

P R O C E E D I N G S

(10:02 a.m.)

CHAIRMAN WELLINGHOFF: Good morning everybody.

If you could, take your seats please. This is the time and place that has been noticed for the open meeting of the Federal Energy Regulatory Commission pursuant to the Government in the Sunshine Act.

Please join me in the Pledge of Allegiance.

(Everyone recites the Pledge of Allegiance.)

CHAIRMAN WELLINGHOFF: Well since our January open meeting, we have had 56 notational orders that we have issued. And since that meeting we have also been busy. There have been a number of items--three noteworthy conferences led or attended by FERC Commissioners.

The first was a technical conference on Smart Grid Interoperability Standards, which took place in this room on January 31st.

The second was a technical conference on priorities for addressing risk to reliability of the Bulk Power System, which also took place here on February 8th.

And finally, just this past Saturday, as part of the NARUC Winter Committees meeting here in D.C., myself and Marc and Cheryl attended an ISO/RTO Council on Regional State Committees meeting that addressed the RTO/ISO metrics discussed last month here at this public meeting. These

1 were all extremely informative and important, useful
2 meetings. I'm glad we could have those.

3 Before we move on, I've got a number of
4 announcements. In fact, I think we have more announcements
5 than we have work here to do this morning, almost.

6 First I would like to announce the appointment of
7 Ted Gerarden as our new Director of the Office of
8 Administrative Litigation. Is Ted here?

9 (Mr. Gerarden stands.)

10 CHAIRMAN WELLINGHOFF: Ted is well suited to take
11 the helm of OAL. He has more than 30 years of experience in
12 energy regulation, including 20 years in private practice.
13 Ted joined the Commission in 2003, and most recently was a
14 Branch Chief in the Office of Enforcement where he served a
15 leading role in developing the Commission's enforcement
16 policies set forth in the Energy Policy Act of 2005, and
17 there directed a wide variety of investigations.

18 Prior to joining the Commission, Ted was the
19 Director of the Office of Consumer Advocate at the Postal
20 Rate Commission where he represented the public in Postal
21 Rate Service Classification cases before that Commission.
22 While in private practice, Ted represented numerous
23 shippers, producers, pipelines, and users in natural gas
24 open access transportation rate and certification matters.

25 This experience included trying many cases before

1 administrative law judges here at the Commission. Ted is a
2 native of Connecticut, a graduate of Georgetown University
3 and Georgetown University Law Center, and we are glad to
4 have him as our new OAL Director.

5 (Applause.)

6 CHAIRMAN WELLINGHOFF: Second, I want to announce
7 some changes in my personal staff. Mariana Cruz has left my
8 office to return to the Commission's Office of General
9 Counsel. We are going to miss her. But replacing her we
10 will have Christina Hayes. Christina has been in the Office
11 of General Counsel here at the Commission since 2007,
12 chiefly working on electric matters and mergers and
13 acquisitions.

14 With the NARUC winter meetings in town, it is
15 also noteworthy to mention that Christina worked for almost
16 four years at the Public Utility Commission of Oregon. At
17 the Oregon PUC her work included presiding over rate
18 proceedings. She holds a J.D. from the University of Oregon
19 Law School, a B.A. from the College of William & Mary. So I
20 am very pleased to welcome Christina to my team. Christina.

21 (Applause.)

22 CHAIRMAN WELLINGHOFF: And finally, before we do
23 move to the consent agenda, I wanted to discuss one of the
24 56 Notationals that was issued last meeting. On Monday of
25 this week, the Commission issued an Order directing staff to

1 initiate an inquiry into the generation outages and natural
2 gas disruptions that occurred in Texas and the Southwest
3 during the first week of February.

4 The inquiry has two objectives. First, we seek
5 to identify the causes of the disruptions. Second, we seek
6 to identify appropriate actions for preventing disruptions
7 from happening again.

8 I want to stress that this is not an Enforcement
9 investigation. Our priority here is to gather facts, and
10 any decision as to whether or not to start such an
11 Enforcement investigation would be made at a later time.

12 During this inquiry we will seek to coordinate
13 efforts with those of others that have initiated
14 investigations, including the states, and we will work with
15 them closely. I have already been in contact with a number
16 of the state commissioners in this regard.

17 We will designate a staff task force to report
18 its findings and recommendations to the Commission as soon
19 as practicable.

20 So with that, any other Commissioners have any
21 other announcements or comments on any of my announcements?

22 COMMISSIONER MOELLER: Mr. Chairman?

23 CHAIRMAN WELLINGHOFF: Sure, Phil.

24 COMMISSIONER MOELLER: I just wanted to note that
25 I am posting a statement on H-1. That is a case that

1 related to a remand from the D.C. Circuit related to land
2 use fees, and I think the hydro industry should pay quite a
3 bit of attention to this. I'm happy that the Commission is
4 taking this action.

5 CHAIRMAN WELLINGHOFF: Good. Thank you, Phil.
6 Appreciate it.

7 John?

8 COMMISSIONER NORRIS: I just want to echo your
9 announcement of the inquiry into what happened in Texas. I
10 happened to be down there--

11 CHAIRMAN WELLINGHOFF: You were there when it
12 happened, yes.

13 COMMISSIONER NORRIS: --and so in my limited
14 encounter with it, from my hotel room and my events being
15 cancelled, I am certainly sympathetic of the folks in Texas
16 and what they want through.

17 But I do want to say that whenever you have these
18 outages of that magnitude, health and human safety is at
19 risk, businesses lose business. It has great impact on
20 folks. And when that happens, the blame game starts to go
21 around. In fact, I even saw some folks point the finger at
22 the President's energy policy as the reason for this outage.

23 And I just want to call folks that practice that
24 kind of irresponsible blame game to task on this. That
25 doesn't help address any of the problems. So I am glad that

1 we're talking this step to find out what really happened.

2 CHAIRMAN WELLINGHOFF: And I appreciate that,
3 John. And I think FERC is uniquely situated to oversee this
4 inquiry, given that we have both jurisdictional
5 responsibility for natural gas and reliability, which
6 includes reliability in Texas. Some people we don't have
7 other jurisdiction; in Texas that is one area where we do
8 have jurisdiction in Texas, and of course this goes beyond
9 Texas as well and into New Mexico and Arizona also. So I
10 think we are the ones who really have unique, overall
11 jurisdiction to proceed with this.

12 Does anyone else have anything?

13 (No response.)

14 CHAIRMAN WELLINGHOFF: Okay, Madam Secretary, if
15 we could move to the Consent Agenda, please.

16 SECRETARY BOSE: Good morning, Mr. Chairman.
17 Good morning, Commissioners.

18 Since the issuance of the Sunshine Act Notice on
19 February 10th, 2011, Items E-1 and E-5 have been struck from
20 this morning's agenda.

21 Your Consent Agenda is as follows:

22 Electric Items: E-2, E-3, E-6, E-7, E-8, E-9, E-
23 10, E-11, E-12, E-13, and E-14.

24 Gas Items: G-1 and G-2.

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

1 The Certificate Item is C-1.

2 As to E-4, Commissioner Spitzer is dissenting in
3 part with a separate statement. We are now ready to take a
4 vote on this morning's Consent Agenda, and the vote begins
5 with Commissioner LaFleur.

6 COMMISSIONER LaFLEUR: Thank you. I vote aye.

7 SECRETARY BOSE: Commissioner Norris.

8 COMMISSIONER NORRIS: Aye.

9 SECRETARY BOSE: Commissioner Moeller.

10 COMMISSIONER MOELLER: Aye.

11 SECRETARY BOSE: Commissioner Spitzer.

12 COMMISSIONER SPITZER: I vote aye, noting my
13 dissenting in part separate statement on E-4.

14 SECRETARY BOSE: Duly noted.

15 Chairman Wellinghoff.

16 CHAIRMAN WELLINGHOFF: I vote aye.

17 If we could go then now to the Discussion Agenda,
18 please, Madam Secretary.

19 SECRETARY BOSE: Thank you, Mr. Chairman.

20 The presentation and discussion item for this
21 morning is on Item E-4 concerning a Draft Notice of Proposed
22 Rulemaking on Frequency Regulation Compensation in the
23 Organized Wholesale Power Market.

24 The presentation will be by Bob Hellrich-Dawson,
25 from the Office of Energy Policy and Innovation. And he is

1 accompanied by Eric Winterbauer from the Office of the
2 General Counsel.

3 MR. HELLRICH-DAWSON: Good morning, Mr. Chairman,
4 and Commissioners.

5 CHAIRMAN WELLINGHOFF: Good morning.

6 MR. HELLRICH-DAWSON: The Notice of Proposed
7 Rulemaking before you today addresses rates paid for the
8 procurement of frequency regulation service in the RTO and
9 ISO organized wholesale power markets.

10 The draft proposed rule preliminarily finds that
11 current frequency regulation compensation practices may
12 result in rates that are unjust, unreasonable, and unduly
13 discriminatory because faster-ramping resources are
14 compensated at the same level as slower-ramping resources,
15 even though they may provide more Area Control Error
16 correction. Therefore, the proposed rule would require RTOs
17 and ISOs to ensure that resources providing frequency
18 regulation service are appropriately compensated.

19 Frequency regulation is the injection or
20 withdrawal of real power by resources capable of responding
21 appropriately to a transmission system's frequency
22 deviations or interchange power imbalance, as measured by
23 the Area Control Error.

24 This service is delivered in response to a
25 dispatch signal from a system operator. Frequency

1 regulation is distinct from frequency response, which is an
2 automatic and autonomous action in response to changes in
3 frequency rather than to a dispatch signal.

4 The draft proposed rule observes that taking
5 advantage of the capabilities of faster-ramping resources
6 can improve the operational and economic efficiency of the
7 transmission system and has the potential to lower costs to
8 consumers in organized wholesale markets.

9 The proposed rule would implement a two-part
10 payment for resources providing frequency regulation service
11 to RTOs and ISOs. The first part of this payment is a
12 capacity, or option, payment. While the RTOs and ISOs
13 currently provide capacity payments for frequency regulation
14 service, the proposed rule would refine existing practices
15 by requiring that offers into a frequency regulation market
16 include all opportunity costs, and that a uniform market-
17 clearing price that includes the marginal unit's opportunity
18 costs be paid to all cleared resources.

19 Second, the draft proposed rule would require
20 that all resources dispatched to provide frequency
21 regulation service receive a payment for performance. That
22 is, each megawatt a unit is dispatched up or down should be
23 reflected in its payment.

24 Rather than netting the regulation up and
25 regulation down provided by a resource, the absolute value

1 of the movement up and the movement down would be summed in
2 order to calculate a payment that acknowledges the service
3 provided--Area Control Error correction.

4 Further, the draft proposed rule would require
5 performance measurement for all resources providing
6 frequency regulation service, with payments made to each
7 resource reflecting its accuracy of performance in response
8 to the dispatch signal.

9 The draft proposed rule is focused on the
10 frequency regulation markets operated by RTOs and ISOs, and
11 therefore does not address frequency regulation service
12 offered by transmission providers outside the RTO and ISO
13 regions pursuant to their Open Access Transmission Tariffs.

14 Within the RTO and ISO markets, the proposed rule
15 preliminarily finds that implementation of a two-part
16 payment for frequency regulation service will remedy undue
17 discrimination and remove unnecessary barriers to the
18 participation in the organized frequency regulation markets
19 of all types of resources that are technically capable of
20 providing frequency regulation service. The proposed rule
21 seeks comments within 60 days of publication in the Federal
22 Register.

23 This concludes our presentation. We will be
24 happy to take any questions.

25 CHAIRMAN WELLINGHOFF: Thank you, Bob, Eric, and

1 I want to thank the whole team for their work on this rule.
2 I think it is an extremely important rule.

3 Frequency regulation is critical to maintaining
4 the reliability of the transmission system. Historically,
5 frequency regulation service has been provided by
6 generators. In recent years, due to innovations in
7 technology and communications, new resources have developed
8 that are capable of providing this service. And I may say,
9 capable of providing it in milliseconds versus minutes.
10 Much, much quicker than previous resources such as
11 generators.

12 These could include storage technologies such as
13 flywheels and electric vehicles, demand resources and
14 possibly even residential water heaters. I know PJM is
15 experimenting on residential water heaters right now,
16 looking at them providing regulation service.

17 The record we have created in this proceeding
18 indicates that some resources, both new and existing, can
19 respond more quickly and accurately than others to the
20 system operator's dispatch signal for frequency regulation
21 service. However, as the Staff indicated, the organized
22 markets may not be capturing the value of this faster and
23 more accurate service because currently compensation to the
24 providers is not typically based on performance.

25 I think it is particularly important that we are

1 issuing this Notice of Proposed Rulemaking at this time.
2 The electric industry is engaging in planning the
3 transmission system for an increasingly varied mix of
4 demands and types of supply. The ability to have adequate
5 resources to provide frequency regulation to maintain
6 reliability is essential.

7 This Proposed Rulemaking seeks to explore the
8 value that faster and more accurate regulation service may
9 provide to the organized markets. And it makes proposals
10 and seeks comment on how providers should be compensated for
11 their performance so that they have the incentive to invest
12 in regulation capability and participate in RTO markets for
13 regulation service.

14 Properly designed, these markets will provide the
15 efficient and least-cost mix of resources for regulation
16 service. Further, these markets have the potential to
17 attract new sources of frequency regulation capability which
18 can be viable options to consider in transmission planning.
19 Actions both to improve operational efficiency and plan for
20 the future have the potential to lower costs to consumers
21 for this service in the organized whole markets.

22 Therefore, I look forward to reviewing the
23 comments we receive on this Proposed Rule. Thank you again.

24 Colleagues, comments? Phil?

25 COMMISSIONER MOELLER: First of all, Bob, nice to

1 have a native of the State of Washington give a presentation
2 to us. Thanks for your work on the team and keeping us
3 informed over the last few months. We did have a Staff tech
4 conference on this in May that I attended, which was a great
5 event, of which I think this is emanating from to some
6 extent.

7 The question for you: In the trade press today
8 PJM is looking at a--I don't know if it's fair to say a
9 stakeholder process--but they're starting an effort to look
10 at this, as well. They weren't, obviously, aware of what we
11 were going to do today, but how would that effort mesh with
12 our proposed rule?

13 MR. HELLRICH-DAWSON: As you say, I think their
14 stakeholder efforts are sort of at the beginning of their
15 process, so we don't have anything in front of us that we
16 could actually, you know, comment on. But I think it's
17 pretty much good timing.

18 PJM was involved in the tech conference, so we've
19 talked to them quite a bit about this issue. I think this
20 Notice of Proposed Rulemaking gives them something concrete
21 that they can look at and bring to the stakeholder process.

22 Beyond that, not having it in front of me, it
23 seems like very good timing.

24 COMMISSIONER MOELLER: Yes, good timing. Great.
25 Well this is the great thing about organized markets. When

1 there are products that--and we'll find out through the
2 rulemaking process--if they deliver a product that deserves
3 to be valued and compensated for the quality that it brings,
4 hopefully we will be able to properly compensate them
5 because this is something that will only grow in importance
6 as we have to integrate more variable generation into the
7 grid.

8 So I am happy to support today's effort to start
9 this rulemaking process.

10 Thank you, Mr. Chairman.

11 CHAIRMAN WELLINGHOFF: Thank you, Phil. Marc?

12 COMMISSIONER SPITZER: Thank you very much,
13 Mr. Chairman. I will join with my colleagues in thanking
14 the team for their hard work on this important issue.

15 My concern with this Order is really a matter of
16 the robustness of the record, as opposed to the ultimate
17 objective. I share with the majority the objective in this
18 case regarding the most efficient ways to maintain
19 frequency.

20 I am dissenting in part on this Order and will
21 post a separate statement. I want to make a few comments.
22 As the team described, the majority is concerned the current
23 mechanisms for compensating frequency regulation service in
24 RTO/ISO regions may not adequately compensate for the true
25 value of the frequency regulation service provided.

1 I share the majority's concern. Resources that
2 have faster ramping capability have the potential to respond
3 quicker and more accurately to certain transmission system
4 needs. However, the majority concludes, based on the
5 existing record, that the Commission should require a
6 standard formula through which all RTO/ISO regions must
7 compensate frequency regulation service.

8 I disagree with the majority that the record is
9 sufficiently robust to make a specific proposal at this time
10 to change our regulation. Although the record provides some
11 data regarding potential reliability and efficiency benefits
12 of faster ramping resources providing frequency regulation
13 service, I am concerned this evidence is incomplete.

14 While I recognize the majority's desire to move
15 quickly, I believe in the old adage: measure twice, cut
16 once. Accordingly, I believe the Commission should have
17 taken a preliminary step such as the issuance of an NOI, or
18 ANOPR before moving forward with a specific proposal in a
19 NOPR.

20 For these reasons, I respectfully dissent in part
21 from this Order.

22 CHAIRMAN WELLINGHOFF: Thank you, Marc. John?

23 COMMISSIONER NORRIS: Let me just say, again,
24 thank you for your work on this. I think it's a great
25 follow up to the May tech conference, as Phil noted. And I

1 view this NOPR today as really all about performance,
2 innovation, and efficiency.

3 The Commission's aim here is to develop a
4 mechanism to compensate resources providing frequency
5 regulation in a way that rewards them for quickly responding
6 to the needs of the system. That spurs innovation in new
7 technologies to provide quick response, and that ultimately
8 promotes efficiency and procures these resources for
9 consumers at a cost that reflects that efficiency, which is
10 what I think we are trying to achieve here.

11 The NOPR appropriately recognizes that if two
12 different resources are providing frequency regulation, but
13 one resource does substantially more to help the system
14 operator balance supply and load in real time, that resource
15 should be paid commensurate with the services it is
16 providing.

17 So simply put, we are looking at a pay-for-
18 performance in the regulation market, which should result in
19 a need to procure less regulation capacity and in a more
20 efficient utilization of existing resources--supply
21 resources.

22 Also, importantly, the Proposed Rulemaking is
23 agnostic with respect to technologies to take advantage of
24 this new pay-for-performance framework.

25 So I view this as a very positive step forward.

1 But I also, while I support this initial focus on the RTOs
2 and ISO markets, I also believe that we should look at how
3 frequency response resources are procured and compensated in
4 non-ISO and RTO markets and regions.

5 There may be efforts we should undertake in those
6 areas, as well, that could create efficiencies and benefits
7 for consumers. So I encourage the Commission to move
8 forward with this, but also to take a look at frequency
9 regulation as it exists in non-ISO and RTO markets.

10 CHAIRMAN WELLINGHOFF: Thank you, John. And I
11 would agree. I think we do need to look outside of the
12 RTOs, as well. That's something we need to figure out what
13 would be the appropriate forum to do that, but thank you for
14 that suggestion.

15 Cheryl?

16 COMMISSIONER LaFLEUR: Thank you, Jon.

17 Well I join my colleagues in thanking Bob and
18 Eric and the whole team. I think this Proposed Rule we're
19 voting out today really is representative of a significant
20 number of the matters that have come before the Commission
21 in the months since I've been here that all relate to how
22 different types of new energy resources fit into grid
23 operations and market rules.

24 New technologies are pushing the limits of our
25 market rules and targeted changes can make a big difference

1 in helping customers benefit from new technologies.

2 In today's Notice, we propose a targeted reform
3 to better accommodate fast-ramping resources. While
4 targeted, this proposed reform will likely grow in
5 significance due to the growing role of various new types of
6 storage technologies in energy markets.

7 I believe today's proposal reflects and builds on
8 the best practices that RTOs have in place today, including
9 pilots in ISO New England and New York ISO, and emerging
10 efforts such as Commissioner Moeller mentioned in PJM and
11 CALISO in integrating fast-ramping regulation resources into
12 their markets.

13 Today's rule also reflects the efforts of Staff
14 in conducting outreach meetings with transmission operators
15 and market participants. I am very mindful of the comments
16 of my colleague, Commissioner Spitzer, but I do feel since
17 this is a Notice of Proposed Rulemaking, which builds on the
18 record from the technical conference and the Request for
19 Comments on Energy Storage in June 2010, I support it going
20 out in this form. But we really I think broadly encourage
21 comments on this proposal, not just from the energy storage
22 and demand response providers, but from all of the
23 stakeholders who might have views on the rule, whether in
24 organized or bilateral markets.

25 Thank you.

1 CHAIRMAN WELLINGHOFF: Thank you, Cheryl.

2 If there's nothing further, I think we're ready
3 for the vote, Madam Secretary.

4 SECRETARY BOSE: Noting Commissioner Spitzer's
5 separate statement as mentioned earlier, we are now ready to
6 take a vote. Commissioner LaFleur.

7 COMMISSIONER LaFLEUR: I vote aye.

8 SECRETARY BOSE: Commissioner Norris.

9 COMMISSIONER NORRIS: Aye.

10 SECRETARY BOSE: Commissioner Moeller.

11 COMMISSIONER MOELLER: Aye.

12 SECRETARY BOSE: Commissioner Spitzer.

13 COMMISSIONER SPITZER: Again, dissenting in part
14 with a separate statement.

15 SECRETARY BOSE: And Chairman Wellinghoff.

16 CHAIRMAN WELLINGHOFF: I vote aye.

17 Is there anything further to come before the
18 Commission?

19 (No response.)

20 CHAIRMAN WELLINGHOFF: If not, I think we are
21 adjourned. Thank you.

22 (Whereupon, at 10:25 a.m., Thursday, February 17,
23 2011, the 967th meeting of the Federal Energy Regulatory
24 Commissioners was adjourned.)

25