BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :

CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC :

CONSENT MARKETS, TARIFFS AND RATES - GAS :

CONSENT ENERGY PROJECTS - MISCELLANEOUS :

CONSENT ENERGY PROJECTS - CERTIFICATES :

DISCUSSION ITEMS :

STRUCK ITEMS :

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934TH COMMISSION MEETING

OPEN SESSION

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

Thursday, May 15, 2008
10:05 p.m.

APPEARANCES:

COMMISSIONERS PRESENT:

CHAIRMAN JOSEPH T. KELLIHER (Presiding)

COMMISSIONER SUEDEEN G. KELLY

COMMISSIONER MARC SPITZER

COMMISSIONER PHILIP MOELLER

COMMISSIONER JON WELLINGHOFF

P R O C E E D I N G S

(10:05 a.m.)

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

Please join us in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN KELLIHER: Before we turn to business, I have a couple of announcements. First of all, a comment on the Farm Bill. The Farm Bill is pending in Congress, and I believe the House approved it and the Senate is considering it currently.

I just really want to praise Chairman Bingaman for his leadership on the Farm Bill. We had serious objection to an earlier version of the Bill that included some provisions that could have fractured FERC's jurisdiction over wholesale power markets and really impair our ability to assure just and reasonable rates. But Chairman Bingaman showed great leadership and his staff worked very hard to prevent that outcome.

Also I want to credit the hard work of state commissioners. A lot of our state colleagues got very involved in this effort and they made a major difference with the conferees on the Farm Bill.

A Farm Bill is kind of an awkward thing for FERC to have a major role in, so we had unusual Congressional legislators, not our normal complement of Energy Committee folks, so really the support of our state regulators was I think decisive, combined with Chairman Bingaman's leadership.

I just want to thank all the state regulators who helped, but really to name some of the ones who made great and special efforts.

First of all, David Coen from the State of Vermont.  Secondly, Jim Carr.  Third, Phyllis Reha from Minnesota.  Susan Wefal from South Dakota.  Steve Larsen from Maryland played a very important role.  John Norris from Iowa, IA is Iowa, sorry about that.  John Norris from Iowa played a very important role, as did Doug Mood from Montana, and Colette Honorable from Arkansas.  And Chairman Honorable from Arkansas, I have to say she was born for that job--

(Laughter.)

CHAIRMAN KELLIHER:  Because with that kind of name, she was destined for public service.

So anyway, our state colleagues played a huge role and we ended up having a successful outcome and I just want to express my gratitude publicly.

Secondly I just want to point out that we do have a staff presentation today on the summer market and reliability assessment, and I hope we will have some good questions from our colleagues, and staff, and I think the presentation will be interesting. But I want to announce that next month, at the request of Commissioner Moeller, we are going to have a staff presentation on the cost of new power generation and how rising capital costs and fuel costs are putting upward pressure on electricity prices across the country, in all regions of the country.

I just want to thank Commissioner Moeller for his suggestion and see if he wanted to make a comment.

COMMISSIONER MOELLER: Thank you, Mr. Chairman. I think most people realize that we are in a rising-cost environment and that as we as a Nation approach the next round of generation infrastructure we are facing a lot of challenges, and they are based largely on the fact that more and more we are a worldwide economy.

Commodity prices are driving costs throughout the world. We have seen that recently in food prices. But we have seen it already for the last 12 to 24 months in cement, and steel, engineering, labor, various inputs into the infrastructure process of building energy infrastructure.

It is serious, and we should realize where we are going with this and what the implications are, and I appreciate the fact that we will have some attention on it next month.

Thank you, Mr. Chairman.

CHAIRMAN KELLIHER: Thank you. I think the timing is good, because we have a July 1 Markets Conference where we are going to look at wholesale power markets, and it is sensible as a backdrop to that to recognize that the next wave of power plants is going to be expensive. So thank you for the suggestion.

The next announcement is a couple of awards to two very deserving FERC leaders, both Jamie Simler and Kathlene Barron. We are giving them awards together because they work so closely together. They are almost inextricable as a team, so it would have made no sense to give them awards separately, so we are giving them awards at the same time.

They work very closely together. They are really an indispensable part of FERC right now. And they both have an incredible ability to work hard to delivery high-quality product for our consideration, and also to develop creative solutions to a lot of the new and interesting challenges that we are facing.

But let me start with Jamie Simler. When I think of Jamie, really the first word--where is Jamie? There she is.

(Laughter.)

CHAIRMAN KELLIHER: When I think of Jamie, really the first word that comes to mind--and this is literally true--is the word "indefatigable." Jamie is one of the hardest working people in this building. Napoleon, when he was Emperor, he chose the bee as his symbol. He chose the bee because the bee is constantly active. The bee never rests, and I think the bee should be Jamie's personal symbol as well.

(Laughter.)

CHAIRMAN KELLIHER: Now Jamie began at FERC as a petroleum engineer back in 1986, and she worked here for five years. Then she left to the private sector for about eight-and-a-half years with different positions in the private sector, but she came back. The prodigal daughter returned.

(Laughter.)

CHAIRMAN KELLIHER: She couldn't resist the siren call of public service. So she returned here to FERC 10 years ago in the Office of Electric Power Regulation, and has stayed through its many name changes, that office's many name changes. She did serve a very important stint with Commissioner Brownell. I think that has helped her play an effective role in her current capacity. But she has worked in the Office of Electric Power Regulation through its name brand changes to Office of Markets, Tariffs, and Rates; and Energy Markets and Reliability; and now the current title that I like a lot, personally, is the Office of Energy Market Regulation, because regulation is still at the heart of the Commission's business.

So she is the Deputy Director in that office, the number two in that office, and I think Jamie has personally shattered the beardless ceiling in EMR.

(Laughter.)

CHAIRMAN KELLIHER: Dan Larcamp and Shelton have created this tradition, and Jamie has demonstrated that it is actually alright for senior managers in the office not to have beards.

(Laughter.)

CHAIRMAN KELLIHER: Now I won't try to really catalogue all of the ways that Jamie has influenced Commission policy because it would take too much time, but there really are no major policies that come out of EMR that don't have--that Jamie hasn't played some major role in. And she has played a huge role in OATT reform, and really all the major market reforms in recent years.

She is I think an excellent manager. She helps run the office. And she's an excellent complement to Shelton. She is a great number two for Shelton.

Jamie played a very significant role recently establishing the new Energy Innovation Sector Office, which is making a major contribution here.

But very importantly, as Jamie as indefatigable and she is the bee, but she makes sure that the FERC railroad runs on time. We get an enormous number of filings in this building, and we have to send things out basically as quickly as we get things in, and Jamie makes sure that the FERC railroad runs on time and that we remain efficient.

So I just want to praise Jamie and recognize her great leadership here at FERC, and I would like to give her this award. But I first want to turn to my colleagues and see if they have comments they would like to make about Jamie.

Colleagues? Suedeen?

COMMISSIONER KELLY: Well I have known Jamie since she was an advisor to Commissioner Brownell, and I enjoyed working with her on the 11th floor then, but actually I get to work with her more now, and I have come to an even broader appreciation of her skills and ability.

When I think of Jamie, I don't actually think about bees, but something a little similar. I think about chemistry. Jamie is a chemical engineer, and so there are not too many chemists, chemical engineers around here, so Jamie and I can enjoy a little talk about chemistry from time to time. We are I think the only two in the building, and there is something active about chemistry. It is more the electrons than the bees.

But combined with that engineering ability, which of course tells you a lot about her ability to do analysis and to be rigorous and to have schedules and to stay on time and steer the ship, is an amazing insight into policy aspects, and a real commitment to the policy aspects.

And Jamie never tires of answering those questions. It is the last minute and you're trying to get the Order out, and a policy question comes up, and you say, well, you know, what's the implication of this Order on whatever, competition. And Jamie never says, ahhh, it's too late to talk about this now.

She is always there. She is always on. She is indefatigable, and she has been a wonderful help to me throughout the years and I can't think of anybody more deserving of this award.

CHAIRMAN KELLIHER: Colleagues? Jon?T

COMMISSIONER WELLINGHOFF: Thank you, Joe.

You know, Jamie is an engineer who gets it, in the sense that, you know, I've always been accused of trying to practice engineering without a license, you know, being an attorney and always wanting to do the techie side, but Jamie understands the technical side but, as Suedeen said, she knows the policy. She knows how to the get the policy done. And she knows how to help with it.

I think, you know, her spirit and enthusiasm and her dedication and her smarts have all been things that have helped me just tremendously throughout my short time here at the Commission, especially with EIS and continuing on in the OATT reform. She just couldn't work without her.

CHAIRMAN KELLIHER: Thank you. Phil.

COMMISSIONER MOELLER: Well in addition to the fact that she is obviously very smart and hard-working and a great public servant, I think that Jamie has a youthful energy that, as you alluded to, Mr. Chairman, is infections. And as we need more young people--men and particularly women in the energy industry, I think she is a great motivation and inspirational figure for that.

So good choice, Mr. Chairman.

CHAIRMAN KELLIHER: Thank you.

COMMISSIONER SPITZER: Thank you, Mr. Chairman.

I agree with everything that has been said. I would only add a few other observations. One--and it's been alluded to--I can't think of anybody more conscientious and diligent. I would agree that she makes herself available to answer questions, good questions or not so good questions--

(Laughter.)

COMMISSIONER SPITZER: --with equanimity. And the other aspect--and maybe this is from the engineering as opposed to lawyering where there's maybe a higher degree of candor perhaps--she is very patient with some of my less-than-intelligent questions from time to time, and she is very willing to explain to me very patiently when I'm wrong, which is not easy to do given my status, and I really appreciate that, and that adds to the ultimate work product of the Commission in a very positive way.

CHAIRMAN KELLIHER: Great. Thank you. Well, Jamie, why don't you come up and we'll give you your award.

(Applause and standing ovation.)

CHAIRMAN KELLIHER: And next, of course, is Kathleen, Kathleen Barron, and Kathleen joined us in 2006, in January of 2006, and she was recruited by our former General Counsel, John Moot. And Kathleen has really been one of the best pickups that the Agency has had in recent years.

(Laughter.)

CHAIRMAN KELLIHER: I don't mean -- that's --

(Laughter.)

CHAIRMAN KELLIHER: I'm trying to be very correct.

I think one strength of the Commission, is that we have a nice mix of talent from the outside, people that have been recruited from the outside.

We have young staff, we have staff with some experience, staff with great experience, and I think that's a real strength of the Agency, that mix, and Kathleen has certainly added to that mix.

She was recruited by Mr. Moot, and she's risen very steadily in the Office of General Counsel, and very smoothly transitioned from private practice, to working for the public, working in public service, and she now leads the largest section of attorneys within the Office of General Counsel.

Her section is responsible for the legal sustainability of most of the Orders issued by the Commission, and I have credited the Solicitor's Office in the past, with our very impressive win/loss record, but I think Kathleen deserves a large share of the credit, as well, because we're giving the Solicitor's Office more defensible product and more legally sustainable Orders, and I think Kathleen deserves a huge amount of the credit for that.

She's been a co-leader of the Staff effort to produce Order 890, and has played a major role in the rehearing on clients' Orders, some of which we're considering today, in that her recruiting efforts on behalf of the Commission, have strengthened her section significantly, as well as the Commission, so she's continued to recruit outside talent.

Kathleen has shown outstanding ability as a leader and advisor, and has established an excellent working relationship with the Commissioners, their assistants, and her colleagues on the Staff, and I personally trust Kathleen implicitly.

And, as I said earlier, she has a great ability -- when I talked about both Jamie and Kathleen -- a great ability to come up with creative solutions to a lot of the new challenges that we're facing.

Kathleen, since she has joined us, she really has shown a real zest for public service, and I think she's shown great leadership. I'm very proud of everything she's accomplished.

And I also want to point out that Kathleen shows an excellent model of balancing family life with a demanding professional career. It's great to see her with her kids.

With that, I want to thank you for all your efforts, and I want to turn to may colleagues and see if they have comments they want to make. Jon?

COMMISSIONER WELLINGHOFF: Well, I just want to commend Kathleen, especially on her work on 890. I know how hard that is and how important it is for, I think, all of -- everybody who's concerned about the electric system in this country.

And with Kathleen out there leading the effort, I know it's in good hands.

CHAIRMAN KELLIHER: Phil?

COMMISSIONER MOELLER: Similar to my comments about Jamie, I think that Kathleen's obviously very smart. She's a great attorney with a good sense of humor, but very dedicated.

I think I've only seen her grumpy once, and that's when I ran into her on the elevator, on a Sunday, when she was working on Order 890.

(Laughter.)

COMMISSIONER MOELLER: It had been a long weekend.

But I certainly give her that, but, again, she's an inspiration for younger people in the energy industry, men, or, particularly, young women, a great example in Kathleen. Good choice, Mr. Chairman.

CHAIRMAN KELLIHER: Commissioner Kelly?

COMMISSIONER KELLY: Well, I would add, in addition to all the intellectual capabilities that Kathleen has, is that she also has great people skills.

And it's a challenge to come into this Agency where relationships exist and have existed for many years. And Kathleen just walked in, made friends, developed relationships, and she's at the top of the General Counsel's Office, and that's a testament to her interpersonal skills, and I really appreciate working with you.

I would also like to add, publicly, how sorry I am that our running team was not able to run this year. Kathleen is also a runner, and she was slated to be on my running team, and, due to, unfortunately, an injury on my part, our team didn't get to do it, but next year. Thank you.

CHAIRMAN KELLIHER: Marc?

COMMISSIONER SPITZER: Thank you, Mr. Chairman. I agree with your observation that this is an example of experience and expertise from the private sector being brought to bear in support of the public and the public interest.

You can never have too many good lawyers; I believe in that, and Kathleen has used her private sector experience to advance the public interest in a number of ways, and, most graphically, by assimilating technical information, such as in Order 890, and applying the legal gloss to make the work product understandable and very compelling, and that's important.

She's also very knowledgeable about basketball.

(Laughter.)

COMMISSIONER SPITZER: One of my better judgments, was not to try and use her husband's knowledge of basketball to influence, improperly, my March Madness picks.

(Laughter.)

COMMISSIONER SPITZER: And had I listened to Kathleen, I probably would have not picked Arizona to go to the Final Four.

(Laughter.)

COMMISSIONER SPITZER: And other fiascos. But she shows good judgment, attendant to being a good lawyer, and I appreciate her good work.

CHAIRMAN KELLIHER: Great, thank you. Kathleen, let me give you your award.

(Presentation made; applause.)

CHAIRMAN KELLIHER: Commissioner Kelly mentioned her running team, and I want to introduce my running team, and I want to introduce a special group of FERC employees, members of the Federal Energy Running Commission team that ran in the Capitol Challenge 5K race earlier this month.

And the performance of our team was very impressive, that we were the fifth fastest team out of 29 Executive Branch teams, compared to tenth place last year, and that we were the 13th fastest team out of 108 total teams.

And, impressively, we defeated a number of military teams fielded by the Armed Services. I think that only the Coast Guard beat us, otherwise, we swept the U.S. Army and Navy, I think.

(Laughter.)

CHAIRMAN KELLIHER: And we also defeated some sister agencies that we deal with from time to time.

(Laughter.)

CHAIRMAN KELLIHER: But what was most impressive, was that members of the FERC Running team, came in first and second place overall, from among more than 600 runners, that Brandon Cherry and Steve Cartalia from Office of Energy Projects, came in first and second place, respectively, with times of 15 minutes and 42 seconds, and

16 minutes and 16 seconds, so hugely impressive.

And that Brandon won a very nice medal, something a professional wrestler would be proud of.

(Laughter.)

CHAIRMAN KELLIHER: And that both Suedeen and I have won that medal earlier in our glory days, Suedeen being the fastest woman in the Executive Branch, and me for being the fastest agency head.

(Laughter.)

CHAIRMAN KELLIHER: Which is a much smaller category.

(Laughter.)

COMMISSIONER KELLY: You probably could say that.

CHAIRMAN KELLIHER: Well, I think my victory was somewhat like a Soviet election.

(Laughter.)

CHAIRMAN KELLIHER: I think I might have actually been the only agency head. But our glory days are in the past, and we have lost our titles to faster contenders.

But I'd like to introduce the team members, in the order that they finished, so let's start with Brandon. Brandon, can you stand up?

(Applause.)

CHAIRMAN KELLIHER: Now, it doesn't appear that

Brandon is wearing his medal today --

(Laughter.)

CHAIRMAN KELLIHER: -- but it may be under his shirt. That's where I wear mine, most of the time.

(Laughter.)

CHAIRMAN KELLIHER: So, I want to thank you for being on our team. Could you stand up, while the other team members are introduced?

Steve Cartalia. Steve, could you stand up?

(Applause.)

CHAIRMAN KELLIHER: I've already announced your times. Please remain standing. Mike Bardee?

(Applause.)

CHAIRMAN KELLIHER: Mike's time, again, a 5K race, Mike's time was 20 minutes and 27 seconds.

And then the aptly names Kristin Fleet. Kristin?

(Applause.)

CHAIRMAN KELLIHER: And Kristin's time was 24 minutes and 29 seconds. I won't stand up, but --

(Laughter.)

CHAIRMAN KELLIHER: -- but I, of course, led the team from the rear, like a good general, and my time was 25 minutes and 11 seconds, so Brandon beat me by ten minutes --

(Laughter.)

CHAIRMAN KELLIHER: Which is pretty depressing to admit in public. So, I really wanted to address the team, to express my gratitude for how well they performed, and I hope FERC can bask in your reflected glory.

I also wanted to introduce you, to resolve any questions, any unfair questions that out team was composed of ringers, that our team did so well, that I think other Executive Branch agencies may think that our team was composed of temporary employees of some kind.

(Laughter.)

CHAIRMAN KELLIHER: And that our team is composed of employees in good standing.

(Laughter.)

CHAIRMAN KELLIHER: That, hopefully, will run again next year.

I want to say that the answer to our performance this year, was simply good recruitment, that, last year, I told Mike Bardee, I want the fastest people in the building --

(Laughter.)

CHAIRMAN KELLIHER: -- to be on my team, and that Mike, in turn, relied on Diedre Gallagher, who was on our team last year, ran on our team last year. She couldn't run this year, because she chose to have a baby, instead, a little boy named Decklin, and I have to say that is a great name.

Decklin was born on March 28th, so Diedre didn't think she could be in her finest running condition, earlier this month. But Diedre did an outstanding job recruiting, and hopefully she can be on the team next year.

But I just want to thank everyone for being on the team, and it was a lot of fun, and you just did great. Thank you.

(Applause.)

COMMISSIONER KELLY: And, Mr. Chairman, I would just like to add that as far as recruitment goes, the word on the street is that the U.S. Marine Corps is looking to recruit these two good men and women, so that they can beat us next year, so there will be hell to pay, if you defect.

CHAIRMAN KELLIHER: Hopefully, we won't be called up, and we'll have to point to the Army that they are subject to our jurisdiction under reliability.

(Laughter.)

CHAIRMAN KELLIHER: So they better not try to mess with us. With that, I guess we'll turn to more serious business, but I really want to thank you all again.

Why don't we, Madam -- oh, before we turn to the Consent Agenda, I'd like to point out, as usual, how many Notational Orders we've approved. There's been -- the green blizzard continues between open meetings, and that since the April 17th open meeting, we've issued 73 Notational Orders.

Madam Secretary, let's turn to the Consent Agenda.

SECRETARY BOSE: Thank you. Good morning, Mr. Chairman; good morning, Commissioners.

Since the issuance of the Sunshine Act Notice on May 8, 2008, no items have been struck from this morning's Agenda.

Your Consent Agenda for this morning, is as follows: Electric Items - E-7, E-8, E-9, E-10, E-12, E-13, E-14, E-15, E-16, E-17, E-18, E-20, E-21, E-23, E-24, E-25, E-26, E-27, E-28, E-29, and E-30.

Gas Items: G-1, G-2, G-3, and G-4.

Hydro Items: H-1.

Certificate Items: C-2 and C-3.

As to E-2, Commissioner Moeller is concurring, with a separate statement. As to E-8, Commissioner Spitzer is concurring, with a separate statement, and Commissioner Moeller, is concurring, with a separate statement.

As to M-1, Commissioner Moeller is concurring, with a separate statement.

As to C-2, Commissioner Wellinghoff is concurring, with a separate statement.

With the exception of E-2 and M-1, where a vote will be taken after the presentation and discussion of those items, we will now take a vote on this morning's Consent Agenda, beginning with Commissioner Wellinghoff.

COMMISSIONER WELLINGHOFF: I vote aye, with the notation of my concurrence on C-2.

SECRETARY BOSE: Commissioner Moeller?

COMMISSIONER MOELLER: I vote aye, noting my concurrence in E-8.

SECRETARY BOSE: Commissioner Spitzer?

COMMISSIONER SPITZER: I vote aye, noting my concurrence in Item E-8.

SECRETARY BOSE: Commissioner Kelly?

COMMISSIONER KELLY: I vote aye, noting, for the record, that I have this month, no concurrences, nor dissents.

(Laughter.)

SECRETARY BOSE: And Chairman Kelliher?

CHAIRMAN KELLIHER: Simple aye. Madam Secretary, discussion items?

SECRETARY BOSE: Yes. The first item for presentation, is A-3, concerning the 2008 Summer Energy Market and Reliability Assessment. There will be a presentation by Charlie Whitmore from the Office of Enforcement. He's accompanied by David Andrejack from the

Office of Electric Reliability.

(Slides.)

MR. WHITMORE: Mr. Chairman and Commissioners, good morning. I'm here today to present the Summer Market and Reliability Assessment for 2008. With me, from the Office of Electric Reliability, is David Andrejack, to speak about reliability issues.

This presentation will be posted on the Commission's website later today.

Today, we will emphasize three major points: Overall, the reliability of the bulk power system for this Summer, should be adequate, but there are some areas of concern that require close monitoring.

Second, wholesale electric prices are likely to be considerably higher than they were a year ago.

Third, in the fastest growing regions -- Florida and Arizona, for example -- the continuing robustness of natural gas infrastructure, plays a crucial role in meeting growing electric power demand.

Let me turn it over to David to discuss the reliability issues.

(Slides.)

MR. ANDREJACK: Thank you, Charlie. Mr. Chairman and Commissioners, the reliability and adequacy of the bulk power system this Summer, as forecasted by the planning authorities and reviewed by the regional entities and NERC, is projected to be adequate.

Extreme weather conditions and major outages of generation and transmission, pose risks to reliability, and there these risks are significant, contingency plans, including operating procedures, are expected to be in place to manage these risks.

Overall, non-coincident peak demand this Summer, assuming normal weather and a 50-percent load forecast probability, is forecasted to be 1.3 percent higher than the actual demands of last Summer, with some regions showing an increase in demand, while others, a reduction.

While the capacity margins to supply this increased demand, are forecasted to be sufficient, there are some concerns for supply reliability, due to deliverability of reserves.

In particular, these concerns manifest themselves in southern California, due to constraints on imports from the North and outside of California, and in the Southeast, should the drought conditions persist, coupled with any major transmission and/or generation outages.

Demand response has increased, both as a means to reduce peak demand, and to provide ancillary services for operating flexibility.

These issues and regional highlights, will be explored in the remainder of the presentation.

The demand forecast for the Summer: Demand forecasters use generalized assumptions about weather, economic activity, and other factors, therefore, predicting abnormal conditions that create record peaks, are difficult.

Overall, the non-coincident peak demand forecast is 867,525 megawatts, which represents a 1.3 percent increase from the actual demand of last Summer.

On this map, which shows 2008 Summer forecasts compared with 2007 Summer actual peak, by region, we see that, assuming normal conditions, the forecast peak demand, is expected to grow across the nation, from a low of .9 percent in SPP, to a high of 6.9 percent in MRO.

The exception is the SERC region, which is projecting a demand reduction of 2.8 percent. This bears scrutiny, as past forecasts for the SERC region have been consistently lower than actual demands, for the last few years when all-time peaks have been repeatedly set.

Capacity margins are indicative of the amount of reserve capacity that is available to avert the risk to reliability from a number of uncertainties such as load forecasting errors and outages of bulk power system equipment, among other factors.

The map shows the capacity margins and the change in projected capacity margins for the coming Summer, compared with last Summer. Because of different generation mixes, unit sizes, deliverability, and other factors, required reserve margins will vary to achieve the same reliability performance.

In and of themselves, the capacity margins cannot be compared across the regions, however, the change in capacity margin within a region, relative to historically-achieved capacity margins, is an appropriate measure of the resource adequacy of the same region.

On that basis, the capacity margins shown, appear to be on part with prior years.

Demand Response: This Summer, demand response resources have increased to manage peak loads across the United States. The amount of dispatchable demand response available to reduce peak load, is forecast to increase significantly in NPCC, from just under two percent of internal demand, to four percent; and in MRO, from four percent to six percent.

This resource can play an important part in reducing the stress on the grid at the time of system peak.

New Generation: Over 10,000 megawatts of new generating resources, have been added to the U.S. power system over the past year. Not all of the new capacity will have a direct impact on capacity margins, due to issues such as deliverability and coincidence of availability during peak demand periods.

Now, I would like to turn the presentation back to Charlie for his discussion of the national markets.

MR. WHITMORE: The most important aspect of electric power markets this Summer, is that wholesale prices are likely to be quite a bit higher than last year.

Forward prices on the -- from the Intercontinental Exchange, ICE, are 50 to 90 percent higher than last Summer's prices. They are higher almost everywhere, in both RTO and non-RTO regions.

The degree of increase depends on how often natural gas is the marginal fuel being burned, not on whether a region is part of an RTO. Thus, the largest increases appear in the Northeast, where gas is almost always on the margin, and the lowest appear in the Midwest, where coal is more often on the margin.

These prices are important, but I need to give you two cautions in using them: First, forward prices are not predictions of the future; they are the price that willing buyers are paying right now, to willing sellers for deliveries this Summer.

That may or may not be where the prices end up. In any case, they are already affecting eventual costs. Those who hedge their positions with forward transactions now, are locking in this price already, as part of the

Summer portfolio.

Second, there is no direct relationship between wholesale and retail electric prices.  The effect of higher wholesale prices in the short-term market, on retail prices, varies, based on the reliance on short-term contracts.

Why are forward electric prices so high this Summer?  Let's look at natural gas first.  The slide shows that the American natural gas price, has been rising rapidly since the start of the year.

Now, you may remember from the State of the Markets, that it stayed roughly in the $6 to $8 range for two years before that.

Forward prices for the rest of the year, are also higher, even though American gas production is rising.  Why?

First of all, last Winter was a roughly normal Winter, but that was considerably cooler than the two previous Winters, so, natural gas storage levels are lower going into this Summer.

Market participants on the gas side, need to buy more gas through the Summer, to make up the difference.

Second, demand is rising, especially for electric power.  Given today's generation fleet, natural gas will fuel most of the increase in electric power demand around the country.

Last year, generators burned about ten percent more gas than in 2006. So far this year, it's up again, 11 percent, compared to the same period last year.

Third, imports will probably fall. Canadian import are down a little so far this year, and LNG imports are likely to be down, as well. In the first four months of the year, they are down by 62 percent.

In the Spring and Summer of last year, British gas prices were $3 to $4 per million British Thermal Units, MmBtu. We imported record volumes, with an American price that was in the $6 to $8 range.

This year, the British price is above $11, about at parity with the Henry Hub price. In fact, on two days this week, they were identical.

So, we will probably import more than the first four months of the year would suggest, but still less than last year, especially to Gulf Coast terminals.

Finally, there appears to be a global commodities boom in most raw materials. All of these factors work to increase gas prices for the Summer. The increase in domestic production, is substantial, and it works the other way, but, overall, gas prices are rising. Still, for the same heat content, they remain at only about half the level for oil.

Natural gas is the most influential factor affecting electric power prices, because in the summer, natural gas is on the margin more often and in more places than in any other fuel.

But other factors also matter: For example, last Summer, wholesale electric prices went up faster than fuel prices, especially natural gas. That could happen again.

The United States has added little baseload capacity, especially coal and nuclear, over the last few years. As a result, if loads continue to rise, the electric system must use generators that cost progressively more to run.

The market clearing price should normally rise enough to make it worthwhile to those generators. The shift of what is on the margin, can be from coal-fired units to gas-fired ones, or from combined-cycle units to combustion turbines. Either way, the result is, normally, higher prices, even if the fuel prices stay the same.

Now I'll turn it back to David to discuss regional reliability.

MR. ANDREJACK: A few highlights for the regions for the upcoming Summer, starting off with the West:

While the reserve margins in WECC look sufficient, transmission limitations continue to constrain the ability to deliver these reserves from northern to southern California. Under normal conditions, it is expected that demand response, voluntary conservation, and use of interruptible loads, may be required this Summer in southern California.

The risk assessed by Cal ISO for a Stage III emergency this year, is greater than last year.

Hotter than forecasted temperatures, as have occurred the previous two years, coupled with major generation and transmission outages in southern California, could result in rolling blackouts due to shrinking operating reserves.

This remains a concern, despite the implementation of demand response of more than 1400 megawatts.

Moving to ERCOT, wind generation in Texas, is expected to increase by over 3700 megawatts this Summer, compared to last Summer.

This increase in variable generation, will present additional operational challenges that may result in congestion, limiting the available wind output and requiring more frequent reliance on demand response.

Finally, in the Southeast, at the present time, the drought conditions are improving in many areas. All subregions performed studies and identified no significant reliability issues for this Summer, based on continued Spring rains.

The regional demand for SERC, was under-forecasted in each of the prior two consecutive Summers, by close to 10,000 megawatts. For 2008, the demand is again projected to decrease, in this case, by 2.8 percent, from the actual demand of the Summer of 2007.

The load demand forecast, coupled with the drought conditions, require close monitoring of reliability risks and mitigation plans this Summer. Now, I'd like to turn the presentation back to Charlie for his discussion about the regional markets.

MR. WHITMORE: I'll start in the Northeast. In 2007, New York and New England alleviated the most acute sources of congestion on the electric power grid in the East.

The Neptune Line greatly reduced congestion into Long Island, and transmission upgrades in Connecticut and Boston, reduced congestion in New England. However, the larger, though less acute problems remain.

For example, in PJM, west-to-east congestion is increasing. In 2007, the overall incidence of congestion in the day-ahead market, increased by about 11 percent, and it's up again so far this year.

The congestion is increasingly concentrated in four major bottlenecks shown on the slide, that limit flows from west to east. As you can see from the peach-colored numbers on the slide -- and we do try to do designer colors

--

(Laughter.)

MR. WHITMORE: Bedding-Black Oak was congested 63 percent of the time in 2007. Together, the four constraints accounted for over 60 percent of all congestion in PJM in 2007, and that's the blue numbers on the slide.

West-to-east congestion, affects prices. In 2007, wholesale power prices averaged $66 per megawatt for PEPCO in the Mid-Atlantic, and only $46 for AEP in Ohio.

PJM has been working hard to alleviate the congestion. For example, PJM estimates that the Trail Project would add 5300 megawatts of west-to-east transfer capacity.

The line could be in service as soon as the Summer of 2011, if it receives needed permits later this year, but until the upgrades come online, increasing loads are likely to increase both the incidence and the cost of congestion.

Turning to the Southeast, Florida is the fastest growing energy market in the region. Electrically, Florida has relatively sparse connections with the rest of the Southeast. The state depends heavily on natural gas, for both existing and new power generation.

The yellow bars on the slide, show that Florida's gas-fired generation has increased by 19 percent between 2005 and 2007. So far in 2008, it's up again, 11 percent higher than the same period last year.

The smaller bars show how throughput has increased to meet demand on the three major pipelines serving Florida. Reporting of market prices for gas, is sporadic in peninsular Florida; power prices are even less transparent.

The indications we can see, though, suggest that in the Summer, Florida often places a higher value on natural gas than any other part of the country, including New York and New England.

This is symptomatic, in part, of being at the end of the pipe.

Fortunately, Florida has been able to add new pipeline capacity. Last year, Cypress Pipeline opened, adding 265 MmCf a day of capacity.

This year, that has expanded by a further 116 MmCf per day, and later this year, Gulfstream is scheduled to increase capacity by about 500 MmCf a day.

In the West, Arizona is a rapidly growing market. Phoenix is now larger than Philadelphia, and Maricopa County outside Phoenix, is, as I understand it, the fastest growing county in the country.

Electric power demand is rising quickly, and that means rapidly increasing use of natural gas. In 2007, Arizona consumed 113 terawatt hours, an increase of 11 percent over 2005. Almost all of that increase came from greater use of natural gas.

Natural gas used for electric power, was up by 32 percent. You can see on the slide, how gas usage in generators grew in the state, and how utilization rose for pipelines entering the state.

Indeed, this April, for the first time, all three of the major pipelines entering the state from the east, operated at 95 percent of capacity, one day in April.

Unlike Florida, Arizona is not at the end of the line for natural gas. As a result, there are many ways to meet increasing Arizona demands, not just the option of increasing main line capacity from points further east.

For example, when more Rockies gas reaches southern California, through El Paso's 1903 line, that frees up pipeline capacity to add service to Arizona. Transwestern Pipeline, for example, is adding the Phoenix Lateral, which you can see on the slide, to take gas that would have gone to California, and take it to the Phoenix area, instead.

The American pipeline industry has proven adept at adding this sort of flexibility over the years. As things stand now, Arizona has met and is meeting its growing needs, without seeing its natural gas prices rise any faster than in other parts of the country.

One of the biggest unknowns in looking at this Summer -- this is from both a reliability and a markets' perspective -- the biggest variable is weather. A cool Summer could keep electric prices far below the levels that many people expect, as they, in fact, did in Texas last Summer.

Conversely, a hot Summer could raise prices and reliability concerns even more.

The slide shows one of the current forecasts for the Summer. I should say that weather forecasters are not uniform in their understanding of what this Summer will look like.

The other major weather factor, is hurricanes. So far, forecasters say that we can expect a more active year than normal. They are guessing that we will see about 15 named storms, eight of which will become hurricanes.

They say there's a 69-percent chance that a major storm will make landfall in the United States this Summer. We saw in 2005, what badly-placed hurricanes could do to energy prices, and, indeed, one of the forces that may be keeping gas prices relatively high this Summer, is the fear of hurricanes.

Finally, I'd just like to mention that this is the first joint Summer assessment that we have done with the

Office of Electric Reliability, and I'd like to thank David very much for making it a joy to do the work on it, and to voice the hope that it's the first of many that we'll be doing in the future.

Thank you very much. We welcome your questions.

CHAIRMAN KELLIHER: Thank you very much. Colleagues, questoins here? Questions, anyone? Commissioner Moeller?

COMMISSIONER MOELLER: Just initially, about drought in both SERC, as you referenced, and also in the West, you seemed assured that Spring rains have alleviated the problems in SERC, but we found out how dependent, at least on the margins, the region is on hydropower, last Summer. Can you elaborate a little bit more?

MR. ANDREJACK: Well, from a reliability standpoint, SERC has definitely been doing their studies, planning on the worst case and normal-case conditions on the drought.

They feel like there has been enough rain, that it doesn't look like an issue, and we're in agreement, with what we've seen. It was a little bit dicey at first, but the weather conditions have certainly helped us, at least from the reliability standpoint.

COMMISSIONER MOELLER: Then, in terms of the West, a lot of people don't realize how much hydropower is in California. Most people realize how much there is in the Pacific Northwest, but as we found out, particularly in 2000, when it wasn't there, what can happen when it's not there.

Charlie, can you elaborate on rainfall and snowpack in the west?

MR. WHITMORE: Surely. First of all, in the Northwest, it's basically a good news story. There's quite a lot of snowpack, and it hasn't melted early. They're getting much above normal temperatures out there this week and next, so we'd expect to start seeing a lot of melt, but it hasn't happened early, the way it did last year.

So, the position of the Northwest is pretty good. California is way down, and is adding to the stress on the California system, from a market standpoint, and, I presume, from a reliability standpoint, as well.

I'll just mention that during the past day, they have had some issues in California, even during the shoulder period.

COMMISSIONER McCLELLAND: If I might add to that, Commissioner, TVA is reporting that they're 83 percent of normal as far as reservoir fill-up, and runoff is running about 56 percent, so they are not out of the woods yet.

The assessment that Dave spoke of, is assuming continued normal rain supplies, at least for the Summer, and it looks like, although hydro production may be down, costs may increase in TVA, if the Summer rains continue or if rains continue, they will be able to get through the Summer.

And, to Charles's point, I believe the snowpack in California is about 56 percent or normal now, which is a cause for concern. No one's sounding the alarm bells just yet, but we are watching that from a reliability perspective, and OE is watching that from a markets perspective.

COMMISSIONER MOELLER: Thank you.

CHAIRMAN KELLIHER: Commissioner Kelly?

COMMISSIONER KELLY: Mr. Chairman, I have a question and a comment. Charlie and Dave, regarding demand response and the increase in demand response available in NPCC and MRO, whom do we have commend for this increase in demand response?

Is this bid-based auction and capacity markets in New England and PJM? Is it utility programs or why these promising numbers?

MR. WHITMORE: I have to confess that I don't know. I would be surprised if it were the capacity market in New England, just because it's a little early for that to have had an effect yet.

Clearly, they did get a lot of capacity, a lot of demand response in that auction, so you'd expect to see that over the next few years, and that's a very heartening thing.

Beyond that, I'm not sure. Most of these programs are not really -- other than that, are not really market-based; they're more reliability based.

COMMISSIONER KELLY: Okay. Dave, any thoughts?

MR. ANDREJACK: I've got to confess the same as Charlie. I've not really gotten into it deep enough to really address that. Sorry.

COMMISSIONER KELLY: That's okay. As I listen to you talk about reliability, my take-away is that while resource adequacy is important, the most critical factor facing the country today, in maintaining reliability, is the challenge to have adequate transmission infrastructure.

Your slides point out pretty graphically, the difficulties that we see with congestion, particularly in PJM and in the southern California area, as well as ERCOT.

And that, for me, underscores the significance of the designation by the Department of Energy, of two of those areas, southern California into Arizona, and PJM, as national interest corridors.

Your slides point out why those areas were likely chosen. Obviously, getting transmission built, remains a challenge. I'd like to applaud the people and the states of New Jersey, New York, Connecticut, and Massachusetts, for having overcome a lot of resistance in their areas, to the building of transmission projects.

Your report shows that the Neptune Line and the upgrades in Connecticut and Boston, have really had a tremendous positive impact on the reliability in that area.

We obviously have more challenges to try and overcome, and the presentation that you make now, I think will be relevant when we discuss later on the agenda, the Orders that we have before us today regarding implementation of Order 890.

My personal hope is that the regional transmission planning process that was ordered under 890, and is in the process of being implemented by the public utilities under our jurisdiction, and the ISOs, helps to overcome the problems that we continue to see with getting the adequate amount of transmission built. Thank you.

CHAIRMAN KELLIHER: Thank you. Colleagues? Commission Wellinghoff?

COMMISSIONER WELLINGHOFF: Thank you, Joe. A question for either of you: The new generation, the 10,000 megawatts, do you have a breakdown of what that was composed of?

MR. ANDREJACK: Yeah. I would highlight that the new generation was most significant in WECC, approximately 3800 megawatts.

COMMISSIONER WELLINGHOFF: I'm sorry, the breakdown by technologies.

MR. ANDREJACK: By technology?

COMMISSIONER WELLINGHOFF: Right.

MR. WHITMORE: Most of it is natural gas and wind.

COMMISSIONER WELLINGHOFF: I assume that at least 3700 megawatts is wind, since you said Texas is increasing by 3700 megawatts, but do you know how much more is wind, beyond that?

MR. WHITMORE: My memory is that it's probably not a lot more than 3700. It is more, obviously, but it's not a lot more.

Gas and wind are comparable in their size, and then the other additions are relatively minor.

COMMISSIONER WELLINGHOFF: But wind is over a third of it?

MR. WHITMORE: Oh, yeah.

COMMISSIONER WELLINGHOFF: And it's a sort of non-capacity resource, in that you can't necessarily rely on it for peaking, so that then, would it not, mean that we've really got to emphasize more demand response, more pressure on demand response, because we have less capacity being added, in essence?

MR. WHITMORE: Yes, I think David made that point in his presentation. I think it's right to say that anything that adds flexibility to the system, is important for wind, because it inherently, by its nature, requires the rest of the system to be more flexible than it would be otherwise.

Demand response is a good place and is a very important part of that.

COMMISSIONER WELLINGHOFF: Thank you.

MS. COURT: Excuse me. Both Commissioner Kelly and Commissioner Wellinghoff, to the extent that we need to supplement our answers you, since we're going to be posting this particular presentation on our website, we'll also try to post answers that we didn't necessarily have for you today.

CHAIRMAN KELLIHER: Commissioner Spitzer?

COMMISSIONER SPITZER: Thank you, Mr. Chairman. First, I appreciate the special emphasis on Arizona. Although Commissioner Wellinghoff's Clarke County might actually have higher population growth than Maricopa County, we compete over time, and I think Clarke County won last year.

With regard to natural gas, we have a successful collaboration between private applications, the Arizona Commission, which had granted -- changed its historic rules to grant pre-approval for the electric utilities, as well as the gas utilities, to subscribe to open seasons, and prompt

FERC consideration of the Certificate request, were collectively responsible.

So it was a private/public partnership, as well as cooperation between federal and state agencies that led to that success. My question deals with the pricing side, so I guess it's more for Charlie.

There are things we can control and things we can't control. The weather is an element outside of our control, although we can prepare for consequences of adverse weather.

Similarly, you highlighted global demand for natural gas and where rising global prices can reverse LNG imports into the U.S., and then you discussed the generation mix, and the fact that in the Summer, there's a greater reliance on natural gas as the marginal fuel, even in regions that often have a large mix of coal.

Has there -- are you able to make any conclusions regarding the degree to which increased reliance on natural gas, either clearing or baseload, is connected to volatility in wholesale electric prices?

MR. WHITMORE: We haven't specifically looked at that, but, clearly, the natural gas network shares with the electric power network, the basic feature of congestion, and when the natural gas network binds, you do see natural gas prices rising very rapidly and electric power prices doing the same.

That is actually more of a problem in the Winter in the Northeast, than it is in the Summer. In the Summer, the tendency for volatility on the electric side, is largely because you're getting much further up the supply stack, and occasionally even burning oil.

As soon as you burn oil, you're into a much more expensive fuel right now, so the answer is, yes, it does have an effect, but it's not primarily a Summer effect.

COMMISSIONER SPITZER: And then, following up on that, you did mention oil in the dual-fuel capability in some, that has economic consequences.

How have we been tracking, given the run-up in oil, the concomitant run-up in gas prices, and what has been the relationship, recently?

MR. WHITMORE: Well, gas prices and oil prices, are very highly correlated, in the sense that when one rises, the other tends to rise, too, but over the past two years, when you look at the total rise, the gas price is only about half what the gas price is right now.

So, to give you an example, last week, in New England, for reasons that have to do with a lot of needed maintenance, they actually ended up burning oil to generate power, and when they did, the prices went up probably well above where they would have been with gas.

So, if you take international oil prices as the standard, then natural gas in this country is a bargain. That might not be the standard that most people want to apply, but it important to realize that while they tend to go up together, gas has been going up a lot less, in aggregate.

COMMISSIONER SPITZER: I appreciate that the rise in gas, has not been as dramatic as in oil, but, as you pointed out, that still results in upward pressure and a forecast for upward pressure on wholesale electric prices. I just point out as an observation, what has been stated, I think, by all of us, that while there are elements that are outside our control, collectively, for the industry, fueled diversity is one that is within our control, and one that we need to attend to, in order to prevent both volatility and high prices.

CHAIRMAN KELLIHER: I just have one or two questions. One, you referred to the amount of wind generation that is expected to be added in Texas, and there was a blackout recently in Texas, and there were some representations in the press.

And without -- I'm not intending to be critical at all, but there were some articles that kind of portrayed it as wind blackout. But is the story more complicated than that? Were there multiple factors for that incident, or was it truly a wind blackout?

MR. ANDREJACK: I wouldn't call it a wind blackout. I would call it a dramatic shifting of the way the winds had occurred that day. There were some other mitigating factors that were involved, and I'm not sure whether we're still in an investigation at that point.

MR. McCLELLAND: No, there's no investigation. Actually, there was no blackout. There was a shift of resources, and demand-side management actually saved the day in that particular case.

Wind did drop off, but there was also a forecast, a question about the forecast for the day, so there were several other mitigating factors, but ERCOT's response was admirable, in that it was able to call on demand-side management and avert any problem.

CHAIRMAN KELLIHER: Thank you. Charlie?

MR. WHITMORE: Also, just to follow up on that, ERCOT has engaged a vendor, I believe, to do better weather forecasting on the wind, so they hope very much that there won't be a recurrence of that dramatic effect.

CHAIRMAN KELLIHER: And with respect to regional demand, in the Summer of 2006, I think that eight regions of the country set record levels of demand, and sometimes two or three records in the space of a week.

Is this Summer going to be more like 06 or 07?

(Laughter.)

MR. ANDREJACK: I'll comment in that Charlie and I had compared several different weather forecasts. I was prepared with one, he had another one, and I think that each of our staff members came up with a separate one from different sources.

Predicting weather, of course, is -- what you get is a prediction and there's obviously no guarantees.

We've seen some highlights with Arizona on one of the models being extremely warm, which would affect some capabilities shifting, not being there. The Southeast, potentially, is warmer. Some of the other models show that it's not warmer, so it's really kind of --

To us, it's a up-in-the-air-type situation, but if you look at the eight different regions of the country, five of them are very confident that they will set all-time peaks this Summer. Two of them are predicting increases, although not quite record peaks, with SERC being the one that's not really anticipating that the weather will be quite as extreme as they've been having.

So, needless to say, the temperatures will be there.

MR. WHITMORE: I think it's essentially true that it is impossible to guess with much better than chance what the weather is going to be this summer. It is virtually inevitable that we are going to set records in all of these regions, if not this year than next year, and so forth. As load grows, that happens.

CHAIRMAN KELLIHER: Thank you. And I just had a comment really about the issue that Marc was raising about LNG prices.

One thing that's interesting about LNG prices is it is a commodity, it's fungible, but you don't have an international price. You have regional pricing of a fungible commodity, and that's a little I think unnatural and perhaps unsustainable. It's different from oil.

And in other parts of the world there is a linkage. There's a formula at least in the Pacific where LNG prices are set by a formula with an oil linkage, and we don't do that here, and that's one reason you have these differences in prices. And I think in the end it's not sustainable; we actually have to have an international price for LNG and for gas.

And I don't know, I would actually be curious about the history of how did oil prices end up being developed and set on an international basis, but we're not at that point yet. And then that creates a situation where sometimes other markets have much higher prices for LNG, and particularly in markets where there's a linkage in price to oil, and our prices tend to be lower, which is a good thing from the point of view of the consumer, but it does result--it does affect our ability to attract LNG imports.

So that's really just more a comment, and it is unusual. Other commodities tend to be international in price. This one isn't.

With that, any other questions, colleagues, or comments?

(No response.)

CHAIRMAN KELLIHER: With that, I just want to thank staff for the briefing, the presentation, and thanks for answering our questions.

SECRETARY BOSE: The next items for discussion this morning are M-1, M-2, M-3, and M-4 concerning certain enforcement matters. There will be a presentation by Kathryn Kuhlen from the Office of Enforcement, and Wilbur Miller and Mason Emnett from the Office of the General Counsel.

CHAIRMAN KELLIHER: Excuse me. Could you hold off for one minute? I had actually five announcements at the beginning and I only made four. And sometimes my greatest challenge is reading my own handwriting, and I failed, and I want to remedy that error.

The fifth announcement is that I want to announce we actually have a new Director of the Office of External Affairs, and that's Pat Schaub.  Pat, if you could stand up. Pat is--I have complete confidence in here.  She has been at FERC for awhile.  Again, she is someone who used to work on the outside in a different capacity and now she is here at FERC.

She has drank the Kool-Aid of public service, and I think she has taken it to heart, and I think Pat is going to do a great job.  My friend, Annie Black, left the Commission recently to accept a job in the private sector, so Pat, thank you, and I apologize for not making the announcement earlier in the meeting.

So with that, why don't we turn to the enforcement package.

MS. KUHLEN:  Thank you, Mr. Chairman, and Commissioners:

Together we present to you four draft orders addressing issues and concerns that were raised at the Conference on Enforcement that was held by the Commission in November of 2007.

Besides those of us at the table, other team members in this project include Mustafa Ostrander and Jamie Jordan of the Office of Enforcement, and Melisa Mitchell of the Office of General Counsel.

I will present two of the four orders of our package, the Revised Policy Statement on Enforcement, M-1; and the Final Rule Amending 18 CFR 1b.19, which is M-4.

The Revised Policy Statement supercedes the Commission's previous Policy Statement on Enforcement which was issued shortly after enactment of the Energy Policy Act of 2005.

It reflects the experience the Commission has gained with the enhanced enforcement tools granted by that Act, and also responds to concerns from regulated entities for more transparency in our enforcement activities.

The Statement describes the processes both of an audit and an investigation.  It presents the consideration staff employs in deciding whether to open an investigation and to close an investigation without action.

In those cases where further action is warranted, it discusses the two options available:  settlement, or show cause proceedings.  It also presents the factors considered in determining the appropriate remedy to apply in a given case.

Finally, the statement notes the Commission's intention to issue an annual report summarizing its enforcement activities for the preceding year in order to give the regulated community a fuller picture of the work of the Office of Enforcement.

The Final Rule amending 18 CFR 1b.19 responds to concerns of regulated entities regarding the right to submit arguments to the Commission in the event staff makes a recommendation that an Order to Show Cause should be issued.

The amendment provides that, except in extraordinary circumstances, entities are to be notified ahead of time that staff intends to seek such an order.

After such notification, the entity will have 30 days to submit a response which will be presented to the Commission at the same time as staff's recommendation.

That completes the presentation of M-1 and M-4. Wilbur Miller of the Office of General Counsel will present Item M-3, followed by a presentation of M-2 by Mason Emnett also from the office of General Counsel.

MR. MILLER: Thank you, Kathryn.

Good morning, Mr. Chairman, Commissioners: Item M-3 is a draft notice of proposed rulemaking that would solicit public comment on possible revisions to the Commission's rules on off-the-record or ex parte communications, separation of functions, and intervention.

These revisions would apply to proceedings arising out of investigations under Part 1b of the Commission's Regulations.

Under the draft proposal, contacts between investigative staff or outside persons on the one hand and Commissioners and decisional staff on the other would be permissible under the Commission's regulations during an investigation.

The cutoff point would be the Commission's decision, if it occurred, to initiate enforcement proceedings through an order to show cause, or the initiation of a civil action.

After such an issuance, investigative staff and outside parties would no longer be able to contact Commissioners or decisional staff. This would be true regardless of whether the Commission established a trial type of paper hearing, something that is not clear under the current rule.

From that point forward, certain employees within the Office of Enforcement would be designated as decisional for purposes of the relevant proceeding, while all other Office of Enforcement employees will be nondecisional.

The draft proposal to revise the Commission's regulation on intervention is intended to clarify the application of that rule to proceedings arising from Part 1b investigations.

The current regulations specifically cover only the investigation itself, not possible subsequent proceedings. The draft proposal seeks public comment on a revision that would state that intervention is not available as of right in enforcement proceedings arising from Part 1b investigations.

This would leave the Commission with discretion to permit intervention in appropriate circumstances. An example would be a situation where a third party sought to determine the impact of the resolution of the proceeding on its own interests.

That concludes my presentation. Mason will now address Item M-2.

MR. EMNETT: Thank you, Wilbur. Good morning, Mr. Chairman, and Commissioners:

In addition to the matters addressed in Items M-1, M-3, and M-4, several commenters participating in the November enforcement conference asked the Commission to provide additional mechanisms for obtaining staff guidance regarding potential compliance issues outside the context of the Commission's enforcement activities.

The draft interpretive order presented as Item M-2 responds to these requests, expanding the existing opportunities for obtaining staff guidance, and implementing a new compliance help desk to assist the public in reaching the appropriate staff member when questions arise regarding compliance on a particular issue.

First, the draft order grants a request to expand the new Action Letter process, allowing requests to be submitted for any issue that falls within the Commission's jurisdiction, except for matters relating to the licensing of hydro-electric products, for certification of natural gas pipelines, the operation of LNG terminals, and for issues related to the enforcement of electric reliability standards.

The daft order concludes that alternative compliance programs already in place provide adequate opportunities for obtaining guidance regarding those particular subject matters.

Second, the draft order provides for the creation of a compliance help desk on the Commission's web site. Through the compliance help desk, persons or companies that are or may be subject to the Commission's jurisdiction, or that are otherwise affected by jurisdictional activities, will be able to submit compliance-related questions that will be forwarded internally to the appropriate staff member for a response.

This web site feature will also allow members of the public to easily reach Commission staff when compliance questions arise.

Third, the draft order directs staff to hold periodic workshops with the regulated community to discuss areas of concern regarding compliance.

Through these workshops, the regulated community can help staff identify areas in which additional clarity is needed, and staff can provide advice regarding compliance pending further action by the Commission.

Finally, the draft order affirms and describes each of the additional existing mechanisms available to those seeking compliance-related guidance. These include petitions for declaratory orders, requests for General Counsel Opinion Letters, and accounting interpretations from the Chief Accountant, Enforcement Hotline inquiries, and informal other communications and meetings with Commission staff.

This concludes my presentation of Item M-2 and our joint presentation of the enforcement package. We are available to answer any questions you may have regarding these draft orders.

CHAIRMAN KELLIHER: Great. Thank you very much.

I want to thank you for your description of the orders. I think the orders were very well written. I thank you for all your efforts on this package, and I commend the orders to the reading of the regulated community. I am sure they will be read voraciously.

I want to thank the staff for their efforts. I also want to thank my colleagues for how well we have worked together on this package. I think you have described the particulars of the individual orders, and I really just want to emphasize my view what I think the combined effect of the package will be.

I really think the package altogether adopts and proposed certain reforms that should facilitate compliance, it should assure fairness in our enforcement process, and should also protect the integrity of our enforcement process and our conduct of investigations.

I think the package also provides greater clarity in how we conduct investigations and the overall enforcement process that we use. To the extent that there might have been a perception that there was some kind of veil over our process, I think we are removing the veil.

I think the package shows that we are dedicated at FERC to continuous improvement in our enforcement program, as we are in other mission areas. The purpose of the November 2007 Enforcement Conference was to discuss possible improvements.

We have studied the regulatory models in enforcement. We have been careful and deliberate in our approach to making changes in our enforcement program. And we take an important step in the development of our FERC enforcement program today.

Importantly, this package reflects the views of all five members of the Commission. I want to thank my colleagues for their very active roles in shaping this package. As I had said before, the Commission speaks loudest when we speak with one voice, and I think we speak with one voice today in the development of FERC's enforcement policy.

Now let me start with compliance. I think it is clear that the object of the FERC enforcement program is compliance. My personal priority in this area is to strengthen the compliance programs within the regulated community.

As an initial matter, I want to make it clear that I believe most members of the regulated community are trying to comply with our regulatory requirements; and that it is only a distinct minority that is bent on evasion; that strengthening compliance programs will pay great dividends over time, as the incidence and seriousness of violations decrease.

I think it also will allow FERC to dedicate more of its enforcement resources to identifying and punishing those companies determined to violate our rules.

The enforcement package reflects our commitment to strengthening compliance by the regulated community. The package includes a number of important changes to that end.

We make it clear that the commitment of a company to compliance will be one of the two most important factors in our determination of civil penalty amounts, along with the seriousness of the offense.

I think that is a very significant policy change from the earlier policy statement. But if we are going to place such weight on the strength of a company's compliance program, we must provide guidance on what we consider to be best practices.

We began to do that last November when we reviewed the approach that Shell Energy Trading took in the development of its compliance program, and we will take the next step this summer with a workshop on regulatory compliance programs.

This workshop will provide a forum for the regulated community and legal practitioners to share their perspectives and experiences on a number of topics related to the development of a model compliance program.

The goal is to help companies develop and implement strong compliance programs. In the course of this review we might look at best practices in other sectors such as financial services.

But if we are going to require compliance, and noncompliance is subject to significant civil penalties, we must be clear in our regulatory requirements.

And our recent action in issuing a new Standards of Conduct Proposed rule demonstrates that we know we have a duty to clarify ambiguous regulatory requirements.

The enforcement package makes a number of changes to provide greater clarity by expanding the scope of no-action letters, to a much broader range of FERC regulatory requirements, by noting that other means of seeking clarification of regulatory requirements exist, and by announcing the establishment of a help desk.

Now in addition--in order to facilitate compliance, I also think it is appropriate to hold technical conferences on discrete areas of our regulatory requirements that are highly complicated, where there may be some ambiguity in our requirements, and where the regulated community is experiencing compliance problems.

For example, we could hold a technical conference on compliance with Section 203 Merger and Corporate Review Provisions, given the complexity in this area.

It also may be appropriate to hold technical conferences on particular subjects if we see an increase in violations in those areas.

We also make a number of important changes designed to assure fairness in our enforcement program, and protect the integrity of our program.

We clarity that subjects of investigations have the right to make written submissions to the Commissioners and Commission staff at any point during the investigation.

The proposed changes to existing rules clarity that before the Commission considers a show cause order the subject as a matter of right can present its case as to why the order should not issue. And if timely received, that submission will be submitted to the Commission in conjunction with a report by Enforcement staff recommending enforcement proceedings, and considered at the same time.

We propose changes to rules governing separation of litigation staff to clarify that separation occurs upon issuance of a show cause order, instead of only when and if the Commission orders a trial type hearing.

The net effect is a broader separation of litigation staff at an earlier stage than at most other agencies. Importantly, we restate our commitment to the highest professional standards in the conduct of investigations and enforcement actions.

The Commission and its Enforcement staff have a duty to enforce the law. As we carry out this duty, we recognize that confidence in our enforcement program is shaped both by the results of our actions as well as the manner in which we achieve results.

We also take steps to protect the integrity of our enforcement program. We establish a general policy to bar contacts between Commissioners and their advisers and the subjects of investigations after the commencement of an investigation.

We do so to avoid appearance issues created by private meetings with individual Commissioners during the course of an investigation.

However, we also clarify that the subjects of investigations can subject their views in writing directly to the Commissioners at any time during the investigation.

This ensures that the Commission will have a complete record upon which to make decisions during the course of an investigation.

I support the package, and again I thank my colleagues for their collaborative approach they took in developing this set of orders.

Colleagues? Commissioner Kelly.

COMMISSIONER KELLY: Thank you, Joe.

The Energy Policy Act of 2005 imposed many new responsibilities on public utilities already under our jurisdiction, and it also put many market participants under our jurisdiction for various discrete purposes who have never been subject to FERC jurisdiction before.

This has been a lot of change. And all this change leads to new challenges. One of the challenges is for the public utilities and the market participants to comply with the new law.

The other challenge is for FERC to monitor and ensure that compliance. Ensuring that compliance has to be done through a methodology of auditing and enforcement that is clear, predictable, fair, and straight forward. And we need to be transparent in communicating that strategy.

And I believe that transparency can be achieved without compromising an effective and vigorous program. I believe that the package that we will approve today is a huge step in implementing that goal of mine to be transparent, to have a methodology that's clear, predictable, fair, and straight forward.

I would like to take this opportunity also to just state that I am and have consistently been impressed with the activities, the abilities, the integrity, and the conscientiousness of our Enforcement staff.

I would like to thank Susan Court and her staff for the wonderful job that they have done and are doing. Thank you.

CHAIRMAN KELLIHER: Thank you. Colleagues? Commissioner Wellinghoff.

COMMISSIONER WELLINGHOFF: Thank you, Joe.

Mr. Chairman, as you and I have both stated many times, the Commission is first and foremost a consumer protection agency, but I think all of us agree that simply stating that fact isn't sufficient; that effective enforcement of our governing statutes, regulations, and orders is essential to fulfilling that mission.

Congress recognized the importance of that enforcement in 2005 when it substantially bolstered our civil penalty authority. And as I stated in our enforcement conference last November, I have heard from many consumer groups that they are more confident in the ability of the Commission to provide adequate protection for consumers now that the Commission has authority to impose meaningful penalties for actions that may harm the consumers.

One theme that emerged from our enforcement conference was that some aspects of our enforcement policy were not well understood. For example, there appeared to be confusion about the timing and manner for the subject of an investigation to submit materials directly to the Commission during the course of an investigation. We have now clarified that.

Confusion about our enforcement policies does not help parties that may be subject to investigation. It doesn't help consumers who are ultimately the ultimate beneficiaries of those policies.

Today's package of orders should eliminate much of that confusion. Among other matters, we announced a policy on investigation related to communications between the subject of an investigation, the Commissioners, and our assistants.

We also instruct our Enforcement staff to release annual statistical reports summarizing the Commission's enforcement activities for the preceding year. This will help consumers again have more transparency as to our processes.

I want to thank the team for their efforts on these orders, and I also would like to commend Susan and her Enforcement staff for protecting consumers. Today's package of orders will further strengthen our consumer protection efforts, and I am pleased to vote for these orders.

Thank you.

CHAIRMAN KELLIHER: Thank you. Colleagues? Commissioner Spitzer.

COMMISSIONER SPITZER: Thank you, Mr. Chairman. I've got a more lengthy document that I'll post, but I wanted to make a few comments this morning regarding this package.

To the extent you enjoy working on Enforcement matters, I do think this was enjoyable and I think the dialogue among the Commissioners and the staff teams was outstanding.

Number one, FERC policy is firm but fair enforcement of laws, regulations, and orders. And that must be paramount.

Secondly, EPAct 2005 was a massive augmentation of FERC's enforcement authority, but was not new to this agency and must be viewed in historic context. For some time, at least certainly since 1992, FERC has been shifting focus from economic regulation through accounting mechanisms to enforcement of rules such as nondiscriminatory open access in a legal context.

Natural gas policies were at the forefront and open access and electricity followed. This paradigm shift from cost-based regulation to competitive markets where FERC is not setting wholesale commodity prices but instead ensuring fair, competitive practices leads to preventing potential and policing actual infractions. And of course 2005 massively increased our workload in that area, but it is not new. It is something FERC has been doing for some time, but it is a change in orientation of this agency and highlights the importance of enforcement, and highlights the need for the package that we are adopting today.

FERC invited participation from market participants and listened to their concerns. This enforcement package reflects the meritorious viewpoints of the regulated community and demonstrates FERC's commitment to fairness.

The rules that we adopt today also demonstrate our commitment to the integrity of competitive wholesale markets, and I would echo Commissioner Wellinghoff's views that this commitment to integrity is massively important to U.S. energy consumers.

Finally, I join my colleagues in thanking the Enforcement Staff for working so hard on this. These are great orders, and I thank the Staff, I thank Susan and her team, and, again, I want to thank my colleagues for their work on this. Thank you.

CHAIRMAN KELLIHER: Commissioner Moeller?

COMMISSIONER MOELLER: Thank you, Mr. Chairman. I, too, want to thank the team for their hard work. We have a dedicated Enforcement Staff that does work very hard, and has been doing a good job.

This is a relatively new program, and so it's a struggle to add context that, over time, will appear. But when it is a relatively new program, that historical record is limited.

But I do feel like I have been on the transparency bandwagon before transparency was cool.

So, with that, I do have a separate concurrence on M-1 that I will shortly read now:

This Policy Statement will improve the Commission's existng procedures on the exercise of its penalty authority.

The Energy Policy Act of 2005, provided the Commission with substantial penalty authority to ensure that market manipulation and other violations of our standards, would be addressed swiftly and effectively.

The Commission has worked diligently to establish an effective enforcement process. Nevertheless, as I have repeatedly expressed, the Commission can improve its procedures by adding context and transparency to certain aspects of its policies.

Those who are subject to Commission penalties, need to know in advance, what they must do to avoid a penalty.

This Policy Statement provides that transparency and context, and that is why I strongly support it.

The Commission can continue to improve its enforcement policies, just as it can always improve on all that it does.

This Policy Statement recognizes that our policies will be subject to reconsideration and improvement as we gain more experience.

One area of future improvement, may be in the guidance that the Commission provides the industry on its enforcement priorities. I believe that the Commission can and should provide more guidance on our enforcement priorities, in a manner that classifies the severity and significance of prohibited conduct.

While all violations of our rules and regulations, are serious and subject to enforcement, given limited resources, we should identify and prioritize the types of violations that are most harmful.

Notwithstanding, I am glad that we will be continuing our various outreach efforts and publishing an annual report that summarizes our enforcement activities for the proceeding year, and it is my hope that the public will be able to use this report to discern trends in our enforcement priorities.

I am a strong supporter of the package, and I'm particularly happy about the help desk that's created in one of these Orders, and I look forward to supporting it.

CHAIRMAN KELLIHER: Great, thank you. Any other comments? If not, let's vote.

SECRETARY BOSE: We'll take a vote on these items together, beginning with Commissioner Wellinghoff.

COMMISSIONER WELLINGHOFF: I vote aye.

SECRETARY BOSE: Commissioner Moeller?

COMMISSIONER MOELLER: I vote aye, noting my concurring statement in M-1.

SECRETARY BOSE: Commissioner Spitzer?

COMMISSIONER SPITZER: I vote aye.

SECRETARY BOSE: Commissioner Kelly?

COMMISSIONER KELLY: Aye.

SECRETARY BOSE: And Chairman Kelliher?

CHAIRMAN KELLIHER: Aye. I thank the Staff.

SECRETARY BOSE: The last item for discussion this morning -- we have a number of them. They are E-1, E-2, E-3, E-4, E-5, and E-6, concerning the Open Access Transmission Tariff, Planning Compliance Filings.

There will be a presentation by John Cohen from the Office of the General Counsel, and Andrew Farrell from the Office of Market Regulation.

MR. COHEN: Good morning, Mr. Chairman and Commissioners. A central element of the Commission's Open Access Tariff reforms in Order 890, was its decision to direct transmission providers to develop a coordinated, open, and transparent transmission planning process.

Each transmission provider was required to add a new attachment to its Open Access Transmission Tariff, that contained a planning process that satisfies nine planning prinicíples set forth in Order Number 890.

The nine principles are: Coordination, openness, transparency, information exchange, comparability, dispute resolution, regional participation, economic planning studies, and cost allocation for new projects.

The Commission also directed transmission providers to address the recovery of planning-related costs. E-1 through E-6 on today's Agenda, are six Draft Orders addressing transmission planning compliance filings submitted pursuant to Order 890.

These filings include three made by regional transmission organizations:  ISO New England, PJM Interconnection, and Midwest Independent Transmission System Operator.  A fourth consists of a joint filng made by Midwest ISO and American Transmission Company, that addresses American Transmission Company's local transmission planning.

Two other filings made by stand-alone transmission companies, are also addressed, namely, Mid-American Energy Company and Maine Public Service Company.

The Draft Orders accept each entity's transmission planning process, subject to further modification.

Andrew Farrell, of OMER, will now describe briefly, the findings in each of the Draft Orders.

MR. FARRELL:  Good morning, Mr. Chairman and Commissioners.

The Draft Orders conditionally accept the proposals, but require further compliance filings with regard to regional and local planning principles.

For example, both Midwest ISO and PJM were directed to make compliance filings providng for further transparency with regard to the planning conducted by the transmission-owning members, including, in the case of Midwest ISO, further explanation of how the separate local planning process by American Transmission Company, will be integrated with the regional plan conducted by Midwest ISO.

Midwest ISO is also required to provide greater specificity with regard to its interregional planning.

ISO New England, whose transmission owners are found generally to comply with Order 890's planning requirements, was, nevertheless, directed to make a compliance filing, ensurng that its needs assessment on the regional level, is coordinated with the local planning conducted by its transmission owners.

Mid-American Energy Company was required to make a compliance filing providing further specificity with regard to its coordination with Midwest ISO, as well as it auction-based subscription rates cost allocation proposal.

Finally, Maine Public Service was required to further explain its beneficiary cost allocation approach. The new Attachment Ks accepted in the Draft Orders, provide greater specificity to transmission customers and other stakeholders regarding the transmission planning process and ensure that those customers and stakeholders will have a forum to voice concerns and provide input at an early stage in the transmission planning.

They also ensure that transmission planning is coordinated among transmission providers and regions. In these Draft Orders, the Commission notes that Staff will periodically monitor the implementation of the planning processes to determine if adjustments are necessary, and will inform transmission providers and the Commission, of any such recommendations.

The Draft Orders also note that the Commission will convene regional technical conferences, beginning in 2009, to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

This concludes Staff presentation, and we will be happy to answer any questions.

CHAIRMAN KELLIHER: Thank you very much. I want to thank you for that description of this package of Orders, and I just really want to make some comments about our broader policy goal in this area.

And as Commissioner Wellinghoff alluded to, the principal duty of the Commission in the area of economic regulation, is to guard the consumer from exploitation.

One of my early goals as FERC Chairman, was to reform the Open Access Tariff, to reduce the potential for undue discrimination and preference and the opportunity for vertical market power exercise.

That resulted in Order 890. But Order 890 had other policy objectives beyond reducing the potential for undue discrimination and prefernce.

One was to promote effective competition in the wholesale power markets by providing for more perfect open access.

But another policy goal was to strengthen the grid itself.  Perfect access to a constrained grid, does not adequately promote effective wholesale competition or assure bulk power system reliability.

So there is a need to strengthen the interstate power grid, and we pursued that goal steadily through a number of actions, including:  Encouraging greater grid investment; making difficult cost allocation decisions in a number of regions; establishing rules governing exercise of our limited authority to site transmission facilities.

But Order 890 also included provisions to strengthen the power grid, by requiring regional transmission planning.  The United States does not have a national power grid.  We, arguably, have a series of eight or ten regional power grids.

But ownership of those grids, is highly disaggregated in this country, with more than 500 owners. Before Order 890, transmission planning was done by individual transmission owners, as if we had 500 distinct power grids.

Order 890 required regional transmission planning, because that reflects the true nature of the U.S. power grid. In the Orders we approve today, we uphold the planning principles in Order 890 and require certain modifications to conform to those principles.

In that way, we strengthen regional planning and establish greater consistency in transmission planning, so I think this is an important package, and I support it.

Colleagues? Commissioner Wellinghoff?

COMMISSIONER WELLINGHOFF: Thank you, Mr. Chairman.

First, I want to thank the Staff for their tremendous outreach efforts leading up to the filing of these transmission planning processes, and for your analysis of these filings, as well.

But that outreach, I think, really led to where we are today. When we issued Order 890, in February of 2007, I observed that the electric industry today, reflects significantly increased trade in bulk power markets, with the transmission grid being used more heavily in new ways.

At the same time, there's been a decline in investmetn to support these bulk power markets, and a failure to aggresively encourage advanced transmission technologies.

Together, those trends are threatening reliability, causing billions of dollars in congestion costs, and undermining competition. We need to invest in our electric infrastructure, and we need to invest wisely and smartly.

I reiterate my view that removing undue discrimination in transmission service and enhancing and expanding the grid smartly, will promote more competitive markets and therby lower cost to consumers.

I pointed out at the time, that reforms that we were making to the pro forma OATT, put demadn resources, for the first time, on an equal footing with other resources in directly contributing to the reliability and efficient operation and expansion of the electric transmission system.

Of particular relevance, was our finding that demand resources capable of performing the needed functions, should be permitted to participate on a comparable basis, in an open, transparent transmission planning process that Order 890 requires.

We also provided a forum for stakeholders to come forward with demand response project proposals that they wished to have considered in development of the transmission plan.

I believe that we greatly enhance the planning process by treating demand response, not just as an adjustment to the load forecast, but also as a resource.

This improves the planing process by introducing new solutions for consideration. It also reduces uncertainty and error inherent in any planning process, by improving the information about how cnsumers may change their usage in response to changes in electricity prices and emergencies.

Ultimately, it will reduce cost to consumers and increase the competitiveness and profitability to the utilities. Nevertheless, beneficial planning requires that the full range of potential solutions is considered.

The challenge ahead is to find the combination that will reliably meet the needs of consumers at a reasonable cost.

Today, we're considering six responses to our effort to foster open and transparent transmission planning. I will vote to approve these proposed transmission planing processes, because they are the foundation for processes where resources such as demand resources, are considered on a comparable basis as potential solutions to improve transmisison service, resolve congestion, and expand the reliable grid.

I also note that we issued Order 890-A on December 27, 2007, subsequent to the date of the filing before us -- these filings before us were submitted.

In Order 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle.

Specifically, the Commission stated that the transmisison provider needed to identify as part of the Attachment K planning process, quote, "how it will treat resources on a comparable basis, and, therefore, should identify how it will determine comparability for purposes of transmission planning."

Because Order 890-A was issued subsequent to the filings before us, the Applicants did not have an opportunity to demonstrate that they complied with this requirement of Order 890-A, therefore, we're directing them to submit compliance filings that address the necessary demonstration required by Order 890-A.

And I look forward to those filings. Thank you, Mr. Chairman.

CHAIRMAN KELLIHER: Thank you. Colleagues? Commissioner Spitzer?

COMMISSIONER SPITZER: Thank you, Mr. Chairman.

One of the core components of Order 890, is Attachment K of the pro forma tariff, the establishment of coordinated, open, and transparent planning processes.

Transmission congestion imposes reliability and economic burdens upon consumers, and requires enhanced transmission investment. This Commsision therefore mandates that transmission providers establish a planning process through which they coordinate with customers, neighboring transmission providers, state authorities, and other stakeholders.

The Commission believes this process will promote coordination, minimize opportunities for undue discrimination, through open participation and ensure comparable transmission service.

As I stated in support of Order 890, regional planning provisions will promote a public dialogue that I believe will result in new transmission investment where it is most needed.

The open process envisioned in Order 890, will ultimately produce this needed transmission through discussions of the economic and environmental aspects of demand response, new generatoin, and other resources.

Today we vote on several of these Attachment K compliance filings.  In Order 890, the Commission allowed transmission providers flexibility to develop planning processes that work best for their systems, with the proviso that tariff rules must be specific and clear to ensure compliance by transmsission providers and put customers on notice of their rights and obligations.

Consistent with this flexibility, the Attachment K propsals demonstrate that there is great variety in how transmission providers and interested stakeholders conduct the planning process.

While each of these proposals herein, is subject to futher compliance, the proposals demonstrate the efforts of transmission providers towards an open and inclusive planning process.

Accordingly, I support these Orders. I believe the transmission planning process should not discriminate against alternative forms of ownership structure of a proposed transmission upgrade or project.

We should do all we can to eliminate barriers to innovative methods to finance transmission.

Further, I continue to believe that joint ownership between public and private entities, independent transmission and merchant transmission, should be considered as effective tools to facilitate necessary transmission investment, particularly in the case of large-backbone upgrades or additions.

In summary, the planning process, as described in the Orders before us, as modified, provide an important method for this Commission to foster competitive wholesale markets and encourage the development of needed energy infrastructure.

Finally, I'd like to thank the Staff for their ongiong efforts to ensure thorough and consistent compliance with Order 890.

CHAIRMAN KELLIHER: Thank you. Colleagues? Commissioner Kelly?

COMMISSIONER KELLY: As I've said many times in the past, I consider our efforts in this area, to be among the most significant undertakings the Commission has embarked upon since I have been a member, and I'd like to thank the Chairman for initiating these reforms.

This country faces and array of energy challenges in the coming years. Three of them include: Enhancing our electric system reliability; fulfilling the demands of renewable portfolio standards and carbon legislation; and improving competition in wholesale markets.

A robust, well-designed transmission system, is a prerequisite for successfully overcoming these challenges. The nine planning principles adopted in Order 890 and applied here today, underlie the movement toward that robust, well-designed transmission system.

Transmission planing that is open and transparent, relies on contributions from a broad spectrum of participants and stakeholders, all of whom must be able to have access to the same information, assumptions, and rules.

Furthermore, it is critical that planning be applied to a regioal geographic area. A larger region should allow for an optimal or something approachng optimal set of transmission solutions, and will avoid duplicative efforts among participants.

The importance of the regional focus, is underscored by the growing interest across the country in accessing location-constrained resources.

And that brings me to today's Order. As the Staff has noted, we are accepting many elements of the various proposals before us, however, in some of these Orders, we require Applicants to do more, notably in the area of regional and local planning and in the area of regional coordination.

I am pleased to see that in two of these Orders, we require the transmission operator to provide greater transparency with respect to the interplay of local and regional planning processes.

In another Order, we find that an Applicant cannot satisfy our regional participation principle, merely by referencing agreements with neighboring regions and future commitments to coordinate.

In this case, we require the Applicant to describe how provisions in each of its agreements with neighboring regions, will, in fact, fulfill the regional participation principle.

This underscores our expectation that

traditional planning processes will change to become truly regional and result in transmission infrastructure that's not only adequate, but is optimal.

And I'd like end by thanking Staff for the work that they've done. These Orders have been very well written, researched, and clear and that's made our efforts a lot easier. Thank you.

CHAIRMAN KELLIHER: Thank you. Commissioner Moeller?

COMMISSIONER MOELLER: Mr. Chairman, this is a series of decisions that build on, I think, what may be your lasting legacy of promoting an improved open access tariff, and improving the transmission system, so, again, as Commissioner Kelly referenced, thank you for making this a priority.

I wrote separately on E-2, although it could apply, potentially, to some of the other Orders, and that is that as the -- we focus on the regional and local planning processes and the coordination of that, and I just want to make sure that as we focus on that, that that does not at all provide an excuse for further delay of the planning, because, ultimately, what we need, is more transmission built.

And as I've said probably for a long time, I believe we're about 15 years behind building transmission in this country -- sometimes for good reasons and sometimes not.

But like hydropower, I feel that building more transmission is now fashionable again.

(Laughter.)

COMMISSIONER MOELLER: And whether you're a long-time supporter or a new convert to this concept, everyone is welcome in this effort.

Tomorrow I'll be hosting an informal discussion regarding advanced transmission technologies. It was organized by Kansas Representative Tom Sloan. You've heard me reference him several times before.

It will be held in this room at 12:30. If this is a topic that you're interested in, you'e welcome to attend. It will include some state legislators, some state regulators, and some folks from industry who will be talking about advanced technologies related to transmission, and ultimately ones that we hope will be seriously considered as the nation builds its transmission infrastructure grid. Thank you, Mr. Chairman.

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

(No response.)

CHAIRMAN KELLIHER: Shall we vote? Let's vote.

SECRETARY BOSE: Again, we'll take a vote on these items together, begining with Commissioner Wellinghoff.

COMMISSIONER WELLINGHOFF: I vote aye.

SECRETARY BOSE: Commissioner Moeller?

COMMISSIONER MOELLER: I vote aye, noting my separate concurrence in E-2.

SECRETARY BOSE: Commissioner Spitzer?

COMMISSIONER SPITZER: I vote aye.

SECRETARY BOSE: Commissioner Kelly?

COMMISSIONER KELLY: Aye.

SECRETARY BOSE: And Chairman Kelliher?

CHAIRMAN KELLIHER: Aye.

I want to thank the Staff, I want to thank my colleagues and their advisors. It's been a good day, and we're ending before noon, so have a good day.

(Whereupon, at 11:53 a.m., the open meeting was concluded.)