our tireless men and women in the regional
25 offices who truly protect the public interest through the

1 Dam Safety and Compliance work. Thank you, Peggy, in
2 Chicago; Anton, in New York, Harry in Portland, Jerry in
3 Atlanta, Takeshi in San Francisco, for their leadership--for
4 your leadership of our outposts.

5 Last Thursday I made my final FERC trip to South
6 Carolina to dedicate the rebuilt Seluda Dam Project which
7 Joe and I had good buddy trips going down there earlier in
8 the term here to see twice. This is a huge high-hazard dam
9 a few miles upstream from the State's Capitol. Gus Gumas
10 and two of our Atlanta engineers were there with my oldest
11 son and me in insisting on remediating this dam for seismic
12 protection, which SCE&G did an excellent job of by the way.
13 It really brought home that FERC is truly about the public
14 interest. I was proud to be a civil engineer, and I was
15 proud to be from FERC.

16 And in external affairs: First, with the
17 unforgettable Kevin Cadden and now with McClain Layton and
18 her new leadership, Mark, and Todd, we've come so far. Our
19 press shop has done a great job. Thank you, Brian Lee, for
20 letting Kevin lure you away from the Dow Jones to help us
21 tell the truth again and again. And thank you, also, for
22 pulling me aside to tell me what I needed to hear, even
23 though I sometimes didn't want to hear it.

24 And to all our friends in the press, I want to
25 say thank you for taking the time to understand what we do,

1 for asking questions to help us explain better because we're
2 so inarticulate about it, to explain why we do what we do,
3 and for reporting fairly to the public about why we're doing
4 and what we're doing.

5 Our Agency is lucky to have such a cadre of
6 professionals covering us. I wish all the other agencies in
7 the city could be so lucky.

8 Sarah McKinley, and Ed Myers before her and with
9 her, you and the Agency's Outreach Team's untiring efforts
10 to the States and to the Governors and to other customers
11 has yielded priceless good will and trust for our Agency.

12 The State Commissioners from whose ranks we have
13 come is a great bunch to work with. From the outside it may
14 look like world war three, but really, folks from the inside
15 it's just an unruly family reunion.

16 (Laughter.)

17 CHAIRMAN WOOD: You've all been to ones like
18 that, too. The list of friends and colleagues there is too
19 long to name, and since it really is a family reunion, I
20 won't try for fear of leaving just one out. But maintaining
21 this crucial relationship is so important to the country and
22 to the industries that we regulate.

23 The leadership within the regions, particularly
24 in the newly formed and newly forming RFCs will reap
25 benefits for us all for so many years.

1 And the Governors have been such a key player.
2 Nora, you have been on this since day one. In moving the
3 balanced energy agenda forward, those folks understand the
4 role that quality infrastructure and good market rules play
5 in their state's economic development, and they have
6 always--almost always--been there for us when we have
7 reached out, regardless of political party.

8 Paula Felt, thank you for helping me communicate
9 to everybody in a timely and succinct manner from all the
10 correspondence that we get.

11 Carol Connors, Don Chamblee, thanks for all the
12 help in Congressional affairs with the House and the Senate.
13 Our Budget Committees, led by Senator Domenici and
14 Representative Hobson have been there each and every year,
15 actually asking me both times to ask for more money--because
16 you know a Bush appointee is not going to ask for money
17 unless we're told too--

18 (Laughter.)

19 CHAIRMAN WOOD: --to get moving on Market
20 Oversight, fiscal year '02 Market Oversight monies, fiscal
21 year '04, the Division of Reliability monies, and in the
22 nine-year battle for an energy bill we have had great
23 support at this Agency from Chairman Tauzin, Barton, and
24 Hall, and from Senators Murkowski, Bingaman, and Domenici,
25 and all their great staff that we have worked so closely

1 with.

2 Between what the House has passed and the Senate
3 has passed, we should be able to get a decent bill on the
4 President's desk this year, and it is important to get it
5 done so that we can all focus on the future again.

6 With malice toward none, and charity toward all,
7 I must also express my appreciation to our agencies and my
8 opponents, as well. They have made me a more tolerant,
9 patient person which, if nothing else, ought to shave a few
10 years off of purgatory for me.

11 (Laughter.)

12 CHAIRMAN WOOD: I've learned to never be too
13 proud to admit when someone else is right, too, and that's a
14 hard lesson to learn. And when they're not right, then the
15 equally grumpy standard holds: that you must be calling it
16 pretty fairly when they're sniping at you from both the left
17 and the right.

18 Thank you, Riley Wilson, for taking on the
19 challenge of being our first Tribal Liaison.

20 I talked about Bill Hederman a moment ago, and I
21 would like to add your team: Steve Harvey, Bob Pease,
22 George Godding, and the Leadership Group. You built it up
23 from scratch, the procedures. You developed reports,
24 including last week's excellent State of The Market Report,
25 honed analytical skills, deployed oversight tools both ones

1 that we could create and importantly ones that were already
2 being made that we can buy, and communicated on short- and
3 long-term issues both internally and externally.

4 To the guys who helped me understand so much
5 about financial issues: Lee Sebastian, Rahule, and the
6 great team there, thank you.

7 And Tom Riley, you took the Market Monitoring
8 Center that Curt started and turned it into the nerve center
9 of the Agency. It's not only a great place to show
10 visitors, it's a great place to watch the policy happen.

11 We inherited markets in which trust had been
12 largely bled away, and the leadership Omar provided for all
13 of us across the Agency, and that the Agency provided to the
14 country has done so much to help restore that trust.

15 The Order No. 2004 Standards of Conduct Rule, and
16 the ongoing Compliance efforts were the work of so many
17 across all offices, but I have to thank Demi Anas for her
18 untiring leadership as she battled a return of cancer in the
19 middle of it all. You are an inspiration.

20 Lee Ann, Brian, Janis, the triumvirate walking
21 the beat, your fine teams doing the audits, investigations,
22 and enforcement are our front line in making markets work
23 for the customer. Stay alert and keep after the public
24 interest, as you have done so well thus far.

25 While I'm on this, I have to say how edifying our

1 Agency's relationship with our sister federal agencies has
2 been. Nora and I went to visit Jim Newsome over at the CFTC
3 in 2001 and got the inspiration on how to set up OMR and
4 Market Surveillance.

5 Our close working relationship at the
6 commissioner and staff level with both Jim and Chairman
7 Brown-Hruska has been the kind of teamwork that makes
8 government more efficient.

9 Similarly true with the NRC and Niles Diaz, Jeff
10 Merrifield there; the Federal Trade Commission, Debby
11 Majoras, John Hilke, Mike Robleski over there; Department of
12 Justice, particularly Jade Eaton in the antitrust Division;
13 and I want to thank you, Nora, for working with FCC
14 Commissioner Abernathy on the broadband power line issue.
15 That's a fun one that I think will be a great technology to
16 watch play out.

17 I want to thank David Tobenkin for his relentless
18 help on that one.

19 Bill Froehlich, between you and OAL and Judge
20 Wagner and the OALJ, we are firmly committed to finding the
21 right answers as an Agency should be. And sometimes I
22 didn't hear what I thought I wanted to hear once we sent a
23 case to hearing, once it had gone through hearing, but your
24 independence and relentless search for the facts is exactly
25 what your two offices are all about.

1 I deeply appreciate the difficulty of your
2 respective jobs in the search for the truth. And, much like
3 many other parts of the Agency, as if the normal work wasn't
4 hard enough with--I think we probably sent another half a
5 dozen to hearing today--we sent you the Enron tapes, and the
6 long-term contract fact-findings, just to name two; not to
7 mention Peter, and Bobbi Jo handling the 2001 mediations
8 before I became Chairman, or Bill Cowan getting three
9 Commissioners to help him do an ALPP JM case in the room
10 next door, we have had an unusual amount of first-impression
11 issues these past four years. And it is only through your
12 development of a thorough and balanced record that we have
13 been able to pierce through the rhetoric and make good
14 decisions.

15 So as I said earlier this week to you all in the
16 small session, thank you, Judges and Trial Staff, for the
17 crucial role that you play for well-supported Commission
18 Decisions.

19 Susan, I praised her last meeting since she was
20 heading off to Ireland, but I have to thank Susan Court for
21 her two-pronged contribution to our Agency's success these
22 past few years.

23 First as head of General and Administrative Law,
24 which she passed into Larry Crocker's capable hands, and
25 most recently as our Chief of Staff. The combination of a

1 teutonic sense of organization, Irish loyalty, Catholic
2 schoolgirl rectitude, and institutional memory made her so
3 well suited for both positions, not to mention she's a great
4 friend, too.

5 Cindy Marlette: For a Chairman there is always a
6 special relationship with his General Counsel, and I am no
7 exception. Knowing that my term here would call for quite a
8 bit of policy innovation, particularly on the electricity
9 front, I knew that I had to have the best Federal Power Act
10 attorney in the land to keep me straight.

11 And through some very challenging times--
12 California, Enron, Wholesale Market Formation, and the
13 Blackout--you and your great team have consistently
14 delivered for the country. I have admired you for so long,
15 and thank you for agreeing to stand at my side.

16 At your side, Marsha, Mike Bardee, John Katz,
17 Suzy Holmes, Bob Christin, and Chris Nygaard before them
18 Ellen Shaw, Dennis Lane, Bob Solomon, in the Solicitor's
19 Office, Hilary Schubert, Rick Miles, the managing attorneys
20 who keep the trains running on time, all my ladies down
21 there who give me the hugs I need to make it through the day
22 and lift me up, all the new attorneys that we have attracted
23 to government service and their talented mentors like our
24 own Shakespeare, Mr. Larry Greenfield.

25 (Laughter.)

1 CHAIRMAN WOOD: I really just actually want to
2 get out the FERC phone book and just read every name and
3 tell you all what you mean to me, but I will stop, but I
4 think people want to go to lunch, and I just want to say to
5 you that I have had the honor to work with and work for all
6 of you, and I thank you for it.

7 My bride, Kathleen, and I said "I do" nine years
8 ago yesterday, and this has definitely been a "for better"
9 part of our lives. Thank you for just loving me. That's
10 really all I need. All this is extra. It's time for us to
11 get those boys back to Texas so they can learn how to talk
12 right--

13 (Laughter.)

14 CHAIRMAN WOOD: --and before that new baby is
15 born on native soil.

16 On my first day back at FERC I was heading down
17 the hall to say hi to Kurt, and Bill, and Linda, and Nora,
18 and walking past the Secretary's office my old friend Philis
19 Posey ran out in the hall and she gave me the tightest hug
20 and she said: Pat, I'm so glad you're back. And for all
21 the joy that all of you all have brought to me, for all
22 these last four years, I'm so glad I came back, too. Keep
23 the faith.

24 Meeting adjourned.

25 (Applause.)

1 COMMISSIONER KELLIHER: Meeting adjourned.

2 (Whereupon, at 1:10 p.m., Thursday, June 30,
3 2005, the Commission meeting was adjourned.)

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