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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

- - - - - X
IN THE MATTER OF :
A-3 Cost of Generation :
G-4 Capacity Release Rule :
E-10 Validation Severity Levels :
Discussion Items :
Struck Items :
- - - - - X

935th COMMISSION MEETING

OPEN SESSION

COMMISSION MEETING ROOMS

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

Thursday, June 19, 2008
10:00 P.M.

1 APPEARANCES :

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER (Presiding)

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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

2 (10:00 A.M.)

3 CHAIRMAN'S OPENING STATEMENT AND ANNOUNCEMENTS

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

9 Please join us in the Pledge of Allegiance.

10 (Pledge of Allegiance recited.)

11 CHAIRPERSON KELLIHER: I am happy to report
12 the our two-year-old son stood up during the Pledge of
13 Allegiance. He knows the routine. Anyone watching
14 television can see that the Kelliher family is here,
15 that school is out for the summer, and the Kelliher
16 kids are on the loose. But they are doing something
17 cultural today, they are going to see a play just a
18 few blocks from FERC. I just want to announce that
19 yesterday was our eldest son's Aidan's birthday. He
20 turned 10 years old yesterday, but I promised him we
21 would not sing Happy Birthday this evening.

22 (General laughter.)

23 CHAIRPERSON KELLIHER: He would be terribly
24 embarrassed.

25 Welcome to FERC. Every year or every six

1 months my family visits the meeting. It's always
2 nice.

3 I'm going to make a few opening
4 announcements before we get to business today. Second
5 is interns. We have a number of interns here at FERC.
6 We have interns from 33 universities and 26 states. I
7 think they are all here. Are most of you here today.
8 Will the interns please stand for a minute? I'll
9 embarrass you for a few minutes.

10 (Interns standing.)

11 CHAIRPERSON KELLIHER: Great. Wow. That's
12 a very distinguished group. Thank you for coming.

13 (Applause.)

14 CHAIRPERSON KELLIHER: I am a recovering
15 intern myself. I had three internships in my career.
16 One was the most boring experience of my life, one was
17 really interesting, and one was sort of interesting.

18 But the one that was sort of interesting was
19 my supervisor gave me research projects and he really
20 showed a lot of trust in me and listened to me. The
21 boring project, I had no work to do, and I had to beg
22 work from people. I was idle more than anything else.
23 That was the worst.

24 I hope we keep you busy. I hope we give you
25 good projects and we will see that you are treated

1 with respect. I know in recent months, when we've had
2 some interesting research projects, sometimes people
3 have said, "Well, let's give that to the summer
4 interns," those are interesting research projects, a
5 couple of good projects.

6 I want to thank you for being here. I hope
7 that you have a good career experience at FERC, and I
8 hope you hear the siren call of public service. I
9 just have to say I never would have thought that I
10 would spend most of my professional career in
11 government public service, but I have thoroughly
12 enjoyed it. I hope some of you will be tempted not
13 just spend a summer at FERC, but you will become more
14 long-term.

15 The latest physical fitness report from
16 FERC, we've had another running performance that was
17 very impressive. Team FERC ran in the Lawyers Have
18 Heart Race last weekend. Team FERC ended up being
19 second out of 13 government teams. That is pretty
20 impressive. I think if they had stayed behind the
21 court, and that might have just been out of respect
22 for the judicial branch of government.

23 (General laughter.)

24 CHAIRPERSON KELLIHER: But I think that is,
25 again, a really impressive performance. Mark Bardee

1 was the fastest member of the team, but the whole team
2 performed very well. I just want to commend everyone
3 for getting FERC such good standing.

4 I also want to give some awards, awards to
5 very worthy FERC staff. Namely, Mike McLaughlin and
6 Steve Rodgers. I'm going to proceed in that order.
7 They are both getting the Exemplar of Public Service
8 Award. We will start with Mike.

9 Mike is a veteran regulator. He has been at
10 FERC nearly 25 years, just shy of 25 years. He began
11 as a technical advisor for a commissioner, and he has
12 steadily worked upwards at FERC in positions of
13 steadily increased responsibility.

14 He has really focused a lot of his time here
15 on economic regulation, particularly as it applies to
16 infrastructure regulation. Mike, I think, is ideally
17 suited to understand the relationship between having
18 adequate, robust infrastructure and reliability of
19 service, both power, gas, and oil service.

20 I've been friends with Mike since I got
21 here. I've been very glad that he accepted the job as
22 deputy director for the Office of Electrical
23 Reliability.

24 He really he ends in our newest office at
25 FERC that has a lot of new talent, including the

1 director of the office, giving new meaning to the
2 federal government. I think Mike and Joe are really
3 an excellent team.

4 Mike has had to make a big change. Economic
5 regulation and reliability are very different worlds.
6 Reliability regulations are more like safety
7 regulations. Mike has been able to make that
8 transition and really help strengthen the Office of
9 Electrical Reliability over the past year, so we're
10 honored to give him the Exemplar of Public Service
11 Award.

12 I will just turn to my colleagues to see if
13 they have any comments they would like to make.

14 Jon.

15 COMMISSIONER WELLNGHOFF: Well, Mike is
16 certainly well liked and he is an excellent manager.
17 I'll tell you Mike got attention with the great job he
18 did on the Symposium.

19 But one thing I found out about Mike is
20 nobody is going to outdo Mike including the
21 Commissioner. When I first came to FERC a few years
22 ago, I hired Doris Johnson and he got me back. He
23 gave her a promotion.

24 CHAIRPERSON KELLIHER: Colleagues?
25 Suedeen.

1 COMMISSIONER KELLY: Well, Mike's roots are
2 in Illinois. He came here I understand with
3 Commissioner Salon. Charlie Salon was a chair of the
4 Illinois Commerce Commission and joined the FERC in
5 the eighties.

6 Not only are his roots in Illinois, but he
7 still spends time in Illinois. He is actually a farm
8 boy who hasn't ever left the farm. He still has a
9 farm.

10 Mike has kept his roots in the Midwest. He
11 was a key developer of the Midwest, even a system
12 operator. He was there from the beginning. Talking
13 to people who worked on that, he was the guiding hand
14 and the leading light in that development, which was
15 quite an accomplishment and a very successful one at
16 that.

17 He, not surprisingly, exhibits all the
18 qualities that you would expect from a Midwesterner:
19 honest, no-nonsense, hardworking, depending, and
20 really indomitable in the face of stress and crisis.
21 Thanks, Mike, for agreeing to come with Commissioner
22 Salon and for staying with us. You really deserve
23 this award.

24 CHAIRPERSON KELLIHER: Comments, Marc?

25 COMMISSIONER SPITZER: Thank you,

1 Mr. Chairman. I know that the reliability issue is a
2 difficult one. Folks in both the regulating sector as
3 well as regulators are not as involved in that area.
4 He imparts some expertise to novel circumstances.

5 I know particularly that the issue of
6 registry, back when I was in Arizona, was a concern to
7 a lot of entities. The fact that as the situation
8 evolved, we did not have as many disputes and
9 complications as could have been expected is a
10 testament to FERC's handling of this matter
11 throughout. It's a real credit to government and a
12 real credit to the Office of Reliability and a credit
13 to Mike.

14 In that matter as well as substantive
15 matters, we have not had a great deal of discordance.
16 We have really had a lot of cooperation. It is a
17 testament. Again, it is a testament to his ability as
18 well as the entire office to interact with people.

19 CHAIRPERSON KELLIHER: Thank you.

20 Phil?

21 COMMISSIONER MOELLER: Thank you,
22 Mr. Chairman.

23 I was most impressed by Mike initially
24 because he was such an expert on Midwest issues, so I
25 was slightly concerned when Joe pulled him over to

1 Reliability. Yet, in both positions, he has truly
2 been an exemplar. He is what you want in a public
3 servant: solid, honest, smart, hard working.

4 CHAIRPERSON KELLIHER: Mike, come up and
5 receive your award.

6 (General applause.)

7 CHAIRPERSON KELLIHER: Next, I would like to
8 recognize Steve Rodgers and give him an Exemplar of
9 Public Service Award. Steve has also spent almost
10 25 years at FERC with steadily increasing
11 responsibility. Recently, he started actually at DOE
12 as an economist and moved over to FERC and joined I
13 think -- well, I won't characterize it. But I also
14 know that Steve has been at FERC and has enjoyed.

15 Steve is joined by his parents. His parents
16 are here. Where are they? Will you stand up, sir and
17 ma'am?

18 (General applause.)

19 CHAIRPERSON KELLIHER: I'm glad you're here.
20 I'm going to brag on your son. He deserves it. Steve
21 really is one of our chief regulators in the area of
22 market and power exercise, mergers, and corporate
23 review.

24 Those are all very high-profile areas where
25 efficiency decisions are scrutinized. Steve is really

1 one of our chief regulators in those areas in the area
2 of market power and market power exercise, mergers,
3 and corporate review. Those are all very high-profile
4 areas where the Commission's decisions are
5 scrutinized.

6 Steve is really one of our chief regulators
7 in those areas. He has had a major hand in the
8 development of all the major Commission policies in
9 those areas going back years.

10 Just more recently, the market-based rate
11 policy, the interlocking directorates, orders dealing
12 with the Public Utility Holding Company Act, "PUHCA,"
13 of 1935 and the establishment of the successor, the
14 2005 Act; implementation of the FERC's merger,
15 standard merger authority governing qualifying
16 facilities and the Energy Policy Act requirements.
17 More recent, market-based state rules, it is, as I
18 said earlier, very important to just how this country
19 sells electricity in wholesale power markets.

20 Also, rules regarding cross-subsidization
21 and blank authorizations under our corporate and
22 market review report. Steve has displayed a huge
23 leadership role in all of these areas.

24 He has been a very effective leader of the
25 FERC staff. Well, I'm told he has -- well, he does

1 have a razor-sharp wit; although, I'm not usually the
2 victim of it.

3 (General laughter.)

4 CHAIRPERSON KELLIHER: Steve and Mike are
5 really exactly the kind of pillars that make FERC a
6 very efficient agency. I know you are proud of him.

7 I understand, sir, you were a former
8 executive director of NARC?

9 MR. RODGERS: That's correct.

10 CHAIRPERSON KELLIHER: Before Chuck Gray?

11 MR. RODGERS: Before Chuck Gray. I hired
12 Chuck Gray.

13 (General laughter.)

14 CHAIRPERSON KELLIHER: There was nothing to
15 it.

16 MR. RODGERS: I know him very well.

17 (General laughter.)

18 CHAIRPERSON KELLIHER: Good him.

19 MR. RODGERS: (No microphone) The
20 association has prospered, and I want to thank you for
21 giving us this very prestigious award to my son. This
22 has been such a prestigious agency for so long. I'm
23 also glad that you are a Commission that was
24 (inaudible) by the two former state commissioners
25 daughters.

1 (General laughter.)

2 CHAIRPERSON KELLIHER: Former state
3 commissioners go native pretty quickly.

4 (General laughter.)

5 CHAIRPERSON KELLIHER: With that,
6 colleagues, comments?

7 Suedeen.

8 COMMISSIONER KELLY: Well, of course after
9 that I have to make a comment. One of the other
10 things that probably a lot of you know is that Steve
11 is head of our Western effort in markets and rates.
12 Steve is, in other words, FERC's man in the West.

13 I looked in Wikipedia to find out about
14 other famous Rodgers who have been men of the West,
15 and I found few. They have a lot of traits similar to
16 Steve, so I thought I would mention them. There was
17 Roy Rogers, the American cowboy actor who was our man
18 in the West for a long time and had a lot of respect
19 and did what cowboys do.

20 There was Buck Rodgers, a Major League
21 baseball player, a catcher, a manager, a coach
22 including coach of the San Francisco Giants and
23 manager of the California Angels. I don't think that
24 Buck spent more time in California than you do, Steve.

25 There was Will Rogers, the Cherokee-American

1 cowboy, comedian, and humorist. As Joe mentioned,
2 Steve has quite a humor and is quite a comedian and a
3 Western almost-cowboy. I think he would probably
4 deserve the title of cowboy with all the time he has
5 spent in the West.

6 Then, finally, there is your own namesake,
7 Steve Rogers of the Marvel Comics, whose alter ego was
8 Captain America.

9 (General laughter.)

10 COMMISSIONER KELLY: Now, Captain America
11 was a man in the past at the peak of human perfection,
12 in this case, by an experimental serum in order to
13 help the United States fight the good fight and
14 triumph for America and all that it stands for.

15 Captain America uses an American flag motif
16 as his costume and is armed as an indestructible
17 shield that can be thrown as a weapon. I thought that
18 description fit you to a tee as FERC's captain of the
19 West, wearing our FERC emblem and costume and having
20 the Federal Power Act as your indestructible shield as
21 you bring markets and appropriate rates to the people
22 of the West.

23 Being a representative of the people of the
24 West, I would like to thank you for all of the work
25 that you've done, for the great expertise, the people

1 skills you bring to the job, and all that you
2 accomplish. Thanks.

3 (General laughter.)

4 CHAIRPERSON KELLIHER: Comments, Jon?

5 COMMISSIONER WELLINGHOFF: Well, I'm not
6 going to try to top those accolades. I don't think I
7 can.

8 (General laughter).

9 COMMISSIONER WELLINGHOFF: I'll tell you I
10 do appreciate Steve, the work that he does. I think
11 he really is sort of, as Suedeen has outlined, a real
12 true superhero here, a renaissance man, who does so
13 many different things.

14 One of the things I think I appreciate most
15 about Steve is when he does all of these different
16 things, he does make a real effort to solicit diverse
17 opinions and engage in a robust debate before he
18 brings us recommendations. I think that is very
19 important. Steve is a real leader among the staff in
20 doing that. I appreciate it very much.

21 Thank you, Steve.

22 CHAIRPERSON KELLIHER: All right. Phil?

23 COMMISSIONER MOELLER: Steve, I don't want
24 you to worried, but I think they killed off Captain
25 America last year.

1 (General laughter.)

2 CHAIRPERSON KELLIHER: Nevertheless, as our
3 kind of Westerner, as Commissioner Kelly pointed out,
4 for those of us who are from the West, we know that it
5 takes quite a bit of effort to get out there and stay
6 in touch with people. You have done an outstanding
7 job of that.

8 I appreciate that as, again, someone from
9 the Pacific Northwest, but probably more significantly
10 is how you pulled off that cool demeanor but you still
11 have that razor-sharp wit.

12 Again, a great public servant. Good work,
13 Mr. Chairman, on recognizing that.

14 CHAIRPERSON KELLIHER: Marc?

15 COMMISSIONER SPITZER: Mr. Chairman, it did
16 occur to me when at the last meeting Steve ran it was,
17 I thought, very good and a good balance in terms of
18 letting people speak, but at the same time not letting
19 them go amok and go way off course. It was actually
20 good guidance to me in terms of how to treat folks and
21 how to do that delicate balance.

22 It did occur to me when I was thinking about
23 how well you ran that meeting, that in the briefings,
24 you really can tell a good manager when he empowers
25 subordinates to speak up, when being briefed, there is

1 a team present, and everyone gets to have their say
2 and everyone is recognized.

3 It is not necessarily a situation where the
4 leader is in absolute control, but instead the leader
5 empowers those who are working with him and working
6 for him and working as part of the team. That is
7 really very beneficial and those are wonderful
8 leadership and character aspects that make this award
9 very deserving.

10 CHAIRPERSON KELLIHER: Okay. Thank you.

11 Steve, why don't you come up and receive
12 your award.

13 (Applause.)

14 CHAIRPERSON KELLIHER: Before we turn to the
15 consent agenda, I'm raising a notational order that
16 the Commission approved recently. One or more of my
17 colleagues might want to comment on it, namely, a
18 notation regarding Bonneville.

19 Commissioner Kelly.

20 COMMISSIONER KELLY: Thank you, Joe. In the
21 last few years, we've seen an unprecedented demand for
22 new generation, particularly renewables. That has
23 been taxing our interconnection system. It has
24 resulted in a lot of delays in bringing generation,
25 including renewables, online.

1 Well, Bonneville Power Administration really
2 took the bull by the horns in meeting its queuing
3 challenges by developing a very innovative network
4 open season that we just approved in this notational.
5 It allows entities to sign precedent agreements that
6 would comment them to take and pay for service at a
7 specified time and under specified terms.

8 In turn, Bonneville commits to provide the
9 new transmission service at its embedded cost rate.
10 For those who sign precedent agreements, Bonneville
11 will study them in a cluster, and the cost of that
12 study Bonneville will pick up.

13 Bonneville just had their open season under
14 this new proposal or regime, and it was very
15 successful. It concluded Monday, and 29 customers
16 signed 160 precedent agreements with a total
17 commitment of 6,905 megawatts including 5,000
18 megawatts associated with wind development.

19 This, of course, leads us to our next issue,
20 which will be integrating those renewables into the
21 Northwestern grid. I know that Bonneville is
22 committed to ongoing stakeholder efforts to refine its
23 new queue-management process, but I want to take this
24 opportunity to thank Bonneville for the leadership
25 it's shown and for the excellent product that it

1 produced.

2 CHAIRPERSON KELLIHER: Thank you.

3 Commissioner Moeller?

4 COMMISSIONER MOELLER: Mr. Chairman, yes, I
5 will certainly endorse the comments of Commissioner
6 Kelly. I appreciate that we are pointing out that
7 Bonneville was successful in this relatively creative
8 idea.

9 We had them at the technical conference last
10 year to talk about what they were doing. We were
11 talking about the challenges of all the queue backups
12 throughout the country.

13 It is a good model, and it has obviously
14 worked well because, as pointed out, they had to give
15 something and the wind developers, or at least the
16 developers, had to commit as well. That is a system
17 that works.

18 Some people will probably use this issue as
19 saying that because more transmission is getting built
20 in the Northwest, that's a sign that areas that don't
21 have competitive markets are getting more built. That
22 is a falsehood.

23 What they are not taking into account is
24 that Bonneville has a special role in the Pacific
25 Northwest as the dominant transmission provider that

1 also has eminent domain. Although this is a model
2 that can work for other parts of the country, at least
3 the circumstances are relatively unique.

4 But we should congratulate Administrator
5 Steve Wright and his team for making this a very
6 successful effort.

7 Thank you, Mr. Chairman.

8 CHAIRPERSON KELLIHER: Colleagues, any
9 comments?

10 Mr. Wellnghoff.

11 COMMISSIONER WELLINGHOFF: Yes. Of course,
12 I voted in support of this order and thought it was a
13 very innovative proposal and would commend Bonneville
14 as well.

15 I think this dovetails right into our
16 discussion today on A-3 and the cost of generation.
17 Anything we can do to reduce those costs for renewable
18 developers through innovative ideas like this with
19 Bonneville, I think we need to support this. I gladly
20 voted in support of this order.

21 COMMISSIONER SPITZER: Mr. Chairman,
22 Bonneville had been working on this for sometime,
23 working very closely with FERC and advising us of the
24 developments which is greatly appreciated.
25 Outside-the-box thinking such as applying an analogy

1 from the natural gas sector to the electric sector is
2 the type of thinking that we always should encourage
3 and support when we can.

4 CHAIRPERSON KELLIHER: With that, before we
5 turn to the consent agenda, let me just observe my
6 usual observation that since the May 15th open
7 meeting, the Commission has issued 81 notational
8 order, which works out to be 3 or 4 a day every day
9 since the last open meeting. We do a lot of our
10 business without cameras.

11 With that, Madam Secretary, let's turn to
12 the consent agenda.

13 CONSENT AGENDA

14 MS. BOSE: Good morning, Mr. Chairman. Good
15 morning, Commissioners. Since the issuance of the
16 Sunshine Act notice on June 12, 2008, E-3, E-5, and
17 E-6 have been struck from this morning's agenda. Your
18 consent agenda for this morning is as follows.
19 Electric items, E-1, E-4 --

20 CHAIRPERSON KELLIHER: Excuse me, Madam
21 Secretary.

22 MS. BOSE: Sure.

23 CHAIRPERSON KELLIHER: I forgot one of my
24 announcements, and I'm horribly remiss at that. If
25 you could just refrain for a minute. That is an award

1 that our colleague Jon Wellinghoff will receive in a
2 number of months.

3 Last week, the Alliance to Save Energy
4 announced that Jon is the winner of the Charles H.
5 Percy Award for Public Service for his outstanding
6 public service, public sector service, and lifetime
7 commitment to energy efficiency. That is a very
8 well-deserved honor.

9 I understand that he beat out about a
10 hundred or more than a hundred different nominees. He
11 did better even than the FERC running team in last
12 weekend's race.

13 (General laughter.)

14 CHAIRPERSON KELLIHER: I think you truly
15 deserve it, and we know. We are reminded of your
16 commitment a number of times, a couple of times a day
17 in most cases.

18 (General laughter.)

19 CHAIRPERSON KELLIHER: I just want to say
20 you have made a very big impact on Commission policy
21 in that you have introduced a discipline to how we
22 approach demand response; it didn't previously exist.
23 I am glad you're here, and I'm glad for your
24 persistence.

25 I just want to say you truly deserve the

1 award. I think the fact that you got it, it
2 recognizes your pre-FERC commitment to energy
3 efficiency demand response, but you are carrying over
4 in different policies. I think that shows, I think
5 increasingly, that FERC is an agency that has some
6 role, some significant role, in demand response.

7 (Appause.)

8 Madam Secretary, why don't you continue.

9 MS. BOSE: For the purposes of
10 transcription, Mr. Chairman, I will begin on the
11 consent items.

12 CHAIRPERSON KELLIHER: All right.

13 MS. BOSE: Beginning with the electric
14 items: E-1, E-4, E-7, E-8, E-11, E-12, E-13, E-14,
15 E-15, E-17, E-19, E-21, E-22, E-23, E-24, and E-25;
16 miscellaneous items, M-1; gas items, G-1 and G-3;
17 hydro items, H-1 and H-2; certificate items, C-1, C-2,
18 and C-3.

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

24 As to E-25, Commissioner Kelly is dissenting
25 in part with a separate statement. As to M-1,

1 Commissioner Wellinghoff is dissenting in part with a
2 separate statement. As to G-4, Commissioner Moeller
3 is dissenting in part with a separate statement.

4 With the exception of G-4, where a vote will
5 be taken after the presentation and discussion of this
6 item, we will now take a vote on this morning's
7 consent agenda items.

8 Beginning with Commissioner Wellinghoff?

9 COMMISSIONER WELLINGHOFF: I vote aye with a
10 notation of my dissent in part on E-23, my concurrence
11 on E-24, and my dissent in part on M-1.

12 MS. BOSE: Commissioner Moeller?

13 COMMISSIONER MOELLER: Aye.

14 MS. BOSE: Commissioner Spitzer?

15 COMMISSIONER SPITZER: Aye.

16 MS. BOSE: Commissioner Kelly?

17 COMMISSIONER KELLY: Aye with the exception
18 of my dissents in part in E-24 and E-25.

19 MS. BOSE: Chairman Kelliher?

20 CHAIRPERSON KELLIHER: Aye.

21 COST OF GENERATION

22 MS. BOSE: We will now move on to the
23 discussion and presentation items. The first item for
24 presentation is A-3 concerning the 2008 cost of
25 electric markets. The presentation will be given by

1 Charlie Whitmore from the Office of Enforcement. He
2 is accompanied by Keith Collins from the Office of
3 Enforcement.

4 (PowerPoint presentation in progress.)

5 MR. WHITMORE: Mr. Chairman and
6 commissioners, good morning. I am here today to
7 present the Office of Enforcement's assessment of
8 likely electricity costs for coming years. With me
9 from the Office of Enforcement is Keith Collins, who
10 is responsible for the Electric Power Analysis Group.

11 This presentation will be posted on the
12 Commission's website today. At last month's meeting,
13 when we reported that forward market prices for
14 electric power, are much higher than the prices we
15 actually experienced last year.

16 This trend is universal around the country.
17 The slide shows the increases in forward prices for
18 July and August. As of this week, they have risen
19 further during the last month as natural gas prices
20 have continued to rise.

21 There is little reason to believe that this
22 summer is unusual, rather it may be the beginning of
23 significantly higher power prices that will last for
24 years.

25 The purpose of this presentation is to

1 explain why that is so. The two major factors pushing
2 the cost of electric generation higher are increased
3 fuel use and the increased cost for new construction.
4 These factors affect all parts of the country, that
5 is, higher future prices are likely to affect all
6 regions.

7 The primary reason for the electric power
8 price increases is high fuel prices. All current
9 market indications suggest that they will remain high.
10 Let's look at natural gas, which often determines
11 prices because it is so frequently on the margin.

12 The slide shows the futures price for the
13 next few years. Those prices are somewhat lower for
14 2009 than 2008. Even so they are a good deal higher
15 than for all the years, for all of the future years,
16 than they were the prices that people actually paid
17 last year, and they are much higher than the prices
18 many of us remember from earlier in the decade. You
19 can see on the slide the straight dotted line that
20 shows the average price from last year and the last
21 average price from six years ago.

22 The implication is that markets anticipate
23 continuing high prices even though they know that the
24 United States has seen a significant increase in
25 domestic natural gas production over the last year and

1 a half.

2 The anticipation of further high prices
3 makes more sense when one considers the likely
4 increase in gas demand for generation and the global
5 nature of the competition for liquified natural gas.

6 Natural gas is not the only important fuel
7 in setting electric power prices. Coal still powers
8 half of all the power produced in the United States.
9 In some markets, the Midwest and the Southeast, for
10 example, coal is often on the margin and plays a major
11 role in setting average prices over time.

12 The slide shows that the price of one key
13 form of coal, Central Appalachian coal, has risen
14 rapidly over the past year. Forward markets show
15 continuing high prices for Central Appalachian coal
16 for the next three years. This reflects, in part, the
17 growing global market for coal and the relatively weak
18 U.S. dollar. Coal imports are becoming more costly
19 and coal exports more profitable, both of which
20 contribute to higher prices inside the United States.

21 I should mention that other coal prices
22 behave somewhat differently from Central Appalachian
23 prices. For example, the majority of the overall cost
24 for Powder River Basin coal, in Wyoming, comes from
25 transportation rights and can be more difficult to see

1 and are not included in the graph.

2 Nonetheless, the implication of the price
3 that we can see is that electric power prices are
4 likely to increase even where coal is on the margin.
5 This may take place somewhat differently from the way
6 that natural gas prices flow through into power
7 prices.

8 Generally, companies buy coal under fairly
9 long-term contracts and so there may be a lag before
10 the higher prices show their full effects, but the
11 effects are coming.

12 While both natural gas and coal prices have
13 increased rapidly, natural gas is increasingly
14 important in every region of the country. This slide
15 shows that even in the regions where coal has
16 historically dominated, and especially in SERC, the
17 Southeast, natural gas usage has grown substantially
18 since 2000. Up, in that case 63, almost 64 terrawatt
19 hours, more than in any other region.

20 Noticeable increase has also occurred in
21 Florida, which has the flexibility to burn either gas
22 or oil at many facilities, and, I would expect, is not
23 burning very much oil, and also in the Rockies, in the
24 Southwest, where demand continues to grow.

25 The second major factor that will put upward

1 pressure on electric prices is the increasing cost of
2 new construction. This effect is particularly
3 important because the country is entering a period
4 when we will need to make substantial new investments,
5 especially in generation.

6 Natural gas fueled most of the last great
7 wave of generation investment, which occurred between
8 1995 and 2004. In recent years, demand in most
9 regions has gradually caught up with the capacity
10 built around 2000.

11 Looking forward, demand will continue to
12 grow, and the need for new capacity will become ever
13 more acute and widespread. This slide shows NERC's
14 expectation of peak net-load growth in different
15 regions over the next 10 years.

16 We at the Commission are not in the business
17 of forecasting, so I'll just say this. There are
18 legitimate reasons to be sure about exactly how much
19 new generation the country will need in coming years.

20 For one thing, higher prices will themselves
21 discourage some power demand. Nonetheless, a
22 significant level of demand increase seems virtually
23 inevitable as does the need to build more capacity.

24 The need for new generation is important,
25 because the new construction is becoming more

1 expensive. This is quite aside from the fuel price
2 increases.

3 The Cambridge Energy Research Associates,
4 CERA, produces an index of costs for the main inputs
5 that go into building new generating plants as shown
6 on the slide. That index has almost doubled since
7 2003.

8 The increase in nuclear plant inputs has
9 increased even faster. Much of the cost increase
10 results from rising, rapid, global demand for basic
11 materials. Part of it also comes from shortages of
12 people to do key engineering and construction jobs.
13 In any case, the implication is that we will pay more,
14 not less, for the next round of construction.

15 Let's look at some of the reasons that
16 CERA's index is rising so rapidly. The slide shows
17 two of the primary construction materials used in
18 electric generating plants: concrete, on the blue
19 line; iron and steel on the red line.

20 As you can see, the prices of both have
21 risen recently, especially steel, which is now more
22 than twice as expensive as it was four or five years
23 ago.

24 Rising costs for iron and steel will also
25 affect fuel prices for the power industry. For

1 example, natural gas wells and pipelines both use
2 substantial amounts of steel, so natural gas costs
3 will also reflect rising iron and steel prices.

4 Of course, generating plants require many
5 other basic commodities. This slide shows the pricing
6 for four key metals that go into generators. As you
7 can see, all of these metals are increasing in price.
8 The one that stands out is copper, up more than five
9 times over the past four or five years. Indeed,
10 copper is now so valuable that there are reports of
11 copper thieves cutting live cables to steal the metal.

12 Labor costs, too, are increasing; although,
13 not so much. Perhaps the most frequently cited labor
14 shortage, is that for nuclear engineers. It has been
15 a full generation since the nation built its last
16 nuclear plant, and most of the engineers who worked on
17 those plants are near retirement and many have moved
18 on to other occupations.

19 In fact, the labor shortages are more
20 widespread than nuclear engineers. This slide shows
21 there has been about a 27 percent nominal pricing --
22 or wage increase for both construction labor generally
23 and non-construction utility labor since 2000. That
24 outpaces inflation by over 4 percent for the same
25 period.

1 In practice, the American labor market is
2 quite responsive to market forces, so short-term labor
3 shortages tend to be self-correcting over the midterm.
4 Still, there is no quick way to force several years of
5 education into six months or decades of experience
6 into a year or two.

7 What do all these cost increases mean for
8 the cost of building a new generating plant? Nobody
9 knows precisely. It is difficult to get consistent
10 and trustworthy numbers about plant costs, both
11 because they are commercially sensitive and also
12 because the assumptions behind them vary greatly.

13 The numbers reflected on the slide come from
14 a variety of sources and include different assumptions
15 about, for example, the location of a plant or exactly
16 what facilities are included in the estimate.

17 To take one example, two recent nuclear
18 procurements in South Carolina and Georgia, for
19 essentially the same technology, produced cost
20 estimates of \$5,100 and \$6,400 per kilowatt,
21 respectively.

22 We've been told that in this case, most of
23 the difference may be due to different uses of
24 allowances for funds used during construction,
25 "AFUDC." That is one example of many differences that

1 can produce large apparent cost differences.

2 Despite the difficulties in being precise,
3 the slide does represent a good general indication of
4 how capital costs have been changing. If anything,
5 the cost estimates now may be lower than the final
6 cost of the projects when they are finished, that is,
7 if input prices continue to go up.

8 It is also important to remember that these
9 cost estimates cover only capital costs. They don't
10 include fuel costs, which, as we have seen earlier,
11 will be a large factor for both natural gas and
12 coal-fired plants.

13 To the extent that plants do not have major
14 fuel costs, they may be more competitive over their
15 life cycles than would be suggested just by looking at
16 the capital costs. That would affect renewables and,
17 to a degree, nuclear plants.

18 Similarly, these estimates generally do not
19 include a full accounting of major risk factors. Both
20 coal and nuclear plants, for example, have long lead
21 times. That increases the chance that market
22 conditions will change before they are complete and
23 adds to the financial risk of building them.

24 Nuclear plants also have the risks we all
25 know associated with decommissioning and disposing of

1 waste fuel. Coal plants have risks associated with
2 future treatment of greenhouse gases.

3 Of course, relatively new technology like
4 wind and some new approaches to nuclear don't have the
5 same track record that the traditional generation
6 does, and so we don't know how they will deteriorate
7 over time.

8 Climate change has become an increasingly
9 urgent national issue as we all know. The debate over
10 how to address carbon dioxide emissions is lively and
11 has already affected how companies think about
12 investments.

13 Until recently, rising natural gas prices
14 made coal plants attractive. However, the national
15 uncertainty about carbon policy has made investing in
16 coal plants more risky. Without carbon capture or
17 sequestration, coal units emit about four times as
18 much carbon as natural-gas-combined cycles for the
19 same power output.

20 Since January 2007, 50 coal plants have been
21 canceled or postponed, 26 remain under construction.
22 Whatever the eventual result of the climate change
23 debate, the cost of producing power from both coal and
24 natural gas are likely to increase.

25 Moreover, as long as future climate change

1 policy is unclear, market participants will have a
2 considerable disincentive to invest in coal plants.
3 Even when the issues are resolved, it remains an open
4 question how competitive coal-fired generation will
5 be, and it would take another four to eight years to
6 build a significant amount of new coal-fired capacity.

7 Over the long-run, therefore, the country
8 can meet its increasing need for generation in several
9 ways. But for the next few years, the options are
10 more limited, and natural gas will be crucial.

11 The lead times for both nuclear and coal
12 units mean that they will not supply a significant
13 amount of new capacity for -- we say here nearly a
14 decade, certainly six or seven years.

15 Most people expect renewables to supply an
16 increasing proportion of the nation's power. For the
17 next few years, wind will almost certainly account for
18 a large share of generation investment and a growing
19 share of overall generation.

20 Wind power has no fuel costs and so will
21 generally operate when available. However, wind is a
22 variable, weather-dependent resource. As a result, it
23 will not make up as strong a share of the nation's
24 capacity needs over the next five years as it may for
25 generation.

1 Other renewables are becoming more
2 competitive. Geothermal power is already an important
3 resource in the West. Concentrated solar is becoming
4 economically attractive in desert areas like the
5 Southwest. But these sources are likely to remain
6 relatively small in the overall national picture for
7 the next few years.

8 Both demand response and energy efficiency
9 will be important, and I will talk more about them on
10 the next slide, but they, too, are unlikely to
11 eliminate the need for new capacity.

12 Overall, the most likely outcome is that
13 natural gas will continue to be the leading fuel for
14 new capacity over the next decade. For example, the
15 consulting firm, Wood Mackenzie, estimates that in a
16 carbon-constrained environment gas consumption for
17 power will increase by 69 percent by 2017. That is
18 in addition to the 55 percent we have already seen
19 since 2000.

20 Let me say at the start of this slide that I
21 pay electric prices like everybody else, and it is no
22 fun whatever to have electric prices be high. Having
23 said that, over the years we have learned repeatedly
24 that people do respond to price. In the case of
25 electric power, this is likely to take several forms.

1 First, there is likely to be more demand
2 response. In the simplest terms, high prices at peak
3 lead some customers, both businesses and others, to
4 prefer to save their money rather than using power.

5 In fact, the first round of demand response
6 may be both the cheapest and fastest way to improve
7 capacity margins on many systems. The best cost
8 estimates for the first rounds of demand response that
9 it should be available for about \$165 dollars a
10 killowatt, far less than the generation side options.

11 The results of ISO New England's first
12 forward capacity market auction last year corroborates
13 the economic importance of demand response. 7.4
14 percent of the accepted bids were for demand response.

15 However, there are impediments that limit
16 the full use of demand response. For example, most
17 customers don't have the option to respond directly to
18 real-time prices and as a result, they are unlikely to
19 reduce peak consumption, as much as they might prefer
20 to, if they could take advantage of the price.

21 Second, customers are likely to become more
22 energy efficient. While few customers see real-time
23 prices. Most do get an average price over the month.
24 As a result, high prices give them a considerable
25 incentive to reduce their overall consumption of

1 power.

2 They are no more at peak than at other
3 times, that is, energy efficiency is essentially a
4 substitute for baseload capacity while demand response
5 is for peaking capacity.

6 Energy efficiency is also likely to be
7 economically important. Cost estimates show that the
8 first round of energy efficiency may be available for
9 about three cents a kilowatt hour.

10 At current prices, supplying that same
11 kilowatt hour from a combined-cycle gas plant would
12 cost about nine cents just for the fuel. Adding to
13 the likelihood of greater energy efficiency is that
14 many states have adopted fairly strong
15 energy-efficiency standards.

16 Let me pause for a moment there, and just
17 emphasize with regard to both demand response and eney
18 efficiency, I referred to the first tranches of
19 capacity and generation or substitution that would be
20 available. Those are, by all accounts, pretty cheap.
21 Once they are done, you start getting more expensive
22 and perhaps quite a bit more expensive.

23 Third, innovators see high prices as an
24 opportunity. By the nature of things, it is hard to
25 predict what innovations will succeed. The electric

1 industry has a number of technologies that might take
2 off, including concentrating solar power, hydrokinetic
3 power, and vehicle-to-grid technologies. In addition,
4 distributed generation is becoming more important and
5 may continue to do so for both cost and emissions
6 reasons.

7 In other newly competitive industries such
8 as telecoms and natural gas, innovations have produced
9 large changes, sometimes quickly. Given continuing
10 and, unfortunate from the rate payers' standpoint,
11 high electric prices, the electric power industry may
12 well see some more results.

13 That concludes our presentation. Before
14 asking for comments and questions, I would like to pay
15 tribute to the team of people who worked on this.
16 They have done a lot in a very short time. Keith has
17 headed it up. But in addition to that, let me
18 mention: Lance Hendricks; Tim Shear; Carol White;
19 Zeke Honeycutt, Steve Michaels; Sonya Sylvanovich;
20 Patrick Marcourt (phonetic), who, by the way, is an
21 intern I believe, so we are trying to give them some
22 useful stuff; and Judy Eastwood is the person who puts
23 all of the graphics together. Thank you all very
24 much.

25 CHAIRPERSON KELLIHER: Thank you very much.

1 I want to thank you for this presentation. I want to
2 thank Charlie, Keith, and the team. I also want to
3 thank Commissioner Moeller, who suggested that we hear
4 this presentation.

5 I think it's important for the public and
6 for the regulated community to see some of the hard
7 realities that we are dealing with and some of the
8 realities that are shaping FERC policy, but it is a
9 pretty sobering assessment.

10 I think it is pretty clear, though, that
11 FERC regulatory policy must be based on reality. The
12 reality is that we're looking at continued upward
13 pressure on electricity prices.

14 We are looking at higher capital costs for
15 new power plants, higher construction costs, and
16 higher fuel costs. Those upward pressures are going
17 to continue for some time. As you said, that means
18 electricity prices will be higher than many Americans
19 would prefer.

20 We are actually dealing with three different
21 realities right now. First, that federal and state
22 regulators are regulating in a high-cost environment.
23 That was something that Commissioner Moeller -- that
24 is how he described it in a recent speech, and I
25 thought that was very well done, that we are

1 regulating in a high-cost environment and that is not
2 likely to change any time soon.

3 The second reality is that the U.S. needs
4 massive investments. We need generation,
5 transmission, and distribution. You can dispute what
6 the exact magnitude might be of those investment
7 needs, but we need hundreds of billions of dollars in
8 new generation, transmission, and distribution to
9 assure security of supply and to develop the
10 infrastructure that we need to deliver electricity to
11 consumers.

12 The third reality is that we are beginning
13 to confront a climate-change challenge, and we have
14 tremendous uncertainty about what policy direction
15 this country might move in. That action on climate
16 change, it will come at a significant cost, but not
17 necessarily an unreasonable cost.

18 If you look at these three realities, there
19 is clear tension among them, and they work at
20 cross-purposes. The cancellations in coal plants that
21 you talked about that shows the tension between the
22 security of supply challenge, the need for new
23 investment, and the challenge of uncertainty on
24 climate change.

25 FERC, also we have regulatory policies

1 designed to encourage investment in new generation,
2 new transmission, but those policies come at a cost.
3 There is concern about the cost of policies designed
4 to encourage those investments.

5 But I think we have to accept that the U.S.
6 cannot make massive investments necessary to assure
7 security of supply and to strengthen our electricity
8 networks. We cannot also make additional large
9 investments necessary to address climate change while
10 lowering electricity prices. I think if we try to do
11 all three, that the result will likely be failure.

12 What can we do about price? It doesn't mean
13 that there is nothing that we can do about price. We
14 can't change the fundamental cost. We can't change
15 the cost fundamentals that you've discussed today.
16 The construction costs of a power plant is not
17 something FERC has much ability to effect.

18 A lot of the coal prices and metal commodity
19 prices that influence power plant construction, those
20 are set in a world market. U.S. demand doesn't set
21 the price of copper any longer. That is set because
22 of demand in China, frankly, not the United States.

23 Gas prices are still set on a regional
24 basis. There still is something, there is a
25 North American gas price. But a lot of the other cost

1 inputs are set on an international basis. They are
2 commodities. FERC cannot change those cost
3 fundamentals.

4 We can take actions to improve demand
5 response. That can help in the short-term. We can
6 also take steps to encourage that when power plants
7 are built, they are built in a way where competitive
8 pressures have some influence on cost, both the cost
9 of construction as well as operating costs. There is
10 more than one way, more than one path, to develop new
11 generation in this country. Some paths are likely to
12 produce lower costs than others.

13 But FERC can also make sure that prices are
14 not the product of market manipulation, a market power
15 exercise. That is exactly what we did after
16 Hurricanes Katrina and Rita hit when natural gas
17 prices went up.

18 We couldn't deny the fundamental market
19 dynamics that were driving those prices up, but we
20 could make sure they didn't go higher still because of
21 manipulation and market power exercise. I think
22 that's exactly what we have to do now in this
23 high-cost, regulatory environment.

24 We have a duty to make sure that electricity
25 prices, wholesale prices are -- we also recognize in a

1 high-cost environment that the risk of market
2 manipulation are, arguably, greater. We have to
3 remain vigilant, perhaps be even more vigilant.

4 The last time we were in a high-cost
5 environment similar to this was in the late 1970s and
6 the early 1980s. It is kind of interesting looking at
7 that time. In that case, the high-cost environment
8 actually was the product of regulation. It was the
9 product of regulatory policies.

10 Competition policy was born during the last
11 high-cost environment as a response to the failure of
12 a traditional regulation. If you look at competition
13 policy when it was established 30 years ago, it was
14 rooted in the conviction that competition does a
15 better job controlling costs than regulation, that
16 competition does a better job developing and deploying
17 new technologies, that competition does a better job
18 improving operating performance at power plants, and
19 that competition properly shifts the risks from
20 consumers to market participants.

21 I think those truths still apply today. I
22 think competition policy is best suited to address the
23 hard realities that we are confronting now, and I
24 think it is still going to govern FERC electricity
25 policy.

1 That is more in the nature of a reaction or
2 a comment than questions, but I might have some
3 questions after my colleagues have an opportunity.

4 Colleagues?

5 Jon.

6 COMMISSIONER WELLINGHOFF: Sure, I would be
7 happy to go first. I've got a number of comments and
8 questions as well. But the first thing I do want to
9 do is give my tribute to the team, thank the team very
10 much for just a remarkable job in a very short period
11 of time.

12 Thank you all as well for taking the
13 suggestions and comments and proposals of our office
14 and considering them. I appreciate that very, very
15 much. I also want to thank Commissioner Moeller for
16 proposing this be on our agenda. I think this has
17 been very valuable to me.

18 In the nature of some questions, in going
19 over slide two first, which shows that, Charlie, your
20 forward market prices, first, so all of understand
21 here and the public outside understands, that these
22 prices of course are wholesale prices and they are not
23 retail prices; correct?

24 MR. WHITMORE: Yes, that's right.

25 COMMISSIONER WELLINGHOFF: I think that the

1 average retail price in the country is somewhere
2 around 10 cents, and all of these prices are above
3 that level.

4 We are talking about wholesale prices now
5 being above retail prices, which at some point in
6 time, as you mentioned, when people start to see those
7 real prices, they are going to catch up. We do have
8 the situation of facing those increased prices in the
9 future.

10 One other thing that I wanted to look at
11 here, it appeared to me in looking at the percentage
12 increases, and they are fairly uniform and hitting
13 everywhere around the country. It is not that we have
14 higher increases in RTO regions than we do in non-RTO
15 regions inside and outside of the organized wholesale
16 markets? It is happening across the country; is that
17 correct?

18 MR. WHITMORE: It is, indeed, happening
19 across the country. It happens somewhat less where
20 there is a lot of hydro, like, the Northwest; somewhat
21 less where there is a lot of coal, like, the Midwest.
22 And if we could get any decent prices in the
23 Southeast, I think we would see that it is more
24 coal-based. That will change, too, probably because
25 coal prices are recently going up very rapidly.

1 COMMISSIONER WELLINGHOFF: Some region may
2 be blessed with some indigenous historical resources,
3 keeping prices somewhat low? But in the future,
4 because of the new incremental costs, they are going
5 to still go up percentagewise?

6 MR. WHITMORE: Yes. The key here, I think,
7 is that the wholesale price increase appears to have
8 little or nothing to do with whether it is an RTO or
9 not; it has to do with a preexisting stock of
10 generation.

11 COMMISSIONER WELLINGHOFF: On your gas price
12 slide, which I also found remarkable in the staggering
13 increases we're seeing there from the average spot
14 price from 2007 to the current and future price of gas
15 going on out, which shows currently about a 66 percent
16 increase just from 2007, as I understand it, even
17 these future prices that we have in this country are
18 still not on parity with \$130 a barrel oil price?

19 MR. WHITMORE: No, they are not much more
20 than half of oil parity. They also, depending on the
21 season, are the lowest prices in the world. During
22 the summer, we in Western Europe share about the same
23 price, at least this year. During the winter, we have
24 the lowest prices, by a fair amount, anywhere except
25 in the far Northeast where there are capacity concerns

1 in the pipeline.

2 COMMISSIONER WELLINGHOFF: In the winter, as
3 I understand it, European prices go closer to oil?

4 MR. WHITMORE: They go closer to oil. They
5 reach, perhaps, 90 percent of oil parity for the
6 winter, but not beyond.

7 COMMISSIONER WELLINGHOFF: So as natural gas
8 becomes more of an international market, we could even
9 see that gap closing and these prices going up even
10 more?

11 MR. WHITMORE: That is quite possible.
12 Although, I will say that there has been a remarkable,
13 to me anyway, supply response on the natural gas side.
14 EIA reports that for the first quarter of this year we
15 produced 9 percent more natural gas in the
16 United States than we did a year earlier. These
17 numbers will bounce around some, because there are
18 facilities that go out and so forth.

19 But in an industry where as recently as a
20 couple of years ago the common wisdom was we would
21 sort of see declining production of 1 percent a year
22 pretty much forever, clearly in the case of natural
23 gas, although not oil, there is a supply response in
24 North America which could tend to go the other way as
25 well.

1 COMMISSIONER WELLINGHOFF: But of course
2 that supply response, again, it is going to be
3 affected by world markets more and more?

4 MR. WHITMORE: Oh, absolutely. For example,
5 last year at this period when we saw that supply
6 response, that was the prices in the \$6 to \$8 range.
7 These prices now are considerably above that.

8 COMMISSIONER WELLINGHOFF: On the coal
9 slide, you and I had some discussions about this
10 yesterday, but I want to make sure we don't leave any
11 misimpressions here.

12 This sort of five-times disparity between
13 Powder River Basin coal and Appalachian coal, in fact,
14 you have to add some considerable transportation
15 coasts to Powder River Basin coal, is that correct, to
16 really get the real price, the delivered price?

17 MR. WHITMORE: I don't remember the exact
18 numbers, but perhaps two-thirds of the overall cost of
19 the delivery is in the transportation. On top of
20 which, the heat content for ton is a good deal lower
21 than the Appalachian stuff, so you're getting less in
22 the way of BTUs out of each ton, which is the other
23 piece of why it is lower.

24 COMMISSIONER WELLINGHOFF: As I understand
25 it, we are also seeing much more pressure, given the

1 markets for export of our coal, and therefore putting
2 pressure on our prices of coal?

3 MR. WHITMORE: That's right, especially as I
4 understand, it's Central Appalachian coal.

5 COMMISSIONER WELLINGHOFF: Why not so much
6 the Powder River Basin coal with respect export?

7 MR. COLLINS: My understanding is that it
8 has been increasing, but the quality of the coal, it's
9 a very different type. Even in the United States
10 plants have to blend it, so the design might not be
11 conducive to that type of coal.

12 COMMISSIONER WELLINGHOFF: Is the Powder
13 River Basin coal the higher sulfur coal?

14 MR. COLLINS: It is actually lower sulfur,
15 but lower BTU.

16 COMMISSIONER WELLINGHOFF: Oh, I see, okay.

17 MR. WHITMORE: In that regard, we also do
18 import coal. For that, we are paying a world price.
19 That, too, has been going up.

20 COMMISSIONER WELLINGHOFF: Ultimately, I
21 guess like natural gas, coal will become a world
22 commodity as well?

23 MR. WHITMORE: It already is.

24 COMMISSIONER WELLINGHOFF: With respect to
25 your net-load projections on Slide 6, 108 gigawatts of

1 requirement through 2016, I was looking at some of the
2 amount of potential capacity in the queues and the
3 RTOs. I think all the RTOs are similar, like,
4 360 gigawatts capacity in the queues? Does that sound
5 about right?

6 MR. COLLINS: I don't have the exact figure,
7 but it is definitely a multiple of what the growth is
8 going to be.

9 COMMISSIONER WELLINGHOFF: What was
10 interesting to me was that over half of that is wind
11 energy. It shows that, and I think you go into it in
12 a couple of slides forward here, as far as the cost of
13 wind, that is probably your lowest-cost capacity
14 resource right now.

15 MR. WHITMORE: It may be the lowest-cost
16 source of kilowatt hours. Kilowatts capacity is
17 almost certainly another matter.

18 COMMISSIONER WELLINGHOFF: Right. No, I
19 understand it's--

20 MR. WHITMORE: Because wind has much harder
21 times dealing with that.

22 COMMISSIONER WELLINGHOFF: It has
23 lower-capacity value. If you look, then, moving
24 through your construction and materials cost slides
25 the Slide 11, your "Estimated Cost of New Generation,"

1 I appreciated this slide very much. It was a very
2 eye-opening slide for me.

3 MR. WHITMORE: When you look at least at
4 delivery of energy anyway and you consider that there
5 is no fuel costs associated with wind or geothermal,
6 those resources probably from an energy standpoint are
7 going to be the lowest cost resources.

8 COMMISSIONER WELLINGHOFF: Again, from an
9 operating standpoint once they are built, that's true.
10 The question of how you trade off between the capital
11 costs in the first place and the fuel costs later on
12 is are more difficult one as we discussed yesterday.
13 I think I volunteered Keith to translate some of these
14 things into kilowatt hour prices over the next month
15 or two.

16 COMMISSIONER WELLINGHOFF: That would be
17 very helpful. I would love to see those figures as
18 well. Obviously, given the fuel price costs and
19 potential for fuel price cost escalation that you've
20 given us here, that definitely has to be a part of the
21 picture to get the true, full consumer cost of these
22 resources.

23 It was amazing to me how apparently out of
24 the money nuclear power is. It is \$6,000 a kilowatt.
25 I was building solar PV systems in Los Vegas for that.

1 It's incredible, an incredible cost. It's amazing.

2 MR. WHITMORE: Nuclear is expensive, yes.

3 (General laughter.)

4 COMMISSIONER WELLINGHOFF: Coal, the
5 competitiveness of coal, of course you mentioned the
6 fact, and I think it is a key fact, that there is this
7 big, looming sort of elephant in the room for coal,
8 and that is, what is the carbon price going to be?

9 Coal's excessive carbon emissions compared
10 to virtually everything else, even gas. That seems to
11 be an issue that we all have to deal with, because it
12 is going to factor into the cost for consumers.

13 I was very appreciative also of your
14 discussion on energy efficiency and your inclusion of
15 that in this. Your discussion with respect to your
16 Slide 13 regarding energy efficiency's ability to
17 eliminate new capacity, I don't know if you are aware,
18 but I just wanted to comment and indicate that I was
19 in Vermont a couple of weeks back and found out there
20 they have an entity within the state that is kind of a
21 private, nonprofit entity that does energy efficiency
22 called Energy Efficiency Vermont.

23 It is under the auspices of the state. They
24 provide a system benefit charge to it. That entity
25 then goes out and does energy efficiency throughout

1 the state, sort of separate from utilities.

2 Energy Efficiency Vermont, I found out for
3 the first time in this last year, is able to reduce
4 energy usage in Vermont sufficient to drive it below
5 its projected level of demand. In essence, they are
6 actually substituting for its future capacity
7 requirements. I don't know how successful they will
8 be going forward in the future.

9 As the Chairman has indicated, one of my
10 favorite subjects is energy efficiency. The prices
11 that you have listed here, Charlie, at 3 cents for the
12 legacy energy efficiency, I mean, even if we double
13 that to 6 cents, even if we triple it to 9 cents,
14 which you say the combined-side combustion turbines
15 just for fuel is at 9 cents, that doesn't include the
16 capacity costs. Also, it doesn't include the
17 transmission distribution to get it to a consumer's
18 facility.

19 Even if you triple energy efficiency to
20 9 cents, it is still cheaper than everything we have.
21 So it continues to amaze me that we don't have more
22 aggressive investment in energy efficiency.

23 For example, this building, most of you know
24 that I've redone my offices to reduce the lighting as
25 a demonstration in my offices. By doing that with

1 currently available technology, not anything new or
2 beyond what is available commercially off the shelf,
3 we have reduced the lighting energy use in my office
4 by 50 percent.

5 I guarantee you that I could reduce the
6 energy usage in this building by 30 to 50 percent, no
7 question. Yet, given the fact that FERC doesn't own
8 the building and we have a separate third-party
9 landlord here, there is apparently not the correct
10 economic incentives for that entity to go ahead and do
11 what I know can be done that could reduce capacity
12 requirements significantly.

13 I think this building is representative of
14 the buildings stock throughout the Capital. There is
15 a huge potential, a 30 to 50 percent potential.

16 One thing I think FERC certainly can do and
17 has been supportive of is what New England's done in
18 the forward capacity market where efficiency can
19 actually be bid into a wholesale capacity market.

20 Perhaps, if the owner of this building could
21 do that into PGM, which PGM I know is considering it
22 right now, and perhaps they will improve the
23 efficiency of this building from what I've suggested.

24 With that, thank you very much. I
25 appreciated your presentation.

1 CHAIRPERSON KELLIHER: Just to comment just
2 on the building. I mean, I agree, and we've talked
3 about this. You hit on the Agency issues that really
4 are a major impediment to improved energy efficiency
5 in this country.

6 If FERC were to make this building a model
7 of energy efficiency, it would be a gift to the
8 landlord. We would be enriching the landlord at the
9 expense of the taxpayer. And if he fixed the leak in
10 my roof so that it wouldn't leak every time it rained,
11 then maybe I would be more sympathetic.

12 (General laughter.)

13 CHAIRPERSON KELLIHER: I think the problem
14 here is we have a really good lease, and this building
15 comes at a very good price, and the landlord wishes he
16 would get a better price at the end of this lease.

17 We talked about this. If we were to make
18 those improvements, we would be enriching the landlord
19 before the Federal Government owns the building. It
20 would be the exact right thing to do. Once the
21 Federal Government owns this building, it would be the
22 perfect thing to do.

23 COMMISSIONER WELLINGHOFF: No, we need to
24 put incentives in place in the markets that allow our
25 landlord to have the incentive to go do the right

1 thing.

2 CHAIRPERSON KELLIHER: Yes, I agree. But
3 the incentives, he probably wouldn't do it now because
4 he is not going to own it for very long. He would
5 need a really short --

6 COMMISSIONER WELLINGHOFF: Payback?

7 CHAIRPERSON KELLIHER: Yes, payback. But
8 once the Federal Government owns this building, I
9 think it should become a model, and then it would make
10 sense from a taxpayers' point of view as well.

11 Colleagues?

12 Commissioner Kelly.

13 COMMISSIONER KELLY: Thank you, Joe.

14 Thank you, Charlie and Keith, for this
15 presentation. As I read the presentation and then
16 listened to you today, it left me with the question,
17 where do we go from here? As a federal agency in
18 charge of energy policy and the electric industry in
19 particular, what lessons does this tell us.

20 I guess at this point in time I see four
21 avenues for us to travel along. One, as the Chairman
22 mentioned, I think it underscores the importance of a
23 continuing commitment to competition in wholesale
24 markets.

25 The Commission has supported this and

1 continues to support this and is working today with
2 our NOPRA to improve the competitiveness of the
3 markets. I think that your report underscores how
4 important it is for us to continue to do that.

5 Second, in the area of transmission, it
6 underscores the importance of FERC's policies to
7 improve transmission access to the resources that the
8 consuming public wants to have built.

9 Right now, not surprisingly, that's
10 renewable resources. It is not surprising because the
11 cost of those are much more predictable and stable
12 without having to factor in the rising volatile
13 uncertainty of fossil fuels.

14 In crafting our policies towards getting the
15 necessary transmission built, in light of your
16 presentation about rising costs, I think it is
17 incumbent upon us to ensure that our policies to
18 incent transmission don't contribute to rising costs.

19 We should be very careful about using our
20 incentive authority in a way that doesn't have
21 unintended consequences of unnecessarily raising the
22 costs for transmission.

23 As you showed, the head room that we have
24 and that the American consuming public has for cost
25 increases coming from a regulator is decreasing,

1 because the costs that we don't have control over are
2 rising quickly and greatly.

3 Those are two of the avenues I think we need
4 to be traveling on, on the generation for the supply
5 side, but I think there are two avenues on the demand
6 side that are important for us.

7 First of all, as we think about the cost
8 increases that you reported on today and the nation's
9 concern about climate change, I think we have to also
10 remember that there are other issues, concerns,
11 problems in our economy that compound this cost
12 problem.

13 We have a weak dollar. We have an economic
14 slowdown. Some would call it a recession. We have
15 the prospect of inflation. We have a financial sector
16 that has been battled by financial crises, and credit
17 is tight.

18 This makes the whole notion of building more
19 electricity infrastructure a difficult one. It is not
20 easy to build expensive long-lived assets today in a
21 constrained and uncertain world.

22 Frankly, we see around the country that it
23 is not appealing to the electric industry consumer.
24 We have seen responses in the states, the cancelling
25 of plants, and the issuance of renewable portfolio

1 standards including the expansion of those standards
2 to set goals for efficiency.

3 In other words, there is decreasing
4 enthusiasm for building and an increased enthusiasm
5 for demand-side resources. I think that that tells us
6 two things.

7 One, the importance of a continuing
8 commitment to developing markets for demand response,
9 where we have jurisdiction to do that, for efficiency,
10 and for incorporating alternatives to generation into
11 our planning processes, the planning processes that
12 the utilities under our jurisdiction need to engage
13 in, in transmission.

14 I think we are doing a good job towards that
15 end. We have NOPRAS in place and we're working on
16 approving compliance filings filed by transmission
17 providers to implement robust transmission planning
18 processes that achieve our goals. We have NOPRAS in
19 place to look at increasing our markets for demand
20 response and efficiency. I think that's a good thing.

21 The fourth avenue is something that we have
22 just started to look, and that is the importance of
23 developing this market. Optimizing the design and
24 operation of our transmission and distributions can
25 yield great efficiencies and a decrease in use of

1 electricity.

2 Having a smart grid in place, will allow for
3 applications that will facilitate and increase
4 demand-side resources as well as energy efficiency.
5 To that end, FERC is coordinating with the Department
6 of Commerce and the Department of Energy to develop
7 interoperability standards for a robust and efficient
8 smart-grid system.

9 FERC has initiated a collaborative with
10 NARUC, because state regulators are also key to the
11 deployment of a smart grid. That collaborative is
12 working to help all regulators understand the cost and
13 benefits of smart-grid applications and the barriers
14 that exist to actually deploying this technology.

15 Finally, searching for ways to facilitate
16 the transition to a smart grid, Joe mentions that
17 30 years ago when we were faced with somewhat similar
18 situations, there was a failure of regulation to
19 achieve what the public wanted, lower costs.

20 I think that your presentation is very
21 timely and impresses upon us, being in a similar
22 situation, that we don't want to lose sight of the
23 fact that we have a responsibility along with our
24 state regulators not to fail them in helping to deploy
25 the solutions that will keep these costs in check and

1 perhaps lower them. It's not going to be easy, but I'm
2 sure that we can do it with a commitment.

3 Thank you.

4 CHAIRPERSON KELLIHER: Thank you very much.
5 Commissioner Spitzer.

6 COMMISSIONER SPITZER: Thank you,
7 Mr. Chairman. I also would thank Commissioner Moeller
8 for this idea and the staff for producing this very
9 timely presentation.

10 It is one of those life's good ironies. We
11 have a former executive director of NARUC in the
12 audience at a time when there is upward pressure on
13 retail rates.

14 It is the imposition of retail rates upon
15 real customers where the impact of these are the
16 consequences are visited and where the rate payers are
17 extremely unhappy and where we have -- I mean, demand
18 response is great. But demand destruction that we've
19 seen in certain segments of the U.S. economy, where
20 U.S. jobs are lost, permanently exported, is not a
21 good thing.

22 I know we all are cognizant of the impacts
23 at the consumer level. We all travel across the
24 country, and we are hearing from our state commission
25 colleagues about the impact on upper pressure. There

1 are rate cases going on all over the country now.

2 I would suggest that there are two broad
3 options that can be taken in response to with regard
4 to that little people in the processes in this
5 country. One is sort of a facile attempt to find
6 scapegoats. I know state commissioners frequently
7 become scapegoats where rates increase.

8 The second alternative requires a little bit
9 more effort, a little bit more work, a little bit more
10 bipartisanship, and that is to attempt to find
11 solutions.

12 What pleases me greatly about FERC, in my
13 nearly two-year tenure at the FERC, is something that
14 I think, at least until recently, has been largely
15 absent from the political discourse, and that is an
16 effort to attack and solve the supply side as well as
17 the demand side of the equation.

18 This body has been very attentive to
19 policies to generate more supply and where we have
20 exclusive jurisdiction in the area of transportation
21 on both natural gas and electric.

22 We have put a great deal of effort into
23 increased transportation to reduce supply
24 differentials, to bring renewable resources to market,
25 to add to supply. At the same time, we have worked

1 very hard on energy efficiency and demand response.

2 Commissioner Kelly mentioned the smart-grid
3 collaborative, Commissioner Wellinghoff has a
4 collaborative with state commissioners on demand
5 response, and I have one on competitive procurement.
6 We have been attentive to both aspects of this
7 problem.

8 It is, I think, a very recent phenomenon,
9 that is one of the consequences of the oil shock of
10 2008, is folks are now talking about both conservation
11 and supply both at the same time as both essential to
12 resolve this problem.

13 Now, there has been concern and discussion
14 of organized markets, and all my colleagues have
15 discussed the fact that this upward pressure on retail
16 rates is a phenomenon that is national in scope.

17 You go around the country and there are very
18 few utilities that are not currently before their
19 state commissions for retail rate increases in
20 vertically integrated markets as well as organized
21 markets.

22 It is very clear that organized markets are,
23 of course, dealing with these issues as well, but the
24 increased fuel costs are the proximate cause of the
25 upward pressure and not the nature of -- as was

1 pointed out by Charlie in response to a question posed
2 by Commissioner Wellinghoff, it's the indigenous fuel
3 mix of the jurisdiction that yields the ultimate key
4 to the price increase as opposed to other matrices.

5 I think we have a good story to tell in the
6 area of natural gas. Although, again it is reaction
7 to the price increase, but we've seen what has been
8 contrary to the prevailing wisdom, where we were told
9 that there would be decline in production in the lower
10 48 states, and we have, in fact, seen an increase in
11 production in natural gas wells. There has been
12 technology.

13 There is a great story to be told with
14 shale. There are shale deposits in Texas and such
15 shale deposits have produced natural gas for
16 horizontal drilling and other techniques. There are
17 shale deposits found not only in Texas and Louisiana,
18 and Arkansas, but also in the Upper-Midwest and even
19 in the East. There is a response by the markets and
20 by technology.

21 The FERC has, frankly, has led the way with
22 certificating projects for transportation of these new
23 technologically found deposits in natural gas. What I
24 think is the right path is, number one, Einstein said
25 insanity is doing the same thing and thinking you're

1 going to get a different result.

2 Well, as was pointed out by my colleagues,
3 the command-and-control methodology of the 1970s did
4 not produce good results for rate payers. I think we
5 need to stay the course on organized markets and on
6 competitive wholesale markets. I am very pleased to
7 hear my colleagues support that as the answer.

8 We need to continue our collaboratives with
9 our state colleagues on the supply side and the demand
10 side of the equation. We need to continue, in an era
11 of great difficulty, promoting capital investment.
12 Commissioner Kelly spoke to the constrained financial
13 market.

14 This is essential. Energy is the lifeblood
15 of the American economy. The FERC has a mission to
16 ensure that investment in infrastructure, both
17 electricity and natural gas will be forthcoming. I
18 look forward to working with all my colleagues to
19 achieve that objective.

20 Thank you.

21 CHAIRPERSON KELLIHER: Commissioner Moeller.

22 COMMISSIONER MOELLER: Thank you,

23 Mr. Chairman.

24 I, too, want to thank particularly the team
25 that Charlie put together on relatively short notice

1 excellent work, a lot of work, thank you, and to my
2 colleagues for taking an interest in this well. It is
3 heartfelt and thorough.

4 We have seen this storm of high prices
5 coming at us for several years on the horizon, and it
6 is about to hit. I think it will be over us for quite
7 a while.

8 Anecdotally, Charlie, I'm curious your
9 reaction to this. You had to put a report together
10 that was documented and sourced. But I have heard
11 even more talk in the last few months of someone
12 coming in who wants to build a pipeline and steel
13 prices suddenly going up 40 percent, and numbers that
14 even kind of blow a few of these out of a bit. I'm
15 curious your reaction, if you have heard the same
16 things and your thoughts on that?

17 MR. WHITMORE: Yes. I think the key there
18 is the word "anecdotal." We do hear that sort of
19 thing. We hear of people having to raise prices
20 almost overnight.

21 We in talking with the Southern Company
22 about their coal purchases, they said that the coal
23 companies they would come back the next day and want a
24 higher price on fuel, but also on all the other
25 things. Yes, it is rising pretty rapidly. These

1 numbers may already be a couple of months out of date,
2 in effect.

3 On the other hand, it is easy probably to --
4 every time that happens to you in a discussion, it
5 makes a big effect on you, and so the anecdotes may be
6 somewhat exaggerated compared to a more balanced view
7 if you looked at everything.

8 COMMISSIONER MOELLER: Thank you. Well, I
9 have a few observations as well. What makes this a
10 particularly interesting and challenging set of issues
11 is that some of these areas of decisions are for
12 Congress, a few are for us, some are for state
13 legislatures, some are for state regulators. I
14 conclude a few observations.

15 One is that we do need to focus some more on
16 consumer education. The fact is that consumers need
17 to be told honestly that we are in a rising-price
18 environment, and that there probably isn't much we can
19 do about that, given the worldwide nature of commodity
20 markets.

21 But more than that, consumers still need
22 more resources to look at the consequences of their
23 decisions, whether that ranges from getting into a
24 lease where you don't have much control of your
25 consumption to residential folks who they can go out

1 and replace all of their light bulbs from incandescent
2 to a more efficient variety. But then if they go out
3 and buy a couple of the new plasma TVs, they have
4 wiped away all of those efficiencies.

5 Again, there is a disconnect as to people's
6 decisions and the consequences of them in their energy
7 consumption that policymakers, I believe, need to work
8 on.

9 Second is that the more consumers receive
10 accurate price signals and the more they see the real
11 cost of energy, the better they can adjust their
12 demand. That is something that people need to be
13 empowered more toward, whether it is the smart grid or
14 other decisions that are primarily at the retail level
15 and state regulators.

16 But it is also important to remember that
17 the elasticity of demand is not necessarily
18 universally applied across all the different levels of
19 society. The poor are more likely to bear the burden
20 of demand response, if we're not careful.

21 Finally, given the range of uncertainty over
22 the future of carbon policy in this country and the
23 costs of either a cap-and-trade system or a carbon
24 tax, it is clear that if you are allocating hundreds
25 of millions of dollars for the next round of

1 resources, right now you are going to be moving more
2 toward renewables and generation that is fueled by
3 natural gas. I think it's important that we recognize
4 that and recognize the challenges involved.

5 It is good to have more renewables into the
6 grid, but, as noted earlier, particularly with the
7 Bonneville system, they are going to have a challenge
8 in terms of integration, not insurmountable. It is a
9 real-world challenge that has to be dealt with,
10 because wind is not the same as base load. Again, if
11 we go in recognizing the reliability consequences of
12 that as policymakers, it is better than if we pretend
13 it doesn't exist.

14 Finally, more transmission can help solve a
15 lot of these problems, at least as a shoulder
16 strategy, because it comes at a disproportionately
17 small price compared to the commodity price or the
18 fuel price. I look at my D.C. bill and transmission
19 costs are 1 or 2 percent. The latest I checked my
20 bill on the ranch in Washington state, it's probably
21 closer to 10 percent.

22 You can invest a lot in transmission to help
23 markets function better, and you pay a proportionately
24 less amount to help consumers in the end. I am not
25 happy about higher prices, because inflation in these

1 areas take dollars out of people's pockets that could
2 otherwise could be spent on other things. The upside
3 is that it has us as a society talking about these
4 issues, and that is a good thing.

5 Again, Mr. Chairman, thank you for
6 recognizing my request that this issue be brought for
7 us and for the fine work of the team. I'm sure we
8 will be talking about it a lot more in the future.

9 CHAIRPERSON KELLIHER: I want to thank my
10 colleagues and thank the staff. Good work.

11 MS. BOSE: The next item for the discussion
12 this morning is G-4. That is concerning a draft final
13 rule on the Commission's Capacity Release Program.
14 There will be a presentation by Dave Maranville from
15 the Office of the General Counsel. He is accompanied
16 by Ed Murrell from the Office of Energy Market
17 Regulation, Berne Mosley from the Office of Energy
18 Projects, and Richard Howe and Bob McLean from the
19 Office of the General Counsel.

20 CAPACITY RELEASE RULE

21 MR. MARANVILLE: Good morning, Mr. Chairman.
22 Good morning, Commissioners. As Secretary Bose
23 stated, my name is David Maranville. I am from the
24 Office of the General Conunsel. I am here this
25 morning to present the draft final rule in RM08-1,

1 which is the promotion of a more efficient capacity
2 release market.

3 This proceeding began in late 2006 with the
4 filing of two separate positions, one, asking for
5 clarification of the Commission's capacity release
6 rules and one requesting a rulemaking regarding the
7 price cap on capacity releases.

8 Following comments on those petitions, the
9 Commission issued a notice of proposed rulemaking
10 last November. Since its issuance the Commission has
11 received a significant level of positive industrywide
12 support for the NOPRA, particularly on its proposal to
13 remove the price ceiling on short-term capacity
14 release transactions, and also on its proposal to
15 modify its policies and regulations to facilitate
16 asset management agreements.

17 The draft final rule before the Commission
18 today will implement those enhances 30 days after the
19 rule is published in "The Federal Register." The
20 purpose of the draft final rule is to revise the
21 Commission's capacity-release policies and regulations
22 in a manner intended to promote a more efficient
23 capacity-release market.

24 To that end, the final rule makes four major
25 modifications to the Commission's policies and

1 regulations. First, the final rule adopts the
2 Commission's proposal in the NOPRA to lift the maximum
3 rate ceiling on secondary capacity releases of one
4 year or less.

5 As in the NOPRA, the final rule does not
6 eliminate the maximum rate ceiling for long-term
7 capacity releases of more than one year, nor does it
8 lift the price cap on primary sales of capacity by
9 interstate pipelines.

10 Second, the final rule of adopts the NOPRA
11 proposal to modify the Commission's policies and
12 regulations to facilitate the use of an asset
13 management arrangement.

14 The rule accomplishes his goal by exempting
15 releases that implement these arrangements from the
16 Commission's prohibition on tying capacity releases to
17 any extraneous conditions and from the Commission's
18 bidding requirements for capacity releases.

19 The final rule also revises the definition
20 of asset management arrangements that was proposed in
21 the NOPRA to obligate a replacement shipper to stand
22 ready to deliver gas to, or purchase gas from the
23 releasing shipper for at least 5 months out of each
24 12-month period of the release. The final rule also
25 revises the AMA definition to allow for supply-side

1 asset management.

2 Third, the final rules revises the
3 Commission's prohibition against tying, to allow a
4 releasing shipper to include conditions and a release
5 of storage capacity regarding the sale and/or
6 repurchase of gas in storage inventory, even outside
7 the AMA context.

8 Specifically, this exemption from tying is
9 meant to allow a shipper to release storage capacity
10 to require a replacement shipper to take title to any
11 gas from the released capacity at the outside of the
12 release and/or to return the storage capacity to the
13 releasing shipper at the end of the release where they
14 specified amount of gas in storage.

15 Fourth, the final rule modifies the
16 Commission's regulations to facilitate state retail
17 open access programs by exempting capacity releases
18 made under state approved programs from the
19 Commission's capacity release bidding requirements.

20 In order to monitor the progress of the
21 capacity release market under the new provisions, the
22 final rule also directs Commission staff to monitor
23 the Capacity Release Program and to issue a report on
24 the general performance of that program within six
25 months after two years of experience under the new

1 rule.

2 This concludes my presentation. We would be
3 happy to answer any questions that you may have.

4 CHAIRPERSON KELLIHER: Thank you very much.
5 I really want to thank the team for working on this
6 order. I think it is a very good order. It is a very
7 good read, and I think we're making some important
8 reforms here. Thank you for the explanation.

9 I think the net effect of what we are doing
10 by moving the price cap, by granting additional
11 flexibility on asset management agreements, we should
12 be enhancing competition in secondary natural gas
13 capacity-release capacity markets, which would result
14 in more efficient use of the gas pipeline capacity.

15 This rule, really it's the latest in a
16 series of reforms that we have done in the gas area,
17 going back to the past few years including, like,
18 certificate rules, gas storage pricing reform, gas
19 market transparency initiatives, gas quality standards
20 in the proxy group composition. We have taken a number
21 of steps in the gas area, and today is the latest one.

22 But this order does offer gas consumers
23 important benefits. It gives them more options in how
24 they obtain gas supplies. It improves their access
25 to interstate the Interstate Natural Gas Pipeline

1 network and also facilitates the use of asset
2 management agreements, which are relatively new
3 developments in gas markets.

4 I think what we are doing here is we are
5 giving shippers more options and we are acting,
6 thorough reflect changes that have been occurring in
7 the marketplace. While we are reacting to those
8 changes and accommodating those changes that I think
9 do benefit consumers. I think it is a important
10 order. I'm happy to support it.

11 Colleagues?

12 Jon.

13 COMMISSIONER WELLINGHOFF: Thank, you jon.
14 I'm happy to support this as well. Thank you, team,
15 for the hard work you I in this final rule. I think
16 with this final rules we provide tools that are
17 necessary to make the natural gas capacity release
18 market more efficient.

19 As such, we act to change the Commission's
20 capacity to release regulations and policies in order
21 to promote the availability of an increased use of
22 existing pipeline capacity in the secondary market.

23 For example, under our current rules,
24 storage capacity was effectively kept off of the
25 secondary market, because gas had to be held in

1 inventory for an upcoming another season.

2 To make this capacity available to market,
3 we exempt gas inventory held in storage from the
4 prohibition, untying the pipeline capacity to the gas
5 commodity.

6 This tool will allow a replacement shipper
7 to take title of any gas that released storage
8 capacity and returned the capacity to the releasing
9 shipper with gas back in storage.

10 With more capacity available under our
11 modified rules, it increased competition, it increased
12 competition for pipeline capacity as well as gas
13 commodity, thereby ultimately increased benefits to
14 consumers.

15 We do not grant Statoil's request to extend
16 the exemption on tying to LNG shippers. Instead, the
17 Commission will address such requests on a
18 case-by-case basis. I support this action.

19 Statoil argues that exemption is necessary
20 to avoid LNG from being stranded at the terminal. If,
21 indeed, the problem exists, I'm open to seeking the
22 right solution.

23 To date, there is no evidence of the access
24 problem for LNG imports. Further, our current rules
25 allow LNG shippers to acquire pipeline capacity in the

1 secondary market through prearranged deals at maximum
2 rates.

3 Finally, it appears that the United States
4 is becoming a summer market for LNG, with LNG imported
5 and placed in storage. Pipeline capacity is generally
6 more available in the summer period. Therefore, in an
7 individual request for an exemption, I would need
8 evidence of an access problem and not a
9 solution-seeking problem.

10 Another key issue for me is the effect on
11 open-access competition. Prohibition on tying and
12 bidding requirements were intended to allow the
13 shipper that values capacity the most to obtain the
14 capacity and to use that capacity to purchase gas from
15 diverse sources.

16 These rules have been very effective, and
17 the result has been a significant increase in
18 competition for pipeline capacity as well as the gas
19 commodity. I intend to take a hard look at the effect
20 on our Open-Access Program, any proposed tying
21 exemption for and LNG supplier.

22 Thank you, Mr. Chairman.

23 CHAIRPERSON KELLIHER: Colleagues?

24 Commissioner Kelly.

25 COMMISSIONER KELLY: Well, thank you, Joe.

1 I really think that David and you and John
2 have covered the waterfront on this issue, and so I'm
3 going to resist the call of the siren to say something
4 even though you all have said I already, except to
5 thank the team for all the good work they have done.

6 CHAIRPERSON KELLIHER: Thank you.

7 Comisario?

8 COMMISSIONER SPITZER: Okay. Mr. Chairman,
9 thank you. Well, we can finally talk about the timing
10 issue, and I think it is noteworthy and important and
11 it is a credit to the team working so promptly to the
12 benefit of the consumers of the U.S.

13 Slide 3, in the last presentation, showed
14 January '09 gas futures at -- my eyes are not very
15 good anymore -- 13 bucks or so, which absent a crisis
16 like a hurricane or other spike in '01 is probably the
17 highest sustained price we have had for natural gas in
18 the history of the United States.

19 Right now, the gas LDCs are negotiating
20 asset management agreements with entities of various
21 types, including producers, for contracts for next
22 winter.

23 There was concern in the industry that these
24 asset-management agreements be entered into before
25 rather than in the midst of the winter so that they

1 could take effect and save United States' rate payers
2 money.

3 The FERC's prompt action on this item today
4 is saving real dollars for customers of natural gas in
5 the United State next winter. I, on behalf of my
6 colleagues, want to thank the team for their prompt
7 work on this.

8 I, too, will dispense with reading the full
9 statement, other than to discuss this LNG importer
10 issue raised by Statoil that was a very close call and
11 a very interesting issue.

12 I ultimately came to the conclusion that the
13 proper call was made in the order concerning the tying
14 of LNG capacity with downstream interstate pipeline
15 capacity.

16 I recognize the operational link between LNG
17 terminal storage and regassification capacity and
18 immediate downstream capacity, and I also recognize
19 that LNG importers are competing with a global
20 marketplace.

21 However, I do not believe that the
22 commentators provided adequate detail on the types of
23 transactions for which they were seeking a tying
24 exemption. I would agree that the Commission needs
25 more information on how far downstream the

1 commentators seek for an exemption to apply.

2 I would point out, as Commissioner
3 Wellinghoff noted, that the LNG importers are not left
4 without a remedy in that they may enter into
5 supply-side AMAs, and they may file a fully justified
6 proposal with the Commission with the necessary facts
7 for the Commission to make an informed ruling on the
8 potential exemption.

9 What we have, as is often the case in
10 government, is a conflict between competing
11 principles. I recognize that the concept of
12 regulatory certainty is important.

13 I ultimately went with the idea that, in
14 fact, the circumstances-basis cases can be filed
15 before the FERC, and the FERC orders will provide
16 factual and legal basis for regulatory certainty, so
17 it is more of a question of how and when we achieve
18 regulatory certain as opposed to whether.

19 Again, it was a very interesting issue. It
20 is a very long and complex process. I think my view
21 is that we reached the correct result. Equally
22 important, we reached the correct result in a very
23 timely manner that will benefit customers this winter.

24 Thank you.

25 CHAIRPERSON KELLIHER: Commissioner Moeller.

1 COMMISSIONER MOELLER: Mr. Chairman, I have
2 one question for the team. I guess it should go to
3 David at least initially. Can you tell me what types
4 of protections would be in place to ensure that
5 improper behavior -- market power, market manipulation
6 -- does not occur once we remove the price ceiling on
7 short-term capacity releases?

8 MR. MARANVILLE: I'm going to defer to Bill
9 on this.

10 MR. MURRELL: The basis protections from the
11 beginning of this process involved several different
12 areas. The Commission's Hotline is available in the
13 event anyone has questions or problems or perceived
14 difficulties with the events that take place in the
15 marketplace in real-time.

16 The Commission's Market Monitoring staff has
17 a pretty good program of going through on a daily
18 basis, identifying unusual circumstances, like, a
19 dramatic change in basis between two points or a
20 dramatic change in prices somewhere in the wholesale
21 marketplace.

22 There is a lot of real-time and very
23 near-time data available to our staff and to the
24 industry to monitor what is happening in the
25 marketplace.

1 The transactions themselves are subject to a
2 24-hour posting requirement, so there is a lot of
3 transparency about the individual-capacity release
4 transactions.

5 In the event that the Commission's staff
6 identifies unusual situations, we have the ability to
7 inquire and try to get more information. Ultimately,
8 if we detect what we believe to be some form of market
9 manipulation, we can take appropriate action to
10 investigate those activities.

11 COMMISSIONER MOELLER: Okay. Thank you.
12 Well, I do want to thank the team for working on this
13 in a relatively timely manner. Ideally, perhaps we
14 could have had this done a year ago, so that we could
15 get the winter heating season concluded, but at least
16 we have it in place for the next heating season.
17 Ultimately, I think that's what is going to benefit
18 consumers, as the Chairman said, a more efficient
19 usage of our natural gas infrastructure.

20 I also appreciate my colleagues for raising
21 any concerns early in the process so that we can get
22 this out this month. That was, I think, key to next
23 winter.

24 I strongly do support the order, with one
25 exception. I will, briefly, read my dissent as the

1 subject has been raised already.

2 "Several parties with interest in the
3 importation of liquified natural gas seek
4 clarification that a prohibited tying arrangement
5 would not occur if an LNG importer combines an LNG
6 throughput agreement for the sale of regassified LNG
7 at the outlet of the terminal with a prearranged
8 release of pipeline transportation on the terminal's
9 directly connected pipeline.

10 "In the alternative, the parties seek a
11 limited exception from the Commission's tying
12 prohibition. In this final rule, the clients grant
13 either the requested clarification for the limited
14 tying exception, but instead provides for adjudication
15 on a case-by-case basis. I cannot support this
16 determination.

17 "While LNG imports admittedly have
18 characteristics that are similar to both natural gas
19 production and storage, LNG maintain differences, too.
20 LNG cargo owners and terminal operators may have less
21 flexibility as they enter into negotiations and supply
22 arrangements in this global market on the high seas.

23 "The Commission should provide the
24 regulatory certainty to permit the linkage of such
25 agreements without fear of running afoul of the tying

1 prohibition.

2 "Providing such an assurance, could benefit
3 the public interest by encouraging increased LNG
4 supply deliveries and the efficiencies associated with
5 linking the terminal capacity and pipeline capacity,
6 since the commodity would flow uninterrupted from the
7 terminal to its directly connected pipeline.

8 Although, separately contracted arrangements may be
9 necessary to deliver the gas to its final destination.

10 "However, separating these arrangements,
11 risk stranding capacity at the import terminal or may
12 even result in LNG suppliers serving more flexible
13 markets that do not have such regulatory obstacles.

14 "Moreover, due to the limited nature of the
15 exception being sought, I would not expect that either
16 domestic producers or interstate shippers would be
17 placed at a competitive disadvantage.

18 "The need for LNG imports will undoubtedly
19 increase in the coming years, and the Commission
20 should take steps to provide regulatory certainty to
21 ensure that LNG tankers can reach our domestic markets
22 without unnecessary risk.

23 "Accordingly, I believe that this narrow
24 exception is appropriate in light of the unique
25 position of LNG terminals in the interstate pipeline

1 system."

2 Thank you, Mr. Chairman.

3 CHAIRPERSON KELLIHER: Thank you. Just one
4 comment on timing. This process began with a petition
5 for rulemaking and one that was styled a petition for
6 clarification, but I think our conclusion was we
7 actually couldn't grant the clarification unless we
8 granted broad waivers from our rules or undertook a
9 rulemaking.

10 I think it was a clever attempt, but I think
11 it, in essence, was a petition for rulemaking styled
12 petition and an order on clarification. They needed a
13 rulemaking, and there just is a certain interval of
14 time that is necessary for rulemaking.

15 I'm glad we're acting now. In a perfect
16 world, I think it would have been better to have acted
17 earlier. We were doing a rulemaking and rulemaking
18 just takes a number of steps and a couple of months.
19 I'm glad we are not acting any later than June, that's
20 for sure.

21 With that, any other comments, colleagues?

22 (No verbal response.)

23 CHAIRPERSON KELLIHER: No. Let's vote.

24 MS. BOSE: The vote begins with Commissioner
25 Wellinghoff.

1 COMMISSIONER WELLINGHOFF: I vote aye.

2 MS. BOSE: Commissioner Moeller?

3 COMMISSIONER MOELLER: Aye, noting my
4 dissent in part.

5 MS. BOSE: Commissioner Spitzer?

6 COMMISSIONER SPITZER: Aye.

7 MS. BOSE: Commissioner Kelly?

8 COMMISSIONER KELLY: Aye.

9 MS. BOSE: Chairman Kelliher?

10 CHAIRPERSON KELLIHER: Aye.

11 E-10 VIOLATION SEVERITY LEVELS

12 MS. BOSE: The last item for discussion this
13 morning is E-10. This item concerns the
14 North American Electric Reliability Corporation and
15 Docket No. RR08-4-000. There will be a presentation
16 by Cynthia Pointer from the Office of Electric
17 Reliability. She is accompanied by Rita Johnson from
18 the Office of the General Counsel and Teri Stasko from
19 the Office of Enforcement.

20 MS. POINTER: Good morning, Chairman
21 Kelliher and Commissioners. The E-10 draft before you
22 would approve the violation severity level assignment
23 recently proposed by the North American Electric
24 Reliability Corporation, or "NERC," to apply to the
25 83 standards approved by the Commission in Order

1 No. 693.

2 In addition, the draft order would require
3 NERC to submit several compliance filings to address
4 concerns regarding certain violation severity levels.
5 A violation severity level is assigned to each
6 requirement of a liability standard. It is a
7 post-violation measurement of the degree -- either
8 lower, high, or severe -- to which the requirement was
9 violated.

10 A violation severity level is used in
11 conjunction with a violation risk factor to establish
12 a base penalty range for violation of a reliability
13 standard.

14 While the violation severity level measures
15 the degree to which the requirement was violated, the
16 violation risk factors measures the potential risk a
17 violation poses to the reliability of the bulk power
18 system, either lower, medium, or high.

19 The higher the violation severity level and
20 then the higher the violation risk factor, the higher
21 the base penalty amount will be.

22 As previously mentioned, the draft order
23 would require NERC to submit several compliance
24 filings. Specifically, the draft order directs
25 modifications to a limited number of the violation

1 severity levels applicable to certain requirements
2 that were developed to implement recommendations of
3 the U.S.-Canada Power System Task Force's final report
4 on the August 14, 2003, blackout.

5 This compliance filing must be submitted to
6 the Commission within 30 days of the date of the
7 order. The draft order would also require NERC to
8 undertake a review of the approved violation severity
9 levels based on the guidelines in the draft order and
10 submit a compliance filing based on that review within
11 six months.

12 In addition, the draft order would direct
13 that NERC submit a report to the Commission within six
14 months documenting whether the violation severity
15 level assignments would allow for a lower level of
16 compliance than historically achieved by the industry.

17 Finally, the draft order announces four
18 guidelines, to which I alluded previously, that the
19 Commission will use to evaluate proposed violation
20 severity levels to help ensure more uniformity and
21 consistency in the determination of penalties.

22 The Commission previously approved NERC's
23 violation risk factors. Therefore, the issuance of
24 the proposed draft order completes the task of putting
25 in place two key factors that are used by NERC and the

1 regional entities in their initial determination of an
2 appropriate monetary penalty for a violation of an
3 approved reliability standard.

4 This concludes staff's presentation. Before
5 I ask for questions, I would like to acknowledge the
6 rest of the team. Sitting with me, Rita and Teri;
7 Bob Snow; Sharon Mayers; Kevin Wierzbicki;
8 Jonathan First; Christy Walsh; Roger Morie; and
9 Kelly Lozier. It was a great undertaking to go
10 through nearly 3,000 severity levels for each of the
11 739 requirements.

12 (General laughter.)

13 MS. POINTER: I just wanted to acknowledge
14 all the hard work that the team has done. We're now
15 able to answer your questions.

16 CHAIRPERSON KELLIHER: Thank you very much,
17 a very good presentation. This is a very good order.
18 Thank you for your good work. I just want to make
19 some general comments about the subject.

20 I think it is an important order. I think
21 we recognize that our reliability mission is really
22 different than the other missions charged to the
23 Commission.

24 It is not economic regulation. It is
25 something, given the way the law is structured, that

1 is going to take some time. We are going to have to
2 accept that we are in a position where we need to seek
3 steady improvements to the reliability standards and
4 the way we enforce those standards. The step we are
5 taking today is an important step, to strengthen the
6 standards and it will tell over time.

7 It was one year ago yesterday, actually,
8 that the mandatory liability standards approved by the
9 Commission went into effect. I remember the date
10 because it was Aidan's birthday. He was just here
11 earlier today. It is a date that otherwise has great
12 historical significance.

13 But in the summer of 2007, it was the first
14 summer where the grid, the reliability grid, was
15 governed by mandatory and enforceable standards rather
16 than a voluntary regime. Last year, we did see
17 reliable grid operations.

18 The summer may be a greater, may be a
19 stricter test of the reliability of the U.S.
20 electricity system. We have made a lot of progress on
21 reliability and are probably in a better position than
22 a year ago.

23 I also want to comment -- one reason I
24 wanted to comment today is there is a really
25 fundamental misunderstanding of what FERC's role is in

1 the area of reliability. In some cases, there is a
2 perception that what Congress did three years ago was
3 outlaw blackouts, and that FERC has all power to
4 prevent blackouts. That is frustrating. Especially
5 if there are blackouts, it is going to be really
6 frustrating.

7 (General laughter.)

8 CHAIRPERSON KELLIHER: Because most
9 blackouts, as we know, are caused by failures to the
10 local distribution system. We experienced some in
11 this D.C. area this week. Pepco did a great job on my
12 block, but I think John's block had a tougher time of
13 it. I had very reliable service on my block. But
14 generally a failure is the result --

15 COMMISSIONER WELLINGHOFF: You must have
16 asked for it.

17 CHAIRPERSON KELLIHER: Nothing that I asked
18 for, I have to say.

19 (General laughter.)

20 CHAIRPERSON KELLIHER: But usually a
21 reliability problem is a failure of the local
22 distribution system, not the high-voltage transmission
23 system. Our role is different and much more limited
24 than I think is generally perceived.

25 Our role is we are charged with protecting

1 and improving reliability of the bulk power system,
2 high-voltage network of interstate transmission
3 facilities.

4 What we do is review and approve mandatory
5 reliability standards, direct the Electric Reliability
6 Organization to develop new standards or strengthen
7 existing standards, and we oversee enforcement of
8 mandatory liability standards by the regional entities
9 and the Electric Reliability Organization.

10 To really do that job well, we have to
11 pursue steady progress, both to strengthen the
12 standards and then to improve enforcement over time.
13 Because enforcement itself, we're doing it very
14 differently here because the law establishes a
15 different structure. We are looking at regional
16 entities, many of which -- well, all but one has no
17 experience in enforcing standards and enforcement as
18 an art.

19 We are working closely with regional
20 entities and NERC to make sure that we have effective
21 enforcement, that we not only strengthen the
22 standards, but we improve enforcement over time.

23 This order is exactly the kind of thing that
24 we will be doing when we make incremental improvements
25 over time. I think it is a good order, and I commend

1 you for your hard work.

2 Colleagues?

3 Jon, any complaints or--?

4 COMMISSIONER WELLINGHOFF: Well, it would
5 probably be a lot easier than a blackout.

6 (General discussion.)

7 CHAIRPERSON KELLIHER: No, no complaints. I
8 do want to commend the staff as well and I support the
9 order. It is a very important order, and I think it
10 shows substantial progress showing the reliability of
11 the grid.

12 CHAIRPERSON KELLIHER: Colleagues?

13 Mr. Moeller.

14 COMMISSIONER MOELLER: Similarly, I support
15 the order. I have some questions, but they are more
16 general to a reliability issue. Cynthia, I'm not sure
17 if I should point them to you or to Mr. McClelland.

18 MS. POINTER: I'm the one.

19 COMMISSIONER MOELLER: Okay. I'm just kind
20 of thinking, as the Chairman noted, it has been a year
21 since the standards have become mandatory. What have
22 been the successes so far under a mandatory regime?

23 MS. POINTER: We have seen successes with
24 regards to their have been significant changes in
25 operating practices. We are seeing that entities are

1 looking at the standards very carefully.

2 They are measuring their compliance with
3 respect to those standards, and they are noting
4 instances where they have identified areas of
5 noncompliance and they are self-reporting.

6 With those self-reports, come mitigation
7 plans to address those concerns, which effectively
8 ensures reliability of the bulk power system. I think
9 just in that general sense that is a success.

10 COMMISSIONER MOELLER: That leads to, what
11 are the ongoing challenges? Frustrations?

12 MS. POINTER: Data also shows that there has
13 been an increase of tree-related outages from last
14 year and the previous year. These are Category 1,
15 growing from inside the ride of way. It is an
16 uncertainty going into the summer, or really any
17 period, of the effectiveness of those education and
18 management programs.

19 Another thing we are noticing is there are
20 examples within major reports of protection systems
21 either creating interruptions or taking out more
22 equipment than necessary either with regards to the
23 maintenance of those protection systems, the
24 coordination between protection systems, or just
25 misoperations.

1 Not knowing how much equipment you are going
2 to lose for any event does create an uncertainty. At
3 least it would give me concern. That would be another
4 area where some uncertainty would be caused.

5 COMMISSIONER MOELLER: A year from now it
6 will be success in those areas if a lot more trees get
7 trimmed and equipment is either replaced or there is a
8 plan in place to better deal with equipment failure?

9 MS. POINTER: Well, I think we will see
10 improvements in those areas if, one, we start seeing
11 the trend go the opposite way. We start seeing fewer
12 tree-related outages that are violations of the
13 vegetation management standard. I think we will see
14 improvements when there is better coordination between
15 the protective systems. When you have an event, only
16 what is planned for is actually taken out of service
17 until the system can recover, so there are two parts.
18 Seeing a trend in those types of events -- well,
19 really just seeing a trend in those types of events so
20 that they are less frequently occurring on the bulk
21 power system.

22 COMMISSIONER MOELLER: I will have the same
23 questions for you next year.

24 (General laughter.)

25 CHAIRPERSON KELLIHER: Commissioner Kelly.

1 COMMISSIONER KELLY: Thank you, Joe.

2 Well, I'm very pleased to support this
3 order. Clearly, NERC has provided a framework that
4 will give us consistency and fairness in enforcement
5 and also provide the regulated community with a lot of
6 certainty.

7 As I look at the proposal, it reflects a
8 very comprehensive and painstaking process that NERC
9 went through. Cynthia, as you mentioned, there are
10 about 3,000 violation severity levels assigned for the
11 83 reliability standards. My question for you is,
12 just generally, can you describe the criteria that
13 NERC used to make the cuts into the various severity
14 levels?

15 MS. POINTER: What NERC did, well, because
16 there were so many, unlike with the risk factors you
17 had one risk factor into the 739 requirements, with
18 the severity levels, there are still 739 requirements,
19 but now you're looking at potentially four levels of
20 noncompliance with respect to that.

21 What NERC did is they created a document to
22 facilitate one, first of all, consistency amongst that
23 many requirements and severity levels and to provide
24 clarity for the drafting teams, who were responsible
25 for assigning each of these levels.

1 Within the document, NERC defines seven
2 categories. Looking at each of the requirements, each
3 requirement falls into different categories. For
4 instance, like, there is a requirement for categories
5 that implement the program, and there is another
6 requirements that require reporting.

7 Based on the category, they define some
8 generic VSL criteria, and they went back and looked at
9 each of the requirements. First, they placed the
10 requirement in a category, then based on that
11 requirement, they developed specific VSL criteria
12 based on the generic. They went through this for each
13 of the 739-approved requirements.

14 Really, our guidelines aren't meant to
15 replace all the work and effort that they have done.
16 It is just merely the Commission's additional level of
17 assessing the validity of these severity levels when
18 they are filed.

19 COMMISSIONER KELLY: Thank you. Well,
20 clearly NERC had a huge and rather daunting task, and
21 it's clear that an enormous amount of thought and
22 effort went into their work. As Joe mentioned, it has
23 only been a year, so I think NERC's efforts are all
24 the more remarkable and praiseworthy.

25 Given that they have accomplished so much in

1 such a short period of time, it certainly reflects
2 NERC's commitment to a culture of compliance. We
3 share that concern. I am pleased to vote out this
4 order.

5 Thank you.

6 CHAIRPERSON KELLIHER: Thank you.

7 Commissioner Spitzer?

8 COMMISSIONER SPITZER: Thank you,
9 Mr. Chairman. This is an important order, and I have
10 more full remarks that I will be posting. But I think
11 it is important to take just a step back and recognize
12 the significance of the financial penalties and the
13 fact that they are serious. It is similar to the
14 enforcement package that we issued in May.

15 It is very important that entities subject
16 to serious penalties understand the factors that are
17 to be considered in the determination of the amount of
18 the penalties. It is important that the consequences
19 be well understood.

20 The penalty regime, as discussed in this
21 order, is consistent with FERC's general commitment to
22 a fair, but firm enforcement program. Assigning these
23 violation security levels is an important step in
24 ensuring Americans that the government has acted and
25 will act to ensure that the bulk power system is used

1 and operated reliably. It is a comprehensive package.
2 I would like to thank the staff for working on the
3 details, and I'm pleased to support today's ruling.

4 CHAIRPERSON KELLIHER: Any other comments?

5 (No verbal response.)

6 CHAIRPERSON KELLIHER: Let's vote.

7 MS. BOSE: The vote begins with
8 Commissioner Wellinghoff.

9 COMMISSIONER WELLINGHOFF: I vote aye.

10 MS. BOSE: Commissioner Moeller?

11 COMMISSIONER MOELLER: Aye.

12 MS. BOSE: Commissioner Spitzer?

13 COMMISSIONER SPITZER: Aye.

14 MS. BOSE: Commissioner Kelly?

15 COMMISSIONER KELLY: Aye.

16 MS. BOSE: Chairman Kelliher?

17 CHAIRPERSON KELLIHER: Aye.

18 With that, this meeting is adjourned. Thank
19 you.

20 (Whereupon, at 12:11 p.m., the open meeting
21 was adjourned.)

22

23

24