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Before the  
FEDERAL ENERGY REGULATORY COMMISSION  
984th Open Commission Meeting

Thursday, September 20, 2012  
Hearing room 2C  
888 First Street, N.E.  
Washington, D.C.20426

The Commission met, pursuant to notice, at 10:03  
a.m., when were present:

COMMISSIONERS:

JON WELLINGHOFF, Chairman  
PHILIP MOELLER, Commissioner  
JOHN NORRIS, Commissioner  
CHERYL A. LaFLEUR, Commissioner  
TONY CLARK, Commissioner

FERC STAFF:

KIMBERLY D. BOSE, Secretary  
MICHAEL BARDEE, General Counsel  
DAVID MORENOFF, Office of the General Counsel  
JEFF WRIGHT, Director, OEP  
MICHAEL McLAUGHLIN, Director, OEMR  
JOSEPH McCLELLAND, OER  
JAMIE SIMLER, Director, OEPI  
NORMAN BAY, Director, OE

## 1 PROCEEDINGS

2 (10:03 a.m.)

3 CHAIRMAN WELLINGHOFF: Good morning. This is the  
4 time and place that has been noticed for the open meeting of  
5 the Federal Energy Regulatory Commission to consider  
6 matters that have been duly posted in accordance with the  
7 Government in the Sunshine Act. Please join us for the  
8 Pledge of Allegiance.

9 (Pledge of Allegiance recited.)

10 CHAIRMAN WELLINGHOFF: Well since our July open  
11 meeting we've issued 133 Notationals, although it's only  
12 fair to say we kind of had two months there instead of one,  
13 but that's down from 59 the previous month of June to July.

14 Before we turn to today's agenda, I have an  
15 opening statement on an administrative announcement:

16 I am pleased to announce today the establishment  
17 of a new office that is designed to provide leadership,  
18 expertise, and assistance to the Commission in identifying,  
19 communicating, and seeking comprehensive solutions to  
20 significant potential cyber and physical security risks to  
21 the energy infrastructure under the Commission's  
22 jurisdiction.

23 This new office will be called the Office of  
24 Energy Infrastructure Security, or as of course everything  
25 at FERC has to have a shorthand, OEIS. Specifically, the  
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1 Office will concentrate its efforts and resources in four  
2 areas.

3 First, OEIS is charged with developing  
4 recommendations for identifying, communicating, and  
5 mitigating potential cyber and physical security threats to  
6 our Commission jurisdictional energy infrastructure using  
7 our existing statutory authorities.

8 Second, OEIS will offer assistance, expertise,  
9 and advice to other federal and state agencies,  
10 jurisdictional utilities, and Congress for identifying,  
11 communicating, and mitigating cyber and physical security  
12 threats to Commission jurisdictional energy  
13 infrastructure.

14 Third, the Office will participate in interagency  
15 and intelligence-related coordination and collaboration  
16 efforts with appropriate federal, state agencies, and  
17 industry representatives on cyber and physical security  
18 matters related to the Commission's jurisdictional energy  
19 infrastructure.

20 And fourth, OEIS will conduct outreach with  
21 private sector owners, users, and operators of the energy  
22 delivery systems, regarding identification, communication,  
23 and mitigation of cyber and physical threats to Commission  
24 jurisdictional energy infrastructure.

25 OEIS is an outgrowth of the growing potential for  
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1 cyber security attacks and physical security risks such as  
2 electromagnetic pulse that necessitate a significantly more  
3 agile approach.

4 Because of the widespread effects and serious  
5 consequences that a successful cyber or physical security  
6 event may bring, it is important that swift, consistent, and  
7 effective action be taken by entities to prevent such  
8 attacks.

9 Effective mitigation will require rapid  
10 interactions among regulators, industry, and federal and  
11 state agencies. The key benefit of a stand-alone office  
12 focused on energy infrastructure security is that it  
13 leverages the existing resources of the Commission with the  
14 resources of other government agencies and of private  
15 industry in a coordinated, focused manner.

16 I want to emphasize, however, that OEIS will work  
17 complementary to and not be a replacement of FERC's existing  
18 regulatory processes for reliability. Thus, OEIS is  
19 intended to enhance our ability to ensure the reliability of  
20 the bulk power system.

21 Joe McClelland has agreed to be the Director of  
22 the Office. I want to thank Joe for his leadership and  
23 accomplishments as the architect of FERC's success in  
24 assuring the reliability of the bulk power system since  
25 Congress gave us that mission seven years ago.

26

1                   Initially, Joe built the Reliability Division  
2 from the ground up within our Office of Energy Markets.  
3 Five years ago when the Office of Energy Reliability was  
4 established as a stand-alone office, Joe took the new  
5 organization, created a vision, implemented an action plan,  
6 and OER became a model organization.

7                   It is directly due to the dedication and good  
8 work of Joe and his staff that we now have reached the point  
9 where a separate, stand-alone office dedicated to energy  
10 infrastructure security is possible.

11                   I have all the confidence that Joe will be able  
12 to replicate his past successes with OEIS.

13                   I am also happy to announce that Ted Franks will  
14 be the Acting Director of our existing OER office. Under  
15 Ted's direction, OER will continue all of its important work  
16 on reliability standards, compliance, engineering, planning,  
17 and operations.

18                   Finally, I want to emphasize that OER, as well as  
19 OEIS, will continue to work closely and cooperatively with  
20 our partner, NERC.

21                   So with that, colleagues, comments? Phil?

22                   COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
23 I will add my congratulations to Mr. McClelland, and now  
24 Mr. Franks for taking over as the Acting Director.

25                   I do think it is important when we set up a new  
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1 office such as this that in order for success to be ensured  
2 that we make it clear what the parameters are of what they  
3 should be doing, and what they shouldn't be doing, and to  
4 make sure that they have the jurisdiction to do those  
5 things.

6 So going forward, that will be part of my goal,  
7 to work with you to make sure that that happens.

8 CHAIRMAN WELLINGHOFF: Thank you, Phil. John.

9 COMMISSIONER NORRIS: Thanks. I will just add my  
10 congratulations to Joe and Ted for these new assignments,  
11 and I have great confidence. Joe has shown a great passion  
12 and incredible knowledge of this sector. It will provide a  
13 great relationship not just for FERC but I think for the  
14 country on this issue. So I just look forward to working  
15 with you, Mr. Chairman, on this new Division and making  
16 sure they have the tools they need to have to succeed and  
17 accomplish this incredibly important mission. Thanks.

18 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

19 COMMISSIONER LaFLEUR: Well of course I would  
20 also like to congratulate Joe, and also Ted. Both  
21 reliability and grid security have been at the top of my  
22 priority list since I came to the Commission. So I really  
23 enjoyed the opportunity to work closely with Joe, and look  
24 forward to working closely with him in the new, setting up  
25 the new office.

26

1           At the last NERC Board meeting, we--many of us  
2           were there, and we talked a lot about that a lot of the  
3           efforts that NERC has going on right now in the standards  
4           development and compliance area are really representing a  
5           maturation of their model as they move to the next kind of  
6           steadystate of their work after six years being at it.

7           And in some ways, this represents a maturation of  
8           our model here at OER also, that we can spare Joe to take  
9           over the next cutting-edge challenge.

10           So thank you.

11           CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony?

12           COMMISSIONER CLARK: I will just second the  
13           comments of my fellow Commissioners, congratulate Joe, and  
14           look forward to continuing to work with him on these very  
15           important issues.

16           CHAIRMAN WELLINGHOFF: Thank you, Tony.

17           All right, if nobody else has any preliminary  
18           announcements, I think we are ready to move on to the  
19           Consent Agenda. Madam Secretary?

20           SECRETARY BOSE: Good morning, Mr. Chairman, and  
21           good morning, Commissioners.

22           Since the issuance of the Sunshine Act Notice on  
23           September 13th, 2012, Item E-20 has been struck from this  
24           morning's Agenda. Your Consent Agenda is as follows:

25           Electric Items: E-2, E-3, E-4, E-5, E-6, E-7,

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1 E-9, E-10, E-12, E-13, E-14, E-16, E-18, E-19, E-21, E-22,  
2 E-23, and E-24.

3 Gas Items: G-2 and G-4.

4 Hydro Items: H-1, H-2, H-3, H-4, H-5, H-6, H-7,  
5 and H-8.

6 Certificate Items: C-1.

7 As required by law, Commissioner Clark is not  
8 participating in Consent Item E-14.

9 As to E-19, Commissioner Clark is dissenting with  
10 a separate statement.

11 As to E-24, Commissioner Moeller is concurring  
12 with a separate statement; and Commissioners Moeller and  
13 LaFleur are concurring with a joint separate statement.

14 CHAIRMAN WELLINGHOFF: Are there any comments on  
15 any of the items before we take a vote on the Consent  
16 Agenda? Tony?

17 COMMISSIONER CLARK: Yes. Thank you, Mr.  
18 Chairman. Actually, before I make a comment on an item on  
19 the agenda, I neglected to make a couple of, at least one  
20 introduction--

21 CHAIRMAN WELLINGHOFF: Sure, go ahead.

22 COMMISSIONER CLARK: --for a person who is new to  
23 my staff in the introductory comments. I would like to  
24 welcome Robin Lundt, if Robin could stand up. Robin joined  
25 me during the month of August when we had a break so we  
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1 didn't have a meeting and I haven't had an opportunity to  
2 recognize her yet.

3 Robin previously worked with me and a number of  
4 other State Commissioners at NARUC as Assistant General  
5 Counsel, and I am so pleased that Robin is able to join us  
6 here at FERC and to support our work.

7 I would also like to recognize Chris Kempley.  
8 Chris was on detail to my office for about six or eight  
9 weeks from OGC, and did an excellent job as one of my  
10 advisors on a detailed basis. So I want to recognize Chris  
11 and thank him, as well.

12 I would like to offer just a few comments on  
13 E-24. I vote for the Order with a couple of considerations  
14 in mind. On the one hand, it is an Order to Show Cause.  
15 It's not a final determination. That is to say, the subject  
16 of the Order will have an opportunity to make its case and,  
17 as such, I don't prejudge the matter at all.

18 But on the other hand, it is an Order to Show  
19 Cause, which is not a routine matter for this Commission.  
20 My vote speaks to the seriousness with which I take these  
21 issues. Having spent 12 years at a State Commission, it is  
22 my experience that market participants almost always have  
23 more information than the regulatory.

24 Transparency is the glue that permits regulators  
25 to do their job. In other words, a breakdown in trust is a  
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1 systemic risk to the regulatory construct and must be  
2 treated seriously by regulators because of that fact.

3 This proceeding will allow us an opportunity to  
4 establish a record and make a reasoned decision, while  
5 hopefully also sending an important message to market  
6 participants and the legal community.

7 Thank you.

8 CHAIRMAN WELLINGHOFF: Thank you, Tony, and I  
9 certainly second those comments. Anybody else have any  
10 comments on any item? That item, or any other items?  
11 Cheryl?

12 COMMISSIONER LaFLEUR: Well I guess I'll chime in  
13 on E-24, because when you have so many separate statements  
14 it's clear that it's an item that we've given a lot of  
15 thought to.

16 I am voting for the Order because I do believe  
17 that the allegations that are the subject of the Order, the  
18 allegations of misrepresentation, warrant further review and  
19 further consideration as the Order sets forth.

20 Commissioner Moeller and I wrote separately to  
21 highlight a consideration as to how we take the Order  
22 forward going forward. My concern is and has been that, in  
23 order to ensure our credibility as both a rate regulator and  
24 an enforcement agency, we have to be very clear about both  
25 parts of our jurisdiction and very clear that we not blur  
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1 the line between those jurisdictions, or ever put ourselves  
2 in a situation where it could look like we were leveraging  
3 our rate jurisdiction for our enforcement work.

4 And I have raised the thought that, as we move  
5 forward, when we see the facts that develop in this case we  
6 give serious consideration to treating it in the underlying  
7 enforcement action, and under the penalty guidelines, and  
8 that's what we'll see as we move forward under the Order  
9 that we vote out today.

10 Thank you.

11 CHAIRMAN WELLINGHOFF: Thank you, Cheryl.  
12 Anybody else?

13 (No response.)

14 CHAIRMAN WELLINGHOFF: All right, I think we're  
15 ready to go ahead with the Consent Agenda, Madam Secretary.

16 SECRETARY BOSE: We will now take the vote for  
17 today's Consent Agenda Items. The vote begins with  
18 Commissioner Clark.

19 COMMISSIONER CLARK: I vote aye on the Items on  
20 the Consent Agenda, nothing that I am not participating, by  
21 law, in E-14, and dissenting in E-19.

22 SECRETARY BOSE: Thank you. Commissioner  
23 LaFleur.

24 COMMISSIONER LaFLEUR: Noting my concurrence in  
25 E-24, I vote aye.

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1 SECRETARY BOSE: Commissioner Norris.

2 COMMISSIONER NORRIS: Aye.

3 SECRETARY BOSE: Commissioner Moeller.

4 COMMISSIONER MOELLER: Noting my separate  
5 concurrence in E-24 and my joint concurrence with  
6 Commissioner LaFleur in E-24, I vote aye.

7 SECRETARY BOSE: Chairman Wellinghoff.

8 CHAIRMAN WELLINGHOFF: I vote aye.

9 With that, if we could move to the Discussion  
10 Agenda, Please.

11 SECRETARY BOSE: There will be a presentation and  
12 discussion item on G-1 and G-3 together. This is concerning  
13 a Draft Notice of Proposed Rulemaking and Final Rule  
14 relating to Page 700 of FERC Form No. 6.

15 There will be a presentation by Monique Watson,  
16 from the Office of Energy Market Regulation. She is  
17 accompanied by James Sarikas from the Office of Energy  
18 Market Regulation; Andrew Knudsen, from the Office of  
19 General Counsel; and Andy Lyon, from the Office of the  
20 General Counsel.

21 CHAIRMAN WELLINGHOFF: Good morning.

22 MS. WATSON: Good morning, Mr. Chairman, and  
23 Commissioners:

24 We are here to present a Draft Notice of Proposed  
25 Rulemaking concerning Page 700 of FERC Form No. 6. Form 6

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1 is the Annual Report of Oil Pipeline Companies.

2 We are also here to present a Draft Final Rule  
3 which amends the instructions on Page 700 of Form 6. In  
4 addition to the staff at the table with me, we would like to  
5 thank Adrienne Cook of the Office of Energy Market  
6 Regulation, Peter Roidakis of the Office of General Counsel,  
7 Richard Palmer of the Office of the Executive Director, and  
8 Brian Holmes of the Office of Enforcement.

9 G-1 is a Draft NOPR that proposes to enhance Page  
10 700's usefulness by providing additional information that  
11 may be used to calculate an oil pipeline's actual rate of  
12 return on equity.

13 To achieve this objective, the Draft NOPR is  
14 proposing to implement changes to Page 700 to require  
15 pipelines to report certain data that is not now included on  
16 Page 700. This data relates to rate base, rate of return,  
17 return on rate base, and income taxes.

18 Specifically, the Draft NOPR proposes to require  
19 a pipeline to provide data relating to its rate base which  
20 is governed by the trended original cost methodology.

21 The Draft NOPR also proposes to require oil  
22 pipelines to report the adjusted capital structure ratio for  
23 long-term debt and proprietary capital, and the cost of  
24 long-term debt capital, and the real cost of proprietary  
25 capital as they are used to determine the overall Weighted  
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1 Cost of Capital currently reported as "Rate of Return" on  
2 line 6 of Page 700.

3 The Draft NOPR also proposes to require oil  
4 pipelines to report additional information related to the  
5 debt and equity components of the Return on Rate Base.

6 Finally, the Draft NOPR proposes to modify Page  
7 700 to include the pipeline's Composite Tax Rate used to  
8 determine the "Income Tax Allowance" reported on existing  
9 line 8 of Page 700.

10 We believe that these changes will increase the  
11 usefulness of Page 700. Prior to this proposal, any attempt  
12 to estimate an oil pipeline's actual return on equity  
13 required assumptions regarding several Cost of Service  
14 components, including Capital Structure, the Composite  
15 Income Tax Rate, the Return on Equity embedded in the  
16 pipeline's Page 700 Cost of Service.

17 The proposed modifications will facilitate the  
18 calculation of the actual Rate of Return on Equity based  
19 upon Page 700 data. The actual Rate of Return on Equity is  
20 particularly useful information when using Page 700 to  
21 evaluate an oil pipeline's rates.

22 We do not believe that the additional information  
23 proposed will impose a significant burden on oil pipelines  
24 because pipelines already must develop Cost of Service  
25 supporting calculations to determine the Income Tax  
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1 Allowance, Rate Base, Rate of Return, and Return on Rate  
2 Base reported on Page 700.

3 The Draft NOPR proposes a 60-day comment period.  
4 And the Draft NOPR proposes that the changes be effective  
5 for reporting in the 2013 Form 6, which must be filed on or  
6 before April 18th, 2014.

7 The Draft Final Rule in G-3 amends the  
8 instructions on Page 700 to ensure that oil pipelines report  
9 interstate-only barrel and barrel-mile data on lines (11)  
10 and (12) of Page 700, and not a combination of interstate  
11 and intrastate throughput.

12 The Draft Final Rule also directs pipelines that  
13 reported combined interstate and intrastate data in any  
14 field on lines (1) through (12) of Page 700 of their 2010  
15 Form 6, or Page 700 of their 2011 Form 6, to file a revised  
16 Page 700 containing only interstate data for the years 2009,  
17 2010, and 2011, within 90 days of the Draft Final Rule's  
18 publication in the Federal Register.

19 We believe the action in the Draft Final Rule  
20 will ensure the availability of complete Interstate Cost Per  
21 Barrel-Mile data consistent with the Commission's  
22 Regulation of Interstate Oil Pipeline Rates, and the intent  
23 of Page 700 to enable the Commission and shippers to analyze  
24 Interstate Pipeline costs.

25 This completes our presentation. We would be  
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1 happy to answer questions.

2 CHAIRMAN WELLINGHOFF: Thank you very much,  
3 Monique, and I want to thank the team for their work on  
4 these Orders related to the reporting of financial data by  
5 oil pipelines.

6 The revisions in the Final Rule, the G-3, will  
7 clarify the Interstate-Only Barrel and Barrel-Mile data that  
8 will be filed on Page 700 of the FERC Form No. 6, ensuring  
9 that the Form accurately reports the information necessary  
10 to analyze Interstate Pipeline costs.

11 Further, the NOPR G-1 seeks to strengthen the  
12 ability of shippers and the Commission to calculate an oil  
13 pipeline's actual Rate of Return on Equity, which reflects  
14 the relationship between the pipeline's revenues and its  
15 Cost of Service, and is thus particularly useful information  
16 to evaluate whether a pipeline's rates are Just and  
17 Reasonable.

18 The proposed Rule is a balance in asking for  
19 narrow categories of information which provides additional  
20 information to the shippers and the Commission, while  
21 guarding against any undue burden on the pipelines because  
22 the pipelines already must develop all of the proposed  
23 information in preparation of Page 700 Cost of Service.

24 The Interstate Commerce Act prohibits oil  
25 pipelines from charging rates that are Unjust and  
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1 Unreasonable, and permits shippers and the Commission to  
2 challenge the pipelines' rates. It is my hope that these  
3 proposed and final revisions to Page 700 will provide  
4 further clarity of the data underlying oil pipeline rates so  
5 that we can meet our responsibilities under the ICA.

6 Colleagues? Phil?

7 COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
8 It's a question, but I know the team knows the answer to it  
9 so it's to the point.

10 You did an estimate on the burden that this would  
11 impose on pipelines, and what was that estimate?

12 MS. WATSON: The burden was an additional half an  
13 hour to complete the form.

14 COMMISSIONER MOELLER: Per year?

15 MS. WATSON: Per year. And the reason why it was  
16 that fairly low number is because, as we say in the Order,  
17 the pipelines already have this intermediate data to reach  
18 the Rate Base Rate of Return information on the Form.

19 COMMISSIONER MOELLER: Thank you.

20 MS. WATSON: Thank you.

21 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

22 CHAIRMAN WELLINGHOFF: Thank you, Phil. John?

23 COMMISSIONER NORRIS: Thank you, Mr. Chairman. I  
24 don't think I have any questions. There was one point I  
25 wanted to make, as well, thoughts and comments on this  
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1 Order.

2 First of all, I'd thank the team for your work on  
3 both of these. I would just say that we're all familiar  
4 with the shale gas revolution that is occurring today, and  
5 the impact this revolution is having on the supply and  
6 prices of our Nation's energy resources.

7 The same technology that is powering this  
8 revolution is also fueling a dramatic increase in the  
9 production of oil and oil products in many parts of the  
10 country. In addition, wet shale plays are producing  
11 significant supplies of propane and other natural gas  
12 liquids.

13 As the industry looks to maintain and build out  
14 the infrastructure that brings these resources from  
15 production to market, it is critical to ensure that its  
16 rates, which underwrite this infrastructure, are Just and  
17 Reasonable.

18 Just and Reasonable rates protect shippers from  
19 paying excessive charges, while also ensuring that oil and  
20 liquid product pipelines have adequate incentives to  
21 construct needed infrastructure, all of which is to benefit  
22 our Nation's consumers.

23 The proposed rules we are issuing today are  
24 intended to better enable this Commission to fill our  
25 responsibility to ensure that rates are Just and Reasonable.

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1 In passing the Energy Policy Act of 1992, Congress made  
2 clear that the Commission was to adopt simplified generally  
3 applicable ratemaking methodology for oil pipelines.

4 And this Commission has adopted indexing  
5 procedures to, quote, "streamline oil pipeline rate  
6 matters." I believe the additional information that these  
7 rules propose to be included on FERC Form 6, Page 700, are  
8 in line with the '92 legislation, this Commission's  
9 subsequent rules and procedures adopted to implement that  
10 legislation, and the spirit of what Congress intended of us  
11 when it asked that the Commission adopt a more simplified  
12 approach to ratemaking.

13 As the NOPR indicates, the additional information  
14 proposed to be reported will impose almost no additional  
15 burden on the oil pipelines. As you stated, Monique, about  
16 30 minutes a year. And the information will better enable  
17 this Commission and empower shippers to more accurately and  
18 easily evaluate a pipeline's rates.

19 As the NOPR also states, prior to this proposal  
20 any attempt to estimate an oil pipeline's actual Return on  
21 Equity required assumptions--assumptions regarding several  
22 Cost of Service components; whereas, with access to readily  
23 available data, it will better enable this Commission to do  
24 our most fundamental job of ensuring rates are Just and  
25 Reasonable. We should take action to ensure that such data  
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1 is readily available, which we are doing here in this  
2 proposed Rule.

3 This will also enable shippers to see this  
4 important data regarding the rates that they have to pay.  
5 It provides them a reasonable level of self-protection. The  
6 Interstate Commerce Act provides an important avenue for oil  
7 and liquid product pipeline shippers to initiate action on  
8 rates which they believe are Unjust and Unreasonable.

9 Under this construct, I believe there is a  
10 heightened level of importance that shippers have access to  
11 data to enable them to have a reasonable level of  
12 protection. I believe the action we are taking today helps  
13 to restore some balance and provides a better process for  
14 maintaining just and reasonable rates, and I look forward to  
15 the comments that are provided to us on this Proposed Rule.

16 Thank you.

17 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl?

18 COMMISSIONER LaFLEUR: Well thank you. I would  
19 also like to thank the team. We don't take up the  
20 Interstate Commerce Act quite as often as some of the other  
21 parts of our jurisdiction so, as in other things, we really  
22 rely on staff in this area.

23 And I think this is, if memory serves, the first  
24 oil pricing case we've had on the discussion agenda since  
25 I've been on the Commission, or it's certainly one of the  
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1 very few. And I guess as Commissioner Norris said, that  
2 clearly reflects the increased pressure and utilization on  
3 our oil pipeline network with the increased production of  
4 domestic oil and all the natural gas liquids that are coming  
5 from the shale plays.

6 Obviously the Commission has less jurisdiction  
7 under the Interstate Commerce Act than we do in electricity  
8 or gas, and I think the very clear dimensions of the two,  
9 the Final Rule and the Proposed Rule that we propose to vote  
10 out really reflect that jurisdiction.

11 And I support the proposed changes to Form 6  
12 because I think they will give both shippers and the  
13 Commission the opportunity to have more data on the basis  
14 for oil pipeline rates to ensure that they're Just and  
15 Reasonable. And I hope we receive a wide range of comments  
16 from pipelines who I'm sure will comment, but shippers,  
17 producers, and consumer, and regulatory groups.

18 My question to the team is: Could you comment?  
19 You know, we read in the papers every day that there's so  
20 much more oil production, and so much pressure coming from  
21 the shale plays, could you comment on are we getting more  
22 filings coming in? What sorts of things are you seeing that  
23 led to the perception of the need for the Rule?

24 MR. LYON: Well in recent years the Commission  
25 has received a number of innovative proposals from  
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1 pipelines, usually presented in the form of petitions for  
2 declaratory order proposing various rate and operational  
3 proposals to ensure that there's additional infrastructure  
4 that's constructed to meet the demands of the production in  
5 these areas.

6 The Commission I think has taken it upon itself  
7 within the requirements of the Interstate Commerce Act to  
8 ensure Just and Reasonable rates, and to protect the Common  
9 Carrier obligation. They have improved a large number of  
10 these various proposals which have fostered further  
11 development of infrastructure.

12 And I expect that that will continue. In the  
13 coming months I'm sure we'll be receiving even more of these  
14 petitions for declaratory order.

15 COMMISSIONER LaFLEUR: Thank you.

16 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony?

17 COMMISSIONER CLARK: I too would like to thank  
18 the team for its work.

19 Hailing from the region that I do, these issues  
20 of shale oil and the amount of infrastructure that's both  
21 going into the ground and the impact that it's having on all  
22 aspects of the Commission jurisdiction are particularly  
23 interesting to me. So I really do appreciate your work.

24 I have one question, and maybe this is what we  
25 will get as we start to sift through the responses, but I  
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1 would be interested if the team has a sense for whether the  
2 proposal as it is moves the ball far enough down the field  
3 where shippers feel like they will be in a position where  
4 they do have enough information now on which to act?

5 In other words, are there perhaps 10 pieces of  
6 information that a shipper would really need to file a case,  
7 but this only gets them 6 of them? So all we've done is  
8 spill a lot of ink and at the end of the day they still are  
9 not in a position to make a filing? Or do you see this as a  
10 more significant change than that, that does permit them to  
11 have the sort of information that they'll need to make a  
12 more reasoned decision on whether to move forward with the  
13 case?

14 MR. LYON: Well in putting forth this Notice of  
15 Proposed Rulemaking, the team has considered this to be at  
16 this point a good start on presenting information, or  
17 getting additional information that will be useful.

18 I can say that both the pipeline industry and the  
19 shipper community have never been reluctant to submit  
20 whatever comments they thought were appropriate in proposals  
21 by the Commission. So I expect that we will receive a large  
22 number of them. And it is difficult at this point to really  
23 anticipate what the scope of those might be, but I am sure  
24 that they will address the full scope of this proposed  
25 rulemaking.

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1                   COMMISSIONER CLARK: And I would certainly  
2 encourage those comments. It helps the Commission make a  
3 better decision, and on the flip side from oil pipelines if  
4 they have a sense that the Commission has sort of  
5 misunderstood something and how much of a burden this might  
6 be, we want to hear those sorts of comments, as well. That  
7 is the reason we have these open proceedings.

8                   So again, thank you, and I look forward to  
9 hearing more on this topic.

10                  CHAIRMAN WELLINGHOFF: Thank you, Tony. And  
11 again I want to thank the team for your work on this.

12                  Madam Secretary, I believe we're ready for the  
13 vote on these two items, please.

14                  SECRETARY BOSE: As you mentioned, Chairman, we  
15 will be taking a vote on these items together. The vote  
16 begins with Commissioner Clark.

17                  COMMISSIONER CLARK: I vote yes.

18                  SECRETARY BOSE: 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: And Chairman Wellinghoff.

25                  CHAIRMAN WELLINGHOFF: Aye.

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1                   With that, if there's nothing further to come  
2 before the Commission, we are adjourned. Thank you.

3                   (Whereupon, at 10:34 a.m., Thursday, September  
4 20, 2012, the 984th open meeting of the Commissioners of the  
5 Federal Energy Regulatory Commission was adjourned.)

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