

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

931ST COMMISSION MEETING
OPEN SESSION

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

Thursday, March 20, 2008
10:00 a.m.

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APPEARANCES:

COMMISSIONERS PRESENT:

- CHAIRMAN JOSEPH T. KELLIHER (Presiding)
- COMMISSIONER SUEDEEN G. KELLY
- COMMISSIONER MARC SPITZER
- COMMISSIONER PHILIP MOELLER
- COMMISSIONER JON WELLINGHOFF

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

2 (10:10 a.m.)

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

8 Please join us in the Pledge of Allegiance.

9 (Pledge of Allegiance recited.)

10 CHAIRMAN KELLIHER: To begin, do any of my
11 colleagues have introductions? I'm not aware of any, but I
12 just wanted to check.

13 (No response.)

14 CHAIRMAN KELLIHER: No? Maybe later in the
15 Summer?

16 COMMISSIONER SPITZER: Maybe later in the Summer.
17 I did have a brief remark, Mr. Chairman, thank you.

18 There is an open seat in the Spitzer team that
19 will be filled next month, but Phil Dione has left
20 Government service and my team.

21 If there is anybody awake at this hour in the old
22 pueblo --

23 (Laughter.)

24 COMMISSIONER SPITZER: -- of Tucson, which is,
25 by the way, a state capital. There is a lot of source of

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1 irritation over that. There is a -- in 1912, there was a
2 debate at the Arizona Constitution Convention, and Phoenix
3 got the capital, Tucson got the University, Phoenix got the
4 mental institution.

5 (Laughter.)

6 COMMISSIONER SPITZER: So, the people by Tucson
7 have been somewhat irritated, but they are a capital. They
8 are the 51st State, Baja, Arizona.

9 (Laughter.)

10 COMMISSIONER SPITZER: So, I thank Phil for his
11 efforts on behalf of me, the Government of Arizona, the
12 FERC, and we wish him the best, and, again, there will be --
13 the Spitzer team has been shorthanded, and I thank my team
14 for working so hard for this open meeting, and that seat
15 will be filled at the next open meeting. Thank you.

16 CHAIRMAN KELLIHER: Thank you. Phil will be
17 missed. Phil's nickname in the building was the Mayor of
18 Phoenix, and I guess now he's going to have to be the Mayor
19 of Tucson, where he's going to have to learn his new
20 hometown.

21 Before we really turn to the business, I wanted
22 to make an award, a very well deserving award, to a member
23 of the Commission Staff, and present the Chairman's Gold
24 Medal for Leadership to an individual at FERC who has helped
25 shape and execute FERC policy going back 25 years, namely,

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1 Shel ton Cannon.

2 Shel ton Cannon joined the FERC Staff in 1981, as
3 an economi st, and he' s held posi ti ons of steady i ncreasing
4 responsi bili ty ever si nce.

5 In July of 2005, I am grateful that he accepted
6 my offer to become Di rector of the then-Office of Markets,
7 Tari ffs, and Rates, now the Office of Energy Market
8 Regu lati on, and, si nce that ti me, Shel ton has worked very
9 closely wi th me and all of my col leag ues on a host of major
10 poli cy ini ti a ti ves, on all the major ini ti a ti ves we really
11 pur sued si nce then in the area of market regu lati on, such
12 as: Compe ti ti on proceedi ngs; reform of the Open Access
13 Transmi ssi on Tari ff; transmi ssi on pri ci ng reform; the
14 market-based rate reform rul emaki ng; i mpleme nta ti on of our
15 new merger and cor porate review authori ty; resource
16 adequacy; some of the gas market reforms such as MLP, the
17 MLP Poli cy Statement Ini ti a ti ve, as well as capaci ty
18 rel ease rule changes; long-term transmi ssi on ri ghts
19 rul emaki ng.

20 Those are just really the big ones. Si nce
21 Shel ton has become Di rector, EMR has helped the Commi ssi on
22 i ssue 12,000 Orders si nce that period, and that i s quite
23 i mpre ssi ve.

24 (Laughter.)

25 CHAIRMAN KELLI HER: And we' ve been affi rmed on

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1 almost all of them, I think. But now much of the hard work
2 at FERC, comes after we issue the final rule.

3 I mean, it's great to issue a final rule, and I
4 always like to keep track of the Order numbers for our final
5 rules, but then a lot of the hard work comes in the actual
6 application of the rules.

7 Much of that work really falls to Shelton and
8 EMR. One thing that I really think reflects Shelton's
9 character and the commitment to this Agency, is the
10 emancipation of the Office of Electric Reliability.

11 (Laughter.)

12 CHAIRMAN KELLIHER: Shelton housed that and he
13 was nurturing it for a very long time, almost in a very
14 maternal way.

15 (Laughter.)

16 CHAIRMAN KELLIHER: And it came to the point
17 where the Office of Electric Reliability had to take flight,
18 and its responsibilities grew to the point where it wasn't a
19 perfect fit in the Office of Electric -- Energy Market
20 Regulation.

21 And Shelton recognized that before I did, and he
22 really urged me to establish it as a separate office, and I
23 think that really speaks to his character, because there's a
24 perception in Government that people like to build empires
25 and like those empires to expand, rather than contract.

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1 But Shelton thought otherwise, because it was in
2 the best interest of FERC, and so he is not George III; he
3 is the opposite of that, and he let them go very happily.

4 And Shelton, at one level, I think, could have
5 the hardest job at FERC. Market regulation is a very
6 difficult task.

7 The markets that we regulate, the electricity and
8 gas markets that we regulate, are highly dynamic and
9 complex, and that's striking the right balance to promote
10 investment, to encourage competition, to promote
11 competition, and to prevent market power exercise and market
12 manipulation, is very difficult, and it requires great
13 expertise and judgment.

14 Shelton and the Office of Energy Markets
15 Regulation, they really have a lead responsibility in our
16 efforts to promote competition in these markets.

17 So, since I have become Chairman, I have relied
18 on Shelton's judgment in all major policy matters involving
19 market regulation, and I have placed great value on his
20 thoughtful approach to these policy questions, and I have
21 benefitted from his quiet and effective leadership.

22 I really can't think of anyone who deserves this
23 award more than Shelton, so I'm happy to give it to you.

24 Colleagues, do you have any comments? Suedeen?

25 COMMISSIONER KELLY: Yes, thank you, Joe. I'd

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1 I like to add a few observations about Shelton, in addition to
2 the professional ones that you've mentioned, some personal
3 things about Shelton that may not be generally known.

4 Now that I've been here over four years, one of
5 the things that stands out, is how highly regarded Shelton
6 is among his peers.

7 Joe has mentioned that Shelton is an economist.
8 Well, I didn't actually know that Shelton was an economist,
9 because, over the years that I've been here, numerous times,
10 I've had questions and people have said, well, you know, you
11 should ask Shelton, he's an engineer, he can answer that.

12 (Laughter.)

13 COMMISSIONER KELLY: And for the longest time, I
14 thought you were a lawyer.

15 (Laughter.)

16 COMMISSIONER KELLY: You could ask Shelton, he's
17 a lawyer, he understands the law. So, Shelton has been the
18 go-to person here among the Staff on not only economics
19 issues, but legal, engineering, and policy issues.

20 And he has a reputation as a wonderful manager
21 and mentor. He has a reputation as being an advocate for
22 his employees and someone who works hard to ensure that his
23 employees are given the credit for the jobs they do, and for
24 advancing his employees, and that's just a personal trait
25 that you can't teach someone; they're born with that, and

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1 we're very lucky to have you and so is our Staff.

2 And Shelton, as Joe hinted at, is a diplomat. He
3 has wonderful diplomatic skills. He's able to convey
4 information and policy and policy perspectives that, in a
5 loaded environment, in a very diplomatic way, so that people
6 actually hear what he has to say.

7 And that's a skill is rare, and we're lucky to
8 have a person with those skills here at FERC.

9 Then, finally, just a few more personal
10 observations: Shelton is quite an accomplished runner, and
11 he's always in demand when -- particularly this year when
12 the Commissioners are going to have a number of -- field a
13 number of teams at the Congressional Challenge, and we're
14 vying for Shelton's services on our teams.

15 (Laughter.)

16 COMMISSIONER KELLY: And guess who won out?

17 (Laughter.)

18 COMMISSIONER KELLY: Then, finally, Shelton is
19 very stylish, and I can always tell --

20 (Laughter.)

21 COMMISSIONER KELLY: And I can always tell --
22 yeah, you laugh, but --

23 (Laughter.)

24 COMMISSIONER KELLY: I can always tell when
25 beards are in, because you watch Shelton. One day, he'll

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1 come in, no beard. Couple months later, he's got a beard
2 back.

3 (Laughter.)

4 COMMISSIONER KELLY: Shel ton, it's been a real
5 pleasure working with you here, and I can't think of anybody
6 who deserves this award more. Thank you.

7 CHAIRMAN KELLIHER: Colleagues? Phil?

8 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
9 Shel ton's reputation preceded him in my world, long before I
10 arrived at the Commission, and one of our mutual
11 acquaintances said, got to get to know him; he's not only a
12 great guy, but he knows how this Commission works.

13 That has certainly been affirmed in my year and a
14 half here, and, I think, Shel ton, you embody the best of
15 public service, so my admiration goes to you.

16 CHAIRMAN KELLIHER: Jon?

17 COMMISSIONER WELLINGHOFF: Well, actually, I met
18 Shel ton when I came here for my interviews on the Hill,
19 prior to my confirmation, because Shel ton got the duty to
20 ride out with me to the airport, to BWI.

21 And as we were going in that 45-minute trip, we
22 had a good time to discuss a lot of things. I thought to
23 myself, this guy's really smart.

24 (Laughter.)

25 COMMISSIONER WELLINGHOFF: And I also thought,

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1 this guy's really dedicated. And, you know what, he's
2 somebody that I want to work with. So I'm glad you're here,
3 Shel ton.

4 CHAIRMAN KELLIHER: Marc?

5 COMMISSIONER SPITZER: I'm still trying to get
6 over the understanding that Shel ton is not an attorney.

7 (Laughter.)

8 COMMISSIONER SPITZER: I don't know how I'm going
9 to deal with that. There is -- first, the reputation is
10 very clear, and it's universally held in high esteem, not
11 only by those folks in Washington, D.C., but across the
12 country and the state commissioners and the staffs at the
13 state commissions, have a great deal of respect for
14 Shel ton, during his travels across the country, have
15 enhanced the reputation of the FERC.

16 Shel ton's understanding of energy issues, is
17 encyclopedic, and, of course, there are a lot of people that
18 know a lot about energy.

19 There's a smaller universe of individuals who can
20 tell you what a case is about very succinctly and accurately
21 and objectively, and Shel ton is one of those. There is even
22 a small universe of folks who combine knowledge and
23 understanding with the ability to harness practical
24 considerations to the benefit of the ratepayers of this
25 country, and so Shel ton is that individual, and I thank you,

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1 Shel ton, for your service.

2 MR. CANNON: Well, thank you all, but I kind of
3 feel like I've just gone to my own wake.

4 (Laughter.)

5 MR. CANNON: But to set the record straight, I am
6 an attorney, but --

7 (Laughter.)

8 MR. CANNON: -- I try to keep that fact well
9 hidden.

10 (Laughter.)

11 MR. CANNON: Thank you.

12 CHAIRMAN KELLIHER: Thank you.

13 (Award presented; applause.)

14 CHAIRMAN KELLIHER: Now, to business. This is a
15 pretty big meeting. If you look at our jurisdiction and
16 compare the areas where we're acting today, we're really
17 exercising the full scope of our jurisdiction.

18 We've got some important electricity Orders, gas
19 Orders, hydro Orders, and the oil pipeline bar will be happy
20 that we are also dealing with the Alaska Quality Bank
21 matter, so we're really, from Coast to Coast, exercising our
22 jurisdiction today.

23 And then if you look at it differently, in terms
24 of our major missions, we are acting in the area of
25 reliability, to assure reliability of the bulk power system;

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1 we're taking some significant actions to strengthen both our
2 power and gas infrastructure.

3 We are taking some significant actions in the
4 area of market regulation, and also we're taking actions in
5 the safety area. I would say that our decisions in
6 Broadwater, are assuring the safety of that project, as well
7 as enforcement.

8 I think the Standards of Conduct Order, has
9 important implications for our enforcement policy. So, if
10 you look at it the other way, not in terms of the industries
11 we regulate, but the five major mission areas, we're acting
12 in all five of those areas, as well.

13 So it's a big meeting, and some of the important
14 Orders are not discussion items, because we didn't want to
15 be here all day, so we have actually more discussion items
16 than usual, but we have some significant Orders that are not
17 discussion items, that I commend to your reading.

18 But since -- I want to point out the usual
19 comment, that since the last open meeting, the Commission
20 has issued 59 National Orders, including some very
21 significant Orders.

22 Any other general comments before we turn to the
23 Consent Agenda?

24 (No response.)

25 CHAIRMAN KELLIHER: No? Okay, Madam Secretary,

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1 Let's turn to the Consent Agenda.

2 SECRETARY BOSE: Good morning, Mr. Chairman, good
3 morning, Commissioners. Since the issuance of the Sunshine
4 Act Notice on March 13th, 2008, E-7, E-8, and E-26 have been
5 struck from this morning's agenda.

6 Your consent agenda for this morning, is as
7 follows:

8 Electric Items: E-2, E-3, E-4, E-5, E-6, E-9, E-
9 11, E-12, E-13, E-14, E-15, E-16, E-17, E-19, E-21, E-22, E-
10 23, E-24, and E-28.

11 Gas Items: G-1, G-3, G-4, G-5, G-7, and G-8.

12 Hydro Items: H-1 and H-3.

13 Certificate Items: C-2 and C-4.

14 Commissioner Kelly is not participating in
15 Consent Item G-1. As required by law, Commissioner Spitzer
16 is not participating in Consent Item E-23.

17 As to E-6, Commissioner Kelly is dissenting, in
18 part, with a separate statement.

19 Commissioner Wellinghoff is concurring, in part
20 and dissenting, in part, with a separate statement.

21 As to E-9, Commissioner Kelly is dissenting, in
22 part, with a separate statement, and Commissioner
23 Wellinghoff is dissenting, in part, with a separate
24 statement.

25 As to E-13, Commissioner Kelly is concurring,

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1 with a separate statement.

2 As to E-17, Commissioner Wellinghoff is
3 concurring, in part, with a separate statement.

4 As to E-21, Commissioners Wellinghoff and Kelly
5 are jointly dissenting, in part, with a separate statement.

6 As to E-22, Commissioner Kelly is dissenting, in
7 part, with a separate statement, and Commissioner
8 Wellinghoff is concurring, in part, with a separate
9 statement.

10 As to H-1, Commissioner Moeller is concurring, in
11 part, with a separate statement, and as to C-1, Commissioner
12 Moeller is concurring, with a separate statement.

13 With the exception of C-1, where a vote will be
14 taken after the presentation and discussion of that item, we
15 will now take a vote on this morning's Consent Agenda Items,
16 beginning with Commissioner Wellinghoff.

17 COMMISSIONER WELLINGHOFF: I vote aye, with the
18 exception of those items noted where I'm dissenting and/or
19 concurring.

20 SECRETARY BOSE: Commissioner Moeller?

21 COMMISSIONER MOELLER: I vote aye, with noting my
22 concurrence in H-1.

23 SECRETARY BOSE: Commissioner Spitzer?

24 COMMISSIONER SPITZER: I vote aye, noting my
25 recusal in Item E-23.

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1 SECRETARY BOSE: Commissioner Kelly?

2 COMMISSIONER KELLY: I vote aye, with the
3 exception of G-1 and with the exception of my partial
4 dissents in E-6, 9, 21, and 22, and noting my concurrence in
5 E-13.

6 SECRETARY BOSE: Chairman Kelliher?

7 CHAIRMAN KELLIHER: Aye.

8 SECRETARY BOSE: The first item for
9 presentation, is A-3, and that is concerning the State of
10 the Markets Report. There will be a presentation by Charles
11 Whitmore, from the Office of Enforcement. He is accompanied
12 by Jeff Wright, Keith Collins, and Christopher Peterson,
13 from the Office of Enforcement.

14 MR. WHITMORE: Mr. Chairman and Commissioners,
15 good morning. I'm here today to present the State of the
16 Markets Report for 2007. With me from the Office of
17 Enforcement, are Chris Peterson, who heads up our Gas Group
18 in the Division of Energy Market Oversight; Keith Collins,
19 who directs our Electric Group, and also with me, is Jeff
20 Wright, the Deputy Director of the Office of Energy
21 Projects.

22 This presentation will be posted on the website
23 today, and we will provide more comprehensive results of our
24 analysis on the website over the next few weeks.

25 To understand how United States energy markets

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1 behaved in 2007, we need to start with two facts: Since the
2 beginning of 2006, crude oil prices, in U.S. Dollars, have
3 increased by 74 percent.

4 At the same time, the value of the dollar has
5 fallen by 28 percent against the Euro. These two changes
6 have substantially affected the competitive position of our
7 domestic energy industries, affecting imports and exports of
8 both gas and coal, and changing usage patterns for natural
9 gas.

10 During 2006 and 2007, the most striking aspect of
11 natural gas prices, was their contrast to oil and currency.
12 The U.S. spot gas prices stayed mostly in a fairly narrow
13 band of \$6 and \$8 per million British Thermal Units.

14 Prices in 2007 at the Henry Hub, averaged about
15 three percent higher than 2006. That meant that natural gas
16 was far cheaper than oil for the same heat content, almost
17 everywhere and almost all the time in 2007.

18 As a result, generators who could switch from oil
19 to gas, almost certainly did so most of the time. That
20 helps account for the fact that natural gas use in electric
21 generation, went up by nine percent during the year,
22 although oil use also increased.

23 Let me mention that so far in 2008, the pattern
24 has been quite different. The Dollar has continued to fall,
25 and oil prices have been as high as \$111 a barrel.

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1 But natural gas prices in the United States, have
2 also risen substantially. Last week, the average futures
3 price for the six months starting in April, reached a high
4 of \$10.39 per MMBtu.

5 A final comment on oil and gas prices: Since we
6 put these numbers together a couple of days ago, both oil
7 and gas prices have fallen substantially.

8 When I checked just before coming here this
9 morning, natural gas for the Summer was selling now for just
10 under \$9 per MMBtu, and oil was right about \$100 a barrel;
11 in fact, it was \$99.98, the last time I looked -- a bargain.

12 And the Euro was at \$1.56, so, it's been an
13 exciting week so far.

14 Even last year, however, gas prices were much
15 higher than they were a few years ago. That led to a
16 production response. United States natural gas production
17 was up more than three percent in 2007; new pipeline
18 projects entered service in 2007, flowing this new gas to
19 markets.

20 In reviewing natural gas markets in 2007, I'll
21 focus on imports of LNG, increased domestic production,
22 increased infrastructure, and pricing issues in the
23 Northeast.

24 To start with LNG, the slide shows that for the
25 first two-thirds of 2007, the United States received record

1 amounts of LNG, partly because European prices were much
2 lower than American prices.

3 Indeed, we set an annual record for imports for
4 the whole year. But during the last few months of the year,
5 competing markets offered higher prices, so that by
6 December, the United States had the lowest LNG imports for
7 any month since 2002.

8 Asian buyers, in particular, bought a record
9 amount of Atlantic Basin LNG, 60 Bcf a month, since
10 September, partly to offset nuclear plant outages in Japan.

11 Within the Atlantic Basin itself, higher
12 European prices gave shippers little reason to send gas to
13 most North American terminals. In the future, shipments to
14 the United States will depend on relative supply and demand
15 and prices around the world.

16 In some years, imports may be higher than others,
17 but the basic need for LNG in the United States, remains
18 strong. It serves an essential peaking function for the
19 Northeast in the Winter, and Florida in the Summer.

20 It takes advantage of abundant United States gas
21 storage to buy LNG in the Summer and to deliver it in the
22 Winter.

23 And, as production costs rise in the United
24 States, LNG is likely to serve an increasing base load
25 function for the country as a whole, as it already does in

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1 New England.

2 Finally, natural gas was not the only fuel
3 affected by global conditions. Central Appalachian coal saw
4 a greater demand from global markets, especially late in the
5 year.

6 Exports of Appalachian coal rose by 35 percent in
7 November and December, compared to a year before, and prices
8 rose by 18 percent.

9 LNG imports were down in the second half of 2007.
10 Natural gas usage and electric generators was up, and prices
11 stayed relatively stable until the beginning of 2008. How
12 was that possible?

13 The answer is twofold: Domestic natural gas
14 production is up and new pipelines are bringing new supplies
15 to market.

16 On production, the latest Energy Information
17 Administration reports on the slide, say that natural gas
18 production increased by 3.3 percent in 2007.

19 That is largely a result of tapping new gas
20 sources in East Texas, the Rockies, and the Federal
21 Offshore. Natural gas prices in the United States, have now
22 been high enough for long enough, to see a significant
23 production response.

24 Much of the new gas comes from relatively new
25 technologies that are economic at recent prices -- gas from

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1 shale, record deepwater gas in the Gulf, along with coal bed
2 methane and tight formation gas from the Rockies.

3 In fact, estimates suggest that gas rigs
4 drilling for unconventional plays, accounted for about 68
5 percent of total gas rig count in 2007.

6 Another key factor helping to keep the United
7 States gas prices relatively stable, was the abundance of
8 storage. In both 2006 and 2007, we entered the injection
9 season with ample storage inventories, following relatively
10 mild Winters, and this helped to alleviate upward price
11 pressures.

12 Also equally important, has been the nation's
13 ability to build out its natural gas infrastructure. For
14 decades now, the interstate pipeline system has expanded
15 quickly to meet changing patterns of supply and demand.

16 This ability is especially apparent in the
17 projects placed into full or partial service during 2007 and
18 the first two months of 2008.

19 The most important projects on the slide, include
20 new phases of Rockies Express Pipeline linking Wyoming and
21 Colorado gas production to markets in the upper Midwest,
22 number one on the slide; Rex West began service in January
23 of 2008, and equalized prices between Wyoming and the
24 Midwest.

25 Previously, Wyoming prices often fell to low

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1 levels, even reaching one cent per MMBtu, with service
2 disruptions at the Cheyenne Hub. Centerpoint and Gulf South
3 both connect East Texas with Louisiana, across the
4 traditional barrier represented by the Sabine River, numbers
5 two and three on the slide.

6 Combined, these projects now move more than two
7 Bcf a day of incremental gas from East Texas to eastern
8 markets, and have reduced price differences between East
9 Texas and Louisiana.

10 Independence Hub, number four on the slide,
11 connects up to one Bcf of new production in the Gulf of
12 Mexico, with onshore pipelines for delivery to downstream
13 markets, including the world's deepest deepwater well.

14 And Cyprus, number five on the slide, connects
15 LNG supplies at Elba Island, Georgia, to northern Florida,
16 providing new supply for the growing Florida market,
17 especially in the summer.

18 It also adds diversity to Florida's supply, a key
19 consideration after the hurricanes of 2005. Future phases
20 are under construction and will increase capacity to serve
21 northern Florida further.

22 Taken together, these and other pipeline
23 projects, placed into full or partial service, from the
24 beginning of 2007 through the first two months of 2008,
25 represent more than \$6 billion of investment, and 14.3 Bcf

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1 per day of new deliverability.

2 The development of Rockies Express, largely
3 eliminated a major persistent price difference between
4 producers in the Rockies and consumers in the West and
5 Midwest. The largest remaining price disparities in the
6 country, generally occur in the Northeast.

7 During severe Winter weather, New York and New
8 England have long seen occasional periods when local prices
9 rose far above those of other regions, including the Henry
10 Hub.

11 These periods appear to have become more
12 frequent. In 2007 alone, gas prices in the Northeast, were
13 at least \$5 higher than at the Henry Hub on 30 separate
14 days, the 12th of the year.

15 By contrast, in the six years before 2007,
16 northeastern prices were that much higher than the Hub on a
17 total of only 33 days.

18 Uniquely in the country, gas prices during these
19 periods in 2007, in the Northeast, have risen above those of
20 residual fuel oil and even, occasionally, distillate fuel
21 oil.

22 Production outages in the Canadian Maritimes,
23 added uncertainty to the northeastern market, as well, and
24 it appears that the market is signaling that the next major
25 need for expanded infrastructure, would be to deliver

1 natural gas to the Northeast.

2 Let me turn to electric power. I'll start by
3 looking at how wholesale markets differ in different parts
4 of the country.

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1 Let me turn to electric power. I'll start by
2 looking at how wholesale markets differ in different parts
3 of the country. Then I'll focus on basic volume and price
4 trends, new generation builds and the industry's ability to
5 respond to stress.

6 (Slides being shown.)

7 The most striking feature of American electric
8 power markets is that there are really three quite different
9 wholesale market regimes in different parts of the country.
10 In regions where RTOs have day-ahead markets, bilateral spot
11 markets act primarily as intra-day derivatives of the prices
12 that RTOs produce.

13 In the West, bilateral spot markets form the
14 basic day-ahead physical market. And in the southeast,
15 bilateral markets appear to be a residual market for small
16 amounts of power traded after the integrated utilities have
17 handled most of their own loads.

18 The Intercontinental Exchange, ICE, provides the
19 clearest view we have into bilateral spot markets--by which
20 I mean, day-ahead and intra-day trading.

21 In areas with day-ahead RTO markets--that is, the
22 Northeast and the Midwest--ICE's spot market is primarily
23 financial and it operates within the day. There is little
24 trading day-ahead.

25 Fundamentally it appears that market participants

1 use the ICE market to hedge or speculate on price behavior
2 during the day. In the West and in ERCOT the ICE spot
3 market is fairly large and composed overwhelmingly of day-
4 ahead physical transactions.

5 Bilateral spot markets appear to form the primary
6 price discovery mechanism for day-ahead spot power
7 transactions. There are many financial electric
8 transmissions on ICE in the West, but most agree for longer
9 terms. And in the Southeast the ICE spot market is also
10 physical and traded day-ahead, but it is much smaller. Less
11 than one-fortieth the size of the Western ICE spot market.

12 Based on the ICE data, the Southeast appears to
13 use bilateral spot markets to make minor changes in
14 decisions otherwise taken by the major utilities.
15 Nonetheless, they are important at the margin and can become
16 quite important during periods of system stress.

17 Electricity generation increased in almost all
18 regions of the country in 2007, but the degree of increase
19 varied considerably from one region to another.

20 For example, New England, New York, and
21 California showed little increase, while the Southeast, the
22 Midwest, and especially the Rockies showed larger
23 increases.

24 On-Peak Wholesale electric prices increased
25 generally in 2007. A combination of a moderate gas price

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1 increase and load growth meant that On-Peak Wholesale power
2 prices increased 6 to 11 percent at most pricing points,
3 though in most regions they remained below the hurricane-
4 influenced levels of 2005.

5 In percentage terms, the highest priced increases
6 occurred in a region including MISO, PJM West, and TVA.
7 Several factors probably contributed to this result.

8 For example, MISO made some rule changes that
9 lowered uplift while raising market-clearing prices. PJM's
10 market monitor reported that increasing loads increased
11 prices by moving marginal generation further up the supply
12 stack, and that congestion had increased. Both factors
13 probably affected MISO as well.

14 I will mention a couple of exceptions that stand
15 out in the slide. In the Northwest prices rose 12 to 13
16 percent primarily because of less favorable hydro
17 conditions, and ERCOT rose by only 1 percent because of a
18 cool and rainy summer.

19 During 2007 the electric industry completed
20 relatively little new generating capacity. What capacity
21 increases there were came mostly from four sources:

22 The Browns Ferry Nuclear Plant in Tennessee was
23 recommissioned after being out of service for 22 years,
24 accounting for about 7 percent of overall increase in
25 capacity.

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1 New natural gas units accounted for about 45
2 percent of the total.

3 Coal plant additions were smaller, about 13
4 percent.

5 And wind accounted for about 30 percent of the
6 new capacity coming online in 2007.

7 So wind and natural gas together account for
8 three-quarters of the additions.

9 Among the incentives for investing in wind power
10 are federal tax incentives and meeting the goals of
11 renewable portfolio standards in many states. However, wind
12 is an intermittent resource and often not available at peak.

13 The relatively slow pace of investment in new
14 generation almost certainly reflects uncertainty about
15 future treatment of greenhouse gases, especially carbon
16 dioxide. Developers cancelled many proposed coal projects
17 around the country in 2007.

18 In 2006 and 2007 the American electric industry
19 showed an impressive ability to address severe summer
20 weather. In 2006 the Northeast and the Midwest faced a heat
21 wave at the beginning of August. The region's RTOs
22 successfully responded with various forms of scarcity
23 pricing, demand-response, and emergency measures.

24 Also in 2006 the West faced a long period of
25 severe heat in July, several weeks. Despite the prolonged

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1 heat, Western markets experienced a price spike on only one
2 day. Otherwise, prices were relatively moderate and there
3 was little or no disruption.

4 In 2007 it was the Southeast's turn. The region
5 faced a heat wave for most of August, coupled with a long-
6 term drought that reduced hydropower resources and
7 threatened to reduce some steam generation as well.

8 As with other regions in 2006, the Southeast
9 withstood the heat without major disruptions. How did
10 Southeastern Electric markets work during this period? We
11 can see only limited information about spot wholesale
12 markets in the Southeast, but over the last year we have had
13 several informal conversations about market developments
14 with the Southern Company, and these have provided more of a
15 window into the region than we had before.

16 Southern said that it had used the bilateral spot
17 markets to help deal with the heat wave. Usually Southern
18 buys or sells less than one percent of its power on
19 bilateral spot markets.

20 During August, however, as the slide shows,
21 Southern increased its spot purchases, mostly for peak hours
22 and done on the day-ahead market. Indeed, EQR data showed
23 that Southern bought more than 5 percent of its power needs
24 for some peak afternoon hours during the month of August.

25 These purchases show that the bilateral spot

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1 markets are serving a vital function even in areas of the
2 country where they are small overall.

3 Another key insight from the discussion with
4 Southern is the practical importance of real-time pricing.
5 Georgia Power's real-time pricing program for industrial
6 customers lets customers choose whether to buy or not every
7 hour based on price.

8 The chart shows how customer load in the program
9 dropped during high-priced hours on the peak price day,
10 August 9th, compared with loads on otherwise similar days in
11 July. Georgia Power estimates that real-time pricing
12 reduced load for program participants by 23 percent during
13 the most affected hour, about one percent of Georgia Power's
14 overall load at the time.

15 This reduction came at prices of around \$400 per
16 megawatt hour, considerably lower than those reached when
17 most demand-response programs were triggered in the
18 Northeast during the 2006 heat wave.

19 That concludes our presentation on this year's
20 state of the markets report, and we would welcome any
21 questions.

22 CHAIRMAN KELLIHER: Thank you, very much. I will
23 have a couple of questions and comments on LNG.

24 Jon, did you want to start, though?

25 COMMISSIONER WELLINGHOFF: Sure, a couple of

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1 things that were I thought notable and interesting, but
2 thank you very much for the presentation. I enjoyed it.

3 One, it was incredible the \$6 billion investment
4 and 3 percent--investment in new pipes in essence, and the 3
5 percent increase in production, obviously all driven by
6 markets, right? I mean, driven by demand. Nobody is doing
7 this because they want to; they're doing it because they in
8 fact can sell the gas and people are using more gas.

9 MR. WHITMORE: Absolutely. And in fact the 3
10 percent increase in production is probably, if anything,
11 understated. You can see on the chart there that it
12 increased more toward the end of the year. So year-on-year
13 this month for instance might be 5 percent more, as opposed
14 to 3. So what's on the chart is a conservative estimate, if
15 anything, and it is entirely market driven.

16 COMMISSIONER WELLINGHOFF: And you noted that the
17 new infrastructure need for natural gas would be primarily
18 in the Northeast? Is that correct?

19 MR. WHITMORE: That is certainly what the market
20 prices are indicating at the moment.

21 COMMISSIONER WELLINGHOFF: Okay, and that could
22 even include LNG in the Northeast, right?

23 MR. WHITMORE: Yes.

24 COMMISSIONER WELLINGHOFF: And on the capacity
25 side you also noted that the new capacity, 45 percent for

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1 generation was natural gas. So that again is driving the
2 market, I take it.

3 MR. WHITMORE: Absolutely.

4 COMMISSIONER WELLINGHOFF: Which you think we're
5 seeing more natural gas capacity because there's less
6 perceived risk on the carbon issue for building gas plants
7 versus coal plants?

8 MR. WHITMORE: My sense is--and this is just a
9 personal view; I don't mean to make it official or
10 anything--my sense is that people are very reluctant to
11 invest in coal plants right now because of the uncertainty.
12 Also because of the very long lead time. And that nuclear
13 obviously takes much longer to do. And so if you need
14 something in the short term, it almost has to be gas.

15 COMMISSIONER WELLINGHOFF: Is there also a peak
16 aspect to this, in that isn't our national load factor in
17 fact decreasing because we're getting more penetration of
18 air conditioning, and so more people would be putting in gas
19 peakers as opposed to baseload?

20 MR. WHITMORE: It's certainly true that in most
21 regions the load factor is going down somewhat, and that
22 would suggest the need for more peakers.

23 COMMISSIONER WELLINGHOFF: I mean I understand,
24 for example, in New England that the penetration of air
25 conditioning is just unprecedented.

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1 MR. WHITMORE: Yes.

2 COMMISSIONER WELLINGHOFF: Okay. And I
3 appreciate your comments and analysis on the discussion of
4 the bilateral markets and the importance of it even in the
5 Southeast. That was very interesting to me. Did you want
6 to elaborate on that at all?

7 MR. WHITMORE: My sense is that we have wholesale
8 markets that are working well, or fairly well, in all
9 regions of the country but they serve quite different
10 functions; and that it behooves us to understand how they
11 differ from each other in part because I don't think any
12 region has all the answers to how to do electric--how to
13 make the electric industry work in the future.

14 And we can only draw lessons from one region to
15 apply to another if we understand the basics of how those
16 markets work.

17 COMMISSIONER WELLINGHOFF: Thank you, Charles.
18 Thank you, Mr. Chairman.

19 CHAIRMAN KELLIHER: Thanks, Jon. Colleagues?
20 Commissioner.

21 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

22 A similar theme from me, Charlie. What I take
23 out of here is how much we are using gas to make electrons,
24 and the trend. And although you do not have the EIA figures
25 directly, my recollection is that last year the percent that

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1 natural gas contributed to the overall pie of different
2 generating sources grew 1.5 percent.

3 And when you consider the size of the pie, that
4 is really quite significant. I just hope we all realize
5 that if that is the path we are going down, we are dependent
6 on natural gas prices that are more and more set at a world-
7 wide level, and those prices going out are relatively high.
8 You thoughts on that?

9 MR. WHITMORE: Yes. I think that is absolutely
10 right. When you say 1.5 percent it doesn't sound all that
11 big, but it is actually--of the total amount of generation
12 being supplied by electric--by natural gas, it is about 10
13 percent of that. That's a rapid growth.

14 The crucial thing to understand here I think is
15 that both--electric generation is the marginal use for gas,
16 and natural gas is the marginal fuel for generation. So
17 although the volume, you can look at it as being big or
18 small, it is vitally important.

19 COMMISSIONER MOELLER: Thank you.

20 CHAIRMAN KELLIHER: Commisario.

21 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

22 My colleagues have already pointed out some of
23 the most salient issues here, but if I could just reflect
24 upon those observations.

25 You have increasing global demand particularly

1 for natural gas, but energy generally. There is an
2 increasing shift in electricity generation towards natural
3 gas. It has now become the default option. And that
4 appears to be a trend that will continue for some time.

5 And you have got high natural gas prices trending
6 upwards particularly in the Northeastern region of the
7 United States.

8 What I think is particularly impressive, and a
9 success story of this Agency, Mr. Chairman, is the
10 recognition of the need for additional infrastructure. LNG
11 terminals, natural gas storage, and we have undertaken
12 action in those areas, and most particularly natural gas
13 pipelines.

14 The scenario you described where there was
15 essentially a negative price in the production basins means
16 that increase in domestic production do not address the
17 price issues in the Northeast if there is inadequate or
18 insufficient transportation.

19 I think the story that we have to tell with
20 regard to the siting of pipelines to redress the imbalance
21 among the supply basins and get energy to the folks who need
22 it very desperately is a very good one, but we need
23 continued effort. And the scenario where there is a
24 negative price in the Peonce Basin, and very high prices in
25 the Northeast that are a burden on the ratepayers is

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1 something that definitely needs the government to address.
2 And we have done our part, but we are going to need to be
3 very vigilant going forward.

4 CHAIRMAN KELLIHER: Thank you. Any other
5 comments or questions? Marc? Commissioner Kelly.

6 COMMISSIONER KELLY: Charlie, I have a question
7 for you first about the electric markets.

8 MR. WHITMORE: Um-hmm.

9 COMMISSIONER KELLY: How will the California
10 ISO's MRTU initiative change the figures that--can we put up
11 the slide for electric markets? Is that possible?

12 CHAIRMAN KELLIHER: Slide 9. Can we go to Slide
13 9?

14 MR. WHITMORE: It says "Three Electric Markets"?

15 COMMISSIONER KELLY: Correct. Three Electric
16 Markets. That one. Thanks.

17 (Slide.)

18 COMMISSIONER KELLY: Charlie, would you be
19 willing to engage in a little crystal balling? I should not
20 put you on the spot like this, should I? When California's
21 MRTU takes effect and we see day-ahead markets in
22 California, what kinds of changes do you anticipate seeing?
23 Not specifically, but say broadly? Are we going to see--
24 obviously we're going to have day-ahead trading in
25 California, and that is going to change--in turn I suspect

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1 change the trading patterns in the West.

2 Can you give us your thought on what kind of
3 changes you anticipate seeing?

4 MR. WHITMORE: Sure. First of all, the standard
5 disclaimer: We don't do forecasting.

6 COMMISSIONER KELLY: Correct. I know I keep
7 trying to get you to do that.

8 MR. WHITMORE: That's for the very good reason
9 that we are not very good at it. So with that as a
10 backdrop, let me start with ERCOT because it has the same
11 issue.

12 They will get their day-ahead markets and they
13 will cover essentially all of ERCOT. Based on what we have
14 seen here, it would seem likely that in ERCOT it would start
15 having very much the same pattern as the Northeast and the
16 Midwest.

17 The West is much more difficult because there's a
18 very large set of Western markets that are outside
19 California. And so while the connections directly to
20 California probably would follow the same pattern, I would
21 expect that in both the Northwest and in the Southwest
22 Arizona that you would continue to see a bunch of bilateral
23 day-ahead trading. It is worth what you paid for it.

24 COMMISSIONER KELLY: Thank you. Do you have a
25 comment on the relative efficiencies of the models?

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1 MR. WHITMORE: Oh, gosh. There are all kinds of
2 people asking that question, and I think it needs more study
3 than we have here.

4 COMMISSIONER KELLY: Okay, thank you.

5 A couple of things jumped out at me from your
6 report. That is, that gas prices, although high, stayed
7 relatively stable throughout 2007. That also calls to mind
8 that the report that the PJM market monitor issued last week
9 pointing out that, although electric costs in PJM are up
10 that it was not due, as in the past several years, to
11 increases in fuel costs such as gas, but rather due to
12 increases in demand relative to supply.

13 So one question: I have heard this comment
14 around the country, and I have also heard it from Rick
15 Sergel, not particularly about the costs but about demand
16 increasing relative to supply, does your market monitoring
17 operation note that situation occurring elsewhere around the
18 country, not only just in PJM but outside PJM?

19 MR. WHITMORE: Umm--

20 COMMISSIONER KELLY: Keith is nodding his head
21 there.

22 MR. WHITMORE: Do you want to--

23 MR. COLLINS: There was another slide we had that
24 showed overall demand growth throughout the country, and in
25 many of these regions what we are seeing is evidence that

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1 the level of demand was much higher in '07. And if you
2 contrast that with what happened in 2006, what you had was
3 periods of really intense heat, but overall demand was not
4 very high. Whereas in '07 it was a very persistent amount
5 of demand throughout the year. And that occurred not just
6 in the PJM region but we saw evidence of that in MISO, the
7 Southeast, much of the country.

8 COMMISSIONER KELLY: Much of the country. Okay.
9 Thank you.

10 MR. WHITMORE: And in MISO in particular where
11 the largest price increases were, our preliminary
12 discussions with the market monitor there suggests that coal
13 was on the margin less often, and perhaps combined cycle
14 turbines rather more often.

15 So everything basically moves up the stack and
16 you end up with price increases.

17 COMMISSIONER KELLY: The other thing that really
18 struck me was the statistic showing that gas prices in New
19 England were significantly higher, as much as \$5 higher,
20 than at Henry Hub on 30 separate days, and the dramatic
21 increase in gas prices in New England relative to Henry Hub
22 as well as the dramatic increase in the number of days in
23 which that occurred.

24 And you point out, I think rightfully so, that
25 that suggests that we need new infrastructure--gas-related

1 infrastructure--to deliver more gas into New England more
2 reliably.

3 I think as I look at the gas price situation and
4 the need for generation around the country, and the high gas
5 prices in New England, that a couple of other things that
6 that tells me is that some of the initiatives that FERC is
7 undertaking are good things.

8 For example, the fact that we have in our NOPR
9 focused on demand-response is important. Because if the
10 country does need more generation, or if demand--put another
11 way, if demand is increasing relative to supply, then it
12 appears that demand-response is poised to play a
13 significant, potentially significant role in helping to
14 meet our national electricity needs.

15 So I am pleased that we have an initiative in our
16 NOPR as well as the initiatives that we are going to
17 undertake with our technical conferences centered around
18 demand-response to look at what the remaining barriers are
19 to demand-response, as well as to look at what the value of
20 demand-response is so that we can get the pricing of demand-
21 response down better in the organized markets that we have
22 jurisdiction over.

23 Do you have a comment, Charlie?

24 MR. WHITMORE: I agree completely, and that is
25 one of the major reasons we included the Georgia Power slide

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1 on here, is that we do have in that case a clear example
2 that real-time pricing works at prices that are high but not
3 exorbitant.

4 So that implies that there is considerable
5 potential for a price-driven version of demand-response as
6 well as through reliability-driven ones.

7 COMMISSIONER KELLY: Right. Thank you.

8 And I also note that prices in PJM West were up
9 significantly, about 15 percent. That is different from the
10 rest of PJM. The other thing that says to me is our efforts
11 to increase transmission particularly across RTOs and ISOs
12 is something that we should continue to focus on because it
13 seems that transmission that would link some of the
14 generation in MISO with some of the demand in PJM would be
15 helpful for eliminating this price increase.

16 MR. WHITMORE: Absolutely. And I should mention
17 that although we haven't had much in the way of transmission
18 increases West to East on a large scale, ISO New England did
19 have two what I would think of as fairly important successes
20 building transmission into southwest Connecticut, and into
21 Boston, and at least alleviating the two worst load pockets
22 outside New York City--

23 COMMISSIONER KELLY: Right.

24 MR. WHITMORE: --in the Northeast.

25 COMMISSIONER KELLY: Thank you.

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1 MR. WRIGHT: I would also just like to throw in,
2 Commissioner, that in the PJM area we've seen at least two
3 major projects--the Trail Transmission Project from West
4 Virginia to Maryland, and also--that is before States at the
5 moment--and also the Path Project which would go from
6 western Pennsylvania to Maryland, as well, which would help
7 alleviate congestion in the PJM region.

8 COMMISSIONER KELLY: I agree with you, and thanks
9 for spotlighting those. Thanks.

10 CHAIRMAN KELLIHER: Thank you. And I really want
11 to thank staff for the presentation. This is a very
12 interesting presentation.

13 I just have a couple of comments and questions on
14 the gas side. First of all, I think the gas information is
15 especially interesting. It shows how well functioning our
16 gas markets are in the U.S.

17 Domestic gas production has gone up about 10
18 percent by this since the beginning of 2006 in response to
19 relatively higher prices. And I think that is a good thing.
20 We are seeing very aggressive production and exploration
21 activity.

22 And that is related to our ability to expand the
23 infrastructure. Both slides 5 and 6 are certainly related
24 to each other, because producers will go out and explore in
25 the Rockies, even though there are existing constraints,

1 because they know we have the ability--they know the market
2 will respond. Pipelines are proposing projects. And
3 importantly we have the ability to approve those projects in
4 a timely way so that they will produce, notwithstanding a
5 constraint that depresses prices in the area where they're
6 producing because they know we ultimately will be able to
7 pretty quickly eliminate the constraint.

8 And that, unfortunately, is a painful contrast
9 with the power side where things that take months--pipeline
10 projects that take months contrast with transmission lines
11 that can take years. And I think that is a problem--that is
12 certainly a problem we have on the power side where there is
13 a lot of potential for wind in fairly remote areas, and will
14 we be able to expand the grid quickly enough to encourage
15 that production I don't know.

16 But on the gas side, things work well. And I
17 want to commend Mark and his shop. I think the average
18 length of a major FERC pipeline proceeding is something like
19 10 months. And sometimes we've approved pipelines in 8
20 months. So I think that--OEP I think can take some credit
21 for the impressive increase in domestic gas production
22 because the infrastructure has been expanding apace.

23 I also think it is interesting to look at slides
24 2 and 4 and compare the two, especially Henry Hub gas
25 prices. If you look at 2007, Henry Hub gas prices stayed

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1 within a fairly tight range; and LNG import levels increased
2 dramatically, and then fell off dramatically.

3 Now if you look at just those two lines it's
4 puzzling. But LNG imports depend not so much on absolute
5 level of Henry Hub prices but the relationship of Henry Hub
6 with European and Asian prices. And I think these two
7 slides very much show that.

8 I do have a question in terms of the surge in
9 imports into the U.S. in 2007. What was the--Europe doesn't
10 have that much storage capacity. Was it really that prices
11 were higher in the U.S.? Or that prices were comparable,
12 plus we had much greater storage capacity? Was their
13 storage full and our prices were comparable? Or were our
14 prices actually higher?

15 MR. WHITMORE: Chris, do you want to answer that?

16 MR. PETERSON: Well I think it was a combination
17 of both, actually. The prices in the UK dipped as low as I
18 think \$2.74 per million Btu, which would be a very low price
19 in Britain even given recent, you know, their recent
20 dynamics. And you are absolutely right. They don't have
21 the kind of robust storage capability we have to absorb
22 additional natural gas.

23 That is all coupled with the fact that in the
24 prior fall they undertook efforts to--their
25 interconnectivity with other supply regions in Europe

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1 expanded significantly because they could access additional
2 supplies from both the Netherlands with the BBL pipeline,
3 and then also with the Longolet Pipeline from Norway.

4 So their situation, the prior winter the prices
5 got incredibly high so they really topped off their tanks
6 with storage, which contributed to--you know, the kind of
7 had a late winter overhang then going into the spring,
8 coupled with the fact that they had a more robust
9 infrastructure to bring in additional supplies within
10 Europe. So that was their side.

11 Then on our side we experienced multiple months
12 of record imports up to 100 bcf a month, really because of
13 the increased deliveries into the U.S. swing terminals at
14 Cove Point and Lake Charles. And they were able to absorb
15 some of the additional liquefaction capability worldwide
16 that had started coming on onstream.

17 And it also proved very helpful in helping us
18 reload, or put gas into storage fields for a lot of the new
19 certificated natural gas storage locations that started
20 coming online last summer as well.

21 MR. WHITMORE: If I could just finish off, the
22 two things are very closely related. European prices were
23 far below U.S. prices for most of last spring, half the U.S.
24 level. And that is largely because they do not have the
25 storage. They had nothing to do with the gas.

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1 And then in the fall when they did have a use,
2 then it went well above the U.S. prices. And we will have
3 in the more detailed version of the state of the markets
4 that we post over the next few weeks, we'll have a fairly
5 striking slide that shows that.

6 CHAIRMAN KELLIHER: And wouldn't we expect--I'm
7 sorry--sorry, Mark?

8 MR. ROBINSON: Could I just add one other aspect
9 of that?

10 CHAIRMAN KELLIHER: Sure.

11 MR. ROBINSON: Sometimes we have a tendency to
12 look at natural gas from a pricing perspective and from how
13 we are using it here, but there is also the push of natural
14 gas when we're talking about LNG in the liquefaction
15 capacity that is out there.

16 It is producing. It's got to go somewhere. It
17 is not necessarily just the price. It's that that gas has
18 to flow--

19 CHAIRMAN KELLIHER: Right.

20 MR. ROBINSON: If we have an opportunity to take
21 it here and to store it for later use, it's going to flow
22 this way.

23 Then the second aspect is, every LNG plant is not
24 created equal. Some plants will operate baseload. They do
25 now and they will in the future. Others will take advantage

1 of the swings.

2 So the plants that are coming into play are going
3 to change this picture significantly, and we don't know
4 quite yet how that picture is going to change as those
5 plants come online.

6 MR. WHITMORE: And the one other feature that
7 this shows is that the United States has a significant
8 competitive advantage with our storage. And so in effect
9 we, unlike Europe, can buy gas when it's relatively cheap
10 and then release it during the winter. That is potentially
11 a huge--it already is, and it potentially continues to be a
12 huge advantage for the country.

13 MR. WRIGHT: I would just like to add another
14 point of interest. You are going to see in the very near
15 couple of months new storage facilities opening in the
16 United States, Sebene Pass and Freeport. In addition to
17 that, the facility at Canaport in New Brunswick will open in
18 late 2008. The Costa Ozule facility in Mexico will open
19 next month. They're getting cool-down cargoes as we speak.
20 And we are finishing the infrastructure that we have
21 approved and is under construction for the North Baja
22 Pipeline in the Southwest, and for the Maritimes and
23 Northeast expansion in the Northeast to bring those LNG
24 volumes into the U.S. as well.

25 So it will be interesting to see what the

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1 dynamics happen when additional cargoes come into the U.S.

2 CHAIRMAN KELLIHER: Right. Thanks. I just
3 had--did you have a comment?

4 COMMISSIONER KELLY: No.

5 CHAIRMAN KELLIHER: No, I'm sorry. I was reading
6 your body language.

7 (Laughter.)

8 CHAIRMAN KELLIHER: I just had two other quick
9 comments. One is just to reiterate a point that Charles
10 made that's about volatility and gas prices. It's
11 volatility in both directions. It's not just up. And
12 earlier this week gas prices fell 8 percent in one day. So
13 there is volatility in both directions.

14 I think it is interesting how you've demonstrated
15 that the, I don't know how to characterize the current
16 relationship between gas and oil prices in the U.S., but do
17 you think the historic relationship has changed permanently?
18 Is this a temporary phenomenon?

19 MR. WHITMORE: Well again we're not very good at
20 making forecasts, so I won't do that. But I will say it's
21 been absolutely conspicuous since the beginning of 2006 that
22 we have a different oil and gas pricing regime.

23 Before 2006, gas prices almost always bounced
24 around between a floor resid and a ceiling of distillate
25 fuel oil with occasional spikes up above when they had price

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1 spikes in the Northeast.

2 Since 2006, it is almost always been well below
3 any oil price, and it continues to be. Interestingly, the
4 European price even at its highest is still below world oil
5 prices also. So at least for now it has changed, and it has
6 changed radically. It is only about half the crude oil
7 price right now.

8 Now what that says to me is, if it's going to
9 change back, either oil prices are going to have to fall a
10 lot, or gas prices are going to have to rise a lot. And we
11 don't--"a lot" meaning more than \$2 or \$3--and we don't see
12 any indication of that right now.

13 CHAIRMAN KELLIHER: Just a comment, or a
14 prediction, but I'll try to get away with that. On pricing
15 of gas, it's interesting that you have regional pricing of
16 an internationally traded commodity. That seems a little
17 unnatural to me. It seems at some point regional pricing of
18 a fungible commodity has to somehow evolve to some kind of
19 international price. I don't know when that will occur, or
20 how it will occur, but we don't really tie the price to oil
21 in the U.S. Other markets do. And to me it seems we will
22 get to an international price if they move away from linkage
23 to oil.

24 MR. WHITMORE: I would say, first of all Europe,
25 Western Europe, the spot market has moved away from oil.

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1 It's not priced on oil. It's a free market. And those are
2 the prices we're comparing. And for the marginal cargoes
3 that are probably controlling in the Atlantic Basin.

4 In Asia it's a much more difficult situation, or
5 a much more rudimentary situation. It will take a longer
6 time for those markets to evolve. But we have seen the
7 Japanese--from a Japanese perspective, for example, why do
8 you want to pay a world oil price for a commodity that you
9 can get for half of that?

10 And at some point people in Japan, and Korea, and
11 so forth, are going to begin to think: You know, if we just
12 pay a 10 percent premium, that's a lot better than paying a
13 100 percent premium.

14 CHAIRMAN KELLIHER: Yes.

15 MR. WHITMORE: So those dynamics are there, but
16 there are lots of institutional barriers, and it takes time.
17 Thank you.

18 CHAIRMAN KELLIHER: Thank you. Colleagues, any
19 other comments?

20 (No response.)

21 CHAIRMAN KELLIHER: I want to thank Staff for the
22 presentation. It was very interesting.

23 MR. WHITMORE: Thank you.

24 SECRETARY BOSE: The next item for discussion
25 this morning is E-27. That's concerning interconnection

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1 queuing practices in Docket No. AD 08-2-000. There will be
2 a presentation by Mary Morton from the Office of Energy
3 Market Regulation. She is accompanied by Michael Henry from
4 the Office of the General Counsel.

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1 MS. MORTON: Mr. Chairman and Commissioners, E-27
2 follows up on the Commission's December Technical Conference
3 concerning interconnection Queues.

4 The conference confirmed that some transmission
5 providers are not processing their interconnection queues
6 with the timelines envisioned by Order Number 2003, which
7 standardized the interconnection process for large
8 generating facilities.

9 In this Draft Order, the Commission directs the
10 RTOs and ISOs to file reports within 30 days, on the status
11 of their efforts to improve queue processing.

12 The Draft Order explains that while all
13 transmission providers should be evaluating ways to improve
14 their queue management, the magnitude of the backlogs in
15 RTO- and ISO-managed queues, is particularly significant,
16 given the interest of new generation entrants into RTO- and
17 ISO-administered markets.

18 The Draft Order notes that while the Commission
19 could take action to impose solutions and may need to do so,
20 if the RTOs and ISO do not act themselves, it is appropriate
21 to allow each region, the opportunity to propose its own
22 solution.

23 The Draft Order also provides guidance to assist
24 the RTOs and ISOs and their stakeholders, in developing
25 consensus proposals. The RTOs and ISOs are instructed to

1 ensure that they have taken all effective steps under their
2 current tariffs, including increasing the staff available to
3 work on interconnection studies, and adopting more
4 efficient modeling for interconnection studies.

5 To the extent that reforms requiring tariff
6 changes are needed, the Draft Order states that the RTOs and
7 ISOs should consider whether their current tariffs take
8 advantage of all streamlining options explicitly sanctioned
9 under Order Number 2003.

10 If those options are inadequate to address queue
11 problems, the Draft Order indicates the Commission's
12 willingness to consider a range of possible variations from
13 Order Number 2003, and notes three categories of variations
14 that hold particular promise:

15 First, increasing the requirements for getting
16 and keeping a queue position; second, eliminating the
17 feasibility study as a separate step; and, three,
18 prioritizing queue processing on a basis other than first-
19 come/first-served.

20 Finally, the Draft Order notes that reforms
21 affecting interconnection requests that are in later stages
22 of the interconnection process, could significantly disrupt
23 the activities of customers who may have taken action based
24 upon the existing interconnection procedures.

25 Accordingly, while the Draft Order recognizes

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1 that such reforms may be necessary in order to resolve
2 current backlogs, it also notes that such reforms will
3 require careful consideration on a case-by-case basis.

4 CHAIRMAN KELLIHER: Thank you for the
5 presentation. We thank both of you for your work on this
6 Order. I enjoyed reading this Order, and I commend it to
7 FERC practitioners.

8 I think this Order is an important step towards
9 resolving the queue problems that have arisen in a number of
10 regions of the country. It's important to recognize why
11 these problems have arisen.

12 They have arisen because of the surge of new
13 entry by generators in certain regions of the country.
14 There's particular interest in gaining access to the RTO and
15 ISO markets by new generation entrants, especially wind and
16 other renewable energy projects, and this interest, frankly,
17 is greater in the organized markets than other markets, and,
18 for that reason, this Order is limited to the organized
19 markets.

20 The nature of the queue problem, though, does
21 vary from region to region. In such regions such as the
22 Midwest, the problem arises because of the unprecedented
23 entry by renewable energy generation, but, in other regions,
24 the issues are related more to the inception of forward
25 capacity markets.

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1 And because the nature of the problem varies from
2 region to region, we're affording appropriate regional
3 flexibility in this Order, and we are able to allow regional
4 flexibility, because Order 2003 provides for the independent
5 entity variation, and we also have discretion to grant
6 waivers from Order 2003, where appropriate.

7 So I want to say that I agree with the view
8 expressed at the Technical Conference, particularly by
9 Commissioner Kelly, last December, that a rulemaking is the
10 wrong path, since a rulemaking would unduly delay queue
11 reforms and would not permit sufficient regional
12 flexibility.

13 I think the need for this guidance Order,
14 however, does not call into question, our interconnection
15 policies, generally, and I think Order 2003 has been a great
16 success, but the problem is, circumstances have changed
17 since Order 2003 was adopted five years ago.

18 So that's requiring us to take this action today,
19 but I think Order 2003 remains fundamentally sound.

20 RTOs and ISOs have made progress since the
21 December Technical Conference, but we encourage their
22 efforts with this Order, and we do provide them some
23 important guidance.

24 I think this Order is an important step to reform
25 the queue process, and to encourage continued entry into the

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1 regional power markets, so I'm happy to support it.

2 Commissioner Kelly?

3 COMMISSIONER KELLY: Thank you, Joe. Joe, I
4 appreciate being given this opportunity to talk about this
5 Order, which is very important to me, personally, but I'd
6 like to also make a little personal aside on something
7 that's very important to me.

8 Given that this is March and this is our March
9 meeting and we are holding our March meeting on the day that
10 the NCCAA tournaments begin, and since mostly that's on our
11 minds, rather than this meeting --

12 (Laughter.)

13 COMMISSIONER KELLY: I thought that I would like
14 to just make a few comments about the NCAA tournaments. As
15 a Cornell Alum, this is a -- and I see a few in the
16 audience.

17 (Laughter.)

18 COMMISSIONER KELLY: This is a momentous
19 tournament, because, for the first time in the Cornell
20 women's basketball history, they made it to the NCCAA
21 Tournament, and not only that, but the Cornell men also made
22 it.

23 And I would now turn to Commissioner Moeller, an
24 alum of Stanford, and his women's and men's team both made
25 it to the tournament. Of course, unlike Cornell, this is

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1 not an unusual situation for Stanford, and, tonight,
2 Stanford and Cornell men's teams are playing, and the spread
3 out of Las Vegas, is 14.5 points, Stanford, and --

4 CHAIRMAN KELLIHER: He's not a bookie. Why are
5 you looking at John?

6 (Laughter.)

7 COMMISSIONER KELLY: He's not a bookie, but he's
8 an expert.

9 (Laughter.)

10 COMMISSIONER KELLY: Commissioner Moeller has
11 given me 15 points, and my daughters, when I told them last
12 night, they tell me I should have bargained for 20.

13 (Laughter.)

14 COMMISSIONER KELLY: But, nevertheless, tonight,
15 there's a sports bar at Cleveland Park --

16 (Laughter.)

17 COMMISSIONER KELLY: The game will be on.

18 (Laughter.)

19 COMMISSIONER MOELLER: I will enjoy winning that.

20 (Laughter.)

21 COMMISSIONER KELLY: I think our Big Red is going
22 to give your Big Red a run for your money.

23 (Laughter.)

24 COMMISSIONER KELLY: Now, if I were asked to seed
25 the Orders on today's agenda, this item would be my number

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1 one seed. I think that this Order reflects the priority
2 that the Commission gives to ensuring that the
3 interconnection process moves forward in a more timely
4 manner across the country.

5 We've seen unprecedented demand for new
6 generation across the country, we just heard from our State
7 of the Markets report, how important it is to bring new
8 generation on, and we've seen, particularly, a demand for
9 renewable generation.

10 And this has overloaded our interconnection
11 queue. I agree with the Order, that we announced that not a
12 one-size-fits-all approach to the interconnection queue
13 reform is going to work, but I think that in this Order, we
14 also state that although one size doesn't fit all as to the
15 details, there still are universal principles that apply to
16 the interconnection process across the country.

17 Every ISO has been working on reforming its queue
18 management proposals, and I commend them and I thank them,
19 and I look forward to their filing them with us, as soon as
20 they possibly can.

21 I was in the West last week, and I did hear
22 there, complaints about clogged queues in transmission areas
23 outside of ISOs and RTOs, and I suspect that some of the ISO
24 filings that we get on queue management reform, will be able
25 to serve as models for transmission providers who are not in

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1 ISOs.

2 We know that Bonneville has already overhauled
3 its approach to queue management, and I hope and expect that
4 transmission providers outside of ISOs, who are experiencing
5 clogged queues, will take steps on their own, to reform
6 their queue management system, if they find that it's
7 necessary.

8 So I'm very pleased to vote for this Order, and I
9 thank Staff for their work in not only the Technical
10 Conference, but reviewing the comments to the Technical
11 Conference and coming up with this guidance. Thank you.

12 CHAIRMAN KELLIHER: Thank you. Jon?

13 COMMISSIONER WELLINGHOFF: Well, I used to say
14 that you don't need a degree in probability and statistics
15 to know that you shouldn't gamble.

16 (Laughter.)

17 COMMISSIONER WELLINGHOFF: But given that --
18 because you can just look at the size of the casinos in --

19 (Laughter.)

20 CHAIRMAN KELLIHER: Yeah, yeah.

21 COMMISSIONER WELLINGHOFF: It's obvious, you
22 know, right?

23 But given that neither the UNLV Running Rebels,
24 nor the UNR Wolf Pack are in the running, I don't have any
25 comments on basketball today.

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1 On the queuing process, thank you for your
2 presentation, and I support this Order. I think we're sort
3 of in the best of times and the worst of times here. We
4 have a problem, and the reason we have a problem, is because
5 we have 300 gigawatts in the queue in the RTO areas, and so
6 we've got so many interested and invested in our electric
7 system that it's a good thing.

8 Three hundred gigawatts is a third of our total
9 national capacity, but, on the other hand, the blockage by
10 these queue delays, is a really serious issue that we have
11 to address.

12 I'm glad that we have some proposed alternatives
13 and solutions. I think the clustering idea is one that
14 really needs to be looked at very carefully. I think that
15 it could be an important tool to effectively analyze the
16 cost-effective interconnection of especially locational
17 constrained resources like solar, geothermal, and
18 hydrokinetic.

19 But I don't think clustering will solve all the
20 problems. I think that one of the other things I will
21 encourage the RTOs to look at, is new software tools that
22 are being developed to optimize the use of existing
23 transmission systems and help the selection of the most
24 efficient and cost-effective upgrades.

25 Major investments are going through RTO

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1 interconnection study processes, so there's nothing less at
2 stake here than the future of the grid and I would urge the
3 RTOs and their stakeholders, to take a look at this Order,
4 step back, be creative, and come back to us as soon as they
5 can with those creative solutions. Thank you.

6 CHAIRMAN KELLIHER: Thank you. Commissioner
7 Spitzer?

8 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
9 My alma mater was not invited.

10 (Laughter.)

11 COMMISSIONER SPITZER: And perhaps the U of M can
12 adapt to the changed circumstances in the Big Ten and
13 rebuild its former lustre.

14 And in the realm of changed circumstances, that's
15 really the theme of this Order, and to take a look at the
16 big picture, I think, is appropriate.

17 We've traveled about the country and heard a lot
18 of the details, and, in many circumstances, we have very
19 specific, not only regional issues, but sometimes control
20 areas issues that have arisen.

21 So, my comments are going to be more directed
22 towards the larger scheme of things. FERC has required this
23 nation's transmission owners to provide nondiscriminatory
24 open access transmission, and this is a critical
25 underpinning of ensuring competitive markets.

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1 However, for competitive markets to work,
2 wholesale customers must have choices for generation.

3 Now, nondiscriminatory and transparent
4 interconnection procedures in Order 2000, were the means to
5 provide choices, by facilitating the connection of new
6 generation to the grid. And although the procedures in
7 Order 2003, were not perfect, they clearly helped
8 interconnect competitively-priced generation for the
9 ultimate benefit of consumers.

10 However, the markets have changed since Order
11 2003. The number, as well as the nature of generators
12 seeking to interconnect to the grid, has imposed burdens on
13 transmission providers.

14 Although I believe Order Number 2003 is a
15 success, in some respects, it has been overtaken by the
16 never-ending evolution of the industry.

17 I've always been impressed by economist Joseph
18 Schumpeter's analysis of capitalism and the creative
19 destruction, and the fact that changed circumstances require
20 markets to evolve and adapt, in this respect, we're reacting
21 to the evolution within those markets, so this should not be
22 a surprise.

23 Some of the elements of Order 2003 need revision
24 to assist in the timely and transparent interconnection of
25 new generation. None of this will bear fruit, if the

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1 procedures are untimely.

2 Workable interconnection rules are critical to
3 the fulfillment of our goal to establish and maintain
4 competitive markets.

5 We have heard across the country, predictions
6 regarding the astonishing amount of time it will take to
7 process pending interconnection requests in some regions.

8 Clearly, something needs to be done to address
9 this problem. And while some may want to point fingers at
10 others for causing the problem, today's Order, instead,
11 focuses on the truly important issue before us, what changes
12 or mechanisms can we adopt to solve the problem?

13 Today's Order provides guidance to RTOs and ISOs
14 to address the interconnection queue problem in their
15 regions. The only requirement in the Order, is that the
16 RTOs and ISOs file a report with the Commission within 30
17 days, outlining what they have done or intend to do to
18 address the queue problem in their regions.

19 Otherwise, I believe the Order correctly allows
20 each RTO and ISO, of course, with the input of the
21 stakeholders, to develop a plan for their respective
22 regions, to address the queue problem they face.

23 I understand that some regions have already
24 undertaken efforts to address this issue, and those RTOs and
25 ISOs should be commended for getting the ball rolling

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1 already.

2 I also understand that fixes to the problem are
3 complex and may take some time to develop. However, time
4 is of the essence in this issue.

5 Each day a generator is denied interconnection,
6 is a day in which consumers have one less choice.

7 Interconnection delayed, is competition denied.

8 Therefore, I urge the RTOs and ISOs to move
9 forward as expeditiously as possible, to address these
10 problems in these regions.

11 I'm also pleased to note the dedication of the
12 talent and energy of the Energy Innovation Sector of the
13 Office of Energy Markets Regulation, to this issue, and I
14 thank -- it starts at the top with Mr. Palmer and Rahim and
15 Mary, and I really appreciate all your efforts on this
16 important matter. Thank you.

17 CHAIRMAN KELLIHER: Thank you. Commissioner
18 Moeller?

19 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
20 Mr. Chairman, I'll repeat or I'll endorse many of the
21 comments that have already been made.

22 Particularly, I'm pleased that we have today's
23 Order to keep this issue out front, and I support it.
24 Different regions are contemplating different solutions, but
25 I'm hoping today's guidance will spur action by all

1 entities.

2 And I deliberately say "all entities," because
3 although we're focused on the organized markets here, the
4 problems of a clogged queue, as referenced earlier, are not
5 exclusive to them.

6 Briefly, last fall, we had the Technical
7 Conference and the RT0/ISO Council filed a white paper, and
8 one brief excerpt from it, stated:

9 "It should be noted at the outset, that,
10 although most of the focus of discussion of this
11 issue today, has centered on the experiences of
12 wind and other renewable generation, the issues
13 associated with queue processing, are not limited
14 to renewable generation. In the past, other
15 policies drove the entry of nonrenewable
16 generators into the queue, and the counsel
17 expects that there will be alternate policy and
18 market drivers in the future, as a result, it is
19 imperative that the Commission examine Order 2003
20 requirements, holistically, rather than solely
21 focusing on one form of generation entering the
22 queue. "

23 And I think that is good counsel, good advice,
24 because we don't know what problems we'll be facing in the
25 next eight to ten years, as, potentially, we figure out

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1 where we're going as a country on a carbon policy.

2 And, finally, I have to say, you know, not only
3 is access to the grid important, but expanding the grid is
4 key, so that we build more transmission, so that these forms
5 of generation can get on there and serve consumers. I'm
6 pleased to support the Order. Thank you.

7 CHAIRMAN KELLIHER: Thank you. Well, any other
8 comments?

9 (No response.)

10 CHAIRMAN KELLIHER: If not, let's vote.

11 SECRETARY BOSE: The vote begins with
12 Commissioner Wellinghoff.

13 COMMISSIONER WELLINGHOFF: I vote aye.

14 SECRETARY BOSE: Commissioner Moeller?

15 COMMISSIONER MOELLER: Aye.

16 SECRETARY BOSE: Commissioner Spitzer?

17 COMMISSIONER SPITZER: Aye.

18 SECRETARY BOSE: Commissioner Kelly?

19 COMMISSIONER KELLY: Aye.

20 SECRETARY BOSE: Chairman Kelliher?

21 CHAIRMAN KELLIHER: Aye.

22 SECRETARY BOSE: The next item for this morning,
23 is M-1, concerning Standards of Conduct Notice of Proposed
24 Rulemaking. There will be a presentation by Kathryn
25 Kuhlén, from the Office of Enforcement. She's accompanied

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1 by Laura Chipkin from the Office of Enforcement.

2 MS. KUHLEN: Good morning Mr. Chairman and
3 Commissioners. My name is Kathryn Kuhlén, and with me is
4 Laura Chipkin, both with the Office of Enforcement.

5 We're here to present a Notice of Proposed
6 Rulemaking concerning the Standards of Conduct for
7 Transmission Providers.

8 The last major overhaul to the Standards of
9 Conduct was issued by the Commission in 2003. With respect
10 to the gas industry, those rules were overturned in 2006, by
11 the U.S. Court of Appeals for the D.C. Circuit.

12 In January of last year, the Commission issued an
13 Notice of Proposed Rulemaking to address the concerns of the
14 Court and other emerging issues. The Commission received
15 some 95 initial and reply comments from interested
16 individuals and entities.

17 Consideration of the comments and of the
18 Commission's own experience in administering the standards,
19 suggested that a new direction was needed. The reforms
20 proposed today, are designed to both clarify and strengthen
21 the standards.

22 Since these reforms alter the direction taken in
23 the initial Notice of Proposed Rulemaking, we are presenting
24 a new Notice for public comment. The proposed revisions
25 refocus the rules on the areas where there is the greatest

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1 potential for affiliate abuse.

2 They also aim to make the rules clearer and thus
3 easier to comply with and enforce.

4 To accomplish this, the Standards return to the
5 employee functional approach that predated the 2003 changes
6 to the Standards. This approach confines the prohibited
7 group of recipients of transmission information, to those
8 employees actively engaged in marketing.

9 This approach eliminates the need for complex
10 shared employee exemptions and also resolves the concerns
11 expressed by electric utilities regarding their
12 participation in integrated resource planning and
13 competitive bidding for system expansions.

14 The proposed Standards also eliminate the concept
15 of energy affiliates for electric, as well as gas, and
16 expand the scope of the non-conduit rule and record
17 retention requirements.

18 For further clarity, the Notice proposes re-
19 issuance of the entire Part 358 of the Code of Federal
20 Regulations, presenting it as a single document in the
21 regulatory text portion of the Order. We would be pleased
22 to respond to any comments that you have.

23 CHAIRMAN KELLIHER: Great. Thank you very much
24 for that succinct description of a pretty complicated
25 matter.

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1 I just want to commend the Staff for their hard
2 work in this area and for helping us to take the time to get
3 it right with this new approach. I guess if I had to seed
4 our Orders, this would be a top seed. I'm not sure I would
5 give this one a -- it might be a number one, but it would
6 certainly be a top seed in my FERC tournament.

7 But I just want to clarify my views on this
8 matter. Today, the Commission is issuing a Notice of
9 Proposed Rulemaking to reform the Standards of Conduct Rule,
10 and we're taking a new approach here.

11 But this new approach should produce a Standards
12 of Conduct Rule that facilitates compliance, is amenable to
13 fair enforcement, and establishes appropriate safeguards
14 against undue discrimination and preference.

15 And this is the second proposed rule that we have
16 issued to reform the Standards of Conduct Rule in the past
17 14 months.

18 It probably will come as a surprise to many of
19 the market participants, that the Commission has taken the
20 unusual step of a complete change in the approach from the
21 prior NOPR, the original NOPR that we issued last year.

22 However, as we move to issue a final rule and
23 took the time to think through the issues and look at the
24 original proposed rule with a fresh perspective, we realize
25 that the original proposed rule retains some of the

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1 significant flaws, and, perhaps, fatal flaws in Order 2004.

2 In particular, the original proposed rule,
3 retained the corporate functional approach that led to so
4 many implementation difficulties.

5 Additionally, our proposal on the original
6 proposed rule, to allow integrated resource planning,
7 actually added new complexities to a rule that already had a
8 wealth of complexity.

9 So, on careful reconsideration, today's proposed
10 rule, shifts the focus to an employee functional approach,
11 rather than the corporate approach, a focus that I think
12 will better address the heart of the affiliate problems
13 we're trying to prevent.

14 One of the common viewpoints voiced at the
15 November enforcement conference, was that the Standards of
16 Conduct Rule, is a model of complexity and presents a severe
17 compliance challenge, and regulated companies that want to
18 comply with our rules, have been frustrated in their
19 efforts.

20 Since the issuance of the Standards of Conduct
21 Rule, the Commission has held no fewer than four Technical
22 Conferences devoted to explaining the operation of the
23 rules. The bulk of the no-action letter requests we have
24 received in the past two years, have involved the Standards.

25 FERC has received so many calls regarding

1 interpretation of the Standards, that we were forced to post
2 extensive "Frequently Asked Questions" on our website, and
3 since the Standards were issued, FERC has received 107
4 requests for waiver from the rules, the vast bulk of which
5 we have granted.

6 In the wake of the penalty, the civil penalty
7 provisions of the Energy Policy Act of 2005, the
8 consequences of confusing and complex regulatory
9 requirements, are much greater, and, at the November
10 Enforcement Conference, we discussed the responsibility of
11 regulated companies to comply with FERC regulatory
12 requirements.

13 But we also acknowledged that the Commission has
14 a duty to try to be clear in its regulatory requirements. I
15 think the Standards of Conduct Rule fails that test.

16 I think it defies ready compliance, and I think
17 it also defies effective enforcement.

18 This proposed rule will narrow the scope of the
19 Standards of Conduct Rule, so that it focuses on the
20 relationship between transmission providers and marketing
21 affiliates, rather than energy affiliates, and this focuses
22 the rule on the areas where there is the highest risk of
23 affiliate abuse and undue discrimination.

24 And, importantly, unlike the original proposed
25 rule, this proposed rule will focus on the actual functions

1 that an employee performs, rather than where he or she is
2 listed on the corporate organization chart.

3 And while this is a significant change from our
4 earlier proposed rule, I think it will allow us to better
5 address undue discrimination and preference that are barred
6 by the Federal Power Act and the Natural Gas Act, but, at
7 the same time, not unduly burden the industry.

8 The Standards of Conduct Rule, as it's currently
9 constituted, in my view, burdens vertical integration beyond
10 the point necessary to effectively guard against undue
11 discrimination and preference, but I think the new proposed
12 rule strikes the right balance.

13 The new proposed rule also addresses the
14 concerns of states regarding integrated resource planning by
15 utilities, since planning personnel, regardless of where
16 they're employed, will be able to receive and process both
17 generation and transmission information.

18 The new rule will enable us to effectively police
19 affiliate abuse, while allowing transmission providers to
20 efficiently run their business.

21 I think, frankly, there's never been a FERC rule
22 that posed as many challenges to compliance and enforcement
23 as the Standards of Conduct Rule. I think if we are serious
24 about fairness in enforcement, we must correct the fatal
25 flaws in this rule, and that is our object today.

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1 And the fact that we're taking the time to issue
2 a new proposed rule, instead of issuing a final rule that we
3 believe has flaws, demonstrates our commitment to
4 establishing rules that are capable of ready compliance, and
5 we're, frankly, taking the time to get it right.

6 So this rule deserves a high seed, from my point
7 of view, and I certainly support it. Colleagues?
8 Commissioner Moeller?

9 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
10 Kathryn, are you comfortable giving an example of why the
11 industry thought the old standards were difficult to comply
12 with?

13 MS. KUHLEN: Well, we had an interesting quote
14 from an energy practitioner, at the Phoenix Conference, and
15 he said he gets more questions about the Standards of
16 Conduct that he cannot answer, than about any other area in
17 FERC's jurisdiction, and I think it's because the rules
18 have developed over time to sort of accrete exceptions upon
19 exceptions upon exceptions.

20 I think the principal problem is that since all
21 of the employees, currently, of a marketing affiliate, are
22 barred from interacting with the transmission provider
23 employees, the Commission, over time, has had to create
24 many, many exceptions for shared employees, and, as a
25 result, employees don't know for sure, who they can

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1 interact with and who they can't, and it has required them
2 to come to the Commission many, many times, to get clarity
3 on that kind of a problem.

4 COMMISSIONER MOELLER: Thank you.

5 Well, my philosophy is one that I think we owe it
6 to the regulated industry to be very clear in our rules --
7 very clear, and then enforce those rules.

8 But clarity is obviously a key issue, while we
9 obviously protect consumers, as well. To the extent that
10 this is an effort to make those standards clearer, I support
11 it. I'll be looking forward to people's thoughts on our
12 new, but old proposed rule, but, ultimately, we're trying to
13 make sure that we protect consumers, so that transmission
14 providers are not unduly discriminatory and favor their own
15 marketing affiliates.

16 So, again, I look forward to the comments. Thank
17 you, Mr. Chairman.

18 CHAIRMAN KELLIHER: Colleagues? Commissioner
19 Wellinghoff?

20 COMMISSIONER WELLINGHOFF: Thank you, Mr.
21 Chairman. I am pleased to support this NOPR, and I want to
22 thank the staff for all their hard work.

23 I do believe that the Standards of Conduct
24 provide important protections to consumers against undue
25 preference and discrimination, but it is important that they

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1 are enforceable, and, I think, by making them more clear and
2 more enforceable, we're enhancing those protections for
3 consumers.

4 We certainly got many comments on our
5 Enforcement Conference last fall, regarding the need for
6 clarification. I'd encourage interested parties to file
7 comments on this NOPR, and I look forward to working with my
8 colleagues on this important NOPR. Thank you.

9 CHAIRMAN KELLIHER: Commissioner Kelly?

10 COMMISSIONER KELLY: Thank you. Well, a wise man
11 once said, look to the past for guidance into the future,
12 and I believe that the past can help us map a course into
13 the future, and, today, as we approve the Standards of
14 Conduct NOPR, this advice rings especially true.

15 The NOPR returns to the employee functional
16 approach found in Orders 497 and 889, with additions that
17 provide a clearer road map for entities to follow in
18 complying with these standards, and also facilitates
19 Commission enforcement.

20 The standards, as Kathryn mentioned, include
21 three core elements: The independent functioning rule, the
22 no-conduit rule, and the transparency rule.

23 I agree that we need a revised approach to the
24 Standards of Conduct. The current standards have proven to
25 be unreasonably difficult, not only for companies to comply

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1 with, but also for the Commission to enforce.

2 The bulk of our no-action letters involve the
3 Standards of Conduct.

4 Since the issuance of Order Number 2004, the
5 Commission has received 107 waiver requests. Staff time
6 going towards figuring out answers to questions and ways to
7 explain the rules and give advice, has been exceedingly
8 great.

9 The Commission has held four Standards of Conduct
10 conferences in three years, and the overbreadth of the
11 current standards, is impeding business operations of our
12 market participants, so I agree that we need a revised
13 approach.

14 It's important to understand the problems that
15 we've had with the current Standards of Conduct, but I think
16 it's also important to understand the benefits that
17 Standards of Conduct give us.

18 The reason that we have the Standards of
19 Conduct, the current one and this proposed one, are the
20 same: We have industries, particularly in our electric
21 industry, where market participants include those that have
22 arms that participate in the competitive generation market,
23 as well as arms that hold the monopoly-essential facility of
24 the transmission system.

25 It is important that all competitors, those that

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1 are integrated with the transmission provider, as well as
2 those who are independent of them, are on the same playing
3 field.

4 This is important to the competitiveness of the
5 market as a whole, as well as to the confidence that
6 participants in those markets have in the markets.

7 While I believe that the overall approach that
8 the Commission is taking in this NOPR, to be a good one, I
9 would urge commenters to share their thoughts with us on our
10 general approach and if we need to revise this approach to
11 in any way strengthen the proposed standards.

12 I also note that while the Standards of Conduct
13 provide specific rules that transmission providers must
14 follow, the Commission continues to have the tools that it
15 needs under the Federal Power Act, as well as the Natural
16 Gas Act, to address instances of undue discrimination and
17 preference, regardless of whether they are specifically
18 enumerated in the standard.

19 And, for these reasons, I will vote for this
20 NOPR.

21 CHAIRMAN KELLIHER: Thank you. Commissioner
22 Spitzer?

23 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
24 I have a fairly detailed statement that I'll post, since
25 it's eerily similar to that of my colleagues, and, instead,

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1 just make a few remarks.

2 First, this is a substantial change from the
3 prior proposed rule, as well as Commission policy.

4 I want to commend the Chairman and the FERC,
5 generally, but particularly the Chairman. Responding to
6 recent argument and new information, is said to define human
7 beings from other creatures, but yet government is often
8 accused of being obtuse and not responsive, and the fact
9 that the Chairman has exercised such leadership in this
10 area, is a tribute to government.

11 Again, dealing with very controversial issues in
12 a way that recognizes changed circumstances and,
13 particularly, the input of the community, is a defining
14 trait in good government, and I'm very appreciative of that.

15 Now, I used to teach tax law, and I'd ridicule
16 Section 340 of the Code, because it has a sentence that goes
17 on for a page and a half.

18 (Laughter.)

19 COMMISSIONER SPITZER: And I would make fun of
20 the complexity of the most complicated statute ever enacted
21 by man. And then in my years in government, I encouraged my
22 fellow legislators or regulators, not to impose unnecessary
23 burdens that were complex, and asked them to consider the
24 benefits of the proposed statute or regulation,
25 distinguished from the complexity and the amount of

1 resources that government would need to enforce the statute
2 or regulation.

3 And my favorite phrase was chase squirrels; don't
4 go out chasing squirrels. And it seems like we've been
5 chasing squirrels for a number of years.

6 Then I might have precipitated the straw that
7 broke the camel's back, with an endeavor to deal with a very
8 legitimate concern of IRP, and as it turns out, in dealing
9 or attempting to deal with that issue, a whole new layer of
10 complexity arose that, again, perhaps were, collectively,
11 the straws that caused the caving of the system.

12 So, what we've done today, is back to the future,
13 as they say, but it's a very real reflection of the need of
14 government to focus limited resources on what are the core
15 issues.

16 And the discrimination against competition, is
17 the core issue that FERC is protecting here, and by adopting
18 this change in course, we are analyzing very carefully, that
19 core issue, and ignoring the squirrels running across the
20 neighborhood.

21 And I think we can be more effective in
22 fulfilling and discharging our duty to competitive markets,
23 and, at the same time, be very fair to the participants, by
24 clearly delineating correct behavior and incorrect behavior,
25 and, where there is ambiguity, there is disrespect for the

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1 law and that's not an acceptable outcome.

2 I think we've changed that, and I very much look
3 forward to reading these rules, and again commend the
4 Chairman for listening and acting upon what he has heard.

5 CHAIRMAN KELLIHER: Thank you. Any other
6 comments?

7 (No response.)

8 CHAIRMAN KELLIHER: Thank you very much for your
9 comments. Let's vote.

10 SECRETARY BOSE: The vote begins with
11 Commissioner Wellinghoff.

12 COMMISSIONER WELLINGHOFF: Aye.

13 SECRETARY BOSE: Commissioner Moeller?

14 COMMISSIONER MOELLER: Aye.

15 SECRETARY BOSE: Commissioner Spitzer?

16 COMMISSIONER SPITZER: Aye.

17 SECRETARY BOSE: Commissioner Kelly?

18 COMMISSIONER KELLY: Aye.

19 SECRETARY BOSE: Chairman Kelliher?

20 CHAIRMAN KELLIHER: Aye.

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1 SECRETARY BOSE: The next item for discussion is
2 M-2. This is a final rule concerning revisions to forms,
3 statements, and reporting requirements of natural gas
4 pipelines. There will be a presentation by Jane Stelck from
5 the Office of Enforcement. She is accompanied by Kerry
6 Noone from the Office of Energy Market and Regulation.

7 MS. STELCK: Good morning, Mr. Chairman, and
8 Commissioners. I am Jane Stelck, an attorney-advisor in
9 the Office of Enforcement. With me at the table this
10 morning is Kerry Noone from the Office of Energy Markets
11 Regulation. I would especially like to thank Kerry and the
12 other OEMR staff members who assisted in drafting this rule.

13 M-2 is a draft final rule implementing changes to
14 FERC Financial Forms Nos. 2, 2-A and 3-0, the financial
15 reports that are filed quarterly and annually by natural gas
16 pipelines.

17 The draft final rule adopts, with a few
18 modifications, the proposals that were outlined in the
19 Notice of Proposed Rulemaking issued in this docket on
20 September 20th, 2007.

21 The draft final rule implements changes to the
22 forms that require pipelines to provide additional
23 information on several important issues, including revenues
24 associated with shipper-supplied gas, and transactions
25 between the pipeline and its affiliates.

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1 If adopted, the rule would become effective as of
2 January 1st, 2008, with Revised Forms 2, 2-A, and 3-Q filed
3 in 2009.

4 I would be happy to answer any questions.

5 CHAIRMAN KELLIHER: Thank you very much for the
6 presentation. I, again of course sticking with Commissioner
7 Kelly's analogy at the beginning, this one I would give a
8 high seed, which might surprise people, but I think this is
9 an important rule and it departs from some of the arguments
10 that we've seen raised by pipelines in Section 5
11 proceedings.

12 But today the Commission issues a Final Rule
13 designed to enhance the usefulness of the financial forms
14 filed by natural gas pipelines. I think this rule--I view
15 this rule as an additional safeguard against unjust and
16 unreasonable transportation rates.

17 As I alluded, this rulemaking was inspired in
18 part by two Section 5 rate proceedings where the responding
19 pipelines challenged the adequacy of Form 2 information,
20 arguing that form 2 information was an insufficient basis
21 for a Section 5 rate complain. And to me that just simply
22 could not be a tenable position and not something that we
23 could sustain.

24 These pipelines made that argument, but we
25 rejected this argument in both National Fuel and Southwest

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1 Gas. But we went further. We not only rejected the
2 argument, but we went further and we began a rulemaking to
3 strengthen the Form 2 information, to increase the amount of
4 publicly available market and cost information about
5 pipelines.

6 I think this final rule strikes the right balance
7 between increasing public information without imposing undue
8 burdens on pipelines.

9 Under the Natural Gas Act in a Section 5
10 complaint the burden is on the shipper to demonstrate that
11 pipeline rates are unjust and unreasonable. And if the law
12 is going to place the burden on the shipper, it is only fair
13 that the Commission ensure that the shippers have access to
14 the information they need in order to meet their burden.

15 So I strongly support this rule.

16 Colleagues? Comments? Commissioner Kelly?

17 COMMISSIONER KELLY: Well, Mr. Chairman,
18 sometimes the winner is not the team with the bright star
19 but rather the team that might be boring but works
20 consistently.

21 I think today's Order reflects our efforts to
22 ensure that the Commission's regulations and policies evolve
23 with the changes in the Natural Gas industry. The natural
24 gas industry has gone through significant changes over the
25 years, beginning with the restructuring of pipeline services

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1 under Order No. 636, which led to the Commission's change in
2 pipeline filing and reporting requirements then to Order No.
3 637 in which we revised our approach to pipeline pricing by
4 allowing pipelines to propose peak, off-peak, and term-
5 differentiated rate structures.

6 The final rule notes that since the issuance of
7 Order 636 we have seen fewer and fewer filings under NGA
8 Section 4, and we therefore rely more, although not
9 exclusively, on Section 5 filings to review the justness and
10 reasonableness of pipeline rates.

11 Section 5 filings may rely on, among other
12 things, Forms 2, and 2-A, and 3-Q financial data. So it is
13 important that this data is sufficient to support a filing
14 and allow us to make an informed finding on challenged
15 rates.

16 So this reason, I support the changes to these
17 forms, and I appreciate the thoughtful comments that we have
18 received on the NOI and the NOPR, and I believe that the
19 Final Order reflects the key concerns raised by commenters
20 and I am pleased to vote out this Final Rule.

21 CHAIRMAN KELLIHER: Thank you. Colleagues?
22 Commissioner Wellinghoff.

23 COMMISSIONER WELLINGHOFF: Thank you, Mr.
24 Chairman. I think this Final Rule--and thank you, team, for
25 your work--does in fact improve the quality of information

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1 obtained in Form 2. And I think our action here is
2 important for a couple of reasons.

3 First, in many cases Form 2 is the only source of
4 information that is available to those that actually have to
5 pay pipeline rates.

6 Second, as many as 15 major pipelines have not
7 filed a Section 4 case in more than a decade. So I think
8 the additional updated data should make Form 2 a more useful
9 tool for shippers, consumers, and state commissioners to
10 assess whether or not pipeline rates are just and
11 reasonable, and as such I would support the Rule.

12 Thank you.

13 CHAIRMAN KELLIHER: Thank you. Commissioner
14 Moeller?

15 COMMISSIONER MOELLER: Mr. Chairman, I too
16 support the Rule and want to thank the team for the hard
17 work since the NOPR came out in September, and I think it
18 appropriately balances the information needed that will
19 assist consumers, state commissions, other interested
20 parties in evaluating whether rates continue to be just and
21 reasonable without the regulations being unduly burdensome.
22 Thank you.

23 CHAIRMAN KELLIHER: Commissioner Spitzer?

24 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

25 Section 5 of the Natural Gas Act is critical to

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1 the preservation of just and reasonable rates. We have
2 heard comments from the shippers that underlie the revisions
3 in this Final Rule, but the ultimately beneficiary are the
4 consumers of this country. And again they have the right to
5 just and reasonable rates.

6 The integral nature of Section 5 needs adequate
7 information and transparency, and today the Commission acts
8 on that urgency.

9 CHAIRMAN KELLIHER: Thank you. Let's vote.

10 SECRETARY BOSE: The vote begins with
11 Commissioner Wellinghoff.

12 COMMISSIONER WELLINGHOFF: Aye.

13 SECRETARY BOSE: Commissioner Moeller.

14 COMMISSIONER MOELLER: Aye.

15 SECRETARY BOSE: Commissioner Spitzer.

16 COMMISSIONER SPITZER: Aye.

17 SECRETARY BOSE: Commissioner Kelly.

18 COMMISSIONER KELLY: Aye.

19 SECRETARY BOSE: And Chairman Kelliher.

20 CHAIRMAN KELLIHER: Aye.

21 SECRETARY BOSE: The next item for discussion
22 this morning is H-2. That is concerning Finavera
23 Renewables Ocean Energy LTD in Docket No. P-12751-001.
24 There will be a presentation by Annie Blanchard from the
25 Office of the General Counsel. She is accompanied by

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1 Nicholas Jayjack from the Office of Energy Projects, and
2 John Katz from the Office of the General Counsel.

3 MS. BLANCHARD: Good morning, Mr. Chairman, and
4 Commissioners.

5 On December 21st, 2007, the Commission issued an
6 original five-year license to Finavera Renewables Ocean
7 Energy Ltd. for the 1-megawatt Makah Bay Offshore Wave Pilot
8 Project.

9 Consistent with the Commission's Policy Statement
10 on Conditioned Licenses for Hydrokinetic Projects, the
11 license specified that Finavera would not be permitted to
12 begin on-site construction and installation until it had
13 obtained all other authorizations required under federal
14 law.

15 Finavera has now received from Washington
16 Department of Ecology and the U.S. Fish and Wildlife Service
17 those outstanding authorizations, and the draft order before
18 you amends the license to reflect them.

19 Because Finavera has received the necessary
20 authorizations, the draft order authorizes the company to
21 begin the construction process.

22 This completes my presentation. We would be
23 happy to answer any questions.

24 CHAIRMAN KELLIHER: Thank you, very much.
25 Commissioner Moeller.

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1 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
2 As you know I am from Washington State, and I called this
3 item for discussion mainly because I think it is important
4 to acknowledge the various Washington State and Federal
5 agencies' prompt action here that has helped us move forward
6 in a timely fashion, encouraging a new technology that can
7 be the source of a potentially large renewable and carbon-
8 free energy source.

9 We don't know where the carbon debate is going in
10 this country, but working cooperatively with states to
11 anticipate which resources to develop and then acting
12 together to jumpstart our efforts in supporting new sources
13 of renewable and emission-free energy is obviously important
14 to me.

15 A state like Washington has much to gain in the
16 development of these hydrokinetic technologies, and these
17 resources, among others, can help in meeting ambitious
18 renewable portfolio standards. They can serve as a valuable
19 export to other states desiring renewable energy, and they
20 can be a source of economic development for the state's
21 coastal communities.

22 Of course the development of these technologies
23 will have to be done in a manner that balances various
24 factors, not the least [of which], environmental impacts.
25 Our productive discussions with the State of Oregon give me

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1 hope that we can achieve a better working relationship with
2 my home State of Washington, and I want to thank the team
3 for their hard work.

4 I should have barred the doors before this item,
5 because people need to hear about hydropower.

6 (Laughter.)

7 CHAIRMAN KELLIHER: We actually--I'm surprised
8 that we've gotten a lot of mainstream press interest in wave
9 projects. So I think there is a lot of public interest in
10 this kind of project, and this is the first of what could be
11 a good number of them. But this is an important Order.

12 We did issue a conditioned license in this
13 project, and we conclude in this order that that
14 conditioned license is completely consistent with federal
15 law, in part because it expressly prohibited any on-site
16 construction until Finavera had obtained all other
17 authorizations required by federal law.

18 Like Commissioner Moeller, I want to commend the
19 State of Washington, the Department of Ecology, and the U.S.
20 Fish and Wildlife Service for acting quickly in granting
21 those authorizations.

22 So Finavera has received all the authorizations
23 they need and we permit them to commence construction. So I
24 think this is a pretty important Order.

25 Colleagues? Commissioner Wellinghoff.

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1 COMMISSIONER WELLINGHOFF: Thank you,
2 Mr. Chairman. Being from Nevada I always thought that
3 geothermal energy was the Rodney Dangerfield of renewables,
4 but I think hydro is somewhat as well.

5 (Laughter.)

6 COMMISSIONER WELLINGHOFF: And hydrokinetics
7 systems, certainly these new systems both ocean wave energy
8 and in-river systems, and I want to commend the team for
9 their efforts not only in this Order but their effort on the
10 five-year pilot licensing process over all.

11 I think this is a wonderful day, and that we're
12 at the precipice here of a project that is going to start
13 construction, and I want to thank you.

14 CHAIRMAN KELLIHER: Colleagues? Commissioner
15 Kelly?

16 COMMISSIONER KELLY: I would like to add my
17 commendations to the State of Washington, and also to staff
18 that worked with the officials in the State of Washington,
19 and I understand have even discussed with them the
20 possibility of entering into a memorandum of understanding
21 to facilitate the development of hydrokinetic projects off
22 the Washington State, or in Washington State waters.

23 And I think that perhaps the Makah Bay experience
24 should be held as a model for how stakeholders can work
25 together to timely develop these important new sources of

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1 renewable energy. I am very pleased to vote for the Order.

2 CHAIRMAN KELLIHER: Commissioner Spitzer.

3 COMMISSIONER SPITZER: Mr. Chairman, this is a
4 very bold step we have taken during the course of this, and
5 because of the boldness and the importance of the potential
6 source of energy I am in full support.

7 I agree with my colleagues that this is a victory
8 for federalism, working with the State of Washington for
9 mutual constituents is significant, but we need to keep our
10 eye on the ball going forward to ensure that in an area
11 where frankly there has been historically concern about
12 legal authority that we not impair technology and
13 innovation. Particularly where we have increasing numbers
14 of jurisdictions adopting renewable portfolio standards, we
15 need to exercise leadership and work with our state
16 colleagues for a mutually beneficial result, and we have
17 done that in this case.

18 I am very pleased to support this Order.

19 MR. KATZ: Mr. Chairman, just while we were
20 handing out kudos, I thought we should also mention the
21 National Marine Fisheries Service who did not get mentioned
22 only because they had already completed their work by the
23 time we issued the license Order, but we also very much
24 appreciate their efforts.

25 CHAIRMAN KELLIHER: Thank you for that. Any

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1 other comments? Colleagues?

2 (No response.)

3 CHAIRMAN KELLIHER: Let's vote.

4 SECRETARY BOSE: The vote begins with
5 Commissioner Wellinghoff.

6 COMMISSIONER WELLINGHOFF: I vote aye.

7 SECRETARY BOSE: Commissioner Moeller.

8 COMMISSIONER MOELLER: Aye.

9 SECRETARY BOSE: Commissioner Spitzer.

10 COMMISSIONER SPITZER: Aye.

11 SECRETARY BOSE: Commissioner Kelly.

12 COMMISSIONER KELLY: Aye.

13 SECRETARY BOSE: And Chairman Kelleher.

14 CHAIRMAN KELLIHER: Aye.

15 SECRETARY BOSE: The last item for discussion
16 this morning, or this afternoon almost, is C-1, Broadwater
17 Energy LLC in Docket No. CP06-54-000. Todd Ruhkamp and Jim
18 Martin from the Office of Energy Projects will be giving us
19 a presentation. They are accompanied by Terry Turpin from
20 the Office of Energy Projects; Bill Howard from the Office
21 of Energy Market Regulation; and Sandy Delude from the
22 Office of the General Counsel.

23 MR. RUHKAMP: Good morning, Chairman Kelliher,
24 and Commissioners.

25 The draft order in Item C-1 issues authorizations

1 to Broadwater Energy LLC and Broadwater Pipeline LLC to
2 site, construct, and operate a floating LNG import terminal
3 and related pipeline facilities in Long Island Sound.

4 (Slides are hereafter shown.)

5 Broadwater Energy's proposed LNG terminal will
6 consist of a floating storage and regasification unit known
7 as the FSRU that includes a yoke mooring system attached to
8 the bow of the FSRU that will "moor" the FSRU to a fixed
9 tower.

10 The FSRU will be located in Long Island Sound
11 approximately 9 miles off the shore of Long Island, and 10.2
12 miles from Connecticut. On the next slide it should show a
13 simulation of the FSRU at a distance of 9.5 miles from
14 Riverhead, New York.

15 The FSRU is approximately 1215 feet long, 200
16 feet wide, and extends approximately 80 feet above the
17 waterline. FSRU will have a receiving berth for unloading
18 LNG carriers, storage tanks, vaporization facilities
19 designed with a base send-out capacity of 1 billion cubic
20 feet per day, gas treatment facilities, power generation,
21 and a crew accommodation area.

22 Broadwater Energy anticipates that 2 to 3
23 carriers will offload at the FSRU per week, and expects an
24 average of 118 deliveries per year. Broadwater Energy
25 states that Shell North America LNG has subscribed for the

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1 full capacity of the FSRU.

2 Broadwater Pipeline proposes to construct and
3 operate a 21.7-mile 30-inch diameter subsea pipeline to
4 deliver the vaporized natural gas from the FSRU to an
5 offshore interconnect with Iroquois Gas Transmission System.

6 Other facilities to be constructed include a
7 tower that will house a pipeline riser and secure the FSRU,
8 and pig launching and receiving facilities. Broadwater
9 Pipeline states that Shell will also subscribe to the full
10 capacity of the pipeline.

11 At this time I would like to turn the
12 presentation over to Jim Martin who will briefly discuss
13 some key aspects of the EIS.

14 MR. MARTIN: Thank you, Todd.

15 Staff began review of this project more than
16 three years ago. During that period we've taken part in
17 approximately 35 meetings. The meetings--especially the
18 public ones--were well attended, as I can show you from the
19 transcripts from January 11th, 2007, at our Shoreham, New
20 York, meeting.

21 We received a great deal of input. We've
22 considered all of it and our response to comments, which is
23 nearly 1000 pages long, conveys our responses to the
24 comments that we received.

25 Due to the maritime component of the project, the

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1 engineering review required unique collaboration between
2 FERC staff and the U.S. Coast Guard Marine Safety Center, or
3 MSC.

4 In general, FERC's engineers reviewed the process
5 part of the project, and the MSC engineers reviewed the
6 structural design of the facility for the FSRU and the
7 mooring system.

8 As a result of the FERC and MSC review, 50
9 conditions were included in the Draft Order that enhance the
10 safety and operability of the project.

11 This includes a requirement for a review via a
12 certifying entity of the final design, fabrication,
13 installation, and maintenance of the FSRU and the YMS
14 Tower.

15 The Coast Guard Captain of the Port also reviewed
16 the proposal's effect on the safety and security of Long
17 Island Sound. The Coast Guard's Waterways Suitability
18 Report, which was issued prior to our Draft Environmental
19 Impact Statement, determined that additional risk mitigation
20 measures are necessary to make the waterway suitable for LNG
21 vessel traffic and the operation of the FSRU.

22 Our Draft Order contains a requirement that,
23 throughout the life of the facility Broadwater must ensure
24 that the FSRU and any LNG vessel transiting to and from the
25 FSRU comply with all requirements set forth by the Coast

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1 Guard Captain of the Port.

2 Consideration of alternatives was a big component
3 of our review. We looked at alternative energy sources such
4 as renewable, conservation, and a combination of the two, as
5 well as system alternatives including seven new and six
6 existing proposed pipelines that currently serve or could
7 potentially be expanded to serve the target market.

8 Additionally, 20 other LNG terminals were
9 considered along with Combined Energy Sources Alternatives,
10 which is LNG-derived gas plus renewables.

11 This figure shows the locations of the 20 LNG
12 sites that we considered in our Alternatives Review. We did
13 not identify an alternative that could provide comparable
14 volumes of gas to the target market with less environmental
15 impacts.

16 Part of that comparison of alternatives, or our
17 determination on that, is based on the impacts resulting
18 from the pipeline construction, which is only about 264
19 acres. There are no impacts onshore. There is no onshore
20 component of the project. All of them are offshore. There
21 are no impacts to forests, or wetlands. There are no
22 residential properties affected by construction.

23 In the FEIS we analyzed cumulative impacts for
24 eight resource areas, and considered all appropriate
25 regional projects, including pipelines, cables, existing

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1 platforms, and dredge disposal sites.

2 We determined that the project would not
3 constitute a significant impact in combination with other
4 past, present, or reasonably foreseeable projects.

5 We received a number of comments concerning
6 industrialization of Long Island Sound. To review that, we
7 broke the concept into two ideas:

8 Would Broadwater introduce industrialization to
9 Long Island Sound?

10 And if it were constructed, would it stimulate
11 additional industrialization?

12 In terms of precedent, Long Island Sound has
13 always been a multi-use waterway. Shoreline development
14 includes many industrial and commercial areas, some of which
15 have been operating for decades or longer.

16 As many as 2000 vessels transporting oil and
17 petroleum transit the Sound every year. They are part of 4-
18 to 7000 other commercial vessels which transit the Sound on
19 an annual basis.

20 Finally, there are a couple of existing
21 platforms, KeySpan's and ConocoPhillips' that have been
22 operating for more than 30 years.

23 Further, we determined that, on the basis of
24 stimulating further industrial development, we determined
25 that there are few industries that would benefit from being

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1 located in the Sound. We found no reason to conclude that
2 the approval of the Broadwater Project would stimulate new
3 offshore industrial development.

4 In conclusion, based on the analysis included in
5 the Final EIS, we have determined construction and operation
6 of the proposed project with the adoption of the FERC and
7 the Coast Guard recommendations would result in limited
8 adverse impacts.

9 The Draft Order includes more than 80 conditions
10 that would modify the Broadwater proposal to further
11 minimize and avoid these impacts.

12 That concludes our presentation and we would be
13 glad to take any questions now.

14 CHAIRMAN KELLIHER: All right. Thank you very
15 much for that presentation. I think that really focused on
16 the major issues that we are confronting.

17 And I want to commend the staff for their
18 commitment to this project and this effort. I understand
19 that altogether the staff has spent more than 25,000 hours
20 working on the Broadwater Project. So you are probably
21 happy that we are acting on this project today.

22 But today the Commission authorizes the
23 Broadwater LNG project. We do so after long and careful
24 review of all the facts and the science regarding this
25 project.

1 In our review of this project, FERC has held or
2 participated in 35 community and state and federal agency
3 meetings. FERC staff prepared a Draft Environmental Impact
4 Statement of 825 pages, and a Final Environmental Impact
5 Statement that exceeded 2200 pages. The total record in
6 this proceeding consists of some 7100 documents and
7 exhibits.

8 In addition, our response to the comments
9 appendix issues on CD is over 1200 pages long. And behind
10 me (indicating), this represents a portion of the record
11 that we relied on in our decision today. This (indicating)
12 is the application, the Draft EIS, and the Final EIS alone.
13 So it really is a tip of the iceberg of the record that we
14 relied on in our decision today.

15 I emphasize that our approval of this project
16 comes with many conditions designed to protect the
17 environment and to ensure public safety. Our authorization
18 is conditioned, including more than 80 environmental,
19 security, and safety conditions. We do not approve the
20 project as proposed, but instead impose extensive
21 conditions.

22 FERC has discretion to impose conditions as
23 necessary to protect the environment and to assure the
24 security and safety of LNG projects. Our aggressive use of
25 conditioning authority here is proof that in our review of

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1 proposed LNG projects FERC is principally a safety agency.

2 When LNG projects are proposed, our task is to
3 apply high federal safety standards. If a project meets
4 those standards, as a general matter we will authorize it.
5 If a project falls short, we will attach conditions
6 necessary to comply with our safety standards.

7 But if it is impossible to condition a project so
8 that it meets our high safety standards, we will deny
9 authorization as we did with the proposed Keyspan project in
10 Providence, Rhode Island.

11 With respect to LNG terminals, we are first and
12 foremost a safety agency. We do not balance safety against
13 need. But we are not unmindful of the need for additional
14 natural gas supplies in the Northeast, something we
15 discussed earlier today.

16 We examine that need in the course of our
17 environmental review under the National Environmental Policy
18 Act or NEPA. Our environmental review shows that without
19 increased natural gas supplies in the region, consumers in
20 the Northeast will experience higher prices and reduced
21 reliability of natural gas supply. And that is certainly
22 the case on Long Island and in New York City and in
23 Connecticut, as well.

24 I regret that this proceeding has been so
25 controversial. I respect public opinion and we have gone to

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1 great lengths to respond to the legitimate concerns raised
2 by the public. Doing so frankly has been made more
3 difficult by the attitude of some public officials in the
4 region who have chosen to exploit and inflame public fears.
5 And these public officials in my view have done a disservice
6 to the citizens in the region, which I think is regrettable.

7 There have also been charges that FERC's
8 environment and safety review has been inadequate, and that
9 is one reason I brought out just part of our record today.
10 In my view, those charges are manifestly false and I think
11 they are belied by the sheer size of the Draft Environmental
12 Impact Statement, as well as the total record that we relied
13 on in this decision.

14 Our decisions at FERC are based in the record,
15 rooted in the law, facts, and science. Applying the law,
16 facts and science to the question of whether the Broadwater
17 LNG project should be authorized, there really is only one
18 answer: the course that we take today.

19 So I do support the Order, and I think we have
20 attached the necessary conditions.

21 Colleagues? Commissioner Spitzer?

22 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
23 The preeminent obligation of government is to protect the
24 health, welfare, and safety of its citizens. This
25 proceeding illustrates the complexity of that understating

1 in the context of the environment, energy security, and
2 federalism.

3 Opposition to the siting of energy infrastructure
4 is universal. No one wants any project in their locale. At
5 the same time, the public expects and federal law mandates a
6 reliable supply of energy for utility and other applications
7 at reasonable prices.

8 No project should be sited, energy-related or
9 otherwise, that is unsafe or harms the environment. The
10 record in this case indicates that this application with the
11 conditions imposed in this order complies with federal
12 safety standards and eliminates or mitigates environmental
13 impacts.

14 The record suggests there are current operations
15 and facilities in the Long Island Sound that serve a lesser
16 public purpose with far greater impact. The State of New
17 York retains authority under the Coastal Zone Management
18 Act. As a former state legislator and then a state
19 regulator, I am deeply respectful of state jurisdiction.
20 The degree to which this project increases commercial
21 activity in the Long Island Sound beyond that which
22 currently exists is largely beyond the scope of this FERC
23 proceeding.

24
25

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1 My background and beliefs compel me to reject the
2 view that state deliberations would be unwise or
3 improvident, so I respect New York's right to determine this
4 issue, however, the matter of respect is reciprocal.

5 I recognize that this case elicits strong
6 feelings. There is always room for civil dialogue. I would
7 hope such remains the case.

8 However, independent federal agencies are tasked
9 with quasi-judicial obligations. The public has a right to
10 expect FERC decisions to be based on the facts and on the
11 law, and not political considerations.

12 At the same time, Mr. Chairman, I am not naive.
13 I've run in seven elections, so while I respect very much
14 the public and political processes, I would merely ask those
15 active in this proceeding, to respect our process.

16 Based on the record in this proceeding, with the
17 conditions imposed in this Order, this project is in
18 compliance with federal law. I, therefore, support this
19 project. Thank you.

20 CHAIRMAN KELLIHER: Thank you. Colleagues?
21 Commissioner Wellinghoff?

22 COMMISSIONER WELLINGHOFF: I've first got some
23 questions of the team, and then I've got a statement.

24 I want to commend the team for all of your hard
25 work. I appreciate the efforts that have gone on over the

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1 years in this project.

2 First, I just want to clarify a couple of things.
3 Number one, as I understand it, this is a market-driven
4 project; in other words, this project is not going to be in
5 anybody's rate base.

6 The \$700 million for this project, will be
7 financed by independent capital and will be done so on the
8 basis that there is a need and a market for it. Is that
9 your understanding, as well?

10 MR. RUHKAMP: Yeah, I think in the FEIS, there's
11 like 11 pages on market demand and such, I think.

12 COMMISSIONER WELLINGHOFF: And also, as I
13 understand it, it's a floating facility, so that initially,
14 there may be a market, and if that market evaporates, the
15 floating facility goes away.

16 In other words, it's obviously not going to sit
17 out there, if there's no need to do anything, is that
18 correct?

19 MR. MARTIN: That would be our understanding.

20 COMMISSIONER WELLINGHOFF: With respect to this
21 industrialization issue that you spoke about some in your
22 slides, I know there is a number of issues regarding
23 industrialization, and one, of course, is the potential
24 environmental impacts of that, and, as I understand it, one
25 of the environmental impacts in the Sound, is the thermal

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1 impacts of projects that are in the Sound.

2 I think there was a report done by a Dr.
3 Allistair Dove or Cornell, as a matter of fact, that
4 reported that increased bottom temperatures, is one of the
5 primary factors on lobster mortality.

6 So, obviously, to the extent that a project uses
7 water from the Sound for cooling water, and puts it back
8 into the Sound at a higher temperature, there are potential
9 environmental impacts; is that correct?

10 MR. MARTIN: Yes.

11 COMMISSIONER WELLINGHOFF: And, of course, I want
12 to put this in scale, though, and perspective. As I
13 understand it, the Millstone nuclear plant is also on the
14 Sound; is that correct?

15 MR. MARTIN: Correct.

16 COMMISSIONER WELLINGHOFF: And it uses about 2.1
17 billion gallons of water per day for cooling?

18 MR. MARTIN: Yes.

19 COMMISSIONER WELLINGHOFF: And that's about --
20 and this project would use only one percent of that?

21 MR. MARTIN: Yeah, the projected daily use is
22 about 28 million gallons.

23 COMMISSIONER WELLINGHOFF: All right, so it would
24 be considerably smaller, so the impact would be very low,
25 number one.

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1 Number two, as I understand it, we've added a
2 Condition Number 87, where we're going to require the
3 Applicant to investigate the feasibility of seeing whether
4 or not the sendout gas that would be put in the pipeline,
5 could be done so at a temperature not higher than the
6 ambient temperature of the water during the Summer months of
7 May through September; is that correct?

8 MR. MARTIN: Yes, sir.

9 COMMISSIONER WELLINGHOFF: So that would also
10 lessen the temperature impacts from this facility; is that
11 correct?

12 MR. MARTIN: Yes, sir.

13 COMMISSIONER WELLINGHOFF: And, by your Slide 3,
14 I take it -- I couldn't see anything. I mean, I don't see a
15 lot of visual impact there.

16 MR. MARTIN: It's there.

17 (Laughter.)

18 COMMISSIONER WELLINGHOFF: But there was a report
19 a task force report by the Long Island Sound Task Force, and
20 I got a copy of the report, which I think is this one page,
21 this Page A, attached to a press release, that had 15
22 different items that indicated the environmental concerns of
23 the task force.

24 And as I understand those 15 items, they were
25 primarily items that were brought up in the Draft

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1 Environmental Impact Statement, and have subsequently been
2 fully answered in the Final Environmental Impact Statement;
3 is that correct?

4 MR. MARTIN: Yes, sir.

5 COMMISSIONER WELLINGHOFF: So those are not
6 outstanding, in our opinion, anymore?

7 MR. MARTIN: No.

8 COMMISSIONER WELLINGHOFF: The final issue I
9 wanted to talk about before I go into my statement, was this
10 issue of your review of alternative sources. I guess you
11 can look at alternative sources from two perspectives:

12 You can look at the demand side, and that would
13 be reducing, in essence, the market demand, so low that
14 there was no market for this project anymore, and you looked
15 at those. One of the things you looked at, I believe, was -
16 - and it's prominently discussed in the Final Environmental
17 Impact Statement as the Synapse Study; is that correct?

18 MR. MARTIN: Yes.

19 COMMISSIONER WELLINGHOFF: And that study did
20 indicate that it may be possible to reduce gas levels to a
21 level that Broadwater would no longer be needed, but
22 wouldn't it be correct to say that it would take a large
23 investment and commitment by the citizens in the states, to
24 get there?

25 MR. MARTIN: Yes, sir.

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1 COMMISSIONER WELLINGHOFF: And on the supply
2 side, if there, in fact, were other lower-cost and less
3 environmentally benign supply side alternatives that came
4 about and were put in place, I assume that Broadwater
5 wouldn't get constructed, right?

6 MR. MARTIN: Yes.

7 COMMISSIONER WELLINGHOFF: So, with that, Mr.
8 Chairman, Broadwater LNG has raised serious and valid
9 concerns among the residents of New York and Connecticut.
10 These concerns include questions of the need for the project
11 and the potential environmental impacts on Long Island
12 Sound.

13 I share those concerns. FERC's action today,
14 however, is not solely dependent upon our assessment of
15 those concerns in the Final Environmental Impact Statement.

16 Instead, the relative importance of our actions,
17 is primarily dependent on the fact that Broadwater LNG is a
18 market-driven project. As such, it will only go forward if
19 the market for the gas it is to supply, exists.

20 Thus, the citizens of Connecticut and New York,
21 and no one else, hold in their hands, the ultimate power and
22 responsibility to decide if Broadwater LNG is built.

23 Those citizens require additional energy
24 services that can most economically and environmentally be
25 supplied by new supplies of natural gas from Broadwater,

1 then it likely will be constructed.

2 If, instead, they choose to either reduce their
3 energy needs, making Broadwater's new supplies of natural
4 gas unnecessary for electric generation and other uses, or
5 find less costly ways to meet those needs, the project will
6 likely fail to attract capital and thus will not be built.

7 This project is unlike a transmission line or
8 power plant that is proposed to be included in the rate base
9 of a vertically-integrated utility; it's entire dependent
10 upon the market for its product, natural gas.

11 FERC's choices, by law, must focus on our
12 responsibility under the Natural Gas Act and the 2005 Energy
13 Policy Act, that gave us authority to site LNG facilities.
14 Under those statutes, we have the responsibility to consider
15 and review applications pending before us for Certificates
16 to construct and operate liquified natural gas facilities
17 onshore and within the coastal waters of this country.

18 FERC has a legal responsibility to ensure that
19 all projects it approves, including LNG facilities, are in
20 the public interest. FERC takes that responsibility very
21 seriously.

22 And as required by law, the Office of Energy
23 Project Staff at FERC, is meticulously thorough, fair, and
24 balanced in their analysis of the alternatives and
25 environmental impacts of each project. They were no less so

1 in this case.

2 My interpretation of the public interest
3 requires that consumers have access to essential energy
4 services at the least societal cost. That means that both
5 economic and environmental costs should be considered and
6 minimized, if possible, to meet consumer needs.

7 Through its extensive analysis in this case, FERC
8 has reviewed all the reasonable alternatives and proposed
9 extensive environmental mitigation measures, if Broadwater
10 succeeds in the market and becomes a contingency required to
11 meet the energy needs of New York and Connecticut.

12 Thus, depending upon the choices that the
13 citizens of Connecticut and New York make, Broadwater may be
14 necessary to meet those needs, and may rank as the least
15 costly and most environmentally benign way to do so.

16 As such, it's a necessary contingency in the
17 public interest. With the environmental and safety
18 requirements we have imposed upon this project to minimize
19 those potential impacts on Long Island Sound, a vote
20 recognizing this project as a necessary contingency in the
21 public interest, is appropriate. I will vote for the
22 project.

23 I say that this is a contingency, however,
24 because the Final Environmental Impact Statement prepared by
25 our Staff for Broadwater, discusses several other

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1 alternatives that, if implemented, would be less costly,
2 both in economic and environmental terms.

3 Chief among them is the study by Synapse Energy
4 Economics, filed in this proceeding, that suggests that
5 demand for natural gas in the Connecticut and New York
6 regions, could be reduced sufficiently to make additional
7 supplies provided by Broadwater, unnecessary.

8 This is an admirable plan and it is so noted by
9 the FERC Staff in the Final Environmental Impact Statement.
10 It is one that I heartily endorse and support.

11 The Synapse position is predicated on an
12 ambitious, comprehensive program to reduce natural gas usage
13 in the region, through aggressive implementation of
14 renewable energy generation, energy efficiency and demand
15 response activities, distributed generation, including
16 combined heat and power systems of businesses and
17 governments and other institutional facilities, and
18 repowering of existing natural gas-fired generation.

19 In order to implement the Synapse plan,
20 considerable effort will be necessary by both the private
21 sector in financing and building these projects, and the
22 government sector -- primarily states -- in removing
23 multiple barriers to implementation.

24 Market barriers to implement the least-costly,
25 environmentally benign energy solutions, need to be

1 recognized and removed.

2 Barriers to realizing the Synapse plan, include
3 the fact that most consumers in New York and Connecticut, do
4 not see in their bills or otherwise, the real price of
5 electricity and thus do not have the appropriate price
6 signals to reduce consumption when costs are high, and
7 inefficient generators must be brought on line to meet
8 demand.

9 Other barriers include state laws that restrict
10 distributed generators from either being owned by third
11 parties or shared among multiple facilities with different
12 owners, to make such systems more economically feasible.

13 These barriers and many others that may impede
14 the region from achieving the goals laid out in the Synapse
15 reports, are primarily in the control of the states and not
16 FERC.

17 In short, the power to make the Synapse plan
18 work, is in the hands of the people of the states of
19 Connecticut and New York, and not in the hands of FERC, and
20 unless and until the citizens of those states fully
21 undertake the efforts necessary to move forward with such a
22 plan, Broadwater will remain a necessary contingency that
23 the market may finance, and FERC's vote for Broadwater's
24 contingency, as in the public interest, is a necessary
25 action to fulfill our statutory responsibilities.

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1 If, on the other hand, the citizens of those
2 states succeed in implementing Synapse's plan and make
3 Broadwater uneconomic to finance and operate, it will never
4 be built and FERC's vote for the Broadwater project will
5 become moot. Thank you, Mr. Chairman.

6 CHAIRMAN KELLIHER: Thank you. Colleagues?
7 Commissioner Moeller?

8 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
9 I recognize that our decision will upset the citizens, civic
10 groups, and government leaders who are opposed to the
11 Broadwater LNG project.

12 Throughout this review process, I have
13 considered the Applicant's proposal from an objective
14 standpoint, without passion, prejudice, or emotion.

15 As such, my vote to permit the construction of
16 this needed energy infrastructure project, is based on the
17 law, but also on the facts, environmental studies, and
18 reports that have been submitted into the record.

19 Residents living on both sides of the Long Island
20 Sound, are concerned with the development of a floating LNG
21 platform. Their suspicions are understandable, as the very
22 concept of installing a 1215 foot long barge in the middle
23 of this estuary, is foreign.

24 However, the public should recognize that I
25 carefully considered and evaluated the concerns raised

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1 before making the decision to vote for the authorizations to
2 construct and operate these facilities.

3 To those who have not already done so, I would
4 encourage interested parties and persons to review the
5 Commission's Final Environmental Impact Statement that was
6 issued earlier this year. This substantial document
7 thoroughly considered the relevant environmental,
8 scientific, economic and safety factors associated with this
9 project.

10 Additionally, the Commission's authorization to
11 construct the LNG terminal and the related pipeline
12 facilities, is not unfettered, as we impose dozens of
13 conditions and compliance measures that Broadwater must
14 meet, prior to construction and operation.

15 These requirements help address and seek to
16 eliminate or minimize adverse effects and foreseeable risks,
17 to the extent possible.

18 As many residents of this region are familiar,
19 particularly those on Long Island, the Shoreham nuclear
20 power plant is an unforgettable reminder of how a power
21 project that had great promise, ended up failing, at
22 significant cost to the ratepayers.

23 And the sensitivity is not lost on me, however,
24 we must move forward and recognize that we are at a
25 crossroads where the region's energy future is uncertain

1 without additional infrastructure and fuel choices.

2 The need for new natural gas supplies to satisfy
3 New York and Connecticut's growing appetite for energy, is
4 real, as there are projections that the demand for natural
5 gas in this metropolitan area, is growing at a rate of 2.7
6 percent per year, and an astonishing eight percent on Long
7 Island.

8 It should also be noted that New York and
9 Connecticut have almost no natural gas production of their
10 own, and must rely on imports to satisfy their needs.

11 Weighing these considerations, I believe that the
12 region's need for the natural gas supplies that the
13 Broadwater LNG project can deliver, has been demonstrated.

14 Unlike Shoreham, Broadwater has the potential to
15 become a success story for this region. One only need look
16 at the new wind turbines that have arisen in the shadow of
17 the defunct nuclear plant, as well as other successful
18 energy infrastructure projects in the area, such as the
19 Cross-Sound Cable and the Neptune Line, to recognize that
20 the addition of new energy projects can succeed by
21 delivering the benefits of a greater diversity of supply,
22 increased reliability, and, hopefully, lower costs to
23 ratepayers and the public.

24 Ultimately, I find that the Broadwater proposal
25 satisfies the legal, regulatory, and environmental criteria

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1 as set forth in the Natural Gas Act and the Commission's
2 regulations, and I support today's decision in furtherance
3 of the public's convenience and necessity. Thank you, Mr.
4 Chairman.

5 CHAIRMAN KELLIHER: Commissioner Kelly?

6 COMMISSIONER KELLY: My colleagues have
7 expressed many of the sentiments that I feel. I'd like to
8 add an expression of my gratitude to Staff for the
9 extraordinary efforts that you've taken over the many years
10 that you have worked on this project.

11 I know that you have taken this project as
12 seriously as the citizens of New York and Connecticut have,
13 and as seriously as I and my colleagues on the Commission
14 have.

15 You have acted with the highest degree of
16 professionalism I have seen. You have left no stone
17 unturned in your study and analysis of the potential
18 environmental and safety impacts of this project.

19 You have listened carefully and responsibly to
20 the comments and suggestions of thousands of individuals and
21 entities concerned about this project and its impact.

22 Their comments and your analysis of them, has
23 resulted in many recommendations that you have given us for
24 changes and conditions to this project, and we have accepted
25 them.

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1 I thank you for your efforts, and today's Order
2 helps to ensure a much needed source of reliable, long-term,
3 and competitively-priced natural gas to the Long Island, New
4 York City, and Connecticut markets, and I am pleased to vote
5 for this Order. Thank you.

6 CHAIRMAN KELLIHER: Colleagues, let's vote.

7 SECRETARY BOSE: We'll begin the vote with
8 Commissioner Wellinghoff.

9 COMMISSIONER WELLINGHOFF: Aye.

10 SECRETARY BOSE: Commissioner Moeller?

11 COMMISSIONER MOELLER: Aye.

12 SECRETARY BOSE: Commissioner Spitzer?

13 COMMISSIONER SPITZER: I vote aye.

14 SECRETARY BOSE: Commissioner Kelly?

15 COMMISSIONER KELLY: Aye.

16 SECRETARY BOSE: And Chairman Kelliher?

17 CHAIRMAN KELLIHER: Aye.

18 And before we adjourn, we have an introduction.

19 Commissioner Spitzer?

20 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

21 We have some guests in the audience, the Harper family from
22 Arizona, and my wife, Jackie, and son, Bennett, and they --
23 you do not need to contact the truant officers for Fairfax
24 County or Maricopa County.

25 (Laughter.)

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COMMISSIONER SPITZER: Because this is Spring Break, and I'm sure they will get extra, extra credit for sitting through these proceedings. Thank you.

CHAIRMAN KELLIHER: Bennett, do you want to come up? I want to depose you.

(Laughter.)

CHAIRMAN KELLIHER: Can you help adjourn the meeting?

(Laughter.)

COMMISSIONER SPITZER: He lost that nasty black shirt, I see. Good.

(Laughter.)

CHAIRMAN KELLIHER: We have to do this together. Are you ready? Okay.

(Gavel sounds.)

CHAIRMAN KELLIHER: Thank you.

(Applause.)

(Whereupon, at 12:36 p.m., the meeting was adjourned.)