

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

- - - - -x

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

- - - - -x

971ST COMMISSION MEETING

OPEN SESSION

Thursday, June 16, 2011
Hearing room 2C
888 First Street, N.E.
Washington, D.C.

The Commission met, pursuant to notice, at 11:08
a.m., when were present:

COMMISSIONERS:

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

1 FERC STAFF:

2 KIMBERLY BOSE, Secretary

3 MICHAEL BARDEE, General Counsel

4 DAVID MORENOFF, Office of the General Counsel

5 NORMAN BAY, OE

6 JIM PEDERSON, Chief of Staff

7 JEFF WRIGHT, OEP

8 ANNA COCHRANE, OEMR

9 JOHN CARLSON, OER

10 JAMIE SIMLER, OEPI

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 PROCEEDINGS

2 (11:08 a.m.)

3 CHAIRMAN WELLINGHOFF: All right. Good morning.
4 Let's come to order, please. This is the time and place
5 that has been noticed for the open meeting of the Federal
6 Energy Regulatory Commission to consider the matters that
7 have been duly posted in accordance with the Government in
8 the Sunshine Act. Could you please join us for the Pledge
9 of Allegiance.

10 (Pledge of Allegiance recited.)

11 CHAIRMAN WELLINGHOFF: Since our May 19th Open
12 Meeting we have issued 61 notational orders, so we're still
13 moving along.

14 A few announcements this morning before we move
15 to our Consent Agenda. First I would like to recognize all
16 of the FERC interns. Could you stand, please.

17 (Interns stand.)

18 (Applause.)

19 CHAIRMAN WELLINGHOFF: Thank you. This is how we
20 get all our work done this summer. We have all these good,
21 fine, smart people to help us, and thank you all for
22 choosing FERC, and coming to FERC, and think about FERC when
23 you get out of school, as well. We really appreciate you
24 being here.

25 With that, I think Commissioner Norris has an

1 announcement this morning.

2 COMMISSIONER NORRIS: Well I am glad you pointed
3 out the interns this morning, Mr. Chairman, because I have
4 had some transition in my office and the interns have been
5 very helpful to me as we make that transition in helping to
6 keep my office flowing. So thank you for that.

7 As many of you know, Carrie Birch was my
8 confidential assistant for my first year-plus on the job
9 here, but she has chosen to move back to Nebraska--something
10 about the snow storms in D.C.

11 (Laughter.)

12 COMMISSIONER NORRIS: I'm not sure. No, she
13 moved home to western Nebraska. And Betsy Rosenblatt, who
14 was another aide in my office, had been helping fill that
15 role, but she decided working for Norm sounded better than
16 working for me--

17 (Laughter.)

18 COMMISSIONER NORRIS: --so she's moved on to be
19 an analyst in the Office of Energy Markets Oversight. But I
20 am proud to say today that I have a new confidential
21 assistant who will provide some stability to my office now
22 that we've been in transition for a few months, and Brian
23 Morgan is here today. Brian comes from Ohio. He recently
24 worked for Senator Sherrod Brown, and prior to that the
25 Secretary of State of Ohio. He's behind me. He's actually

1 got to head back up to finish his background check. I think
2 he'll still be here tomorrow.

3 (Laughter.)

4 COMMISSIONER NORRIS: I want to welcome Brian
5 Morgan to my staff.

6 (Applause.)

7 CHAIRMAN WELLINGHOFF: Thank you, John.

8 With that, Kim, I think we are ready for the
9 Consent Agenda.

10 SECRETARY BOSE: Good morning, Mr. Chairman, good
11 morning, Commissioners:

12 Since the issuance of the Sunshine Act Notice on
13 June 9th, 2011, no items have been struck from this
14 morning's agenda. And your Consent Agenda for this morning
15 is as follows:

16 Electric Items: E-7, E-10, E-11, E-12, E-15,
17 E-16, E-18, and E-19.

18 Gas Items: G-1.

19 Hydro Items: H-2.

20 Certificate Items: C-1 and C-3.

21 As required by law, Commissioner Moeller is not
22 participating in Consent Item E-11. As to E-7, Chairman
23 Wellinghoff is concurring with a separate statement. We
24 will now take a vote on this morning's Consent Agenda, and
25 the vote begins with Commissioner LaFleur.

1 COMMISSIONER LaFLEUR: Thank you. I vote aye.

2 SECRETARY BOSE: Commissioner Norris.

3 COMMISSIONER NORRIS: Aye.

4 SECRETARY BOSE: Commissioner Moeller.

5 COMMISSIONER MOELLER: Noting my recusal in E-11,
6 I vote aye.

7 SECRETARY BOSE: Commissioner Spitzer.

8 COMMISSIONER SPITZER: Votes aye.

9 SECRETARY BOSE: And Chairman Wellinghoff.

10 CHAIRMAN WELLINGHOFF: Noting my concurrence on
11 E-7, I vote aye.

12 Madam Secretary, if we could go to the Discussion
13 Items, please.

14 SECRETARY BOSE: And the first item for
15 presentation and discussion this morning is E-9, which is
16 concerning a draft notice of inquiry on third-party
17 provisions of ancillary services, accounting, and financial
18 reporting for new electric storage technologies.

19 There will be a presentation by Rahim Amerkhail
20 from the Office of Energy Policy and Innovation. He is
21 accompanied by Eric Winterbauer from the Office of the
22 General Counsel; Christopher Handy from the Office of
23 Enforcement; and Gregory Basheda from the Office of Energy
24 Market Regulation.

25 MR. AMERKHAIL: Good morning Mr. Chairman and

1 Commissioners:

2 Item E-9 contains a draft Notice of Inquiry
3 seeking comment on two sets of separate but related issues:

4 One, existing restrictions on third-party
5 provision of ancillary services, irrespective of the
6 technologies used for such provision; and

7 Two, the adequacy of current accounting and
8 reporting requirements as they pertain to the oversight of
9 jurisdictional entities using electric storage devices.

10 Both of these issues potentially impact users of
11 energy storage devices but the first issue may impact all
12 potential providers of ancillary services.

13 Regarding the first issue, the third-party
14 provision of ancillary services, the Commission's current
15 policy was set forth in the late '90s in an Order concerning
16 Avista Corporation. We refer to this as "Avista" or "the
17 Avista policy."

18 In this context, the term "third-party" means a
19 party other than a transmission provider supplying ancillary
20 services at cost-based rates pursuant to its Open Access
21 Tariff obligation.

22 Prior to Avista, the Commission had strictly
23 required all potential market-based third-party sellers of
24 ancillary services to submit market power studies for each
25 ancillary service market at issue, but few entities did so.

1 In Avista, accordingly, the Commission discussed
2 in detail the data problems associated with performing a
3 market power study and adopted a policy allowing third-party
4 ancillary service providers to sell certain ancillary
5 services at market-based rates without performing a market
6 power study.

7 However, in order to meet its statutory
8 obligation to ensure just and reasonable rates, the
9 Commission placed certain restrictions on such third-party
10 sales intended to mitigate any third-party market power that
11 might exist.

12 As relevant to this discussion, one mitigating
13 restriction was a prohibition on third-party sales to a
14 transmission provider that is purchasing ancillary services
15 to satisfy its own Open Access Tariff requirement to offer
16 ancillary services to its own customers.

17 The Commission reasoned that the backstop of
18 cost-based ancillary services from the transmission provider
19 will provide an appropriate and effective safeguard against
20 potential anti-competitive behavior by third parties, but
21 that the discipline could be thwarted if the transmission
22 provider could substitute purchases under non-cost-based
23 rates for its mandatory service obligation.

24 Outside of RTO/ISO markets, potential third-party
25 suppliers of ancillary services apparently continue to have

1 difficulty performing the studies that could demonstrate a
2 lack of market power and, thus, allow them to sell to
3 transmission providers.

4 As shown in several filings with the Commission,
5 including a WSPP proposal from earlier this year, both
6 third-party sellers and many potential buyers have expressed
7 interest in remedying this situation, and many believe that
8 the Avista restriction itself is in need of reform.

9 Accordingly, this NOI seeks comments both on
10 alternative methods of assessing market power for ancillary
11 services, and alternative methods of mitigating any
12 potential third-party market power without restricting sales
13 to transmission providers.

14 As part of this inquiry into third-party
15 provision of ancillary services, the NOI also seeks comments
16 on whether the goals of the recently issued Frequency
17 Regulation Notice of Proposed Rulemaking in Docket No. RM11-
18 7 can be extended to regions outside the organized wholesale
19 energy markets.

20 Regarding the second topic, the adequacy of
21 current accounting and reporting requirements as they
22 pertain to electric storage devices:

23 The NOI notes that none of the primary plant or
24 Operation & Maintenance expense accounts contained in the
25 Commission's Uniform System of Accounts, specifically

1 provides for the accounting of costs related to new energy
2 storage resources and operations.

3 The NOI notes that this omission may make it
4 difficult for owners of these technologies to complete their
5 reporting requirements, which in turn could make it
6 difficult for regulators to determine costs and establish
7 appropriate rates for new energy storage technologies.

8 Therefore, the NOI seeks comments on a variety of
9 accounting and reporting issues associated with the costs of
10 energy storage resources and their associated O&M expenses.

11 To some extent, the issues I've just discussed
12 were also explored in a request for comments on Storage
13 issues that was issued by staff last year in Docket No.
14 AD10-13, but not at a very detailed level.

15 Having reviewed those comments, along with
16 information received in relevant cases like the WSPP
17 proposal I mentioned earlier, the NOI today focuses on the
18 two issues I described and announces that all other issues
19 addressed in the AD10-13 staff request for comments will
20 continue to be addressed on a case-by-case basis.

21 This concludes our presentation. Thank you.

22 CHAIRMAN WELLINGHOFF: Thank you. Thank you,
23 Rahim and the team for your work on this important
24 proceeding.

25 I would like to make two brief points about the

1 NOI that we are issuing today.

2 First, although this document has important
3 implications for the development of storage technologies,
4 its scope and applicability are broader than that. The NOI
5 asks some key questions that involve the development of
6 vibrant markets for ancillary services--not just for storage
7 resources, but for all potential providers of ancillary
8 services.

9 In particular, the NOI asks whether the Avista
10 policy should be modified to allow greater competition in
11 the provision of ancillary services. While the Avista
12 policy serves as an important role for addressing the
13 potential for market power, this NOI asks whether
14 alternative means exist to address those market power
15 concerns and still allow ancillary service markets to
16 develop and flourish.

17 Second, the latter part of the NOI focuses more
18 particularly on storage. The proliferation of fast response
19 storage technologies is important for the integration of
20 renewable resources and the reliable and efficient
21 functioning of the transmission grid and wholesale markets.
22 To help encourage the development of storage resources, this
23 NOI asks whether and how the Commission's reporting and
24 accounting regulations should be modified to accommodate the
25 varying services that storage can provide.

1 I look forward to the comments we receive in
2 response to this NOI, and I support it.

3 Colleagues, comments? Phil.

4 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
5 Thanks to the team, as well. A lot of effort went into
6 this, especially the last few days.

7 I think we all realize that storage is kind of
8 the ultimate in terms of if we can get cost-effective
9 storage we can better integrate renewals, as you mentioned,
10 and better operate the grid.

11 I have spent a fair amount of time with the
12 storage industry, and I am sympathetic to the fact that they
13 are right now under some stresses, given market conditions,
14 but probably they wish we could move a little faster. But
15 this is a way where I think we can get the issues out there.
16 And ultimately it is about markets, and compensation, and
17 compensating them properly for the services that they
18 deliver.

19 We have been flexible in the past when storage
20 has come to us to be treated as transmission. We have
21 allowed that. To be treated as energy, we've allowed that.
22 That flexibility I think has been good by this Agency to
23 allow the industry to develop. It's got a long way to go,
24 but I look forward to the comments that will be delivered to
25 us in this extensive NOI. I appreciate you making this a

1 priority, Mr. Chairman.

2 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
3 Moeller. Commissioner Spitzer.

4 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
5 The various issues raised in this Notice of Inquiry are
6 important. The Commission is interested in the continued
7 development of competitive markets for all services.

8 This Notice focuses on two separate aspects of
9 competition:

10 First, the NOI seeks comments on our existing
11 Avista restrictions and ways in which the Commission can
12 allow for greater market forces in the third-party provision
13 of ancillary services while ensuring just and reasonable
14 rates.

15 Second, the NOI seeks comments on the adequacy of
16 our current accounting and reporting requirements as they
17 pertain specifically to storage in order to ensure our
18 current requirements provide sufficient transparency.

19 I encourage all members of the industry to share
20 their views in this proceeding. The NOI raises important
21 issues for consumers, and we need to make sure that we take
22 the time to hear from all segments of the industry and gain
23 the benefit from some of the deep thinking that has occurred
24 in the storage industry and elsewhere on these topics.

25 I thank the team for their hard work, and I thank

1 them in advance for their continued diligence as we receive
2 comments and proceed to the next steps of this proceeding.

3 Thank you.

4 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
5 Spitzer. Commissioner Norris.

6 COMMISSIONER NORRIS: Thank you, Mr. Chairman.
7 Thanks again, as well, to the team for their work on this.
8 And, Marc, I think that is appropriate to say thanks for the
9 work they are going to be doing, because I think we are
10 going to be doing a lot of work in this area as we look at
11 our practices here and focus more on the storage element,
12 although I am glad this opens the door on the wide range of
13 ancillary services.

14 Storage technologies present some very
15 interesting challenges to our current policies and
16 practices, and we need to look at it to make sure that we
17 enable storage to provide the multiple services I think it
18 is going to be able to provide as we change over our
19 electric system in this country.

20 Storage presents many opportunities to reduce
21 costs for consumers because of the multiple uses it has. I
22 want to note the EPRI study and the white paper where they
23 said, and I like this, that storage has the ability to move
24 energy through time, providing it when and where it is
25 needed. That is a new concept that we haven't dealt with.

1 Our general utility sector has not dealt with electricity in
2 that mindframe, that you can store it and move it through
3 time.

4 So this represents a whole new opportunity. And
5 I want to make sure that FERC policies do not inhibit or
6 restrict storage from providing the many opportunities it
7 has. I was just thinking this morning--this may be a good
8 metaphor, or it may not be--but I was thinking of the
9 Verizon Center. You know, if we built that just for the
10 Wizards and had to pay for the price of that center all in
11 the ticket of a Wizard ticket, the price of a Wizard ticket,
12 not many folks could afford to go to that game. But when
13 you make it for Capitals, and rock concerts, and monster
14 truck shows, and whatever else goes on in there, you enable
15 that facility to spread costs out to a bunch of different
16 areas. And in doing so, I think we need to make sure that
17 we are fairly compensating the innovation and research and
18 development that is going on in storage to get, quite
19 frankly, a good return for the multiple services they are
20 going to provide.

21 So I am glad we are taking the next step forward
22 here to look at the practices and policies we have at FERC
23 to make sure that we not doing anything that would restrict
24 the great innovation that is occurring in this space.

25 Thanks.

1 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
2 Norris. Commissioner LaFleur?

3 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman.
4 I agree with my colleagues that this is an important
5 inquiry. As Commissioner Norris observed, really one of the
6 defining characteristics of electricity has been its real-
7 time nature; that it had to be balanced in real time. That
8 has shaped so much in grid operations, and it has shaped our
9 market rules and how electricity is priced, with the
10 important exception, obviously, of hydro and some pump
11 storage. But those were pretty specific parts of the
12 system.

13 I was recently talking to a bunch of gas
14 marketers who said: Imagine if all of the gas had to flow
15 real time, and you only priced it by the real-time pricing
16 of gas, how different would our gas markets look? And if
17 you pull that--it's not a perfect analogy, but you can think
18 of the potential of storage for electricity.

19 Obviously that makes storage and ancillary
20 services markets in general increasingly important,
21 particularly as we try to balance more variable resources on
22 the system.

23 We recently heard, I think all of us, from folks
24 in the West that the Avista restrictions have stymied their
25 attempts to develop an ancillary services market, and I

1 thank the team for grappling with this issue. And I hope
2 that today's Notice will attract a wide range of comments
3 and really help us develop a construct, a framework that
4 allows customers in the market to access ancillary services
5 and do so at just and reasonable rates.

6 And finally, while I have the mike, how about
7 those Bruins?

8 (Laughter.)

9 COMMISSIONER LaFLEUR: So if any of you--I have
10 like Title Time already up in my suite, but now that we'll
11 be adding a fourth headline, I hope you all will come up and
12 see it. Thank you.

13 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
14 LaFleur.

15 Madam Secretary, I think we are ready for the
16 vote.

17 SECRETARY BOSE: And the vote begins with
18 Commissioner LaFleur.

19 COMMISSIONER LaFLEUR: I vote aye.

20 SECRETARY BOSE: Commissioner Norris.

21 COMMISSIONER NORRIS: Aye.

22 SECRETARY BOSE: Commissioner Moeller.

23 COMMISSIONER MOELLER: Aye.

24 SECRETARY BOSE: Commissioner Spitzer.

25 COMMISSIONER SPITZER: Aye.

1 SECRETARY BOSE: And Chairman Wellinghoff.

2 CHAIRMAN WELLINGHOFF: I vote aye.

3 Madam Secretary, if we could call the next
4 Discussion Item, please.

5 SECRETARY BOSE: Certainly. The next item for
6 presentation and discussion is on Item E-17, which is a
7 Draft Order in Docket No. E-11-33-000, concerning Northeast
8 Transmission Development, LLC. There will be a presentation
9 by Lina Niak from the Office of the General Counsel. She is
10 accompanied by Rhonda Jones from the Office of Energy Market
11 Regulation.

12 MS. NIAK: Good morning, Mr. Chairman, and
13 Commissioners:

14 E-17 is a draft order granting Northeast
15 Transmission Development's petition for a declaratory order
16 for transmission rate incentives with respect to two new
17 transmission projects, contingent on PJM interconnection
18 including the projects as economic enhancements in the
19 Regional Transmission Expansion Plan through its regional
20 planning process.

21 Northeast Transmission estimates that the
22 proposed Liberty East Project will consist of approximately
23 30 miles of new, single or double circuit 230 kV
24 transmission line in southeastern Pennsylvania. The Liberty
25 East Project will run from the Hunterstown substation to a

1 new Conewago substation located in York County,
2 Pennsylvania.

3 Northeast Transmission estimates that the
4 proposed Kanawha Project will consist of approximately 100
5 miles of new, single or double circuit 345 kV transmission
6 line in West Virginia and Virginia. The Kanawha Project
7 will run from the existing Kanawha substation in West
8 Virginia to the Bath County substation in Virginia.

9 Northeast Transmission anticipates that each of
10 the projects will address critical congestion issues and
11 that the Benefit/Cost ratios will be significantly higher
12 than the threshold required by the PJM Tariff to qualify as
13 economic enhancements.

14 The draft order finds that Northeast Transmission
15 has demonstrated that the Liberty East Project and the
16 Kanawha Project are non-routine, based on the scope,
17 effects, risks, and challenges facing each project, and
18 conditionally grants the requested incentives contingent on
19 PJM including the Projects as economic enhancements in the
20 PJM RTEP through its regional planning process.

21 The draft order rejects Northeast Transmission's
22 request for authorization to use a forward-looking formula
23 rate subject to true-up, without prejudice to Northeast
24 Transmission providing additional justification for such a
25 rate in a subsequent proceeding.

1 We would be pleased to respond to your questions.
2 Thank you.

3 CHAIRMAN WELLINGHOFF: Thank you very much.
4 Commissioner Moeller, I think you called this one up. Why
5 don't you go ahead.

6 COMMISSIONER MOELLER: I did call this. Thank
7 you, Mr. Chairman. I called it solely to highlight the fact
8 that here is an economic project--not the first, the
9 second--that we have recently approved, and economic
10 projects have always been a bit of a challenge. And they
11 remain a challenge in terms of getting them approved. And
12 of course this still has to go through the RTEP process.

13 I wanted to point out that at least they are out
14 there. We are making some progress. We have got a lot more
15 progress to make, but I commend the developers for bringing
16 this to us.

17 Thank you, Mr. Chairman.

18 CHAIRMAN WELLINGHOFF: You're welcome. And I
19 want to thank the team, and I think this is a very
20 appropriate one to bring for discussion and presentation
21 because these economic projects are going to drive down
22 costs for consumers and reduce virtually over a billion
23 dollars worth of congestion in PJM. We have the opportunity
24 to see consumers have their bills stabilized and do a lot of
25 good for them.

1 So anything we can do to encourage these projects
2 I think is something we certainly ought to do.

3 Anyone else? Colleagues? Comments on this
4 particular order? Marc?

5 COMMISSIONER SPITZER: Yes, Mr. Chairman, just
6 that when I go back to Philadelphia to visit my Mom and
7 family, I can tell her that Southeastern Pennsylvania is not
8 being ignored.

9 (Laughter.)

10 CHAIRMAN WELLINGHOFF: There you go. Absolutely.
11 We have her in mind, absolutely. Anybody else?

12 (No response.)

13 CHAIRMAN WELLINGHOFF: If not, Madam Secretary, I
14 think we are ready for the vote on this one, as well.

15 SECRETARY BOSE: And the vote begins with
16 Commissioner LaFleur.

17 COMMISSIONER LaFLEUR: Thank you. I vote aye.

18 SECRETARY BOSE: Commissioner Norris.

19 COMMISSIONER NORRIS: Aye.

20 SECRETARY BOSE: Commissioner Moeller.

21 COMMISSIONER MOELLER: Aye.

22 SECRETARY BOSE: Commissioner Spitzer.

23 COMMISSIONER SPITZER: Aye.

24 SECRETARY BOSE: And Chairman Wellinghoff.

25 CHAIRMAN WELLINGHOFF: I vote aye.

1 If there's nothing further to come before us, I
2 believe we are adjourned. Thank you.

3 (Whereupon, at 10:29 a.m., Thursday, June 16,
4 2011, the Commission meeting was adjourned.)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25