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Before the
FEDERAL ENERGY REGULATORY COMMISSION
962nd Open Commission Meeting
Thursday, September 16, 2010
Hearing room 2C
888 First Street, N.E.
Washington, D.C.

The Commission met, pursuant to notice, at 10:02
a.m., when were present:

COMMISSIONERS:

- JON WELLINGHOFF, Chairman
- MARC SPITZER, Commissioner
- PHILIP MOELLER, Commissioner
- JOHN NORRIS, Commissioner
- CHERYL A. LaFLEUR, Commissioner

FERC STAFF:

- KIMBERLY BOSE, Secretary
- Thomas Sheets, OGC
- Mike Bardee, OGC
- David Morenoff, OGC
- Jim Pederson, Chief of Staff
- Jeff Wright, OEP
- Mike McLaughlin, OEMR
- Joseph McClelland, OER
- JAMIE SIMLER, OEPI

P R O C E E D I N G S

(10:02 a.m.)

CHAIRMAN WELLINGHOFF: Good morning. Let's get started. This is the time and place that has been noticed for the open meeting of the Federal Energy Regulatory Commission to consider the matters that have been duly posted in accordance with the Government in the Sunshine Act. If you could, please join me for the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN WELLINGHOFF: It has been a while since we have had a meeting. In fact, since our July 15th open meeting we have issued 164 Notational Orders. Since that time also my Energy Projects Office has indicated a number of other things that have occurred.

One that I want to note is that on August 19th, 2010, our Division of Hydro Licensing issued a Minor License to the Southern Nevada Water Authority for a 500 kilowatt Arrow Canyon Energy Recovery Hydro Turbine Project. That project will be located in the Southern Nevada Water Authority's existing water piping system.

They are actually taking a turbine, putting it inside their domestic water piping system that pipes water from Lake Meade up over the hill and then down into the Las Vegas Valley, and taking that recovery coming back down and

1 using that as a recovery for energy, gaining a half a
2 megawatt. Quite an innovative project, and I'm proud that
3 our office was able to participate in that and provide that
4 license. Thank you, Jeff.

5 A number of other interesting projects of note:
6 The Texas Medical Center has got a new 50 megawatt natural
7 gas-fueled combined heat and power plant that came online
8 August 24th, 2010. It's the largest campus-district energy
9 system in the United States.

10 Another project that is near and dear to my heart
11 is Great River Energy's 5.5 megawatt Recovery Energy
12 Generation Project in Martin County, Minnesota, that came on
13 line August 25th, 2010. This is a new power plant that
14 converts waste heat to electricity from the exhaust of a gas
15 turbine in the compressor station of a natural gas pipeline.
16 So that's something I've been advocating for awhile, and I'm
17 very happy to see these projects moving forward.

18 Well, I also want to say that you all know that
19 our staff works very hard. In addition, I found out today
20 that they play very hard. I understand last night that our
21 softball team--and I swear to you this is their name--
22 Fercules--

23 (Laughter.)

24 COMMISSIONER MOELLER: Jon (holding up a T-
25 shirt).

1 CHAIRMAN WELLINGHOFF: There we go. I have the
2 shirt. All right.

3 (Laughter.)

4 CHAIRMAN WELLINGHOFF: There's the proof. There
5 is the proof. They won their league championship, and I'm
6 glad to hear that we have good comraderie here at 888 First
7 Street on the softball field. So thanks to the team
8 captains, Chris Jones and Katy Detweiler for keeping the
9 FERC softball team inspired. I want to congratulate the
10 team.

11 The next item I want to go to is, with great
12 sadness, another one of our FERC members is going to be
13 leaving our family and go out to retirement, although I
14 don't think this gentleman will actually retire. I'm
15 talking about Rick Miles. He's going to leave the
16 Commission after 38 years.

17 He currently serves as the Director of the Office
18 of Administrative Litigation. In 1999 he was appointed as
19 the first Director of the Federal Energy Regulatory
20 Commission's Dispute Resolution Service, and the
21 Commission's dispute resolution specialist, a position he
22 continues to hold today.

23 In these roles, Rick has been instrumental to
24 providing mediation and facilitation of disputes involving
25 entities subject to the Commission's jurisdiction, and

1 actually some not completely under our jurisdiction as well.

2 In addition to these roles, Rick has worked in
3 the Office of General Counsel. I was also fortunate enough
4 to have the opportunity to travel to China with Rick. He's
5 very well regarded internationally, around the world, and
6 the Chinese I think appreciated him being there. When we
7 were done with Commission business, Rick separated from the
8 group and went off to do some dispute resolution training
9 with the Chinese--at least that's what he told me anyway.

10 (Laughter.)

11 CHAIRMAN WELLINGHOFF: And he was, again, very
12 well regarded. And I have no doubt that he offered his best
13 training on dispute resolution to the Chinese delegation.

14 He has also offered workshops and training in the
15 Dominican Republic, Canada, South Asia, Spain, Thailand, and
16 Kansas.

17 (Laughter.)

18 CHAIRMAN WELLINGHOFF: And I mention Kansas
19 because that was a particularly interesting one to me where
20 he actually went in and resolved the dispute between two
21 transmission companies who wanted to develop a line, and
22 their ownership of that line so that it could be developed.
23 He was the one who was instrumental in getting that line
24 done. So we have Rick to thank for that.

25 To say he has had a major impact on dispute

1 resolution practice worldwide would not be an
2 understatement. But most importantly, Rick has been a great
3 asset to the Commission during his tenure.

4 We will miss him greatly. He leaves behind a
5 great legacy in the numerous people here at FERC that he has
6 trained in dispute resolution techniques.

7 So, Rick, I want to thank you for your exemplary
8 service to this Commission. I am pleased to honor you with
9 a Career Service Award today.

10 Rick, if you would come forward, please.

11 (Applause and standing ovation.)

12 CHAIRMAN WELLINGHOFF: Well after my unusually
13 long announcements, we have a couple of other Commission
14 announcements from my fellow Commissioners.

15 Commissioner Moeller, I think you've got on.

16 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
17 I was also going to mention the FERC softball team, so thank
18 you for doing that.

19 Secondly, careful observers of the Commission's
20 agenda might note that we do not have any G items on our
21 agenda today. We did a little research. It's probably only
22 the second time in history.

23 And yet, that should not be a signal to the gas
24 industry. Gas is as important and as significant as ever.
25 I am honored to serve on the Coordinating Subcommittee of

1 the National Petroleum Council's big study on the prudent
2 development of domestic gas that will be released sometime
3 in 2011. You will be hearing more about that.

4 But again, just because we send out gas items
5 notationally and not on today's agenda, it does not mean
6 that this is not an absolutely critical part of our energy
7 supply currently, and probably growing more so in the
8 future.

9 Thank you, Jon.

10 CHAIRMAN WELLINGHOFF: You mean I don't have to
11 answer any gas questions at the press conference today?

12 COMMISSIONER MOELLER: That's up to our friends
13 in the media.

14 (Laughter.)

15 CHAIRMAN WELLINGHOFF: Commissioner LaFleur, I
16 think you have a few announcements, as well.Y

17 COMMISSIONER LaFLEUR: Yes. Thank you very much,
18 Mr. Chairman.

19 In the July meeting I introduced two of my
20 advisors, Mary Cain, who is a technical advisor, and she is
21 working on reliability, energy policy, hydro, and electric
22 matters. And also Ruta Skucas, who is a legal advisor
23 working on gas projects and electric matters. As promised
24 last time, today I would like to introduce my third advisor,
25 Joshua Konecni, who is think is standing up behind me, who

1 has actually been with me since just a few days after the
2 July meeting. Josh has been with FERC since 2006 in the
3 Office of General Counsel's Energy Markets section. In that
4 position he handled a wide range of matters, including
5 reliability. While he was at FERC, he also went back to
6 school to get a Masters in Jurisprudence from Catholic
7 University, and he will be working or is working on
8 reliability, enforcement, and electric matters. And I'm
9 very grateful to have such a terrific team.

10 Thank you.

11 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
12 LaFleur.

13 And as my final announcement before we go to the
14 Consent Agenda, I would like to welcome to the big people's
15 table my Chief of Staff, Jim Pederson.

16 (Laughter.)

17 CHAIRMAN WELLINGHOFF: Everybody knows where the
18 real power is in this Commission, and so we thought it was
19 only appropriate to put Jim up with the rest of us during
20 our agenda meeting.

21 So with that, Madam Secretary, if we could go to
22 the Consent Agenda, please.

23 SECRETARY BOSE: Good morning, Mr. Chairman.
24 Good morning, Commissioners.

25 Since the issuance of the Sunshine Act Notice on

1 September 9th, 2010, Item E-16 has been struck from this
2 morning's agenda.

3 Your Consent Agenda is as follows:

4 Electric Items: E-1, E-3, E-4, E-7, E-8, E-9, E-
5 10, E-12, E-13, E-14, E-15, and E-17.

6 Hydro Items: H-1, H-2, H-3, and H-4.

7 Certificate Items: C-1, C-2, C-3, C-4, C-5, and
8 C-6.

9 As to E-1, Chairman Wellinghoff is not
10 participating. As to H-4, Commissioner Moeller is
11 concurring with a separate statement.

12 We will now take a vote on this morning's Consent
13 Agenda items, beginning with Commissioner LaFleur.

14 COMMISSIONER LaFLEUR: I vote yes; I vote yea.

15 SECRETARY BOSE: Commissioner Norris.

16 COMMISSIONER NORRIS: Vote aye.

17 SECRETARY BOSE: Commissioner Moeller.

18 COMMISSIONER MOELLER: I vote aye, noting my
19 concurrence in H-4.

20 SECRETARY BOSE: Commissioner Spitzer.

21 COMMISSIONER SPITZER: Vote aye.

22 SECRETARY BOSE: And Chairman Wellinghoff.

23 CHAIRMAN WELLINGHOFF: With the exception of my
24 not participating in E-1, I vote aye on all the other items.

25 SECRETARY BOSE: Thank you.

1 CHAIRMAN WELLINGHOFF: We'll move on now to the
2 items for discussion, please.

3 SECRETARY BOSE: The first item for presentation
4 and discussion this morning will be Item M-1 concerning a
5 Draft Policy Statement addressing certain penalty
6 guidelines, Docket No. PL10-04-000.

7 There will be a presentation by Jeremy Medevoy
8 from the Office of Enforcement. He is accompanied by Roger
9 Morie and Steven Tabackman, also from the Office of
10 Enforcement.

11 MR. MEDEVOY: Good morning, Mr. Chairman, and
12 Commissioners:

13 I am Jeremy Medevoy from the Office of
14 Enforcement. I am joined by Roger Morie and Steven
15 Tabackman, also from the Office of Enforcement.

16 Agenda Item M-1 is a revised policy statement
17 addressing the Penalty Guidelines which the Commission first
18 issued on March 18, 2010, to add greater fairness,
19 consistency, and transparency to its penalty determinations.

20 The Commission suspended the Guidelines'
21 application on April 15, 2010, to afford entities the
22 opportunity to submit written comments on them. The
23 Commission received 41 sets of comments on the Penalty
24 Guidelines from various segments of the energy industry
25 covering a broad range of issues.

1 The Revised Policy Statement on Penalty
2 Guidelines addresses these comments and describes
3 modifications to the Penalty Guidelines based on the
4 comments.

5 Enforcement staff will hold a technical
6 conference one year from issuance of the Modified Penalty
7 Guidelines to discuss how they have worked in practice, to
8 permit comments and questions from the industry, and to
9 allow the Commission to receive further input on the
10 Guidelines and their implementation.

11 Like the Penalty Guidelines the Commission issued
12 in March, the Modified Penalty Guidelines proposed today
13 will play a significant role in the Commission's
14 determinations of civil penalties and will help to ensure
15 fairness, consistency, and transparency in its enforcement
16 program.

17 The Modified Penalty Guidelines continue to base
18 penalties on the same factors as those present in the
19 Commission's 2005 and 2008 policy statements on enforcement,
20 but do so in a more focused manner by assigning specific and
21 transparent weight to each factor.

22 Thus, organizations will now know with more
23 certainty how each factor is applied. At the same time, the
24 Commission will continue to exercise its discretion to make
25 an individualized assessment based on the facts presented in

1 a given case.

2 Also like the Penalty Guidelines that were issued
3 in March, the Modified Penalty Guidelines are modeled on
4 sections of the United States Sentencing Guidelines that
5 apply to organizations in federal court cases, though we
6 have deviated from that model as appropriate to fit our
7 circumstances.

8 We believe the Sentencing Guidelines provide the
9 best model to adapt to Commission purposes because they
10 focus on factors--such as the seriousness and remediation of
11 a violation--that reflect the requirements of EPOA 2005 and
12 that are at the center of the Commission's penalty regime.

13 For Commission purposes, they provide an
14 effective analytical tool promoting objectivity,
15 consistency, and transparency to penalty determinations,
16 regardless of the underlying prohibited conduct.

17 The Modified Penalty Guidelines clarify that they
18 do not affect Enforcement staff's exercise of discretion to
19 close investigations or self-reports without sanctions.

20 Staff will continue to close all investigations
21 and self-reports where no violation is found, and to close
22 some investigations and self-reports without sanctions for
23 certain violations that are relatively minor in nature and
24 that result in little or no potential or actual harm.
25 Enforcement staff can also recommend downward and upward

1 departures from the Penalty Guidelines' penalty range.

2 I have just discussed some of the ways in which
3 the Modified Guidelines remain the same as the Guidelines
4 that were issued in March. I'll now turn to Steve to
5 highlight some of the modifications that have been made
6 based on the commenters' recommendations.

7 MR. TABACKMAN: Good morning, Mr. Chairman, Good
8 morning, Commissioners:

9 My name is Steven Tabackman from the Office of
10 Enforcement. Agenda Item M-1 proposes several modifications
11 to the section of the Penalty Guidelines on reliability
12 violations.

13 First, although the Penalty Guidelines will still
14 apply to violations of the Reliability Standards, they will
15 apply only to the Commission's Part 1b investigations and
16 Enforcement actions. They will not apply to the
17 Commission's review of NERC's Notices of Penalty.

18 Second, the Modified Penalty Guidelines reduce
19 the base violation level for reliability violations from 16
20 under the original Penalty Guidelines to 6, and increase the
21 risk-of-harm enhancements for reliability violations.

22 The combination of these modifications balances
23 the need for an adequate deterrent for all reliability
24 violations, while recognizing that relatively less severe
25 violations should receive relatively smaller penalties.

1 Third, the Modified Penalty Guidelines do not
2 attempt to conduct a specific, individualized assessment of
3 the monetary value of the loss of load resulting from a
4 violation of a Reliability Standard as a measure of the harm
5 from the violation.

6 Instead, as suggested by one commenter, the
7 Penalty Guidelines will consider the quantity of load lost
8 in megawatt hours as a measure of the seriousness of the
9 violation.

10 Calculating the monetary value of lost load would
11 require a substantial commitment of time and resources by
12 the entity under investigation and by the Commission staff.
13 Focusing on quantity avoids that burdensome process but
14 still allows us to consider the seriousness of the
15 particular violation.

16 The Modified Penalty Guidelines also make
17 significant changes to the Penalty Guidelines' provision on
18 compliance credit.

19 First, the Penalty Guidelines now give partial
20 compliance credit to organizations that have effective, yet
21 imperfect, compliance programs, recognizing that
22 organizations can have effective compliance programs despite
23 not meeting every requirement and sub-requirement listed in
24 the Guidelines.

25 Second, the Modified Penalty Guidelines delete

1 the provision that automatically eliminates any compliance
2 credit for violations where an organization's senior-level
3 personnel participated in, condoned, or were willfully
4 ignorance of the violation.

5 We recognize that an organization could devote
6 significant efforts and resources to compliance but still
7 not be able to prevent a rogue employee from participating
8 in a violation.

9 The Modified Penalty Guidelines also unbundle the
10 mitigation credits for self-reports, cooperation, avoidance
11 of trial-type hearings, and acceptance of responsibility,
12 recognizing that these factors carry independent value and
13 should be credited accordingly. Thus, for example, an
14 organization can now receive a two-point credit for self-
15 reporting even without also earning cooperation credit.

16 Finally, the Modified Penalty Guidelines add an
17 explicit scienter requirement with respect to
18 misrepresentations and false statements.

19 Staff has carefully considered a broad range of
20 comments and recommendations from various segments of the
21 energy industry, and these comments have led to a number of
22 important modifications to the Penalty Guidelines.

23 That concludes our presentation and we would be
24 pleased to respond to questions. Thank you.

25 CHAIRMAN WELLINGHOFF: Thank you, Jeremy, Steve,

1 and Roger, all members of the team on this.

2 Today the Commission is issuing a revised policy
3 statement on Penalty Guidelines. Since the issuance of the
4 March Order on the Penalty Guidelines, the staff has worked
5 diligently to consider the statements and comments presented
6 in the three conferences held in response to the initial
7 policy statement and the numerous written comments we have
8 received. I want to thank them for their hard work.

9 Today's Order makes several modifications to the
10 Guidelines to address concerns raised by the industry. I
11 continue to believe that these Guidelines benefit both the
12 Commission and industry by increasing fairness, consistency,
13 and transparency in our Enforcement program.

14 One of the changes I would like to highlight is
15 that we have changed our methodology with respect to
16 including loss of load in the Penalty Guidelines. The
17 Federal Power Act requires us to take into consideration the
18 seriousness of a Reliability violation.

19 To do this, we must consider loss of load in some
20 way. However, in this Order we determine that we need not
21 attempt to conduct a specific individualized assessment of
22 the value of the loss of load as a measure of the harm from
23 the violation.

24 Instead, we will use the quantity of load lost as
25 one measure of the seriousness of the violation. This will

1 allow the Commission to take into consideration the harm of
2 a violation without requiring a specific calculation of the
3 value of lost load, which could be resource intensive both
4 for the Commission and for industry.

5 I would like to emphasize that we are not
6 imposing strict liability on a grid operator that sheds
7 load. An operator's first responsibility is to comply with
8 the Reliability Standards.

9 The Penalty Guidelines do not penalize load
10 shedding if done in compliance with the Reliability
11 Standards, though we may take the loss of load into account
12 in determining the risk posed by a violation of a
13 Reliability Standard that gave rise to the load shedding.

14 After considering the comments, the Commission
15 has also decided not to apply the Penalty Guidelines to any
16 notice of penalty from the North American Electric
17 Reliability Corporation.

18 In reviewing these notices of penalty, the
19 Commission serves in an appellate role. I believe there are
20 good arguments for and against applying the Penalty
21 Guidelines to those few penalty instances that the
22 Commission decides to review.

23 I am accepting today's proposed change because of
24 the difficulty in clearly defining which notices of penalty
25 are "out-of-the-ordinary" that that would warrant

1 consideration under our Penalty Guidelines.

2 It is important to stress that the Commission
3 will hold a technical conference one year from the
4 implementation of the Modified Penalty Guidelines we issue
5 today. This conference will provide the industry
6 information on how the Guidelines have worked in practice
7 and will allow the industry to ask the Commission any
8 questions that have arisen.

9 It will also allow the Commission to receive more
10 input on the Guidelines and how they are being implemented.
11 At that time, the Commission will consider our experience
12 and the input we receive and we will be open to making
13 further adjustments to the Penalty Guidelines.

14 As always, the Enforcement Staff has done a
15 tremendous job here, and I want to thank you again.

16 Colleagues, comments? Commissioner Moeller?

17 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
18 Again, first thanks to Norman Bay and your team for working
19 on this. We released them originally in March. We had
20 quite a bit of reaction, but we have made changes in
21 reaction to those comments that were put in--I think you
22 said 41 sets.

23 But it is also important to remember that these
24 are about, as you said, Mr. Chairman, fairness, consistency,
25 and transparency, factors that frankly were lacking without

1 a set of Penalty Guidelines.

2 I would urge all the interested parties to read
3 these. Read them thoroughly and digest them before you
4 react to them. That is my request, and I think if you do
5 that we will all be better served.

6 Thanks again to the team. Mr. Chairman.

7 CHAIRMAN WELLINGHOFF: Thank you. Commissioner
8 Spitzer.

9 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

10 I know there are some in the public at large who
11 feel the Federal Government is inflexible and unresponsive,
12 but to those of us who are FERC cognoscente we know that
13 FERC does listen, and this Order is exhibit A that FERC has
14 listened and did respond to concerns.

15 Just a few points. I'm going to post a more
16 detailed statement on the website, but FERC is interested in
17 compliance. FERC is not interested, or motivated by
18 imposition of penalties; the penalties are simply a means to
19 an end. And I think in terms of the overall mission of
20 enforcement, the Penalty Guidelines are consistent with that
21 mission of promoting compliance.

22 Secondly, I had heard a great deal of concern
23 regarding the fact that the Penalty Guidelines arose from
24 the Federal Criminal Sentencing arena, and this criminal
25 analogy was troublesome. And in searching through my prior

1 experience as an attorney, I came up with an analogy from a
2 circumstance in the 1980s involving the federal and state
3 RICO cases.

4 There was a time in the 1980s, before they were
5 pared back by both federal and state governments, when
6 basically any civil business dispute, or tort, became treble
7 damage under federal or state RICO, and it was in fact
8 malpractice not to allege treble damages.

9 One scenario that I was involved in, it was
10 actually a Massachusetts financial institution that came
11 down to Arizona and the CEO was very upset, and I was a
12 young lawyer and my job was to calm him down while the more
13 serious lawyers worked on the case--

14 (Laughter.)

15 COMMISSIONER SPITZER: --and he expressed his
16 unhappiness with being branded a criminal in this case. And
17 I assured him, well, this is just a garden-variety business
18 case; it will be resolved. Nobody is saying that you or
19 your entity are criminal.

20 And it turns out, the term "RICO" was offensive
21 to him because he thought of Edward G. Robinson in that
22 movie "Key Largo" with Humphrey Bogart, and he felt he was
23 being called a racketeer, and his employees and his
24 enterprise were being maligned, even though that was simply
25 the legal paradigm the underlying merits didn't justify.

1 And as I attempted to calm him down, I finally
2 said: When you think of the RICO case--you're from Boston--
3 don't think about Edward G. Robinson. Think about Rico
4 Petrocelli.

5 (Laughter.)

6 COMMISSIONER SPITZER: I don't know if it worked
7 or not, but I would urge those in the audience not to think
8 about the analogy, but to think what we're trying to do with
9 the Penalty Guidelines. This is about transparency. This
10 is about clarity. This is about predictability. I think
11 it's in the interest of the public that we have accommodated
12 the concerns, balanced competing interests, and I think
13 we've achieved that objective.

14 So lay aside the fact that this does have an
15 origin in an unrelated area of the law. Applied to this
16 sector, I think the industry can derive great comfort from
17 the changes that we've made and the fact that we did listen
18 and respond to those interested parties who had expressed
19 concerns. And we think the final work product is good for
20 the Commission and, as the Chairman said, good for the
21 industry as well.

22 Thank you.

23 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
24 Spitzer. Commissioner Norris?

25 COMMISSIONER NORRIS: Thank you, Mr. Chairman.

1 Marc, thanks for addressing that. I think we are
2 all sensitive to that issue, and maybe it filled in some of
3 the blanks for what Phil was saying about please read these.
4 Because we were very sensitive after the Order came out in
5 March and the immediate reaction to the utilization of the
6 criminal statutes, that this in no way meant that we were
7 criminalizing this; that was not the intent, criminalizing
8 liability violations.

9 So thanks for putting a little color on that for
10 us, Marc. But I want to echo his point. I think we all
11 probably share that sentiment that it was probably
12 mischaracterized, and we in no way intended that to be an
13 implication of using those criminal sentencing guidelines.

14 I will also echo what previous Commissioners have
15 said, that I do think this is a good example of us taking
16 your comments to heart. The reaction from the issuance of
17 these Penalty Guidelines in March was strong.

18 There were very constructive comments that were
19 submitted to us, and I think this is a good example of how
20 we listened to those concerns. We didn't make all the
21 changes folks requested, but I think we made some very
22 significant ones that make these Penalty Guidelines better.
23 And, as noted, provide a clear, consistent, and transparent
24 process for assessing and fulfilling our responsibility for
25 enforcing compliance with the Reliability Standards.

1 I would note I think we made a real positive step
2 in providing clarity by not applying these to the FERC
3 notice of penalty--excuse me, the NERC notice of penalties,
4 but maintaining the application of these to the 1(b)
5 violations. Because I do think we have a responsibility at
6 FERC to, as Section 2.15 of the Federal Power Act says, to
7 conduct our own investigations and fulfill that
8 responsibility we have. And I think applying our Guidelines
9 to those investigations is appropriate.

10 I'm glad we drew a distinction between that and
11 the OPs from NERC.

12 I think lowering the base level of reliability
13 violations from 16 to 6 also helped create a comparability
14 with violations of other Commission requirements, but also
15 recognizes the seriousness of reliability violations.

16 And as was also mentioned before, I think the
17 modification in loss of load was important. So while it
18 wasn't a complete disregard for loss of load, I think it
19 more appropriately strikes a balance between perhaps the
20 perverse disincentive to load shedding by operators who are
21 following reliability standards, but fulfilling our
22 responsibility to consider the seriousness of violations.
23 So I think we struck an appropriate balance with regards to
24 loss of load.

25 I want to thank the staff for your hard work on

1 this. I know there were a lot of comments. I think you did
2 a great job of sifting through them and boiling it down to
3 the critical ones that we could be responsive to.

4 I also like the fact that we're going to review
5 these in a year to make sure they're operating as we
6 intended them to.

7 CHAIRMAN WELLINGHOFF: Thank you, John.
8 Commissioner LaFleur.

9 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman.
10 I am very pleased to join my colleagues in supporting these
11 Guidelines. Although I wasn't a member of the Commission in
12 March, I agree, and I believe my colleagues correctly
13 concluded, that the Guidelines will add transparency,
14 consistency, and fairness to our Enforcement program.

15 There are just two aspects I would like to
16 highlight. The first, which the Chairman also mentioned, is
17 really that both the Policy Statement and the Guidelines
18 themselves make clear that the central goal of our
19 Enforcement program is achieving compliance, and achieving
20 the ends served by compliance: fair markets, reliability,
21 not assessing penalties.

22 It's critical that we use our compliance program
23 and these Guidelines to aid the regulated community in their
24 efforts to build a culture of compliance so that entities
25 have in place institutional safeguards necessary to avoid

1 actions that will threaten the bulk power system, or
2 undermine the integrity of Commission-regulated markets.

3 To that end, I am pleased that the Penalty
4 Guidelines reflect the importance the Commission places on
5 an effective compliance program.

6 Secondly, as has already been pointed out by my
7 colleagues, the Revised Policy Statement and Guidelines
8 incorporate many of the recommendations that were presented
9 in comments, and I would like to thank the staff for their
10 hard work in listening and making changes.

11 But I think it also reflects the opportunity to
12 make those changes really as a reflection on the clarity and
13 specificity and constructiveness of the comments we
14 received. And with all the pending rulemakings we have, it
15 is something to be mindful of, a comment that just says this
16 is a bad idea, please don't do it, is much harder to respond
17 to than one that says: If you're going to do this, make
18 this change for this reason in this respect. And this was a
19 particularly good set of comments in that regard.

20 I'm also pleased that the Enforcement team has
21 agreed to hold the staff-led technical conference in a year
22 to see how these are actually working in practice.

23 So with my colleagues I would like to thank
24 everyone, Norman, and the Larrys, and Lee Ann, and their
25 whole team for their work on this. It sounds like a rock

1 band.

2 (Laughter.)

3 COMMISSIONER LaFLEUR: And I'm struggling to come
4 up with a Red Sox player whose initials correspond with
5 Penalty Guidelines, but so far unsuccessful.

6 (Laughter.)

7 COMMISSIONER LaFLEUR: Thank you.

8 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
9 LaFleur. Well, if we're done, I think, Madam Secretary,
10 we're ready to vote, please.

11 SECRETARY BOSE: And the vote begins with
12 Commissioner LaFleur.

13 COMMISSIONER LaFLEUR: I vote aye.

14 SECRETARY BOSE: Commissioner Norris.

15 COMMISSIONER NORRIS: Aye.

16 SECRETARY BOSE: Commissioner Moeller.

17 COMMISSIONER MOELLER: Aye.

18 SECRETARY BOSE: Commissioner Spitzer.

19 COMMISSIONER SPITZER: Vote aye.

20 SECRETARY BOSE: And Chairman Wellinghoff.

21 CHAIRMAN WELLINGHOFF: I vote aye. Thank you.

22 Let's go to the next presentation item, please.

23 SECRETARY BOSE: For presentation and discussion,
24 we'll be on Item E-2 concerning a Draft Order addressing the
25 North American Electric Reliability Corporation's Three-Year

1 Electric Reliability Organization Performance Assessment
2 Report.

3 There will be a presentation by Christopher Young
4 from the Office of Electric Reliability. He is accompanied
5 by Stuart Fischer, from the Office of Enforcement; Daniel
6 Phillips from the Office of Electric Reliability; and Mindi
7 Sauter and Bill Edwards from the Office of General Counsel.

8 MR. YOUNG: Good morning. My name is Chris
9 Young. I work in the Office of Electric Reliability.
10 Seated with me are Dan Phillips, also from OER; Stuart
11 Fischer, from the Office of Enforcement; and Mindi Sauter
12 and Bill Edwards from the Office of General Counsel.

13 We represent a portion of a broader multi-
14 division team that participated in the preparation of the
15 Draft Order in Item E-2.

16 Item E-2 is a Draft Order addressing the North
17 American Electric Reliability Corporation's Three-Year
18 Electric Reliability Organization Performance Assessment
19 Report.

20 NERC filed its Performance Assessment in
21 accordance with the requirements of the Commission's
22 regulations on the three-year anniversary of the
23 Commission's certification of NERC as the Electric
24 Reliability Organization.

25 The Performance Assessment highlights NERC's

1 accomplishments and describes how NERC satisfies on an
2 ongoing basis the statutory and regulatory criteria for
3 certification of the ERO.

4 The Performance Assessment provides an indepth
5 analysis of the performance of the Regional Entities and a
6 review of NERC's programs and activities in the United
7 States, as well as in Canada and Mexico.

8 The filing identifies actions that NERC and the
9 Regional Entities plan to take to improve their operations
10 and to continue to enhance the reliable operation of the
11 Bulk-Power System.

12 In addition, it evaluates on a program-by-program
13 basis areas where NERC and the Regional Entities could
14 continue to improve, and identifies over 120 specific action
15 items that NERC plans to implement to address opportunities
16 for improvement.

17 The Draft Order in Item E-2 accepts NERC's and
18 the Regional Entities' performance assessments, and finds
19 that they continue to satisfy the statutory and regulatory
20 criteria for certification.

21 The Draft Order states that a strong ERO is
22 necessary to promote excellence in developing and enforcing
23 mandatory Reliability Standards as envisioned in Order
24 No. 672.

25 In addition, NERC is directed to submit an

1 informational filing six months from the date of the Order
2 providing additional detail on specific matters in order to
3 better inform the Commission regarding certain action items
4 NERC proposes, or to address a concern of the Commission in
5 a particular area.

6 The Draft Order finds that generally the action
7 items proposed by NERC are reasonable and provide practical
8 steps to improve the effectiveness of the ERO and Regional
9 Entity functions and programs.

10 The action items will address important concerns
11 such as enhancing stakeholder communications, improving
12 registration consistency across regions, eliminating the
13 backlog of audit reports and compliance violations,
14 promoting self-reporting of non-compliance, and providing
15 compliance guidance to registered entities.

16 Additionally, the Draft Order discusses the July
17 6th technical conference which provided a useful, high-level
18 discussion of topics that concerned NERC, the industry, and
19 regulators in North America.

20 The draft supports NERC's proposal in its post-
21 conference comments to convene periodic technical
22 conferences in the format of the July 6th conference to
23 focus on reliability issues.

24 The Draft Order states that this approach offers
25 a constructive opportunity for NERC, industry, and

1 regulators to discuss policy issues in an open and inclusive
2 forum. Future technical conferences are targeted for
3 November of 2010 and January or February of 2011.

4 Thank you. This concludes our presentation.

5 CHAIRMAN WELLINGHOFF: Thank you, Chris, and I
6 want to thank all the members of the team for the hard work
7 on this. As Daniel recognized, this Order involves a wide
8 range--excuse me, as Chris recognized, this Order involves a
9 wide range of issues that the staff has looked at from
10 several directions within the Commission, and did a great
11 job I think of thoroughly reviewing NERC's filing.

12 It has been a little over four years since the
13 Commission certified NERC as the Electric Reliability
14 Organization for the United States. Those four years have
15 been a learning experience for NERC, the industry, and the
16 Commission.

17 In its three-year assessment, NERC took a hard
18 look at its performance and the Regional Entities'
19 performance, and submitted a comprehensive filing detailing
20 its findings.

21 In doing so, NERC has identified over 120 action
22 items it intends to implement. I applaud NERC and the
23 Regional Entities for their diligence in continuing to
24 improve their performance under Section 215 of the Federal
25 Power Act, and I am happy that we are generally approving

1 NERC's proposals.

2 I also think it is important that the Commission
3 continue the dialogue that began with our July 6th
4 Conference. That conference provided a useful discussion of
5 topics that concern NERC, the industry, and regulators in
6 North America, and I commit to continuing that conversation.

7 I was pleased to hear that industry was
8 coalescing around the idea of convening periodic technical
9 conferences in the format of the July 6th conference to
10 focus on reliability issues.

11 To that end, in this Order the Commission
12 announces that it will hold a conference on NERC and
13 Regional Entity reliability monitoring, enforcement, and
14 compliance issues.

15 We will also hold a conference in early 2011 to
16 discuss other policy issues. We are looking forward to
17 working with NERC and our international neighbors in setting
18 the agendas for these conferences.

19 They will provide an open and inclusive forum in
20 which to discuss policy issues of interest to NERC,
21 industry, and all regulators. These conferences should
22 build upon the work NERC has done to improve its
23 performance, and will be useful in guiding continued
24 improvement in NERC's performance as the ERO.

25 I look forward to the conferences, and I look

1 forward to voting for this Order. Thank you.

2 Colleagues? Commissioner Spitzer?

3 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

4 I support today's Order on the North American Reliability
5 Corporation's Three-Year Performance Assessment.

6 Two things became clear to me in my review of
7 NERC's three-year assessment. First, NERC, the Regional
8 Entities, and industry have accomplished a great deal in the
9 past two years, and those accomplishments should be
10 recognized and commended.

11 Second, while NERC, the Regional Entities, and
12 industry should be proud of these efforts, much more work
13 needs to be done to ensure the reliable operation of the
14 Nation's Grid.

15 I have observed that the industry and the
16 Commission share the common goal of safe and reliable
17 operation of the Nation's Grid. We have had occasional and
18 respectful differences over the details to achieve that
19 goal. These were particularly evident at our March 18th
20 meeting. And these differences arise from the technical
21 complexity of our undertaking, and differences are likely to
22 arise in the future--again, due to the technical complexity
23 of these matters.

24 The important thing going forward is that we do
25 what we can to work collaboratively towards our common goal.

1 To that end, the Draft Order indicates upcoming open and
2 public technical conferences to be led by the Commissioners
3 at which we can hear directly from NERC and industry, and
4 solicit discussion regarding standard development,
5 enforcement, compliance, as well as broad policy issues.

6 I found the July 6th technical conference to be
7 extremely helpful in this regard. However, I urge NERC and
8 the industry not to wait for the formal technical
9 conferences. I hope we can continue ongoing informal
10 discussions and feedback about the best ways we can work
11 toward our shared goal.

12 Finally, I want to express my thanks to the team
13 for their hard work on this Order. Again, I support today's
14 Order, and I look forward to working with my colleagues, our
15 international colleagues, FERC staff, NERC, the Regional
16 Entities, and the industry.

17 Thank you, Mr. Chairman.

18 CHAIRMAN WELLINGHOFF: Thank you. Commissioner
19 Moeller?

20 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
21 Thank you for calling this item to give it the attention it
22 deserves. I think we are trending in the right way on this
23 general set of issues, and I will certainly associate my
24 thoughts with the comments of both you and Commissioner
25 Spitzer.

1 I have three questions, though, that I think
2 might help elaborate some of the details on this. Chris, I
3 don't know who is best to answer them, but the first is that
4 NERC filed a motion asking staff to publicly file a
5 preliminary assessment so that interested parties could
6 comment on staff's view of the Three-Year Assessment.

7 Can you please explain why you decided not to
8 issue such an assessment?

9 MR. YOUNG: Bill, or Mindi, that might be your
10 territory.

11 MS. SAUTER: Commissioner, we decided there was
12 no need to file a preliminary assessment because in the
13 Order we are not directing NERC to make a lot of changes to
14 its plans. We are basically accepting the action items that
15 NERC proposed, so we didn't feel that it would be useful to
16 issue a preliminary order.

17 COMMISSIONER MOELLER: Very good. And that kind
18 of goes into the second question. Which is, that we have
19 directed NERC to submit an informational filing within six
20 months. And I think it's important to note the difference
21 between--well, first of all, what is such an informational
22 filing? And how does it differ from a compliance filing?

23 MR. EDWARDS: Mr. Commissioner, the informational
24 filing is simply for staff's information versus a compliance
25 filing, which would come out with an actual order on

1 compliance. These are items that staff wanted additional
2 information on, or explanation about, for our own
3 edification.

4 COMMISSIONER MOELLER: So people should pay
5 attention to the appendix?

6 MR. EDWARDS: Yes.

7 COMMISSIONER MOELLER: Finally, this is the
8 Three-Year Assessment. We're about a year late. Can you
9 tell us when the next assessment is due?

10 MR. EDWARDS: I believe the next assessment is
11 due five years from now.

12 MS. SAUTER: Actually, I think it's due four
13 years from now--five years from when they last filed.

14 COMMISSIONER MOELLER: All right. Thank you very
15 much. Again, thanks to the team for the hard work, an Order
16 that I think will be read, but particularly the Appendix
17 will be read by many people.

18 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
19 Moeller. Commissioner Norris.

20 COMMISSIONER NORRIS: Thank you, Mr. Chairman.
21 Let me just start by saying I think this responsibility we
22 have for the development of and compliance with Mandatory
23 Electric Reliability Standards is one of the most important
24 and significant jobs we have here at the FERC.

25 It's also unique. It's unique in the fact that

1 the Congress split the responsibility, if you will, or
2 shared the responsibility between the public sector and the
3 private sector for ensuring bulk system reliability. So it
4 presents unique challenges for FERC.

5 And our response to the NERC's Three-Year
6 Assessment I believe we've done, with this Order, meets our
7 regulations in fulfilling that responsibility. And I think
8 it is responsive. But it probably took too long. I think
9 we took too long to get back to NERC on how they were
10 fulfilling their responsibilities, since we have a joint
11 responsibility here.

12 I think it is emblematic of, at least my
13 observation in the months I have been her, of a breakdown in
14 communication. When you have a Congressionally mandated
15 shared responsibility, I think it is incredibly important
16 that we step up the communication level to achieve this big
17 responsibility we have with reliability of the bulk power
18 system.

19 I think July 6th moved us a long ways to getting
20 back on track with the communications that I think we need
21 to make this successful. And I am encouraged that our
22 response here also establishes regular dialogues on this
23 issue so it becomes institutional as part of our process, so
24 we don't let that breakdown in communication occur again.

25 So I am encouraged that this November we will

1 have the second of the two technical conferences we
2 announced in June. I hope it is as successful as the one we
3 had July 6th.

4 I am also encouraged that we are going to go
5 forward with what was the dominant theme of the July 6th
6 technical conference, that we have ongoing dialogues between
7 the Commission, NERC, our Canadian counterparts, the
8 industry, and the public about a sharing of thoughts on the
9 larger policy issues, so that we can all get on the same
10 page.

11 And I think it is critically important that we
12 develop a clear public record of that discussion and those
13 decisions with respect to reliability, so the public can
14 understand why we have made the decisions we have made.

15 Because of our unique public/private partnership
16 on reliability, I think there is a heightened level of
17 importance that we have a public dialogue, that the public
18 be informed of the decisions and, frankly, there are some
19 tradeoff decisions we're going to make going forward with
20 cost and reliability that there's value in having that
21 decision made publicly for the world to see.

22 So I am encouraged about the outcome of what I
23 saw as a problem that this begins to address, and I think we
24 are on the right track going forward to get the train back
25 on its tracks and establish some priorities and give NERC I

1 think what they're asking for, some real input from this
2 Commission on what are the most important things they should
3 be working on. So that will get us all on the same page and
4 get there with this awesome responsibility.

5 So thanks for your work on this, but the work's
6 not done and let's continue to press forward.

7 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
8 Norris. Commissioner LaFleur.

9 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman.
10 Thank you, team. I am pleased to join my colleagues on this
11 Order on NERC's Three-Year Assessment.

12 As the Assessment reflects, NERC has made
13 considerable progress in the last three years in carrying
14 out its responsibilities as the Certified Electric
15 Reliability Organization under Section 2.15 of the Federal
16 Power Act.

17 At the same time, as has been observed, there is
18 still much work to be done, particularly in the area of
19 standards development. I was not at the Commission for
20 Order No. 693 or any of the March Orders, but I note that
21 NERC has only completed 15 percent of the directives from
22 Order No. 693. So there's still a lot ahead of us.

23 Because of the volume and complexity of the work
24 that lies ahead, I think the discussion of prioritization in
25 the Order we issue today is especially important. As the

1 old maxim goes--and old maxims usually exist for a
2 reason--"If everything is a priority, then nothing is a
3 priority."

4 And I am extremely encouraged that NERC intends
5 to propose a more systematic process for prioritizing its
6 standards development projects. As Commissioner Norris
7 observed, Section 2.15 of the Federal Power Act establishes
8 a somewhat unique framework that requires NERC and FERC to
9 work collaboratively to carry out our respective
10 responsibilities to ensure the reliability of the Bulk Power
11 System.

12 Those closely linked responsibilities call for a
13 clear set of shared priorities, shared by both NERC and
14 FERC. I am sure everyone in this room, and everyone that's
15 watching on the Web would agree that the reliability and
16 security of our Bulk Power System are critical to customers,
17 and critical to all aspects of our society and economy.

18 But we also have to agree on how we get there.
19 And I think it is critical that we work toward a shared
20 understanding of the most important actions that we have to
21 take and get on with taking them. And that means NERC
22 having priorities in terms of how it implements the work,
23 not just what can be done quickly but what's going to have
24 the biggest impact and do the things with the biggest impact
25 first, even if they take longer; but it also means the

1 Commission having priorities in how we--what directives we
2 put out, and how we interact with NERC.

3 So I very much look forward to the upcoming
4 technical conferences in an opportunity to continue this
5 discourse with NERC, with our Canadian neighbors, and with
6 the industry.

7 Thank you.

8 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
9 LaFleur. I believe we're ready to vote.

10 SECRETARY BOSE: And the vote begins with
11 Commissioner LaFleur.

12 COMMISSIONER LaFLEUR: I vote aye.

13 SECRETARY BOSE: Commissioner Norris.

14 COMMISSIONER NORRIS: Aye.

15 SECRETARY BOSE: Commissioner Moeller.

16 COMMISSIONER MOELLER: Aye.

17 SECRETARY BOSE: Commissioner Spitzer.

18 COMMISSIONER SPITZER: Votes aye.

19 SECRETARY BOSE: And Chairman Wellinghoff.

20 CHAIRMAN WELLINGHOFF: Vote aye.

21 SECRETARY BOSE: The last item?

22 CHAIRMAN WELLINGHOFF: Yes, please.

23 SECRETARY BOSE: For presentation and discussion
24 this morning will be on Item E-11. It's concerning a Draft
25 Order in Docket No. ER10-1418-000. There will be a

1 presentation by Morris Margolis from the Office of Energy
2 Market Regulation. He is accompanied by Ron LeComte from
3 the Office of General Counsel; and Jonathan Fernandez from
4 the Office of General Counsel.

5 MR. MARGOLIS: Good morning.

6 The Draft Order accepts, suspends, and
7 establishes hearing and settlement judge procedures a
8 proposed Reliability-Must-Run Rate Schedule for two
9 generating units located in southeastern Pennsylvania.

10 Exelon Generation notified PJM of its intent to
11 deactivate several generating units at its Cromby and
12 Eddystone facilities effective May 31, 2011.

13 PJM conducted a deactivation study and determined
14 that a number of upgrades to the transmission system would
15 be necessary to maintain transmission system reliability,
16 and that these upgrades would not be expected to be in place
17 until after the requested deactivation date.

18 As a result, PJM determined that one unit at each
19 of the Cromby and Eddystone facilities will be needed past
20 the date of its planned deactivation pending the completion
21 of the necessary upgrades.

22 Exelon filed the proposed RMR Rate Schedule in
23 response to this determination with initial terms until
24 December 31, 2011 from the Cromby unit, and December 31,
25 2012 for the Eddystone Unit.

1 Due to restrictions stipulated by the
2 Commonwealth of Pennsylvania's Department of Environmental
3 Protection, the units will only be dispatched by PJM for
4 reliability reasons and will not participate in the PJM
5 markets.

6 Thank you.

7 CHAIRMAN WELLINGHOFF: Thank you for that
8 presentation, gentlemen. Thank you for your work on this
9 order.

10 Commissioner Moeller.

11 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
12 Thank you for allowing me to call this item. We are getting
13 into Commissioner Spitzer's neighborhood here with these
14 units.

15 (Laughter.)

16 COMMISSIONER SPITZER: I know them well.

17 (Laughter.)

18 COMMISSIONER MOELLER: First a couple of
19 questions. Morris, I don't know if this is for you, or for
20 any of the other on the team. Can you give us a sense of
21 the type of upgrades of transmission that are going to be
22 necessary, so that we can eventually see these units retire?

23 MR. MARGOLIS: Yes. According to the PJM's
24 deactivation study, which was also presented at one of the
25 PJM Transmission Expansion Advisory Committee meetings, the

1 upgrades are needed to satisfy primarily first and second
2 contingency and other voltage and thermal violations.

3 They include reconductoring of 230 and 138 kV
4 transmission segments, and several other 230 and 138 kV
5 substation equipment upgrades, such as transformers and
6 circuit breakers.

7 COMMISSIONER MOELLER: Okay. And secondly, do we
8 have any other cases of RMR units in PJM?

9 MR. MARGOLIS: There were several units put under
10 RMR approximately five years ago from PSEG in northern New
11 Jersey, of which I think only one of them is currently under
12 an RMR agreement and was extended until 2011.

13 COMMISSIONER MOELLER: Okay. Thank you.

14 Well on the face of it this is an Order about
15 compensation for RMR units. But I called it really to bring
16 up three points.

17 The first is that the three of us have been on
18 the Commission now for about four years. And in the early
19 years, we spent a lot of time dealing with RMR units. And
20 we don't like them because they're not efficient for the
21 marketplace, but they're necessary in certain cases. But
22 we've basically seen the elimination of them in New England,
23 and we're trending in the right direction.

24 In this case it's necessary for reliability
25 purposes. So the first point is, we're trending the right

1 way on RMR units.

2 The second point is, this is a great example
3 where an entity wants to shut down its older, dirtier
4 plants, but a lack of transmission capacity is preventing
5 that from happening. And consequently an investment in
6 those transmission facilities will allow these units to be
7 retired. And we need to keep that in mind on the larger
8 debate over transmission.

9 And the third item is that, as the Environmental
10 Protection Agency starts to clamp down on air regulations,
11 and I think in essence an effort to retire some of the older
12 and dirtier coal plants and oil plants in the country, I
13 hope that we can have a dialogue, perhaps a more formal
14 dialogue, with that Agency, particularly with our experts in
15 the Reliability Office, so that the reliability implications
16 of shutting down some of these plants are well understood
17 before we go down the direction of shutting them down.

18 These are not insurmountable problems. They can
19 be dealt with, particularly in some cases with adequate
20 transmission investment. But to go into them with our eyes
21 wide open is better, and again I'm hoping that our
22 colleagues at the EPA will, if not reach out to us, allow us
23 to reach out to them to get this dialogue going for the sake
24 of reliability.

25 Again, Mr. Chairman, I appreciate the chance to

1 call this item for those reasons.

2 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
3 Moeller. Do any of my other colleagues have any comments on
4 this particular item? Commissioner Norris?

5 COMMISSIONER NORRIS: I just thank Commissioner
6 Moeller for bringing this to our attention. I was glad to
7 hear you say at the end there, since I don't bring the years
8 of experience to this, and have witnessed this RMR progress
9 that has been made, so I grant you that, but I share your
10 concern going forward.

11 What's happening is we're facing a new challenge
12 here with carbon, NOx, SOx, mercury, you name it. This is
13 going to be a challenge going forward. So I appreciate you
14 bringing it to our attention. We've focused our
15 transmission largely on load growth, but there may be some
16 other reasons to draw attention here to consider, and that
17 is to accommodate retirement of these plants and how we do
18 it most efficiently. So thanks for bringing it to our
19 attention.

20 CHAIRMAN WELLINGHOFF: Anyone else?

21 (No response.)

22 CHAIRMAN WELLINGHOFF: And I just mentioned to
23 Commissioner Moeller that I do believe that there is forming
24 an Interagency Task Force that we're working with EPA and
25 CEQ and others to look at this exact issue, but I do

1 appreciate you bringing it forward to us.

2 I think we're ready to vote, Madam Secretary.

3 SECRETARY BOSE: The vote begins with
4 Commissioner LaFleur.

5 COMMISSIONER LaFLEUR: I vote aye.

6 SECRETARY BOSE: Commissioner Norris.

7 COMMISSIONER NORRIS: Aye.

8 SECRETARY BOSE: Commissioner Moeller.

9 COMMISSIONER MOELLER: Aye.

10 SECRETARY BOSE: Commissioner Spitzer.

11 COMMISSIONER SPITZER: Vote aye.

12 SECRETARY BOSE: And Chairman Wellinghoff.

13 CHAIRMAN WELLINGHOFF: I vote aye.

14 If there's nothing else to come before us, this
15 meeting is adjourned.

16 (Whereupon, at 11:00 a.m., Thursday, September
17 16, 2010, the 962nd open meeting of the Federal Energy
18 Regulatory Commission was adjourned.)
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