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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

948TH COMMISSION MEETING

OPEN SESSION

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

Thursday, June 18, 2009
10:00 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JON WELLINGHOFF (Presiding)

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

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P R O C E E D I N G S

(10:05 a.m.)

CHAIRMAN WELLINGHOFF: Good morning. This open meeting of the Federal Energy Regulatory Commission will come to order to consider the matters that have been duly noticed in accordance with the government in the Sunshine Act for this time and place. If you could please all join me for the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN WELLINGHOFF: Before we get moving onto our agenda I would like to highlight a few matters.

I would first like to recognize Phil for his recent work on an event that was held here at the Commission. Phil was the driving force behind our June 1st workshop on natural gas pipeline siting.

This workshop focused on the importance of pipelines working collaboratively with affected stakeholders throughout the environmental review and certification process to successfully site new pipeline infrastructure.

I know this is an extremely important issue for consumers directly impacted by pipeline projects. Phil, thank you for your leadership in organizing this event. I appreciate it very much.

We also have a few administrative matters today. First I would like to acknowledge the Commission's 2009

1 Intern Class. Could I have that class stand up, please?

2 Hopefully we are all here today.

3 (Intern class stands.)

4 (Applause.)

5 CHAIRMAN WELLINGHOFF: This class is truly
6 talented. We are delighted to accommodate 50 interns from
7 23 universities and 16 states. Our internship program is
8 designed to give these students professional work experience
9 in the energy industry.

10 It also provides them with personal mentoring by
11 qualified, successful FERC employees, and hopefully that
12 experience will persuade you to consider joining our FERC
13 team after your studies are complete. Thank you, all.

14 Second, Susan Court has decided to retire, after
15 27 years of service. Susan is a remarkably multi-talented
16 individual. She has served in a variety of key management
17 positions in all areas of the Commission's jurisdiction.

18 Susan has been Associate General Counsel for Gas
19 and Oil, Deputy Solicitor, Associate General Counsel for
20 General and Administrative Law, Designated Agency Ethics
21 Officer, and Chief of Staff.

22 Since 2005, Susan has been the Director of the
23 Office of Enforcement. With each new management position,
24 Susan took the helm of a good organization and made it
25 better. Susan's leadership and management skills have

1 helped to make FERC an agency respected for its expertise
2 and fair decision-making.

3 I want to extend my sincerest gratitude and
4 admiration for your work at the Commission, Susan. We will
5 miss you. I am pleased to recognize you with the Career
6 Service Award, but before I do that, colleagues?

7 COMMISSIONER KELLY: I am going to miss you,
8 Susan. Susan has been here, obviously, since I've been
9 here. And if you talk to Susan about her role at FERC--she
10 has been a leader at FERC for all of the years she has been
11 here--if you talk to her about her role and what it was
12 like being a woman, she will tell you right off the bat:
13 You know, it doesn't really make any difference if you're a
14 woman or a man; just do your job and you will succeed.

15 I want to tell you that many of us agree with
16 you, but being a successful woman you've done a lot for
17 women because you show that indeed having the knowledge,
18 having the skills, having the right attitude, and women can
19 succeed.

20 So thank you for the leadership that you've shown
21 for women, but also at FERC and for the public. Not only
22 will I miss you, but all of your colleagues here will miss
23 you.

24 CHAIRMAN WELLINGHOFF: Phil.

25 COMMISSIONER MOELLER: Well, Susan, you had to

1 start up an Enforcement Office out of, I won't say
2 "scratch," but certainly with completely new enforcement
3 authority. And that is not an easy thing to do, and you did
4 it. I think it is a nice capping on your career.

5 But what Jon didn't mention, as well, is that
6 you've played a bit of, frankly, a diplomatic role in your
7 assignments and your connections in the European Union and
8 the Republic of Ireland where you have represented us as a
9 Nation extremely well. You have made a lot of friendships,
10 a lot of bonds. I think you have been a part of extending
11 the good faith of the American people to those cultures, and
12 we should appreciate you for that.

13 But earlier in your career--and I know you have
14 told me this several times--you were a significant driver in
15 the change of the natural gas industry. And as I hope you
16 look back on your career and you see the enormously
17 successful set of policies that were implemented through
18 those actions, consumers throughout the country continue to
19 enjoy those benefits of a better natural gas marketplace
20 that you and some of your colleagues put in place a few
21 years ago. It may go unsung, but that is a significant
22 accomplishment of which I hope you are eternally proud.

23 Thank you for your service.

24 CHAIRMAN WELLINGHOFF: Marc.

25 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

1 I was going to focus--Suedeen focused on the
2 gender issue, I was going to focus on the Irish issue.

3 (Laughter.)

4 COMMISSIONER SPITZER: Commissioner Moeller
5 already alluded to it, that when you do meet with European
6 regulators everyone knows Susan Court, and it is a real
7 value. Last month at the G-8 working to advance the United
8 States' position in Rome, it is extremely helpful to have
9 all those folks know who FERC is, what FERC does, and they
10 all know Susan Court, and that made my job actually quite
11 easy.

12 I would also repeat what Commissioner Moeller
13 indicated on the Enforcement side. The States had show-
14 cause orders, and penalty and enforcement for many, many
15 years; the FERC situation in the wake of 2005 legislation
16 under very difficult circumstances was extraordinarily
17 precipitous. And it took a real team effort across the
18 entire agency to adopt the mandates of Congress and do them
19 in a way that was both thorough and prompt. And that is
20 extraordinary difficult to do, and I am very proud of the
21 work that FERC has done in Enforcement. And you bear, in my
22 view, a great responsibility for the success and really
23 deserve our congratulations. Thanks.

24 CHAIRMAN WELLINGHOFF: Susan, if you would come
25 up now I will present you with the Career Service Award.

1 I'll tell you, it's hard to find an award you haven't
2 already received, Susan.

3 (Applause.)

4 (Award presented to Ms. Court.)

5 CHAIRMAN WELLINGHOFF: With Susan's retirement I
6 want to announce that Norman Bay will assume the leadership
7 of the Office of Enforcement.

8 Norman is an immensely talented person. He
9 graduated cum laude from Harvard Law School. From 1989 to
10 200, Norman was an Assistant U.S. Attorney, first in the
11 District of Columbia and then in New Mexico.

12 Norman served as U.S. Attorney for the District
13 of New Mexico from March 2000 to October of 2001. For the
14 past seven years, Norman has served as Associate Professor
15 of Law at the University of New Mexico. With this
16 background, Norman will bring new ideas and fresh approaches
17 to our enforcement program.

18 Under Norman's leadership, OE will continue to
19 provide information and guidance to assist the industry in
20 complying with the Commission's rules and regulations. The
21 central objective of the Commission's enforcement program is
22 compliance and will continue to be compliance. While we
23 remain committed to enforcing our rules and regulations,
24 preventing a violation is better for everyone than
25 prosecuting a violation.

1 Norman will be joining the Commission on July
2 6th. We are very pleased he is joining our FERC team and
3 look forward to his arrival.

4 We have some changes in the Office of External
5 Affairs. I want to commend Pat Schaub for her work as
6 Acting Director of OEA. Under Pat's leadership, OEA has
7 enhanced the Commission's collaboration with our state
8 colleagues.

9 I am pleased that Pat has accepted a position in
10 our Office of Enforcement. I anticipate that Norman Bay
11 will look for additional opportunities to integrate OE's
12 market oversight efforts with the work of our other program
13 offices. Pat's knowledge of the Commission will facilitate
14 that goal.

15 I am also pleased to welcome to the Commission
16 Julia Bovey who will become the Director of OEA starting
17 June 29th. Julia comes to the Commission from the Natural
18 Resources Defense Council. She served as Media Director for
19 the NRDC, among other roles. Prior to her tenure at NRDC,
20 she was the Communications Director for the Conservation Law
21 Foundation. Julia holds a Master's Degree from Columbia
22 University School of Journalism.

23 This Congress, as you know, has made energy a top
24 priority. Julia's communication skills and experience with
25 energy and environmental issues will enhance our ability to

1 provide technical assistance to Congress.

2 Julia's background will also help OEA to continue
3 to improve our relationship with the states by building
4 bridges and diplomatically providing information and
5 perspective on important energy matters that implicate both
6 federal and state interests.

7 Turning to matters before the Commission, I would
8 note that since the May 21st Open Meeting we have issued 66
9 notational orders.

10 Madam Secretary, if we could turn to the Consent
11 Agenda, please.

12 SECRETARY BOSE: Good morning, Mr. Chairman.
13 Good morning, Commissioners.

14 Since the issuance of the Sunshine Act notice on
15 Thursday, June 11th, 2009, Item G-3 has been struck from
16 this morning's agenda.

17 Your Consent Agenda Items for this morning are as
18 follows:

19 Electric Items: E-2, E-3, E-4, E-5, E-6, E-7, E-
20 8, E-9, E-10, E-11, E-12, E-13, E-14, E-16, E-17, E-18, E-
21 19, E-20, E-21, E-22, E-23, E-24, E-25, E-26, E-27, E-28,
22 and E-29.

23 Gas Items: G-2.

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

25 Certificate Items: C-2, C-3, C-4, C-5, C-6, C-7,

1 and C-8.

2 As required by law, Commissioner Spitzer is not
3 participating in Consent Items E-19, E-20, E-21, and E-22.

4 As to E-23, Commissioner Moeller is concurring in
5 part with a separate statement.

6 We will now take a vote on this morning's Consent
7 Agenda items beginning with Commissioner Moeller.

8 COMMISSIONER MOELLER: Noting my partial
9 concurrence in E-23, I vote aye.

10 SECRETARY BOSE: Commissioner Spitzer.

11 COMMISSIONER SPITZER: Thank you, Madam
12 Secretary. I vote aye, noting the recusals in E-19, E-20,
13 E-21, E-22, in which the Arizona Commission intervened.
14 These are older items, in my childhood--

15 (Laughter.)

16 SECRETARY BOSE: Commissioner Kelly.

17 COMMISSIONER KELLY: I vote aye.

18 SECRETARY BOSE: And Chairman Wellinghoff.

19 CHAIRMAN WELLINGHOFF: I vote aye.

20 SECRETARY BOSE: First item?

21 CHAIRMAN WELLINGHOFF: We will move on to our
22 Discussion Items.

23 SECRETARY BOSE: Thank you, Mr. Chairman.

24 The first item for presentation and discussion
25 this morning is H-2 concerning Avista Corporation in Docket

1 No. P-2545-091. The presentation will be by Bob Easton from
2 the Office of Energy Projects, and he is accompanied by
3 Jennifer Hill from the Office of Energy Projects and Linda
4 Gilbert from the Office of the General Counsel.

5 (Slide.)

6 MR. EASTON: Good morning, Mr. Chairman, and
7 Commissioners. The Draft License Order in Item H-2 issues a
8 new 50-year license to Avista Corporation for the Spokane
9 River Hydroelectric Project.

10 (Slide.)

11 The Spokane River Project is located on the
12 Spokane River in Idaho and Washington States. The Project
13 includes 5 developments and has a total capacity of
14 approximately 138 megawatts.

15 The Post Falls Development is the furthest
16 upstream and impounds 9 miles of the Spokane River and the
17 Coeur d'Alene Lake, including portions of the Coeur d'Alene
18 Indian Reservation and the Coeur d'Alene National Forest.

19 Operation of the Post Falls Development
20 influences lake levels in Coeur d'Alene Lake and flows in
21 the Spokane River downstream of the development.

22 Approximately 28 miles downstream of the Post Falls
23 Development are the Upper Falls and Monroe Street
24 Developments, which are located within the City of
25 Spokane.

1 The Nine Mile Development is located 16 miles
2 further downstream. All three of these Developments are
3 operated as run-of-river facilities. The Long Lake
4 Development is the furthest downstream and is located 26
5 miles downstream of the Nine Mile Development and
6 approximately 68 miles downstream of the Post Falls
7 Development.

8 Operation of the Long Lake Development influences
9 lake levels in the 23.5-mile-long Lake Spokane and flows in
10 the Spokane River downstream of the development, including
11 portions of the Spokane Indian Reservation.

12 (Slide.)

13 Major issues for relicensing of the Spokane River
14 Project include effects on fisheries resources, water
15 quality, aesthetic flows, erosion, recreation, and cultural
16 resources.

17 To address project effects on fisheries
18 resources, the draft license order includes requirements for
19 minimum flow releases at Post Falls, Upper Falls, and Monroe
20 Street Developments, and ramping restrictions at Post Falls.
21 These measures will improve conditions for wild rainbow
22 trout.

23 The draft license order also requires annual
24 stocking of rainbow trout to support recreational fishing at
25 Upper Falls, Nine Mile, and Long Lake Developments.

1 To address project effects on water quality, the
2 draft license order requires implementation of measures to
3 reduce project effects on total dissolved gas levels
4 downstream of Post Falls and Long Lake Developments.
5 Minimizing effects on total dissolved gases is important
6 because saturation levels in excess of 100 percent can cause
7 gas bubble disease and mortality in fish.

8 (Slide.)

9 To enhance the aesthetic quality downstream of
10 Post Falls, Upper Falls, and Monroe Street Dams, the draft
11 license order requires releases of minimum aesthetic flows.
12 Aesthetic flow releases at Upper Falls and Monroe Street
13 Developments will greatly enhance views of the river in
14 downtown Spokane.

15 The draft license order also includes measures
16 for:

17 Developing and implanting sediment management
18 plans at Monroe Street, Nine Mile, and Long Lake
19 Developments and controlling erosion on Coeur d'Alene Indian
20 Reservation lands affected by the Post Falls Development;

21 Developing and implementing recreation plans that
22 would enhance existing and develop new project recreation
23 facilities; and

24 Developing and implementing Historic Properties
25 Management Plans for the projection of archeological,

1 historic, and traditional cultural resources.

2 (Slide.)

3 Several significant issues associated with this
4 proceeding were recently resolved and are addressed by
5 requirements included in the draft license order.

6 In January 2009, Avista filed three settlement
7 agreements on behalf of itself, the Coeur d'Alene Tribe, and
8 the United States Department of the Interior.

9 One of these agreements resolved disputes over
10 the measures submitted under Section 4(e) of the Federal
11 Power Act to address the environmental effects of the Post
12 Falls Development on the lands of the Coeur d'Alene Indian
13 Reservation.

14 This agreement also included a request for a
15 single 50-year license for all five Developments which
16 reversed Avista's original proposal to license the
17 Washington Developments and the Post Falls Development
18 separately. Licensing the Developments as two separate
19 projects was opposed by several entities, including the
20 Coeur d'Alene Tribe and Interior.

21 The other agreements filed in January
22 established annual payments to the Tribe under Section 10(e)
23 of the Federal Power Act for Avista's use of submerged lands
24 within the Coeur d'Alene Indian Reservation. Payments for
25 use of submerged Tribal Lands has been a disputed issue

1 since the Post Falls Development was added to the existing
2 license in 1981.

3 (Slide.)

4 Lastly, in May 2009 the Washington Department of
5 Ecology reached an agreement with several parties on the
6 terms of the Washington Section 401 Water Quality
7 Certification that was under appeal. Subsequently, Ecology
8 filed an amended 401 Certification with the Commission that
9 provides measures for addressing the environmental effects on
10 aquatic resources at the four developments of this project
11 that are located in Washington State.

12 The draft order responds to these recent
13 proposals by issuing a single 50-year license for the five
14 Developments and including the revised Section 4(e)
15 conditions, the Section 10(e) agreements, and the amended
16 Washington 401 Water Quality Certification.

17 That concludes our presentation and we will be
18 happy to answer any questions.

19 CHAIRMAN WELLINGHOFF: Thank you, Bob. That was
20 a great presentation. I want to thank all the members of
21 the team for your very hard work on this Order, which I am
22 very pleased to support. I also want to thank Phil for his
23 recommendation that we have a presentation on this
24 particular Order.

25 Phil, do you have some comments on this Order?

1 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
2 I appreciate you allowing me to call this subject and I
3 appreciate the indulgence of my colleagues from the
4 Southwestern part of the United States that may not be
5 blessed with the same kind of hydropower resources that
6 those of us from the Pacific Northwest have.

7 First a question, and then a statement. What was
8 the major impasse that the parties worked out through the
9 settlement agreement related to the past and future uses of
10 the submerged lands, and the effect on Tribal Lands?

11 MS. GILBERT: Well obviously, we weren't party to
12 the negotiations, but what we gleaned from the settlement
13 that was filed is that the main issue was the use of the
14 submerged lands when the Post Falls Development was
15 constructed. It was in 1906, and operation of the project
16 flooded additional lands on the Coeur d'Alene Reservation.

17 So the main impasse was the right to use those
18 lands, and the compensation to be paid for those lands. So
19 we have the 10(e) agreements that provide for the
20 compensation both for the past license and the future
21 license; and we also have the scope of the environmental
22 measures for the Reservation in the 4(e) agreement.

23 I also think it was key to bring all five
24 Developments into a single license and to provide for the
25 50-year term.

1 COMMISSIONER MOELLER: Thank you. I wish to
2 commend the parties--Avista, the Coeur d'Alene Tribe, the
3 Department of Interior--for working so hard to resolve this
4 issue. For those of us who have lived in the area, these
5 issues have been around for quite awhile--actually, probably
6 since the early part of the 20th Century.

7 I like to bring up hydropower issues occasionally
8 because, again for those people who may not be as familiar
9 with it, what we're doing here is managing multiple uses of
10 a river. In this case it's a river that produces some
11 hydropower. It also is a resource for fish. In some case,
12 rivers can also be municipal drinking water sources. They
13 could be sources for irrigation, significant rivers anyway.
14 And some rivers that are actually navigable produce
15 essentially a water highway of commerce. And of course
16 there's plenty of recreational opportunities associated with
17 it as well.

18 So those are kind of the seven uses that we often
19 talk about, but in this case there is an aesthetic use as
20 well. Because, as people who read the Order will find out,
21 one of the aspects of the relicensing is the aesthetic value
22 of the flow over the Spokane--over the Falls in downtown
23 Spokane.

24 As a kid I was a season ticket holder for the
25 World's Fair Expo '74, which was held right on the river, on

1 Havermail Island and the surrounding area, where we had
2 representatives from around the world in Spokane holding a
3 World's Fair, centered on the river. It was kind of a river
4 themed fair. And I urge all of you to visit. You will find
5 it a gorgeous setting, especially if you ride the gondola
6 down over the Falls. So there is an aspect of this
7 relicensing that allows for the kind of flow that people can
8 enjoy the visual impacts of the water coming over the Dam.

9 So with that, I want to thank the team for the
10 hard work. This has gone on for a while. Again, I commend
11 the parties for coming to a resolution, the certainty of a
12 50-year license. And allowing the most renewable form of
13 electricity to continue to be produced for consumers in the
14 Northwest is something I will proudly vote for today.

15 Thank you, Mr. Chairman.

16 CHAIRMAN WELLINGHOFF: Thank you, Phil. Anyone
17 else have comments?

18 COMMISSIONER KELLY: Well, Phil, I just wanted
19 you to know that I can second your statement about the
20 aesthetic value, because I was in Spokane and Coeur d'Alene
21 last Thursday and Friday. And as a Southwesterner, I have
22 to say, am very jealous--

23 (Laughter.)

24 COMMISSIONER KELLY: --and it is wonderful to
25 have the opportunity to go to such a beautiful spot in the

1 world. I appreciate hearing about the complexity of the
2 issues. When you go and see it, you get even a better
3 understanding. And I would note that this huge Order in
4 this case (indicating), is an Order on a settlement. Can
5 you imagine what it would look like if we hadn't settled?
6 So I would like to thank the parties to this case who worked
7 long and hard to come up with a consensus on how to manage
8 the River, an amazing accomplishment and I am happy to vote
9 for it.

10 CHAIRMAN WELLINGHOFF: Marc.

11 COMMISSIONER SPITZER: Mr. Chairman, I resisted
12 the urge to get off the road at Post Falls to view the site,
13 but I too recently was in Coeur d'Alene for the first time
14 and it is gratifying to be able to provide for a reliable
15 form of energy at a low price that emits no carbon to the
16 benefit of the ratepayers and at the same time protects the
17 aesthetic and environmental interests of the region. So it
18 is a win/win.

19 CHAIRMAN WELLINGHOFF: Thank you, Marc. Well
20 before we vote, though, I just wanted to let you know, I am
21 both a Southwesterner and a Northwesterner, because part of
22 Nevada is in the Columbia River drainage.

23 (Laughter.)

24 COMMISSIONER MOELLER: That's an excellent
25 observation, yes, you are an honorary member in my book,

1 believe me.

2 (Laughter.)

3 CHAIRMAN WELLINGHOFF: Madam Secretary.

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

6 COMMISSIONER MOELLER: Aye.

7 SECRETARY BOSE: Commissioner Spitzer.

8 COMMISSIONER SPITZER: Aye.

9 SECRETARY BOSE: Commissioner Kelly.

10 COMMISSIONER KELLY: Aye.

11 SECRETARY BOSE: And Chairman Wellinghoff.

12 CHAIRMAN WELLINGHOFF: Aye.

13 SECRETARY BOSE: Finally, we have a presentation
14 this morning on the National Assessment of Demand Response.
15 There will be a presentation by Dean Wight from the Office
16 of Energy Policy and Innovation; Jignasa Gadani from the
17 Office of the General Counsel; and David Kathan and Jessica
18 Cockrell from Office of Energy Policy and Innovation.

19 (Slide.)

20 MR. WIGHT: Good morning. I am Dean Wight of the
21 Office of Energy Policy and Innovation and I am pleased to
22 present the results of a staff report entitled A National
23 Assessment of Demand Response Potential.

24 Joining me today are Jessica Cockrell and David
25 Kathan, also of OEPI, and Jignasa Gadani of the Office of

1 General Counsel. I want to thank Jessica, David, and
2 Jignasa for their efforts on this project, as well as Ray
3 Palmer and George Godding who have helped along the way.

4 The analysis in this study was prepared for us by
5 the Brattle Group and their subcontractors Freeman, Sullivan
6 & Company, and Global Energy Partners. I want to thank
7 Ahmad Faruqui of the Brattle Group who was the principal
8 investigator on this analysis, and Stephen George of
9 Freeman, Sullivan and Ingrid Rohmund of Global Energy
10 Partners. Their efforts and expertise were central to the
11 creation of this analysis.

12 When we say "demand response," we mean the short-
13 term adjustment of energy use by consumers in response to
14 price changes or incentives. As you know, the Energy
15 Independence and Security Act of 2007 required the
16 Commission to perform this assessment, which will be posted
17 on the FERC website today.

18 We will also post the spreadsheet model on which
19 this analysis is based, and a user's guide for that model.
20 We hope that others with an interest in demand response will
21 use the spreadsheet to examine the details behind this
22 analysis, and also to perform their own estimates using the
23 data and assumptions that they choose.

24 (Slide.)

25 As I said, the Energy Independence and Security

1 Act requires the Commission to conduct a national assessment
2 of demand response potential and report the result to
3 Congress on:

4 The estimated national wide demand response
5 potential in 5- and 10-year horizons;

6 Barriers to demand response programs; and

7 Recommendations for overcoming barriers to more
8 use of demand response.

9 (Slide.)

10 The Assessment is the first national analysis of
11 demand response potential done on a state-by-state basis.
12 Other national studies have been done at a high level so
13 they haven't captured regional differences such as the
14 amount of central air conditioning.

15 In the past, bottom-up studies were local and
16 used varying techniques which made it difficult to compare
17 them. To begin the analysis, 15 demand response programs
18 piloted by utilities across the country were examined to
19 understand how customers respond to changing prices, and how
20 their responses vary with climate, customer type, the type
21 of demand response program, and other factors.

22 These relationships were then applied to the
23 various types of customers and their use of electric
24 appliances to make unique estimates for every state and the
25 District of Columbia.

1 The data and calculations behind the Assessment
2 are contained in a spreadsheet model I mentioned. This
3 serves to create a more transparent analysis and allows easy
4 updating.

5 More importantly, anyone can use the spreadsheet
6 to change assumptions and data--to do "what-if" analyses--
7 and look behind the results to the underlying logic and
8 numbers. As I mentioned, the spreadsheet and a user's
9 guide will be posted on the FERC website.

10 The Assessment also contains an extensive list of
11 the barriers to fuller implementation of demand response
12 based on a review of the literature and the expertise of the
13 contractors and our staff.

14 Finally, the Assessment makes a number of
15 recommendations for overcoming the barriers and realizing
16 the demand response potential that is estimated by the
17 analysis.

18 (Slide.)

19 The study looks at four scenarios to cover a wide
20 range of possibilities. The Business-as-Usual scenario
21 simply reflects today's demand response with modest growth
22 over the ten-year horizon.

23 The Expanded Business-as-Usual scenario takes
24 today's mix of demand response programs, consider extending
25 them geographically into all the states, and raises the

1 participation levels. It tries to capture the potential of
2 aggressively expanding today's programs.

3 The next two scenarios rely much more on dynamic
4 pricing programs such as critical peak pricing or real-time
5 pricing to trigger demand response. By "dynamic pricing" we
6 mean that prices are not known with certainty ahead of time,
7 or that known prices occur on days that are not known ahead
8 of time.

9 These two scenarios also assume that advanced
10 metering infrastructure, AMI, is installed everywhere by the
11 year 2019, and that many customers use enabling technology
12 such as programmable communicating thermostats that
13 automatically manage their demand as prices change.

14 There are two main distinctions between the
15 Achievable Participation and Full Participation scenarios.
16 The first difference is how the dynamic pricing tariff is
17 treated. In Achievable Participation dynamic pricing is
18 considered to be an opt-out tariff with somewhere between 60
19 and 75 percent of the customers participating.

20 In the Full Participation scenario the dynamic
21 pricing tariff is considered mandatory with 100 percent
22 participation.

23 (Slide.)

24 This graphic shows peak summer demand in the
25 United States with and without the estimated potential

1 demand response. The black line at the top is NERC's
2 projected peak demand with no demand response included. The
3 colored lines underneath show how the study scenarios would
4 affect peak demand.

5 The red line is the Business-as-Usual case:
6 Today's demand response equal to about 37 gigawatts, growing
7 over time at the same rate as the NERC forecast. So it is
8 nearly parallel to the No Demand Response line and estimates
9 38 gigawatts of peak load reduction in the year 2019.

10 The green line is the expanded Business-as-Usual
11 scenario which spreads today's mix of programs to all states
12 and raises their participation levels. It estimates 82
13 gigawatts of demand response potential in 2019.

14 The blue line shows the Achievable Scenario
15 estimate with the majority of customers using dynamic
16 pricing and enabling technology. It leads to an estimated
17 138 gigawatts of potential in 2019.

18 And the yellow line, the Full Participation
19 scenario with almost all customers on dynamic pricing and
20 enabling technology, estimates 188 gigawatts of demand
21 response potential by 2019. This potential is about 20
22 percent of the national peak demand.

23 (Slide.)

24 I would like to show the same estimates in two
25 other ways. In this graphic you see the demand response

1 potential broken down by customer type.

2 The green portions of these bars are residential
3 customers, and you can see that they provide much of the
4 potential in the Achievable Participation scenario and in
5 the Full Participation scenarios.

6 By contrast, today's programs--shown at the left
7 in the Business-as-Usual column--are dominated by large
8 commercial and industrial customers.

9 (Slide.)

10 In this slide the estimated demand response
11 potential is shown by type of demand response program.
12 Business-as-Usual and Expanded Business-as-Usual are almost
13 entirely the traditional interruptible and direct load
14 control programs, along with what's called in the study
15 "Other DR" which includes capacity and demand programs
16 offered by RTOs and third-party aggregators.

17 These tend to be concentrated in medium and large
18 commercial and industrial customers, which is consistent
19 with the previous observation that most of the demand
20 response potential in these two scenarios is from commercial
21 and industrial customers.

22 The Achievable Participation and Full
23 Participation scenarios have significant dynamic pricing
24 potential: The light and dark-blue portions of these bars
25 show the potential demand response in programs without and

1 with enabling technology. It is clear that the automated
2 response of enabling technology can significantly increase
3 the potential peak demand reduction from customers
4 responding to dynamic pricing.

5 (Slide.)

6 I would also like to show some of the variation
7 in the state-by-state results. On an absolute basis the
8 demand response potential estimated in the Assessment ranges
9 from 13.2 gigawatts to .01 gigawatts. Much of this
10 variation is the result of differences in the peak demand
11 between states.

12 As viewed as a percent of each state's peak load,
13 the estimated demand response potential varies from almost
14 26 percent to less than 5 percent. There are several
15 factors contributing to this variation, including the amount
16 of existing demand response, the estimated price
17 elasticities for each state, and in a few cases the failure
18 of enabling technologies to pass the cost-effectiveness
19 screen in the analysis.

20 I hope this gives some idea of the diversity of
21 results in the report which contains a full profile of
22 estimates for each of the 50 states and the District of
23 Columbia.

24 (Slide.)

25 The Assessment discusses a number of barriers to

1 achieving the demand response potential identified. They
2 include:

3 The lack of a direct connection between
4 wholesale and retail prices;

5 The difficulties in measuring and verifying the
6 performance of demand response providers;

7 The lack of widespread advanced metering
8 infrastructure and of interoperability and open standards;
9 and

10 A lack of customer awareness and education about
11 the benefits of demand response.

12 (Slide.)

13 Finally, the Assessment makes recommendations to
14 overcome the barriers to demand response and help realize
15 the demand response potential it identifies. Some of the
16 recommendations are:

17 To educate customers about demand response,
18 advanced metering, and dynamic pricing;

19 Share information about demand response programs
20 with utilities and state and local regulators;

21 Coordinate demand response programs at the
22 wholesale level with programs at the retail level; and

23 To develop standards for measurement and
24 verification of demand response at the wholesale and retail
25 levels.

1 That concludes our presentation and we are happy
2 to answer your questions.

3 CHAIRMAN WELLINGHOFF: Thank you, Dean. I was
4 very impressed with the presentation. Especially the
5 graphics were great in the presentation. And Dean, and
6 David, and Jessica, and Jignasa, I want to thank you all for
7 the wonderful work that you did on this report. It is a
8 very difficult effort I know, and I am very happy it came
9 out the way it did.

10 I also want to thank Ahmad Faruqui and Brattle
11 Group for their work as well on this.

12 This Assessment fulfills the first of three
13 requirements of the Energy Independence and Security Act of
14 2007 that give the Commission certain responsibilities with
15 regard to demand response.

16 We will be submitting the Staff Report to
17 Congress on June 19th. I am very grateful to the Staff for
18 designing and overseeing the rigorous analysis. They are
19 also to be commended for their effective project management
20 allowing the Commission to continue its established
21 tradition of delivering reports to Congress on time.

22 When I first came to the Commission, I stated my
23 belief that demand resources could reduce the cost of
24 electric service and provide several other benefits to
25 consumers.

1 In the past almost three years I have worked with
2 my colleagues to provide the opportunity for demand
3 resources to participate in wholesale markets, assist in
4 efficient transmission service, and maintain the reliability
5 of the electric system.

6 Now, through this Assessment, we have a national
7 picture of the potential for demand response by residential,
8 commercial, and industrial customers where these resources
9 are located.

10 The Assessment provides, for the first time, a
11 state-by-state analysis of demand response potential using a
12 consistent analytical approach. This study takes a real-
13 world approach to gathering and analyzing information.

14 The Assessment consider the effect of increasing
15 participation in a variety of demand response programs,
16 studying the relative effects of dynamic pricing, direct
17 load control, interruptible rate tariffs, and other demand
18 response programs within each state under a range of
19 scenarios.

20 It estimates the demand response potential for
21 residential, commercial, and industrial customers in each
22 state using actual climate and appliance saturation data.
23 It makes assumptions about the consumer participation in
24 several types of demand response and dynamic pricing
25 programs based upon real-world experience. It also analyzes

1 the effect of using technologies such as programmable
2 communicating thermostats to assist consumers to reduce
3 demand cost effectively.

4 Estimates of demand reduction under these
5 scenarios range from 38 to 188 gigawatts, or up to 20
6 percent of the national peak demand. To put these estimates
7 in perspective, peak demand reduction of these magnitudes
8 has the potential to reduce the need to operate several
9 hundred power plants during peak times, thus significantly
10 lowering costs to consumers and reducing greenhouse gas
11 emissions produced by these peaking plants.

12 This demand reduction also has the potential to
13 help us maintain the balance of the electric grid so that we
14 may develop and reliably integrate thousands of new
15 megawatts of variable renewable resources such as wind and
16 solar into our electric system, which further would reduce
17 greenhouse gas emissions.

18 The potential for demand response to provide
19 these consumer and environmental benefits will be further
20 examined in regional and reliability planning processes.

21 It is important to emphasize that the analysis
22 reflected in the Assessment is an estimate of the potential,
23 not projections of what is likely to occur. The estimates
24 of potential therefore are not targets, goals, or
25 requirements. By quantifying the potential opportunities

1 for demand response in each state, the estimates are
2 intended to serve as a reference for understanding the
3 various pathways for pursuing increased levels of demand
4 response.

5 The Assessment highlights the differences among
6 regions of the country, providing information for each state
7 to consider in its evaluation of further electric load
8 shaping and demand reductions through demand response.

9 As more and better information becomes available,
10 the inputs to the model--including data and assumptions--can
11 be updated and states can use it to make their own
12 assessments about viable programs and potential.

13 The model used to perform the analysis will be
14 publicly available on the Commission's website so that any
15 party interested could test the assumptions used, examine
16 various policy goals, and update it as better data regarding
17 demand response becomes available. The model is designed to
18 be user friendly and flexible.

19 As the Staff reported, barriers remain to
20 achieving the demand response potential estimated in this
21 report. We will be addressing those barriers in the second
22 stage of fulfilling the charge given to us by Congress.

23 Following this Assessment, FERC is required to
24 develop a National Action Plan on Demand Response that will:

25 One, identify requirements for technical

1 assistance to the states to allow them to maximize the
2 demand response;

3 Two, develop or identify tools, information, and
4 other support materials for use by states, consumers, demand
5 response providers, and utilities; and

6 Three, develop a national demand response
7 communication program.

8 FERC is then required, together with the
9 Secretary of the Department of Energy, to submit to Congress
10 a proposal to implement the National Demand Response Action
11 Plan.

12 In conclusion, this Assessment marks the first
13 step in a years-long process, and we have a baseline tool
14 that should be useful over the course of this period and
15 into the future. This first step has made clear, however,
16 that the potential benefits to consumers and the environment
17 from wide-scale demand response deployment is enormous. Our
18 challenge here is to develop an action plan to realize that
19 potential. Thank you.

20 Colleagues, any comments or questions of the
21 team?

22 COMMISSIONER KELLY: Thank you, Jon.

23 I think I know from long experience that the
24 announcement of the fact that the government is releasing a
25 report generally leads to a universal yawn. But I want you

1 to know that this is not that kind of report. It is not a
2 ho-hum report.

3 In fact, I think if The New York Times had a best
4 seller list for government reports this one would be number
5 one. And I want to thank the team for it. Because as you
6 read the report in the beginning, maybe just among the geeks
7 of us, but it is actually very engaging.

8 And as Jon mentioned, it is not a report that is
9 going to be relegated to a bookshelf to gather dust. Within
10 this report is a tool, a valuable tool of data and
11 assumptions put out in a spreadsheet form that allows those
12 of us who care about this issue to, on a state-by-state
13 basis, engage in a what-if scenario. Not exactly your
14 action game, but close; much better than the usual
15 government report. That data is available on a state-by-
16 state and regional basis and is engaging.

17 Secondly, it tells a very compelling story, at
18 least to me, a story of triumph, actually, in the face of
19 adversity. The data, fascinatingly enough, says that even
20 if we do nothing more than stay on course with the country's
21 existing demand response project and programs we could see,
22 will see a 9 percent reduction in demand.

23 But it also leaves you with hope that, with a
24 reasonable amount of effort, life could be a lot better. In
25 particular, the Full Participation scenario that is

1 explained in the report would result in a reduction in
2 demand of 20 percent of peak demand. That is real dollars,
3 and a real improvement in life in America.

4 The Assessment also makes clear that, although we
5 are working to exploit demand response, we just seem to be
6 scratching the surface and tries to tell why that is the
7 case.

8 As you look at the barriers that the report
9 illuminates, you see that frankly with a reasonable amount
10 of effort these barriers can be overcome. They are not
11 insurmountable. They range from technical--I don't mean
12 technology--but technical barriers of a lack of
13 interoperability and open standards, and we are working in a
14 concerted effort, FERC and NIST and the industry, with
15 trying to overcome that; to regulatory barriers such as
16 ineffective demand response program design, something that
17 again can be overcome with a little bit of knowledge and
18 dedication; and the obvious, a lack of customer awareness
19 and education.

20 I had a couple of questions for the team. Given
21 the very factors that account for demand response potential,
22 what--you have looked at them, and you have analyzed them,
23 and I know you have thought about them--what priority areas
24 do you think policymakers should be focusing on in
25 identifying measures to facilitate better demand response

1 participation?

2 I understand we are going to do a follow-up, a
3 sequel, a part two to this report which I know will only be
4 better that will set out a whole plan, but in the meantime,
5 I know from talking to you informally you have a sense of
6 where the low hanging fruit is, and where efforts could be
7 put to give us a real bang for our buck if we were to invest
8 in demand response efforts.

9 MR. WIGHT: I think there are a number of things.
10 As the Chairman pointed out, we are providing this model,
11 and I think that it will assist the localities to design
12 programs and evaluate programs that meet their own
13 requirements, or meet their priorities.

14 For instance, they may want to do something that
15 they can do relatively quickly so they can look at programs
16 that have a track record and adopt those, or evaluate them,
17 or they may want to look at a longer time horizon. And they
18 can do that as well.

19 So I think that's a good start. Also, the
20 sharing of information. There is a great deal of
21 information, and we've learned that in working with the
22 consultants, a number of pilot programs. I think this will
23 help put those programs in front of people and get that
24 information available, and further efforts under the Action
25 Plan. And, David, you can chime in if you like, to make

1 that information accessible and usable for policymakers,
2 which I think is an important step.

3 COMMISSIONER KELLY: Well, Dean, I know that one
4 of the things that the report shows in interesting detail is
5 that state-by-state, region-by-region potential differs just
6 because of the differences in the states. For example,
7 those states with a high penetration of central air
8 conditioning have a greater ability to achieve demand
9 reduction than say New York City where most of the air
10 conditioning is in the windows.

11 Can you explain how that can happen?

12 MR. WIGHT: The analysis assumes that enabling
13 technology--I mentioned the programmable communicating
14 thermostat--will be applicable to customers that have
15 central air conditioning, because that's the model that
16 currently has been analyzed.

17 And the pilot programs that have been done show
18 that customers with that setup--the enabling technology for
19 central air conditioning--have a significantly larger demand
20 response than do customers that don't have that enabling
21 technology, or that don't have central air conditioning.

22 So the Assessment tries to account for that. And
23 the Assessment went to great lengths to try and estimate the
24 penetration of central air conditioning in each state, which
25 was a significant effort in itself to find that information.

1 So that's why that is one of the several important regional
2 factors that were included.

3 COMMISSIONER KELLY: Did you want to add
4 something, David?

5 MR. KATHAN: I just wanted to add that the Action
6 Plan will be working especially on the area of customer
7 awareness. That is clearly one of the findings, one of the
8 issues that was identified in the National Assessment.

9 And as directed by Congress, we will be working
10 on developing a National Communications Plan on that and we
11 will be working with stakeholders and with states to make
12 sure that it is a plan that makes sense and is able to
13 provide information.

14 COMMISSIONER KELLY: I would like to tie this to
15 Smart Grid, because some of the technology that you talk
16 about is part of the Smart Grid technology. And in
17 particular, we are looking in the not-too-distant future at
18 the Department of Energy being able to spend stimulus funds
19 on demonstration projects.

20 Does this report provide any information that
21 would be helpful to the Department of Energy in trying to
22 determine what the best way is for it to spend the taxpayer
23 money on demonstration projects that would demonstrate Smart
24 Grid technology but, as part of that, demonstrate demand
25 response potential?

1 MR. WIGHT: Well I think one of the major
2 findings, again, is that enabling technologies are a
3 powerful source of demand response potential. And I think
4 those overlap fairly well with Smart Grid applications. So
5 pilot programs, or funded programs that would evaluate
6 things like programmable communicating thermostats, home
7 area networks, other types of technology that allow that
8 automated response to happen I think will go a long way
9 towards improving demand response.

10 COMMISSIONER KELLY: Thanks, Dean. Thank you
11 all.

12 CHAIRMAN WELLINGHOFF: Thank you, Suedeen. Phil.

13 COMMISSIONER MOELLER: First a question for each
14 of the members of the team. What was the biggest surprise
15 you found in terms of what came out of this report? You
16 have all worked on this issue. David is probably a little
17 bit more of a higher profile member of the team on this
18 subject, but what surprised you the most?

19 MS. GADANI: I will go first. I will take the
20 easy--

21 COMMISSIONER MOELLER: Other than this question.

22 (Laughter.)

23 MS. GADANI: For me working on this, I've been
24 dealing with demand response issues but not as intensely as
25 now, and for me was how wide-spread demand response is and

1 how much we can learn from what's going on in each and every
2 state that we can then build on. So that was very
3 interesting.

4 MR. WIGHT: Unlike David or Jignasa, I was not
5 involved in demand response prior to working on this
6 project. So I think one of the biggest surprises for me was
7 to find out how much information and analysis has already
8 been done. There's a great deal of information out there.
9 So it was exciting to be part of consolidating this in a
10 single approach.

11 MR. KATHAN: Echoing what Dean just said, there
12 is lots of information out there and it was very nice to be
13 able to see that it's out there and we were able to get a
14 handle on them. But what also was indicated is that there
15 is also information that needed to be developed. You know,
16 especially at the state level there is a lot of information
17 that we can learn from and be able to develop further.

18 And the other thing that I found was the large
19 potential, especially from enabling technologies at the
20 residential I think is really key and is important I found
21 from this report.

22 COMMISSIONER MOELLER: Thank you. Jessica, any
23 thoughts?

24 MS. COCKRELL: Sure. Well, like Dean, I wasn't
25 familiar with demand response until I started on this

1 project, so for me also I think how much has been done
2 already in the projects that have already gone into place
3 and the research done in this area already is pretty
4 interesting for me.

5 COMMISSIONER MOELLER: Well, Mr. Chairman, I want
6 to commend you for your healthy obsession for this issue.

7 (Laughter.)

8 COMMISSIONER MOELLER: And, Commissioner Kelly,
9 for your work on the Smart Grid. Because as you noted, they
10 do go hand in hand. I know Marc is a supporter, as well, as
11 I am, and what we have to do is find the right balance. We
12 could have a hundred percent demand response and then we
13 would have a blackout. We don't want that.

14 We could have zero demand response, which is
15 unfortunately what we had in the country for a long time,
16 and that's not optimal. We want to find something in
17 between that makes sense. And I hope that this report--and
18 I appreciate the aspect of it being public and essentially
19 user friendly, and that there will be another iteration of
20 it--I hope it contributes to a bit of a sense or urgency on
21 this matter.

22 Because my concern is that once this economy
23 heats up, we will have some usage patterns that probably
24 also will start going up. And while we as a Nation decide
25 what we want for the next round of generation, I am

1 concerned that consumption will go up disproportionately and
2 we will really need demand response.

3 And yet, as the report points out, market
4 structure really makes a big difference as to how well you
5 can implement these tools. Now you can still have demand
6 response, and there are successful programs in bilateral
7 markets, but it makes it a lot easier if you have a vibrant
8 wholesale market, and if you have dynamic or real-time
9 pricing at the wholesale level, and particularly at the
10 retail level.

11 I've said it before. I have faith in consumers
12 that if they get real-time pricing, and we enable them with
13 the right technologies and the right policies, we can see
14 fabulous gains in demand response and the way we use energy
15 more efficiently.

16 So again I appreciate the efforts, the
17 presentation, and I hope that this does contribute to a
18 sense of urgency with our fellow state policymakers and our
19 federal and state policymakers.

20 Thank you, Mr. Chairman.

21 CHAIRMAN WELLINGHOFF: Thank you, Phil. I agree
22 with you. I think the two keys are market structure and
23 scaling and deployment of enabling technologies. If we can
24 figure out how to do those two things we can reach these
25 potentials that we're seeing out there.

1 Marc.

2 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

3 I am going to post a statement that largely
4 mirrors what has been said. Specifically, a nuance that the
5 conclusions reflect the estimates of levels as opposed to
6 projections of what are likely to occur. That is a nuanced
7 and perhaps difficult concept.

8 You know, we have all recognized the importance
9 of demand response, and we have given speeches around the
10 country stating the benefits to consumers, and our interest
11 in working with the states.

12 Now this particular report arose from an Act of
13 Congress, and there was perhaps a potential that it be
14 viewed as prescriptive. And that is not the case, and is
15 certainly not our intent and, as it turns out, that is not
16 the case.

17 Two issues identified as barriers are fairly
18 substantial policy questions. One, the lack of a connection
19 between wholesale and retail prices. That's a policy issue
20 that could potentially raise tensions with the states. And
21 then the characterization of ineffective demand response
22 program design also could lead to some tension.

23 But I think what is very clear from this report,
24 and from all the statements that we have made is that we
25 intend to work with the states as partners; that there are

1 huge benefits from demand response; that it will take some
2 time. Certainly you've got technical issues, but in terms
3 of those policy issues, designing the proper programs at the
4 retail level.

5 And then what I talk about is smart prices. You
6 know it is hard to envision the benefits of a Smart Grid
7 without smart prices. We have all discussed that. It is
8 not in our interest to be prescriptive to the states, but
9 instead we want to be proactive and work with the states.
10 The benefits of this report is an identification of what is
11 going on at the states that they have already implemented
12 that, frankly, they have not gotten the credit that they
13 deserve.

14 We want to build on those, and again work with
15 them as a partnership. The concept of wholesale/retail has
16 always been difficult, but I think we have reached the stage
17 in this country where we need to align the retail and
18 wholesale to generate those smart prices that only upon the
19 real-time pricing and consumer empowerment to take advantage
20 of those prices do we get the full benefits of the
21 technology that is emerging and changing every day and is in
22 fact very exciting.

23 So I look forward to that partnership with all of
24 you, and with our state colleagues.

25 CHAIRMAN WELLINGHOFF: Thank you, Marc.

1 Thank you again, team, for your presentation and
2 your work on this.

3 Is there anything else to come before the
4 Commission?

5 (No response.)

6 CHAIRMAN WELLINGHOFF: If not, we are adjourned.

7 (Whereupon, at 11:05 a.m., Thursday, June 18,
8 2009, the 948th Federal Energy Regulatory Commissioners
9 meeting was adjourned.)

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