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Before the  
FEDERAL ENERGY REGULATORY COMMISSION  
963rd Open Commission Meeting  
Thursday, October 21, 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

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P R O C E E D I N G S

(10:02 a.m.)

CHAIRMAN WELLINGHOFF: Good morning, everybody.  
This is the time and place that has been noticed for the  
open meeting of the Federal Energy Regulatory Commission to  
consider matters that have been duly posted in accordance  
with the Government in the Sunshine Act. If we would all  
raise for the Pledge of Allegiance, please.

(Pledge of Allegiance recited.)

CHAIRMAN WELLINGHOFF: Well, since our last open  
meeting we have had 82 notational orders issued. So we have  
been--continue to be busy. I've had a number of meetings  
with outside parties, and one I want to mention and comment  
on is INGA. I have had a number of meetings with them, and  
in the most recent one they provided me with a report on  
Efficiency In Gas Pipelines. They also came up with some  
very innovative ideas.

One of those is to look at a demonstration of a  
combined compressor/generator at their compressor stations.  
And so we are going to see how we can make this  
demonstration happen, and I am very pleased that the  
pipeline industry has been so cooperative and so innovative  
in what they have done. So I just wanted to give them a  
little pat on the back for that.

Also I understand, Commissioner LaFleur, you have

1 got some announcements this morning?

2 COMMISSIONER LaFLEUR: Yes. I guess I feel like  
3 I am making a habit of this, but I think this will be the  
4 last in the series. I do have the final two people on my  
5 staff to introduce to the group. I know in some cases they  
6 need no introduction, but I wanted to introduce Kim Shannon,  
7 who is standing behind me--who is now standing behind me--  
8 who has joined us as my confidential assistant.

9 Kim previously worked as the head administrative  
10 person in Enforcement under the wonderful Norman Bay, and  
11 before that she was a secretary at Akin Gump, and other law  
12 firms in Washington, and for the FDA and the CIA. So I know  
13 a lot of you have been interacting with Kim on schedule, and  
14 I just wanted to introduce her at the meeting.

15 Secondly, Patricia Herrion has joined our team as  
16 a secretary. Patricia comes to us from the Office of ALJ  
17 where she was a legal technician for Judges Cintron and  
18 Young, who have been super gracious in allowing her to make  
19 this move. She also used to work for the Department of  
20 Corrections at one time, and is studying to be a paralegal.  
21 So we've rounded out a great team.

22 Also, while I've got the mike, I just want to  
23 give a shout-out to the New York Office of FERC. I happened  
24 to be in New York City last week, and so I went over  
25 there--actually to use the Internet--

1 (Laughter.)

2 COMMISSIONER LaFLEUR: --that was my first  
3 motivation, but I spent some time there. There's a  
4 wonderful group of about 30 people, engineers and dam safety  
5 folks, who have in many cases been with the Commission for a  
6 long time, just a great group under Jeff Wright. So we are  
7 lucky to have them.

8 Thank you.

9 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Do any  
10 of my fellow Commissioners have any other statements,  
11 comments, or remarks?

12 (No response.)

13 CHAIRMAN WELLINGHOFF: Madam Secretary, I think  
14 we are ready for the Consent Agenda, please.

15 SECRETARY BOSE: Good morning, Mr. Chairman, and  
16 good morning Commissioners.

17 Since the issuance of the Sunshine Act Notice on  
18 October 14th, 2010, no items have been struck from this  
19 morning's agenda. Your Consent Agenda is as follows:

20 Electric Items: E-2, E-3, E-4, E-5, E-6, E-8,  
21 E-9, E-10, E-11, E-12, E-13, E-14, E-15, E-16, and E-18.

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

23 Hydro Items: H-1, H-2, and H-3.

24 Certificate Items: C-2, C-3, C-4, C-5, and C-7.

25 As to E-10, E-11, E-12, E-13, E-14, and E-15,

1 Chairman Wellinghoff is concurring with a separate  
2 statement.

3 We will now take a vote on this morning's Consent  
4 Agenda Items. The vote begins with 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: Votes aye.

12 SECRETARY BOSE: And Chairman Wellinghoff.

13 CHAIRMAN WELLINGHOFF: I vote aye, with my  
14 concurrence as noted. Thank you.

15 SECRETARY BOSE: The first presentation?

16 CHAIRMAN WELLINGHOFF: Please.

17 SECRETARY BOSE: The first presentation item for  
18 this morning will be on Item A-3, concerning the Winter  
19 Energy Market Assessment for 2010-2011. There will be a  
20 presentation by Christopher Ellsworth, Ryan Jeff, and Lance  
21 Hinrichs from the Office of Enforcement. They are  
22 accompanied by Steven Reich from the Office of Enforcement,  
23 as well.

24 MR. ELLSWORTH: Good morning. Mr. Chairman,  
25 Commissioners, my name is Chris Ellsworth and I am with the

1 Fuels Market Analysis Branch in the Office of Enforcement.

2 Today I am pleased to present the Office of  
3 Enforcement's Winter 2010-2011 Energy Market Assessment.  
4 The Winter Assessment is staff's annual opportunity to share  
5 observations about natural gas, electric, and other energy  
6 markets as we enter the winter.

7 I would especially like to thank the members of  
8 the Fuels Market Analysis Branch and also recognize the role  
9 of Ryan Jett and Lance Hinrichs who helped to prepare this  
10 presentation.

11 The gas market is in good shape. Production has  
12 reached levels not seen in more than 35 years. Gas prices  
13 are moderate, and storage is 90 percent full with about 3  
14 weeks left in the traditional injection period.

15 January gas prices on the futures market are  
16 around \$4.13 per million Btu, only 76 cents above current  
17 spot prices, suggesting that financial markets see  
18 relatively low risk for high and volatile gas prices this  
19 winter. This time last year, the January futures prices was  
20 \$2.43 a million Btu higher than the spot gas price.

21 The abundance of domestic gas has resulted in  
22 moderate prices. These prices--low compared to other  
23 fuels--contributed to record demand for gas by power  
24 generators this past summer, and also last winter.

25 New supply and infrastructure means that the

1 industry is better prepared than ever to meet winter gas  
2 needs, and forecasts for a relatively mild winter compared  
3 to last year, coupled with this abundant supply, should help  
4 keep prices moderate.

5 Lastly, two transparency Orders, Nos. 704 and  
6 720, are beginning to provide more market information and  
7 have increased market transparency and efficiency.

8 Gas prices this year were higher than last year  
9 due to record high gas demand from power generators caused  
10 by hot summer weather and higher industrial gas demand  
11 resulting from an improvement in the economy over 2009.

12 Nevertheless, prices are low compared to recent  
13 years and are well below the hurricane-induced price spikes  
14 of 2005 and the 2008 run-up in gas prices that occurred just  
15 before the financial crisis.

16 Low gas prices are largely a result of the influx  
17 of new, low-cost shale gas, which has revolutionized the  
18 natural gas industry.

19 Natural gas production has grown 23 percent in  
20 the past 5 years to more than 59 Bcf per day from just 48  
21 Bcf per day in 2005. Most of the growth came from shale  
22 gas, which now accounts for a little over 20 percent of U.S.  
23 gas production.

24 Shale gas development has turned the economics of  
25 drilling for gas on its head. The cost of developing shale

1 has declined and well productivity has increased as drillers  
2 gained experience with the new technology.

3 In some instances, the time needed to drill a  
4 shale gas well has plunged from weeks to just days. This  
5 has driven down break-even costs for most shale gas to less  
6 than \$4/mmBtu, and even lower where natural gas liquids such  
7 as propane, ethane, and butane are present.

8 The presence of natural gas liquids increases  
9 well profitability considerably, although in some instances  
10 new infrastructure will be needed to get these products to  
11 market.

12 There is a possibility that the need to find a  
13 ready market for natural gas liquids could slow down shale  
14 gas development in some areas. Also, possible regulations  
15 in response to concerns about the impact of fracking fluids  
16 on the environment could impact future drilling plans.

17 However, if current trends in technology  
18 continue, the cost of developing shale gas is likely to  
19 continue to fall, which should moderate long-term gas  
20 prices.

21 As shale gas production increases, the United  
22 States relies less on other domestic sources. Production  
23 from the Gulf of Mexico has declined to 7 Bcf per day today  
24 from more than 11 Bcf per day in 2006. This decline has  
25 reduced market jitters over potential offshore disruptions

1 from hurricanes, and we have seen little impact on total  
2 production from the Gulf deep water drilling moratorium,  
3 that was just finished.

4 A geographical shift in natural gas production is  
5 changing the utilization of the Nation's pipeline  
6 infrastructure. This is apparent in the Northeast where  
7 imports of Canadian gas have dropped by 50 percent since  
8 last October to less than 1 Bcf a day.

9 Western Canadian gas is being replaced by cheaper  
10 sources, including 1.7 Bcf per day via the new Rockies  
11 Express Pipeline, and Northeast production led by growth in  
12 Marcellus Shale.

13 Marcellus Shale gas production has doubled in the  
14 past 12 months to around 77 MMcfd. Together, Marcellus  
15 production and Rockies supply are beginning to compete  
16 successfully against traditional Gulf Coast supply.

17 It is worth noting that, although less Canadian  
18 gas has flowed to the Northeast, Canadian gas has maintained  
19 market share in the West and helped, along with mild  
20 weather, to moderate gas prices in California and the  
21 Pacific Northwest this summer. And next spring, the 1.5-  
22 Bcfd Ruby Pipeline is targeted to become operational,  
23 offering more Rockies production to Northern California and  
24 the Pacific Northwest as a low-cost alternative to Canadian  
25 gas.

1           I would now like to turn to the outlook for  
2 imports of LNG this winter. After peaking at a record 5  
3 Bcfd last January, gas supply from 8 U.S., 1 Canadian, and 1  
4 Mexican LNG terminal has dropped to less than 1 Bcfd.

5           The reason for this is twofold:

6           First, growth in shale gas has helped to reduce  
7 U.S. gas prices well below international gas prices. Gas  
8 prices at the National Balancing Point in the UK averaged  
9 \$1.30 higher than prices at the Henry Hub for most of the  
10 year, while some Asian prices were almost \$8/MMBtu higher.

11           Second, although global liquefaction capacity  
12 increased 30 percent last year, global demand is up, too.  
13 Year-to-date, Asian demand has surged 21 percent, and  
14 European demand is up 41 percent.

15           Today, two U.S. terminals--Everett in Boston and  
16 Elba Island in Georgia--are responsible for most of the LNG  
17 imports. Both terminals' supplies are supported by long-  
18 term contracts. The Canadian terminal, Canaport near Saint  
19 John, New Brunswick, has steadily sent regasified LNG into  
20 New England, and will become more important as production  
21 from Sable Island in Nova Scotia begins an expected rapid  
22 decline next year.

23           LNG can still play a role in the winter in the  
24 Northeast, where prices can be significantly higher than at  
25 the Gulf Coast and, therefore, more attractive to

1 international LNG supplies.

2 New England has access to more than 3.1 Bcfd of  
3 LNG terminal capacity, including 2 new offshore terminals in  
4 Massachusetts Bay, and the Canadian Canaport terminal. Last  
5 January, LNG supplied 56 percent of peak New England gas  
6 demand, and could do so again this winter. Imports this  
7 winter through the Gulf Coast terminals are expected to be  
8 less robust, however, unless U.S. gas prices significantly  
9 rise compared to the global market.

10 The amount of gas in storage in November is a key  
11 benchmark of the gas industry's ability to flexibly respond  
12 to changes in winter weather. At this point, it appears the  
13 United States will have more than enough gas in storage to  
14 meet winter demand.

15 While overall injections were slow during the  
16 summer--due to record gas consumption for power generation--  
17 injections began to pick up in September, and stocks for  
18 winter should end up close to last year's record level of  
19 3.8 Tcf. Additionally, EIA reported that between April 2009  
20 and April 2010 the Nation's peak working storage capacity  
21 increased by 160 Bcf.

22 Other fuels also have high inventories going into  
23 the winter.

24 Coal stockpiles during the first week of October  
25 were 152 million tons, below last year's record levels, but

1 22 percent above the 10-year average.

2 Also at the beginning of October, distillate  
3 stocks were just over 172 million barrels, an all-time high  
4 for the month. Demand for fuel oil is down due to the  
5 economic recession and high prices, while stocks were  
6 already high at the beginning of the refill season.

7 I would like now to hand over the presentation to  
8 Ryan Jett who will discuss Northeast Infrastructure and  
9 Prices.

10 MR. JETT: A considerable amount of new pipeline  
11 capacity has been added in the Northeast. Since spring, 503  
12 MMcfd of pipeline capacity has been completed on top of the  
13 5.6 Bcfd added in 2008 and 2009.

14 New pipelines and expansions completed by January  
15 should add an additional 725 MMcfd, making a grand total of  
16 1.2 Bcfd added in the Northeast since last winter.

17 Since the beginning of spring, we have added 345  
18 MMcfd in the West, and 2.5 Bcfd in the Gulf and Southeast.  
19 We expect another 3.5 Bcfd in the West and 5.3 Bcfd in the  
20 Gulf and Southeast to be added before the end of winter.

21 Much of the new Gulf Coast pipeline capacity is  
22 targeted at improving the access of shale gas to markets.  
23 One much anticipated western pipeline is TransCanada's 477-  
24 MMcfd Bison Pipeline, which will flow Rockies gas to the  
25 Midwest through an interconnection with Northern Border

1 Pipeline. Bison should begin service in mid-November.

2 Financial markets today reflect expectations for  
3 moderate prices in the Northeast this winter. In keeping  
4 with the trend over the past two years, prices for natural  
5 gas in the Northeast continue to grow closer to those at  
6 Henry Hub.

7 On October 1, the January 2011 Basis Swap at New  
8 York's Transco Zone 6 was priced at \$2.03 per MMBtu. In  
9 October of 2009, the swap for January 2010 was \$4.03. And  
10 in October of 2008, the swap for January 2009 was \$5.51.

11 The decline in these projected October-to-January  
12 differentials reflects market expectations about the changes  
13 in winter price volatility due to added pipeline, LNG and  
14 storage capacity in the region, as well as new supplies  
15 coming from the Marcellus Shale formation and the Rocky  
16 Mountains via the Rockies Express Pipeline expansion. It  
17 also reflects lower gas prices in general.

18 I will now turn it back over to Chris Ellsworth.

19 MR. ELLSWORTH: Thank you, Ryan.

20 Decline in basis is not limited to the Northeast.  
21 Development of new gas supplies and infrastructure has  
22 helped push basis lower nationwide. Compared to the same  
23 period last year, winter basis swaps have declined by 46  
24 percent at Chicago, by 55 percent in the Pacific Northwest,  
25 and by 32 percent in Appalachia.

1           Weather is probably the most important factor  
2           influencing winter energy prices. And NOAA's latest weather  
3           outlook for December through February calls for a generally  
4           warmer-than-normal winter in much of the south, a normal  
5           winter in the lower Midwest and Northeast, and a colder-  
6           than-normal winter in the upper Midwest and Northwest.

7           Although NOAA forecasts winter temperatures to  
8           average 3 percent warmer than last year, the U.S. Energy  
9           Information Administration expects almost no reduction in  
10          total U.S. gas consumption since slightly lower space  
11          heating needs are offset by slightly higher consumption for  
12          manufacturing and power generation due to low gas prices and  
13          economic growth. Similarly, electricity demand is unchanged  
14          this winter.

15          It bears noting that some winter forecasters have  
16          alternative views. For example, AccuWeather forecasts  
17          slightly warmer-than-normal temperatures in the East, with  
18          colder-than-normal temperatures in northern states of the  
19          Midwest and the West.

20          EarthSat's winter forecast calls for a colder-  
21          than-normal winter in the West, the upper Great Plains, and  
22          the mountainous areas of New England. A warmer-than-normal  
23          winter is forecast for the rest of the country.

24          Other market fundamentals may also influence gas  
25          use. Gas is currently priced at one-fourth of the price of

1 residual fuel oil, and in some places is even cheaper than  
2 coal. This could increase gas demand by power generators  
3 and place some upward pressure on gas prices.

4 I will now turn over the presentation to Lance  
5 Hinrichs who will discuss Winter Wholesale On-Peak Forward  
6 Prices.

7 MR. HINRICHS: I will now turn to the outlook for  
8 electricity prices for this winter. Forward electric prices  
9 range from 13 to 27 percent lower than winter forward prices  
10 at this time last year.

11 These declines mostly follow forward natural gas  
12 prices. Another contributing factor is the expectation of  
13 continued moderate levels of electricity consumption.

14 According to data from the EIA, for the first six  
15 months of the year electricity sales to retail customers  
16 were up 3.9 percent from the previous year, primarily due to  
17 warm weather.

18 In our ongoing oversight activities this winter,  
19 Market Oversight will be following the planned introduction  
20 of convergence bidding in California. Convergence bidding,  
21 which is also called "virtual bidding" in other regions, is  
22 a market feature that enables traders to make financial  
23 sales between the day-ahead and real-time markets, and  
24 enhance convergence between the two markets. The roll-out  
25 date is anticipated to be February 1st, 2011.

1           We are also aware of and will be following the  
2 transition to a nodal market in ERCOT scheduled for December  
3 1st, 2010. Although ERCOT's market design is not the  
4 Commission's responsibility, the new market merits watching  
5 because it may provide additional insight into how a high  
6 proportion of renewable resources can be integrated into a  
7 nodal system.

8           MR. ELLSWORTH: Finally, I would like to turn to  
9 two Orders that will increase market transparency.

10           New reporting requirements became effective on  
11 October 1st under the Commission's natural gas regulations.  
12 These new reporting requirements will provide new  
13 information to gas markets this winter, promoting  
14 transparency and efficiency.

15           Order No. 720-B extends the reporting of daily  
16 gas flow data and available capacity from interstate  
17 pipelines to large non-interstate pipelines. This new  
18 information will be used by market participants to better  
19 assess daily changes in production and consumption, limits  
20 on transportation capacity, storage trends, and other market  
21 factors within state boundaries.

22           Remember, the market watches the EIA storage  
23 report intently each week, and surprises in the report can  
24 cause considerable swings in prices. With this daily  
25 reporting of pipeline flows and capacities, the risks of

1 surprises is diminished. At least 66 non-interstate  
2 pipelines are currently posting daily reports under Order  
3 No. 720-B.

4 Also, in order to gain a better understanding of  
5 index use in the physical gas markets, Order No. 704 was  
6 issued last year and requires large market participants to  
7 annually report natural gas volumes for purchases and sales.

8 This information indicates the size of the  
9 physical natural gas market that uses published indexes to  
10 price natural gas. It also provides details on the  
11 contribution of fixed price gas transactions to the  
12 formation of published natural gas price indexes.

13 Order No. 704-C was issued this summer using the  
14 lessons learned from the initial filings to improve  
15 collection. The first submissions under these adjusted  
16 rules were due October 1st and covered calendar year 2009.

17 Initial analysis of 2009 data shows that  
18 transactions in the physical gas market totaled  
19 approximately 56 Tcf, about 2.5 times the volume of domestic  
20 marketed production--meaning that the same gas changes hands  
21 nearly three times on average between producer and final  
22 consumer.

23 More than two-thirds of gas purchases and sales  
24 involve index gas, with the rest being fixed-price deals  
25 that contribute to those indexes. Of the nearly 2,100

1 respondents and their affiliates, 9 percent indicated that  
2 they voluntarily reported to index price publishers such as  
3 Gas Daily and Natural Gas Intelligence. After we have  
4 reviewed this year's submissions in greater detail, we will  
5 provide further findings to the Commission.

6 This concludes the presentation, and we would be  
7 happy to take any questions.

8 CHAIRMAN WELLINGHOFF: Chris, thank you very  
9 much. I want to thank Ryan, and Lance, and Steve, and all  
10 of your team for the excellent work. I think this is my  
11 fifth Winter Assessment that I've listened to, and they get  
12 better every year.

13 MR. ELLSWORTH: Thank you.

14 CHAIRMAN WELLINGHOFF: So thank you very much. I  
15 have a couple of questions, but I will let my colleagues go  
16 first.

17 Phil, did you have some questions?

18 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

19 First a couple of points, and then a couple of  
20 questions. I'm very glad you emphasized the discussion  
21 about shale. Shale, and the fact that we have it, and we  
22 can access it, is truly the quiet revolution that has  
23 completely transformed the energy sector in just the last 12  
24 to 15 months. It is really quite remarkable.

25 People may not realize it, but it is changing the

1 landscape in a good way for consumers. But I also think as  
2 a Nation we need to focus now, or maybe refocus on using gas  
3 efficiently so that we don't waste this resource that we  
4 have. But that is probably more for the Hill than for us.

5 One of the things that is interesting about shale  
6 is that it has changed the dynamics of pipeline operations.  
7 You know this question is coming, Chris, but in terms of  
8 where we're going with pipeline operations and the impact it  
9 might have on rates, I would like you to elaborate on that a  
10 little bit.

11 MR. ELLSWORTH: Sure. Certainly what we're  
12 seeing in the Northeast with development of the Marcellus  
13 Shale, it's doubled in the past 12 months. Many analysts  
14 are expecting Northeast production to grow from about 3 Bcfd  
15 currently to around about 6 Bcfd in the next 7 or 8 years.  
16 So it is a doubling in the next 7 or 8 years. And at that  
17 point, it would provide about 50 percent of current  
18 Northeast gas production.

19 Assuming that happens, then there will be  
20 implications for the long haul gas pipelines from the Gulf  
21 Coast and their utilization. There has already been  
22 consequences for the Canadian gas, and some of the long-haul  
23 gas pipelines coming in from Canada such as TransCanada.  
24 And it could even have an impact on the utilization of the  
25 REX pipeline.

1           So given that, there will be parts of the  
2 pipeline that may be utilized less, but we may also see  
3 backhaul along some of those pipelines that are already  
4 forward-haul. So they will be utilized differently.

5           How that affects rates, if they're utilized less,  
6 I think will have obvious consequences, although it depends  
7 on what happens with backhaul and other things.

8           COMMISSIONER MOELLER: Something we're going to  
9 possibly be spending more time on in the future.

10          MR. ELLSWORTH: Sure.

11          COMMISSIONER MOELLER: A question about Slide No.  
12 7. You talked about inventories there and how injections  
13 were slow but were still approaching last year's record of  
14 gas storage. Are we likely to surpass it?

15          MR. ELLSWORTH: Based on what we're seeing for  
16 the next three weeks, and based on the weather we've had, it  
17 looks like we could. But it very much depends on how the  
18 weather turns out I think this week and the use of gas.

19          COMMISSIONER MOELLER: Great. Well thank you  
20 again for the presentation.

21          Mr. Chairman.

22          CHAIRMAN WELLINGHOFF: Thank you, Phil.  
23 Commissioner Spitzer?

24          COMMISSIONER SPITZER: Thank you, Mr. Chairman.

25          I too have sat through a number of these, and

1       this is the best report, because it's got the best news for  
2       the ratepayers.

3                       (Laughter.)

4                       COMMISSIONER SPITZER: I wanted to explore some  
5       consequences of that good news for the ratepayers that  
6       really flows from the technological changes in the  
7       exploration and production business, as well as the FERC  
8       support for industry in terms of energy infrastructure,  
9       pipelines, and sometimes neglected storage that benefits  
10      ratepayers.

11                      In slide 9 you show the price trends in the  
12      Northeast. And between 2009 and 2011, a reduction in the  
13      price for natural gas paid by the ratepayers of New York by  
14      about \$3.48. And in the text you discuss for the same  
15      period basis swaps declined 46 percent in Chicago, 55  
16      percent in the Pacific Northwest, 32 percent in Appalachia.  
17      Can you expound on these numbers and perhaps give the same  
18      quantitative price savings to ratepayers as a consequence of  
19      the collapse of the basis differential?

20                      MR. ELLSWORTH: Sure. I mean I think the biggest  
21      change for ratepayers will come from the actual--the decline  
22      in overall commodity prices. Then we've also seen I think  
23      across the Nation that pipelines now are transporting gas a  
24      lot of the time almost at the variable cost. And so the  
25      difference in prices across the country now seems to reflect

1 just the variable cost of transportation.

2 But to give you some examples in TICO in the  
3 Northeast and Appalachia, we've seen that decline of about  
4 32 percent in the cost of transportation between the Henry  
5 Hub and that area. We've seen that decline from about 20  
6 cents to 13 cents, so almost a halving of it.

7 In Chicago, we've seen basis decline for winter  
8 basis from 24 cents to 13 cents. So they were already low  
9 last year because the price of things were good last year,  
10 but they've improved by an order of magnitude again this  
11 year.

12 COMMISSIONER SPITZER: So then you have the  
13 supply/demand issue, which is going in the direction of  
14 lower prices for ratepayers as a consequence of the shale--

15 MR. ELLSWORTH: Right.

16 COMMISSIONER SPITZER: --and perhaps a reduction  
17 in demand due to the recession, and then the pipeline and  
18 storage infrastructure added on further reduces  
19 transportation costs.

20 MR. ELLSWORTH: Exactly. Exactly.;

21 COMMISSIONER SPITZER: You discussed the decline  
22 in production from the Gulf of Mexico, the reduction in  
23 basis differential. Does that create any potential for  
24 changes to the Henry Hub as a pricing point, and perhaps new  
25 pricing points in this country? New hubs?

1                   MR. ELLSWORTH: We're certainly seeing the  
2 development of new hubs around the country, or new pricing  
3 points I should say, particularly to take advantage of the  
4 development of shale in the Southeastern states.

5                   We're seeing new points in East Texas where  
6 Barnett Shale is produced. We're seeing new pricing points  
7 in North Louisiana where the Woodfoot and the Fayetteville  
8 are.

9                   As regards the Henry Hub, we have seen some  
10 reductions in flows there but it is the points of the  
11 futures markets. So we haven't seen any move to change that  
12 yet.

13                  COMMISSIONER SPITZER: What possible consequences  
14 that are pro-consumer could arise from the proliferation of  
15 new pricing points?

16                  MR. ELLSWORTH: I think it helps the entire  
17 industry price gas more efficiently within the key markets,  
18 which, given the current environment, should help reduce  
19 prices to consumers.

20                  COMMISSIONER SPITZER: Okay. Just note, slide 11  
21 the decline in electricity prices is across the board, even  
22 double-digit in areas that are more coal-oriented that you  
23 would not anticipate being direct beneficiaries of the  
24 decline in natural gas prices, sort of "the rising tide  
25 lifts all boats" issue.

1 MR. ELLSWORTH: Yes.

2 COMMISSIONER SPITZER: My last question is: In  
3 discussing the transparency Orders and the benefits to  
4 greater reporting and greater transparency in the market,  
5 you note that the ratio of transactions to domestic market  
6 production is a ratio of 3 to 1--

7 MR. ELLSWORTH: Um-hmm.

8 COMMISSIONER SPITZER: --so this gas is changing  
9 hands. What are the possible ramifications of that fact?  
10 That was surprising to me.

11 MR. ELLSWORTH: I'm going to let Steve handle  
12 that one, if that's okay.

13 MR. REICH: Thanks, Steve. First of all, just as  
14 a bit of a disclaimer to start with, that's a handy metric  
15 that we're using based on what we're collecting through the  
16 Form 552 because essentially not everybody is required to  
17 report in the 552. So we don't have all the volumes. But  
18 it's a good way of kind of getting a sense that we are  
19 asking the right questions here.

20 If you look at the value chain for natural gas,  
21 what is typical--or a typical way of getting the gas from  
22 wellhead to burner tip, you have the producer selling to  
23 perhaps a midstream company. The midstream company is  
24 selling to a marketer. And the marketer is selling to an  
25 LDC or an end-user.

1           That is three transactions right there. And so  
2 one of the things we are seeing is that the 2 to 1, or, you  
3 know, at a minimum, is kind of indicative of that kind of  
4 activity happening in the market. And it helps us  
5 understand that there is liquidity in the market, at least  
6 in an aggregate sense.

7           In addition to that, in terms of kind of the  
8 other information that we're gleaning out of this filing,  
9 we're getting a really good sense of how much the market is  
10 relying on fixed prices versus index-based prices. And we  
11 hope to have actually a much fuller report for the  
12 Commission in the coming months after we've had a chance to  
13 kind of sit down and sift through the data a little better.

14           COMMISSIONER SPITZER: Okay. And in 2008 when  
15 gas prices were going up, there was concern with respect to  
16 speculation--probably more on the oil side than natural  
17 gas--but that was a concern of some state regulators. And I  
18 know in Congress. But here we have a number of  
19 transactions, and you wouldn't describe them necessarily as  
20 speculative, but really more, given all these pricing  
21 points, arbitrage possibilities for LDCs to obtain lower  
22 prices.

23           MR. REICH: Well, I mean the 704 collects  
24 information on physical gas transactions. We're not even  
25 touching on the financial world where the prices in the

1 financial world reference or use the physical transactions  
2 that are done in the physical markets.

3 In terms of kind of price formation, that's one  
4 of the things that we're hoping to glean from kind of  
5 further study and jumping into the data, but in general, and  
6 I think we talked about this at the State of The Markets  
7 Report, is there is an interaction between what is happening  
8 on the speculative side and what is happening on the  
9 physical side.

10 But because of this revolution going on with  
11 shale, there is a much--because there's more gas available,  
12 much more supply meeting the demand, the balance may have  
13 changed over the past year.

14 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

15 CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
16 Spitzer. Commissioner Norris?

17 COMMISSIONER NORRIS: I'm not sure I have any  
18 questions, but maybe some observations I think we have to  
19 think about going forward.

20 I share what Phil and Marc have said, and I share  
21 that everyone views this as good news because we've got  
22 lower prices for consumers. I don't want to be the downer  
23 at the party, but I do just want to raise some cautions.

24 I'm not quite sure what we do with it, how we  
25 grab hold of it yet, but it is clear to me over the last few

1 months as I've talked to people in the electric sector, gas  
2 is becoming the solution for everything. Concerns about EPA  
3 rules in the next few years on SOX and NOX, mercury, and if  
4 we have to retool a plant or meet the need for capacity  
5 going forward, it is going to be gas. It is the tool for  
6 balancing variable generation.

7           It certainly has taken nuclear off the planning  
8 charts for nearly every, with the exception of one, utility  
9 company I think in America. And so as we build this  
10 incredible alliance based upon this new supply of cheap gas,  
11 what does that mean for us?

12           I mean, in an industry where we value diversity  
13 of supply, I have concerns about what this is going to do to  
14 us going forward. And, the investment in the tremendous  
15 amount of infrastructure based upon gas supply and the  
16 electric sector, what does that mean? For the short term, I  
17 think it is pretty clear what it means. In the medium and  
18 long term, with some of our larger concerns with carbon, I'm  
19 just trying to grapple with it. I'm just thinking out loud  
20 with ya'll on what this means. But I did go down to Dallas,  
21 or Fort Worth, excuse me, last week, because I wanted to see  
22 first-hand how this new technology is playing out, and it is  
23 fascinating, this technological solution we've found to help  
24 bring the new supply of natural gas to the market.

25           But there are still some unanswered questions.

1 And as we build this whole infrastructure based on this new  
2 supply, great supply of reasonable or cheaply priced gas,  
3 what happens if there's a blow-out preventer type incident  
4 with this new technology? That's a concern I think we need  
5 to think about going forward.

6 And, what happens to, as we get more competition  
7 on the electric side for gas, what does that do? This might  
8 be--you can think about this, if you have answer for this  
9 now, or later--will we face problems with getting adequate  
10 storage built up over the summer period if we see this  
11 tremendous shift in our generation source of electricity and  
12 the demand for gas, competition for gas supply in the  
13 summer? Does that somehow impact our ability to store up  
14 adequate supplies to moderate the winter impact?

15 So I'm just thinking out loud with you here, but  
16 I think as an energy agency we've got to--and as Phil  
17 mentioned, change the dynamics for investment in efficiency,  
18 too, and making sure we're using the supply of new gas  
19 efficiently, which is going to be critical for us going  
20 forward.

21 So, no solutions. Don't want to be a downer at  
22 the party, but I do think it is something we have to think  
23 about going forward.

24 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl?

25 COMMISSIONER LaFLEUR: Well I'm not sure how much

1 I have to add to everything that's been said. Especially I  
2 thought Commissioner's Norris comment was very thoughtful,  
3 because there is still a value in diversity of supply in  
4 many respects. But I think it was--it's the first of these  
5 presentations I've sat through in person, and it was very  
6 well done. And, on balance, very good news for consumers.

7 I've spent most of my life in the Northeast  
8 literally and figuratively at the end of the pipeline. I've  
9 spent a lot of time, and also where gas has set the  
10 electricity marginal price for a long time, and spent a lot  
11 of time explaining why prices were going up because of gas.

12 I echo what Commissioner Moeller said that shale  
13 gas is a game changer, but I also think the slide 8 where  
14 the pipeline infrastructure coming in and the role that our  
15 work in building infrastructure can do to help make markets  
16 work for customers is something we have to be mindful of as  
17 we go forward.

18 CHAIRMAN WELLINGHOFF: Thank you, Cheryl.

19 What a happy position to be in, to be worried  
20 about too much gas.

21 (Laughter.)

22 CHAIRMAN WELLINGHOFF: I think that is something  
23 we can deal with, better than the Europeans who have to  
24 depend upon the Russians and Chinese, who virtually have  
25 none. So we're in a pretty good situation there. And I

1       certainly agree with you, Phil, with Commissioner Moeller,  
2       that it is a time to start look at how to most efficiently  
3       use this resource.

4               As I mentioned in the opening, I've been working  
5       with INGA to determine how to most efficiently operate the  
6       infrastructure. Beyond that, we have to look at how to most  
7       efficiently utilize the actual resource itself. And I think  
8       that is a good thing to do, and it is certainly something I  
9       have always been very supportive of, is the co-generation  
10      combined heat and power, which is about the most efficient  
11      way that we can use natural gas.

12              But we are seeing a displacement I guess of coal,  
13      actually by gas. I just saw a report today by NERC who also  
14      confirmed that, and looked out 10 years, where they're  
15      saying that coal is going to decline to like 21 percent of  
16      our total mix, and gas will increase substantially.

17              So I think NERC confirmed that, in essence. I do  
18      have a little concern, though, I think it was mentioned  
19      somewhat by Commissioner Moeller, about there may need to be  
20      different business cases for some pipelines now, given that  
21      we've got a shifting in how the gas is actually going to  
22      flow through their pipelines versus how they thought it was  
23      going to flow through. And if you've got any comments on  
24      that, I would certainly welcome them.

25              MR. ELLSWORTH: Yes, I think there are concerns

1 on that, although I don't think it is of the same magnitude  
2 as say some of the LNG terminals and how to consider their  
3 utilization rates and what happened there.

4 But there will be some concerns about markets,  
5 and as markets change, and what that means for their  
6 business models. Did you want to--

7 MR. REICH: Yes, I just wanted to add a note that  
8 this isn't the first time that something like this has  
9 happened. Back in the early to mid-'80s when much of the  
10 industrial base in the Midwest was contracting due to the  
11 change in the economic engines going on there, there were a  
12 lot of changes associated with how gas was flowing on a  
13 fairly complex and rigorous pipeline system into the  
14 Midwest.

15 And so perhaps we can look back at what happened  
16 then to try to learn some lessons.

17 CHAIRMAN WELLINGHOFF: So we have some experience  
18 in lessons that we could use to apply here, potentially?

19 MR. REICH: Yes.

20 CHAIRMAN WELLINGHOFF: Good. Great. And the one  
21 sort of in-the-weeds' question a little bit is, you  
22 mentioned that the presence of natural gas liquids increases  
23 profitability, but there may be some infrastructure problems  
24 as far as getting the products to market. And if you could  
25 give me a little bit more about what infrastructure you're

1 referring to, and whether we have any oversight of that  
2 infrastructure, or is something out of our purview and  
3 jurisdiction?

4 MR. ELLSWORTH: Yes. There seem to be two things  
5 going on there. There is a couple of shales, the Eagleford  
6 Shale and the Marcellus Shale also that are particularly  
7 rich in natural gas liquids. And they don't have the  
8 pipelines to be able to take those liquids to market.

9 And the natural market for some of these liquids,  
10 they've talked about pipelines to Chicago for processing  
11 there, and also even down to the Gulf Coast to feed into  
12 petrochemical plants and so forth. So there is that issue  
13 of actually physically getting the liquids to market.

14 Currently they're being trucked, which is an  
15 expensive option for dealing with those liquids, but there  
16 are plans to build pipelines to take care of them.

17 The other thing is actually finding a market for  
18 some of the liquids. There has been talk about there almost  
19 being too much of those liquids for the U.S. petrochemical  
20 market, and so forth, and so that you could develop a bit of  
21 a glut in them. So those are kind of issues for that.

22 CHAIRMAN WELLINGHOFF: Great. Thank you.

23 Well thank you again for that presentation. I  
24 appreciate it very much.

25 Madam Secretary, our next presentation, please?

1                   SECRETARY BOSE: The next presentation for this  
2 morning is Item A-4 concerning the Commission's Report on  
3 ISO and RTO Performance Metrics. There will be a  
4 presentation by Jeffrey Hitchings from the Office of Energy  
5 Market Regulation. He is accompanied by Ted Franks from the  
6 Office of Electric Reliability, and Elizabeth Rylander from  
7 the Office of the General Counsel.

8                   MR. HITCHINGS: Mr. Chairman, Commissioners, good  
9 morning.

10                   My name is Jeff Hitchings. I'm in the Office of  
11 Energy Market Regulation. I am presenting a summary of the  
12 Commission's staff report on ISO/RTO Performance Metrics  
13 that is being posted today on the Commission's website.

14                   At the table with me are Elizabeth Rylander from  
15 the Office of the General Counsel, and Ted Franks of the  
16 Office of Electric Reliability. Other team members are  
17 Darrell Piatt of the Office of Electric Reliability, Michael  
18 Isimbabi of the Office of Energy Market Regulation, Aaron  
19 Bloom of the Office of Energy Policy and Innovation, and  
20 Lisa Luftig of the Office of the General Counsel.

21                   Today's report is being submitted in response to  
22 recommendations of the Government Accountability Office.  
23 The Government Accountability Office recommendations on  
24 performance metrics were made in response to a request of  
25 the U.S. Senate Committee on Homeland Security and

1 Governmental Affairs for an investigation of ISO/RTO  
2 operations and costs.

3 The recommendations are that the Chairman work  
4 with RTOs, stakeholders, and experts to develop standardized  
5 measures to track the performance of RTO operations and  
6 markets, and report the performance results to Congress and  
7 to the public while also providing an interpretation of (1)  
8 what the measures and reported performance communicate about  
9 the benefits of RTOs and, where appropriate (2) changes that  
10 need to be made to address performance concerns. The  
11 ISO/RTO Performance Metrics are also part of the Metrics  
12 Initiative in the Commission's Strategic Plan.

13 Commission Staff initiated the process of  
14 developing performance metrics by developing a broad range  
15 of metrics designed to track the operational and market  
16 performance of ISOs/RTOs in three specific areas:  
17 reliability, markets, and organizational effectiveness.

18 The proposed metrics were then discussed with  
19 ISOs/RTOs and stakeholders to determine the availability of  
20 data and to assess the value of the metrics to stakeholders.  
21 Commission Staff then issued a request for comments on the  
22 proposed metrics. Fifty-nine parties, representing a broad  
23 spectrum of industry, consumer interests, state regulators,  
24 and other expert perspectives, provided comments and reply  
25 comments.

1           These perspectives are discussed and taken into  
2 account in the metrics being recommended in today's report.  
3 The report recommends a total of 57 metrics, 5 of which  
4 measure the organizational effectiveness of ISOs and RTOs,  
5 17 of which measure market performance and efficiency  
6 improvements, and 35 of which measure reliability  
7 performance.

8           The performance metrics encompass consumer cost  
9 and competition measures. The metrics also track efficiency  
10 improvements such as congestion management and resource  
11 availability, and operations performance in measures such as  
12 administrative costs per unit of load.

13           Incorporated into the metrics are measures of the  
14 impact of demand response on short-term and long-term  
15 reliability and consumer costs.

16           The reliability measures track both short-term  
17 operational reliability in metrics such as compliance with  
18 national and regional reliability standards, and long-term  
19 reliability in transmission planning and reserve margin  
20 measures.

21           We are requesting that the ISOs and RTOs submit  
22 reports that incorporate the recommended metrics.  
23 Commission Staff will use the information provided by these  
24 reports to develop a consolidated report that will explain  
25 what the measures and reported performance metrics

1       communicate about the benefits of ISOs and RTOs and, where  
2       appropriate, to identify changes that may need to be made to  
3       address any performance concerns.

4               Finally, in fiscal year 2011, Commission Staff  
5       will initiate a voluntary and collaborative process similar  
6       to the process used with ISOs and RTOs for developing  
7       performance metrics in non-ISO/RTO regions.

8               This concludes our presentation. I would be glad  
9       to answer any questions.

10              CHAIRMAN WELLINGHOFF: Thank you, Jeff. I want  
11       to thank your team, Elizabeth, and Ted, and the rest of the  
12       team for their work on this I think very important matter.

13              I also want to thank the RTOs for voluntarily  
14       coming together to develop consistent definitions and  
15       metrics that will measure their key functions: maintaining  
16       reliability, administrating competitive markets, and  
17       planning for the future, and doing so at a reasonable cost  
18       to their members and to consumers. Further, I thank many  
19       parties that submitted comments throughout the development  
20       process.

21              I believe this is an opportunity for the RTOs to  
22       demonstrate the value they provide for consumers. For  
23       example, the transparent prices formed in the RTO market,  
24       Locational Marginal Prices, can be used by consumers to  
25       manage energy usage, and by utilities and developers to plan

1 for and invest in needed infrastructure.

2 Consistent metrics on the competitiveness of  
3 markets that form those prices and how well RTOs are doing  
4 in managing Congestion costs, will allow consumers and other  
5 interested parties to assess the benefits and costs of the  
6 RTO structure and operation.

7 This can have the corollary effect of  
8 demonstrating the value of joining or remaining in an RTO.  
9 I also believe that the development of performance metrics  
10 will be an evolutionary process. RTOs can learn from each  
11 other about efficient and innovative ways to improve system  
12 and market operations.

13 This improved efficiency will certainly benefit  
14 consumers. Therefore, I look forward to the performance  
15 metrics reports that the RTOs will be submitting in a few  
16 months.

17 Colleagues? Questions? Comments? Cheryl?

18 COMMISSIONER LaFLEUR: I had one question I  
19 wanted to ask the team. Thank you for your work on this,  
20 and I echo the Chairman to all the RTOs that worked hard on  
21 it as well, and the other stakeholders.

22 "Metrics" is a term that covers a kind of broad  
23 swath. And some metrics can really be validly looked at  
24 comparatively to see how potentially one RTO is doing vis-a-  
25 vis others in a certain area, support benchmarking in the

1 future. Other metrics are more like personal-best metrics  
2 that you really can't validly look at across organizations,  
3 but really only validly look at over time to see if you're  
4 improving your own performance in some respect.

5 And I wonder if you could comment kind of where  
6 this body of metrics falls on that? How many of them do you  
7 think might lead in the more comparative direction, versus  
8 much more looking at individual RTO effectiveness?

9 MR. HITCHINGS: Right. Well we do have common  
10 definitions and calculations, so that comparisons can be  
11 made to the extent possible. We recognize that again  
12 there's a lot of differences between these RTOs. Their  
13 markets are different.

14 So for example, the market pricing is going to  
15 reflect, you know, the generation resource availability in  
16 the area. And a lot of this is not really performance  
17 related. And the key here is to find what is performance  
18 related and what is related to other factors.

19 I think a lot of these metrics are going to have  
20 to be looked at. We'll have to see what the reports say  
21 when they come in, but I think it is going to be a lot of  
22 circumstances that are going to be impacting these metrics,  
23 and that is going to be kind of the key here, to kind of  
24 look at this thing pretty carefully.

25 Now some are pretty straightforward. I think the

1 reliability performance, violations of reliability  
2 standards. That's a pretty standard metric that can be  
3 looked at across the RTOs.

4 But I think interpretation is going to be key to  
5 this in understanding this. This is why the RTO  
6 participation is going to be very important in how they  
7 explain things in their narratives, and what is going on,  
8 sort of what is behind the factors that are causing their  
9 metrics to go the direction they're going in.

10 COMMISSIONER LaFLEUR: Well thank you. I think  
11 it has a lot of potential to be useful in different ways,  
12 and we have seen the different RTOs be laboratories for  
13 creativity of different ways to design their markets. Some  
14 have capacity markets. Some don't. How is this reflected  
15 in kind of, you know, what customers see. These metrics are  
16 just one part of that, but I think they have a potential to  
17 help inform those questions.

18 Thank you.

19 CHAIRMAN WELLINGHOFF: Commissioner Spitzer?

20 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

21 I know there were some concerns expressed by  
22 stakeholders along the lines of what Commissioner LaFleur  
23 was suggesting, that perhaps some of these metrics might  
24 result in misleading or unfair criticism of one or more of  
25 the RTOs. But I would associate my views with those of the

1 Chairman. I think he said it very well, that sort of taking  
2 the GAO report and making a virtue of necessity, and  
3 explaining--or offering the opportunity to explain the  
4 benefits of the RTOs, and to that end I think the comments  
5 of the stakeholders and particularly the RTOs and the  
6 RTO/ISO Council were extremely helpful.

7 And the discussions therein I think lay the  
8 foundation for expressing the benefits and, at the same  
9 time, providing explanation to those metrics that might have  
10 a potential to be misleading so that they are not in fact  
11 misleading, and that they reflect the reality of the  
12 operations of the various RTO's policy choices, and very  
13 legitimate physical and engineering and field choice  
14 distinctions among and between the RTOs.

15 But as a former state regulator from a bilateral  
16 market, I am quite aware that to fulfill our objective of  
17 seeing RTOs flourish, and perhaps expand their membership,  
18 the key is not coercion but instead explanation of the  
19 benefits of the RTOs. And I think this report and the  
20 metrics can provide, as the Chairman said, the opportunity  
21 to explain the benefits of competitive markets to  
22 ratepayers.

23 So I thank you for your hard work in assembling  
24 all this very difficult data.

25 CHAIRMAN WELLINGHOFF: Thank you, Commissioner

1 Spitzer. Commissioner Norris?

2 COMMISSIONER NORRIS: I just want to thank you,  
3 as well. One thing I have found challenging here is, of the  
4 six RTOs they are incredibly different. Similar missions,  
5 but what I think we're trying to display here is that  
6 they're benefitting consumers overall, but that is difficult  
7 to do. I think you have struck a reasonable start on this,  
8 but it is a tough challenge the GAO has given us, which is  
9 to compare what is to what might have been. And we don't  
10 have a crystal ball. So I think, following up on what Marc  
11 and Cheryl said, we are going to have to get continued input  
12 from stakeholders about is this working, and how is it  
13 working, and continue to seek improvements.

14 But I do want to compliment you on what I think  
15 is an important first step in responding to that GAO report  
16 and coming up with some metrics that we can get our heads  
17 around for all the RTOs.

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

20 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

21 I will also echo the thanks to the Staff for all  
22 the work that you did on this staff report, and thank you in  
23 advance for what you will be doing in the future.

24 I do hope there is an emphasis in all this  
25 discussion on the fact that wholesale prices we saw fell

1 nearly 50 percent throughout most of the country in 2009.  
2 Of course the difference is the consumers are likely to  
3 enjoy the benefits of those lower prices more quickly if  
4 they are in an organized market.

5 So again, that should be emphasized I think as  
6 the discussions go forward. Thank you, Mr. Chairman.

7 CHAIRMAN WELLINGHOFF: Thank you.

8 Thank you again for your presentation. Madam  
9 Secretary, our next presentation, please.

10 SECRETARY BOSE: The last item for presentation  
11 this morning and discussion will be Item E-1. This is  
12 concerning a Draft Order in Docket No. ER10-1562-000. The  
13 presentation will be by John White from the Office of Energy  
14 Market Regulation. He is accompanied by Christina Switzer  
15 from the Office of the General Counsel, and Travis Allen and  
16 Zeny Magos from the Office of Energy Market Regulation.

17 MR. WHITE: Chairman Wellinghoff, Commissioners,  
18 good morning. I am John White from the Office of Energy  
19 Market Regulation.

20 Item E-1 involves two requests from Duke Energy  
21 Ohio and Duke Energy Kentucky. The utilities' first request  
22 is to withdraw their membership from Midwest ISO, and to  
23 join PJM with an anticipated effective date of January 1st,  
24 2012.

25 As part of this request, Duke has asked the

1 Commission's permission to participate in PJM's May 2011  
2 capacity auction for the 2014 to 2015 capacity delivery  
3 year.

4 Duke explains that its initial request is the  
5 first step in the RTO realignment process, and that it will  
6 make several future filings to address, among other things,  
7 its contractual obligations under the Midwest ISO  
8 Transmission Owners Agreement, including its Exit Fee and  
9 Hold Harmless obligations.

10 The Draft Order approves Duke's request to  
11 transfer its membership from Midwest ISO to PJM, subject to  
12 future filings and proceedings.

13 The Draft Order finds that Duke has satisfied, or  
14 has committed to satisfy, its contractual arrangements  
15 regarding withdrawal from Midwest ISO, but it also notes  
16 that there are a number of steps that need to be taken in  
17 order to proceed with an orderly withdrawal process.

18 The Draft Order rejects requests for the  
19 Commission to change the manner in which we evaluate  
20 applications to withdraw from an RTO. It notes that RTO  
21 participation is voluntary, and that the Midwest ISO  
22 Transmission Owners Agreement provides a contractual right  
23 for parties to withdraw.

24 The Draft Order also grants approval for Duke to  
25 participate in the May 2011 capacity auction in PJM.

1 Duke's second request involves its proposed Fixed  
2 Resource Requirement Integration Plan, which details Duke's  
3 proposal to meet PJM resource adequacy requirements from  
4 January 1, 2012, which is the date it proposes to integrate  
5 into PJM, up to June 1, 2014, the date it will be able to  
6 fully participate in PJM's capacity market.

7 The Draft Order accepts Duke's Fixed Resource  
8 Requirement Integration Plan, subject to a compliance filing  
9 requiring additional information.

10 And that concludes our presentation. Thank you.

11 CHAIRMAN WELLINGHOFF: Thank you very much, John.  
12 I want to thank you and the team on this Order.

13 Colleagues? Commissioner LaFleur, did you have  
14 some comments on this?

15 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman,  
16 for allowing me to call this item. I do want to thank the  
17 team for their hard work on this Order, and I think it is an  
18 important Order.

19 There is just one point I would like to sort of  
20 emphasize. I think that the reason that this decision is  
21 correct is that it respects, at bottom, that the agreement  
22 between transmission owners and Regional Transmission  
23 Organizations is a voluntary compact.

24 Obviously when a transmission owner chooses to  
25 exit from an RTO, there are considerable obligations it has,

1 and it has to honor the letter and the spirit of those  
2 obligations, and the further filings that will come will  
3 ensure that that happens.

4 But where a transmission owner is willing to  
5 honor its obligations, I would be really loath to keep  
6 anyone in an RTO against their will. Because, just  
7 following up on the RTO metrics discussion, I believe that  
8 organized markets have really demonstrated considerable  
9 benefits for customers.

10 They have helped transmission and generation get  
11 built. They have helped improve reliability, reduced cost;  
12 they're taking the lead on integrating new resources--  
13 intermittent renewable resources, storage, demand resources.  
14 And if there are companies that are contemplating whether to  
15 join an RTO, or state regulators contemplating encouraging  
16 companies to join an RTO, I think it is important that we  
17 respect that it is a voluntary compact so we can allow those  
18 decisions to go forward.

19 And I would hope that today's Order will help  
20 people thinking about RTO membership do so, because it could  
21 be both voluntary and an attractor for their customers.

22 CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
23 LaFleur. Commissioner Norris, did you have anything on  
24 this?

25 COMMISSIONER NORRIS: Let me second Cheryl's main

1 point, which was--and I agree that this Order, we have to  
2 reinforce that RTO membership is voluntary. I think  
3 hopefully we're in agreement on that.

4 But I am also sensitive to some of the concerns  
5 that, while we reject them in this Order, and I think it was  
6 appropriate to do so in this case, I am hopeful going  
7 forward that this is more rare than common. Because I do  
8 believe the existing members of RTO do make decisions and  
9 rely upon the existence of the membership when they join it,  
10 when they make plans and develop cost allocation formulas,  
11 all that has impacted upon the current membership.

12 And I just think, as a going-forward measure  
13 here, we have to stay with the voluntary nature of RTOs.  
14 But we have to keep an eye on what motivates people leaving  
15 or joining an RTO, and that exiting isn't being used as  
16 leverage for what could be unjust and unreasonable terms  
17 within the RTO.

18 But I have a sensitivity to what the Ohio and  
19 Indiana Commissions raised as a public interest concern,  
20 that we should at least be mindful of going forward. And is  
21 there some other way we can address that?

22 But in the instance before us in this case with  
23 Duke, I think we are doing the right thing. It is  
24 voluntary, and we have to really make sure that all the  
25 commitments made in the Transmission Owners Membership

1 Agreement are fulfilled so that consumers and the other  
2 entities are not adversely impacted by this move.

3 CHAIRMAN WELLINGHOFF: Thank you, John.  
4 Commissioner Moeller?

5 COMMISSIONER MOELLER: Just quickly, I think the  
6 main takeaway here is this is an entity that chose to move  
7 from one well-run market to another well-run market, and  
8 they're not choosing against an RTO, they're just choosing  
9 to join another one. Mr. Chairman.

10 CHAIRMAN WELLINGHOFF: And I would agree. I  
11 would agree with the comments of my fellow colleagues. I do  
12 believe that we need to maintain the voluntary nature of  
13 these entities. However, as Commissioner Norris said, we  
14 hope that it is rare that there is a move. And I hope it is  
15 rare because I hope that one RTO may see that if there's  
16 someone or group of entities moving from it, that it  
17 recognizes it needs to improve its practices in ways that it  
18 can retain members. And I think it is part of competition  
19 among the RTOs, and I think it is something we need to  
20 foster. So I am in support of this Order.

21 Thank you again, all, for the presentation.

22 Madam Secretary, if we could vote on the Order,  
23 please.

24 SECRETARY BOSE: The vote begins with  
25 Commissioner LaFleur.

1 COMMISSIONER LaFLEUR: I vote aye.

2 SECRETARY BOSE: Commissioner Norris.

3 COMMISSIONER NORRIS: Aye.

4 SECRETARY BOSE: Commissioner Moeller.

5 COMMISSIONER MOELLER: Aye.

6 SECRETARY BOSE: Commissioner Spitzer.

7 COMMISSIONER SPITZER: Vote aye.

8 SECRETARY BOSE: And Chairman Wellinghoff.

9 CHAIRMAN WELLINGHOFF: I vote aye.

10 Thank you. If there is nothing further to come  
11 before the Commission, we are adjourned.

12 (Whereupon, at 11:09 a.m, Thursday, October 21,  
13 2010, the open meeting of the Federal Energy Regulatory  
14 Commission's Commissioners was adjourned.)

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