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Before the  
FEDERAL ENERGY REGULATORY COMMISSION  
988th Commission Meeting

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

The Commission met, pursuant to notice, at 10:02  
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, Director, OER  
DAVID MORENOFF, Acting General Counsel  
JIM PEDERSON, Chief of Staff  
JEFF WRIGHT, Director, OEP  
MICHAEL McLAUGHLIN, Director, OEMR  
JOSEPH McCLELLAND, Director, OEIS  
JAMIE SIMLER, Director, OEPI

1 FERC STAFF (Continued):

2 NORMAN BAY, Director, OE

3

4 PRESENTERS:

5 A-3 DAVID KATHAN, Office of OEPI

6

7 A-4: PATRICIA SCHAUB, OE

8 JANEL BURDICK, OE

9 MAURY KRUTH, OEMR

10 RAMA ZAKARIA, OE

11 E-4 MARIA VOURAS, OE

12 GARY COHEN, OGC

13 WILLIAM SAUER, OEPI

14 NANCY BOWLER, OE

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17 COURT REPORTER: Jane W. Beach, Ace-Federal Reporters, Inc.

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## 1 PROCEEDINGS

2 (9:02 a.m.)

3 CHAIRMAN WELLINGHOFF: Good morning. We've got  
4 lots of stuff up here. You know, Christmas and the holidays  
5 are all about stuff, you know.

6 (Laughter.)

7 CHAIRMAN WELLINGHOFF: Lots of stuff here. This  
8 is the time and place that has been noticed for the open  
9 meeting of the Federal Energy Regulatory Commission to  
10 consider matters that have been duly posted in accordance  
11 with the Government in the Sunshine Act. Please join me in  
12 the Pledge of Allegiance.

13 (Pledge of Allegiance recited.)

14 CHAIRMAN WELLINGHOFF: Well, since the November  
15 open meeting we have issued 80 National Orders, which is up  
16 from our 64 in the previous month. There are a few  
17 announcements this morning before we begin our agenda.

18 As we gather together with our families and  
19 friends for the holidays, please stop and take the time to  
20 give thanks for all the good things of the year just passed,  
21 to rejoice in our children, to enjoy the company of our  
22 loved ones.

23 We also have much to pause and be thankful for in  
24 this country, but we should also pause to help those who may  
25 be suffering from economic or emotional trials and  
26

1 tribulations.

2 And I am proud to report to you all that the good  
3 people of our Agency have stepped up to the challenge once  
4 again. We at FERC have currently raised \$435,300, or 118  
5 percent of our goal for the Combined Federal Campaign. So  
6 let me put that in a little bit of a perspective for you.

7 If we take 10 agencies of the Federal Government  
8 of similar size who participated in the Combined Federal  
9 Campaign for the National Capital Region, the per-capita  
10 pledges from those 10 range from a low of \$26 per person to  
11 a high of \$323 per person here at FERC. We were number one.  
12 The next-closest was \$253 per person.

13 Total dollars pledged ranged from a low of  
14 \$41,256 to a high of \$435,300--here at FERC. The next-  
15 closest to FERC was \$352,297. Again, FERC was number  
16 one.

17 Participation ranged from a low of 6 percent to a  
18 high of 61 percent--guess where? At FERC. And finally, the  
19 percentage pledged for goal ranged from a low of 40 percent  
20 to a high of 118 percent. Where was that at? Everybody?

21 MANY VOICES: At FERC.

22 CHAIRMAN WELLINGHOFF: At FERC. That's right.

23 So you see FERC is a very special place to be  
24 because of the people who work here day in and day out. And  
25 I have said many times, and it is truly heart-felt, our FERC

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1 staff are the best employees in the Federal Government.  
2 And, to borrow a phrase from Garrison Keillor: They're all  
3 way above average when it comes to competence, dedication,  
4 their depth of knowledge and skill, their work ethic,  
5 astounding creativity, and certainly as evidenced by their  
6 generous efforts for the Combined Federal Campaign, their  
7 commitment to the public good.

8 So I want to thank each and every one of you, and  
9 wish every one of you a very merry holiday season and a safe  
10 and prosperous New Year.

11 So at the end of the year, it is also time when  
12 we often have to say goodbye and thanks to some special  
13 colleagues.

14 First, it is my privilege to announcement the  
15 retirement of Kevin Kelly of our Energy Policy and  
16 Innovations Office.

17 Prior to joining the Commission, Kevin carried  
18 out a distinguished career as an energy policy guru. He was  
19 the Director of the Office of Electricity, Coal, Nuclear,  
20 and Renewable Policy at the U.S. Department of Energy. They  
21 had them all combined in one office. In that position,  
22 Kevin was responsible for strategic vision for implementing  
23 the Energy Policy Act of 1992.

24 Kevin joined the Commission in 1994. Since that  
25 time, Kevin has been instrumental in policies and strategies  
26

1 underlying the initiation and implementation of numerous  
2 landmark Orders, including the Commission's Orders on Open  
3 Access Transmission, Regional Transmission Organizations,  
4 Removing Barriers To Nontraditional Resource Participation  
5 In Wholesale Markets, and most recently Regional  
6 Transmission Planning and Cost Allocation.

7 Kevin's performance at FERC and his contributions  
8 to the Office of Energy Policy and Innovation are an  
9 enduring legacy. Seven generations of Chairmen and  
10 Commissioners have been extremely well-served by Kevin  
11 Kelly's insights and counsel.

12 For me personally, I have always been very  
13 appreciative and admired Kevin's depth of institutional  
14 history and comprehensive knowledge of energy policy that he  
15 commands, enabling him to provide me with informed and  
16 measured perspective on any idea or initiative that he and I  
17 would discuss.

18 Kevin has been a truly valued Chairman's advisor  
19 to me and all of my predecessors. So it is with great  
20 pleasure that I present Kevin with the Chairman's Medal.

21 Colleagues, comments?

22 COMMISSIONER MOELLER: I will be brief, Mr.  
23 Chairman. Kevin is not only known for his competence, but  
24 for decades as just being one of the really good guys. So  
25 an outstanding representative of FERC and I am thrilled that

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1       you are giving him the award.

2                   CHAIRMAN WELLINGHOFF: Thank you. John?

3                   COMMISSIONER NORRIS: I probably have the same  
4       sentiments down the road here, but I think I first ran into  
5       Kevin my first year on the State Commission in Iowa, back in  
6       2005, and I always found him to be thoughtful and  
7       resourceful. But the most memorable thing about Kevin for  
8       me is he is just a friendly guy and I really appreciate  
9       that. Hopefully that's about the nicest thing you can say  
10      about somebody. Thanks, Kevin, wherever you're sitting.  
11      There you are.

12                   (Laughter.)

13                   CHAIRMAN WELLINGHOFF: Unassuming in the back, as  
14      usual.

15                   COMMISSIONER LaFLEUR: Well as everyone has said,  
16      Kevin is like a guru of everything that has happened in the  
17      past at FERC, and I think has been a trainer of generations  
18      of Commissioners. And I certainly put myself in that  
19      number.

20                   The first time I met Kevin he gave me a  
21      PowerPoint that explained how transmission cost allocation  
22      was done in all the regions of the country. That is now  
23      like falling apart and I have had to re-staple it several  
24      times.

25                   (Laughter.)

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1                   COMMISSIONER LaFLEUR: So Kevin's legacy will  
2 continue in everyone's file cabinets, besides in the grid  
3 itself. Thank you.

4                   CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony.

5                   COMMISSIONER CLARK: Let me add my voice to the  
6 chorus. Like Commissioner Norris, the first time I met  
7 Kevin was when I was on the State Commission, not at FERC,  
8 and it just reminds me that his retirement is not only a  
9 loss and hard shoes to fill for FERC, but really for the  
10 entire regulatory community. So, Kevin, thanks for your  
11 career and look forward to staying in touch.

12                   CHAIRMAN WELLINGHOFF: Kevin, if you would come  
13 up, please.

14                   (Chairman's Medal presentation is made.)

15                   (Applause and standing ovation.)

16                   CHAIRMAN WELLINGHOFF: Next I would like to  
17 announce the retirement of Chuck Schneider, Director of the  
18 Office of Executive Director. Chuck has had a very  
19 distinguished career.

20                   He began his federal service in July of 1969 in  
21 the U.S. Navy and was commissioned an Officer in July of  
22 1970. During his service, Chuck has been recognized with  
23 many awards: Meritorious Service Medal with the Gold Star,  
24 Navy Commendation Medal, Navy Achievement Medal with a Gold  
25 Star, Navy Unit Commendation with a Bronze Star, National  
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1 Defense Service Medal with a Bronze Star, Overseas Service  
2 Ribbon with a Bronze Star.

3 Chuck began his civilian Federal Service with the  
4 Smithsonian as a supervisory civil engineer in December of  
5 1991. He then joined the National Gallery of Art, serving  
6 as their Deputy Administrator from March of 1995 to June of  
7 2005.

8 He was appointed as a member of the Senior  
9 Executive Service in June 2005 when he became the Executive  
10 Director for the Federal Trade Commission.

11 We were able to lure Chuck away from the FTC in  
12 December of 2010 where he became our Executive Director, a  
13 position that wears many hats, as you know, overseeing the  
14 Commission's financial, information technology, and human  
15 capital functions.

16 Chuck has been an excellent financial steward for  
17 the Commission. During his tenure at FERC Chuck's  
18 accomplishments include an unprecedented 18 consecutive  
19 Unqualified Financial Statement audit opinions, successfully  
20 directing a Commission-wide Workforce Reshaping Assessment  
21 to review the future programmatic administrative and  
22 operations workforce needs, and successfully overseeing the  
23 modernization of the Commission's IT financial, and human  
24 resources processes.

25 It gives me great honor to recognize Chuck's  
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1 military and civilian service, and specifically his service  
2 here at FERC, with the Commission's Flag Award.

3 Colleagues?

4 COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
5 Chuck is a real gentleman. Obviously he is a dedicated  
6 public servant throughout his career. I know he's a huge  
7 baseball fan. And so in his retirement I wish you many  
8 sunny afternoons of watching whoever you choose to watch,  
9 Chuck.

10 (Laughter.)

11 COMMISSIONER MOELLER: Thank you for guiding us  
12 through the last few years here.

13 CHAIRMAN WELLINGHOFF: John.

14 COMMISSIONER NORRIS: Yes, thanks, Chuck, for not  
15 just your service here--I know it was brief--but it was felt  
16 by your great leadership, but also your incredible record of  
17 public service to this country. So thank you, very much.

18 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

19 COMMISSIONER LaFLEUR: Well I know from all the  
20 different jobs I've had that sometimes the behind-the-  
21 scenes' work that it takes to run a place like this is a  
22 heck of a lot more than meets the eye, and all the work that  
23 Chuck, and actually everyone in the Office of the Executive  
24 Director does, is what allows us to do what we do.

25 So thank you. We were lucky to have you here.

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1 And if my memory serves, you have New England in your  
2 future. So maybe our paths will cross. Thank you.

3 CHAIRMAN WELLINGHOFF: Tony.

4 COMMISSIONER CLARK: Well Commissioner Moeller  
5 hit the nail on the head. "Gentleman" is the word that  
6 comes to mind when I think about Chuck. And, although our  
7 terms haven't overlapped a lot, I have certainly appreciated  
8 the opportunity to work with you and all you did to get me  
9 up to speed. Chuck even got me my realtor when I moved to  
10 D.C.

11 (Laughter.)

12 COMMISSIONER CLARK: So he gets meritorious  
13 service for that, and everything worked out well.

14 So, Chuck, thank you and congratulations.

15 CHAIRMAN WELLINGHOFF: Thank you, Tony.

16 Chuck, if you would come up, we have a little  
17 award here for you.

18 (Applause and standing ovation.)

19 CHAIRMAN WELLINGHOFF: Thank you, Chuck. Thank  
20 you, so much. Somehow I don't see Chuck just retiring. I  
21 think he's going to be doing a lot of things after he leaves  
22 FERC.

23 Well, there is one final announcement, and that  
24 is a new appointment at FERC. I am extremely pleased to  
25 announce that Anton Porter has accepted the position as the  
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1 Commission's new Executive Director. Anton has been the  
2 Deputy Chief Financial Officer, or the Chief Financial  
3 Officer, for the past seven years. He also serves as the  
4 Chairman of the Small Agency Council's Finance Committee.

5 I have every confidence, given Anton's skill,  
6 experience, and work ethic, that he will carry on in the  
7 exemplary tradition of our two immediate past EDs, Tom  
8 Hurlahee and Chuck Schneider. Congratulations, Anton.

9 (Applause.)

10 CHAIRMAN WELLINGHOFF: With that, Madam  
11 Secretary, we can move the Consent Agenda, please.

12 SECRETARY BOSE: Good morning, Mr. Chairman.  
13 Good morning, Commissioners. Since the issuance of the  
14 Sunshine Act Notice on December 13th, 2012, no items have  
15 been struck from this morning's agenda. And your Consent  
16 Agenda is as follows:

17 Electric Items: E-1, E-2, E-3, E-5, E-7, E-8,  
18 E-9, E-11, E-12, E-13, E-14, E-15, E-16, E-17, and E-22.

19 Gas Items: G-1, G-2, G-3, G-4, and G-5.

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

21 Certificate Items: C-1, C-2, and C-3.

22 As required by law, Commissioner Clark is not  
23 participating in Consent Items E-1 and E-5.

24 CHAIRMAN WELLINGHOFF: On Today's agenda we will  
25 be voting on two Orders related to Valley Electric

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1 Association, a member-owned electric cooperative based in  
2 Pahrump, Nevada, which is proposing to join the CALISO  
3 effective January 3rd, 2013.

4 We are also voting on Tariff provisions for the  
5 City of Colton, California, which will become a member of  
6 CALISO effective January 1st, 2013.

7 On December 13th, the MISO Board of Directors  
8 approved applications for transmission-owning membership by  
9 Entergy Arkansas, Entergy Gulf States, Entergy Louisiana,  
10 Entergy Mississippi, Entergy New Orleans, Entergy Texas, and  
11 the South Mississippi Electric Power Cooperative  
12 Association.

13 Also this month CLECO submitted a filing to the  
14 Louisiana Public Service Commission for approval to join  
15 MISO. And earlier this year, the East Kentucky Power  
16 Cooperative filed a request with the Kentucky Public Service  
17 Commission to integrate its system into PJM.

18 In the wake of Order 2000 issued by the  
19 Commission this day 13 years ago, RTOs were formed to  
20 promote efficiency in wholesale electric markets to ensure  
21 that electricity consumers pay the lowest price possible for  
22 reliable service.

23 While the Commission set forth principles for RTO  
24 structure and practice, the RTOs developed their own tariffs  
25 and agreements for self-governance. And the membership was  
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1 always voluntary.

2 It is gratifying to see that over the years RTO  
3 development has been successful such that a variety of  
4 entities from member-owned cooperatives to multi-state  
5 investor-owned utilities have found it to their benefit to  
6 pursue membership in established RTOs.

7 Thus, it has been a big year for new entities  
8 joining RTOs, and I look forward to seeing what further  
9 developments the new year will bring for the RTO sector.

10 Colleagues, any comments on any of the agenda  
11 items, the consent items? John?

12 COMMISSIONER NORRIS: Yes. Thank you, Mr.  
13 Chairman. I just want to make a few comments on E-5, which  
14 is the NERC's Proposed Bulk Electric System Definition,  
15 mainly to highlight the process that led to I think the  
16 success story of the ongoing process to improve the  
17 development and implementation of mandatory reliability  
18 standards.

19 I know speed is relative, but in this area of  
20 rulemaking it is probably always frustrating that it takes  
21 longer than we think it should, but this one particularly  
22 was completed in two years from our Order No. 743 where we  
23 directed NERC to revise this definition of the BES and  
24 today's final rule. That involved NERC having an industry  
25 stakeholder process, the Commission issuing a proposed rule  
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1 from the results of that process, and the comments that we  
2 analyzed leading to today's final rule.

3 So that relative to time was good work, and I  
4 want to cite the fact that this is the effort when NERC and  
5 FERC work together to minimize surprises, if you will, and  
6 utilize stakeholder input. It shows that we can do this and  
7 ge a quality product out in a reasonable amount of time.

8 I would note there are two instances in this  
9 Order where the Commission reserves for ourselves to direct  
10 a role in defining the BES. Specifically, the Draft Final  
11 Rule concludes that, where necessary, questions of fact  
12 regarding whether a facility is local distribution would be  
13 resolved by the Commission rather than the NERC exemption  
14 process. And also the Final Rule says that the Commission  
15 has authority under 2.15 to act as its own--acts on our own  
16 to designate the facilities for inclusion in the BES if it  
17 finds such action is necessary.

18 As I have said many times, I think the FERC/NERC  
19 relationship works best when FERC sets the overall policy  
20 direction and leaves the day-to-day implementation of that  
21 mandatory reliability standard regime to NERC and the  
22 stakeholders and the regional entities and industry.

23 These two portions of the Final Rule in some  
24 measure deviate from that framework. So I think we just  
25 have to keep an eye on this and make sure that if  
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1       there's--as we say in the Order, these should be rare  
2       instances where FERC is making that determination. Keep an  
3       eye on it and make sure it is not reflective of any problems  
4       out there, but overall I think this Order is a good example  
5       of FERC/NERC working together, communicating, and reaching a  
6       great result in a reasonable amount of time.

7                So I want to compliment everyone who helped work  
8       on this.

9                CHAIRMAN WELLINGHOFF: Thank you, John. Other  
10       comments on the Consent Agenda items? Cheryl?

11               COMMISSIONER LaFLEUR: Yes. I also wanted to  
12       comment on E-5 because I think today's Final Rule that  
13       approves a new foundational definition of the Bulk Electric  
14       System is really a significant moment in our oversight of  
15       the Electric Reliability Grid.

16               As Commissioner Norris noted, the definition we  
17       approve today eliminates the concerns that we noted in Order  
18       No. 743 last year. In particular, it eliminates the broad  
19       regional discretion and replaces it with a general 100 kV  
20       threshold, a thoughtful and I think very nuanced list of  
21       specifically included and excluded facilities, and an  
22       exception process going forward to add or remove specific  
23       facilities.

24               I believe that not only does it address our  
25       concerns, but it is a major step forward in making sure that  
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1 the standards apply to all the facilities that are necessary  
2 for the reliable operation of the Grid.

3 Just a couple kind of notes on the Order. I  
4 think that the definition we approve today very carefully  
5 reflects the limits of our jurisdiction over reliability.  
6 In the Notice of Proposed Rulemaking we voted out last year,  
7 we deferred the question of whether the definition of "local  
8 distribution" under Section 2.15 was the same as the  
9 definition of "local distribution" under 2.01 of the  
10 statute.

11 In Today's Final Rule we answer that question and  
12 find that it is the same definition, and that the Commission  
13 will apply the seven-factor test, among other standards, in  
14 carrying out looking at exceptions to 2.15 under the  
15 statute. I think that is an important clarification.

16 Today's Order, as Commissioner Norris noted, also  
17 illustrates the success of a paradigm we've been trying to  
18 work toward in our review of NERC proposed standards in  
19 which, starting in Order No. 743, the Commission identifies  
20 the concerns that we have and then gives NERC and the  
21 industry the opportunity to meet those concerns either in a  
22 way that we suggest or in an alternative way that is equally  
23 effective.

24 And NERC really stepped up--NERC and all the  
25 volunteers from industry that worked on this I think really  
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1 stepped up with focus and timeliness to give us a proposed  
2 standard that really did respond to our concerns, not in  
3 exactly the way we said but in an equally effective way.

4 I also want to thank all the folks at FERC who  
5 worked on this and turned the proposed rule around in six  
6 months and with a very well-written, I think a very well-  
7 written Order and a well-illustrated Order. It is great to  
8 see one-liners in FERC orders. You don't see them that  
9 often.

10 I also just think it is, because we are closing  
11 out a year, it is appropriate to consider today's Order in  
12 the context of our larger relationship and efforts on the  
13 Bulk Electric System.

14 In the past year the Commission has voted out  
15 approving rules on things as diverse as cyber security and  
16 vegetation management, and also ordered NERC to work on  
17 standards to address geomagnetic disturbances.

18 I know that NERC and its stakeholders are working  
19 very hard right now to both improve the standards process  
20 and come up with new compliance protocols, building on the  
21 FFT that we approved. And we really look forward to hearing  
22 about those early in the new year.

23 The road has sometimes been bumpy, but I believe  
24 that FERC and NERC have accomplished a lot together. And as  
25 we move forward to advance our shared goal to improve  
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1 reliability for customers, I hope we can build on the  
2 process and the success that's reflected in the Order today.

3 Thank you.

4 CHAIRMAN WELLINGHOFF: Thank you, Cheryl.  
5 Anybody else on the Consent Agenda?

6 (No response.)

7 CHAIRMAN WELLINGHOFF: Madam Secretary, I think  
8 we are ready to vote.

9 SECRETARY BOSE: Thank you, Mr. Chairman.

10 The vote begins with Commissioner Clark.

11 COMMISSIONER CLARK: Noting my recusals in E-1  
12 and E-5, I vote aye.

13 SECRETARY BOSE: Commissioner LaFleur.

14 COMMISSIONER LaFLEUR: I vote aye.

15 SECRETARY BOSE: Commissioner Norris.

16 COMMISSIONER NORRIS: Aye.

17 SECRETARY BOSE: Commissioner Moeller.

18 COMMISSIONER MOELLER: Aye.

19 SECRETARY BOSE: And Chairman Wellinghoff.

20 CHAIRMAN WELLINGHOFF: Aye.

21 I think we are ready then to move on to the  
22 Discussion Presentation Agenda.

23 SECRETARY BOSE: The first item for discussion  
24 and presentation this morning will be on Item A-3 concerning  
25 the 2012 Assessment of Demand Response and Advanced  
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1 Metering.

2                   There will be a presentation by David Kathan from  
3 the Office of Energy Policy and Innovation, and there will  
4 be a PowerPoint presentation on this item.

5                   (A PowerPoint presentation follows:)

6                   MR. KATHAN: Mr. Chairman, Commissioners, good  
7 morning:

8                   Today the FERC staff will publish its seventh  
9 annual staff report entitled "Assessment of Demand Response  
10 and Advanced Metering." The Energy Policy Act of 2005  
11 requires the Commission to publish an annual report on the  
12 penetration of Advanced Metering and Demand Response  
13 Programs by region in the United States.

14                   Today's report contains the results of a  
15 voluntary survey of more than 3,300 companies in the United  
16 States, including investor-owned and municipal utilities,  
17 rural electric cooperatives, power marketers, and others.  
18 More than 1,900 companies responded to the 2012 survey, a  
19 survey response rate of 59 percent.

20                   The results show continued significant growth in  
21 advanced metering deployment in the United States. Advanced  
22 meters comprised about 23 percent of all electric meters in  
23 the United States in 2011, compared to less than 9 percent  
24 in 2009. The report also reviews advanced metering  
25 developments under the American Recovery and Reinvestment  
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1 Act and other federal and state programs.

2 The megawatt capability of all U.S. demand  
3 response programs also continues to grow substantially. The  
4 report estimates nearly 72,000 megawatts of demand response,  
5 or almost 10 percent of U.S. coincident peak demand. This  
6 is an increase of about 13,000 megawatts between 2009 and  
7 2011.

8 To gauge the relative speed of this growth in  
9 demand response participation, staff compared the most  
10 recent results from the survey to the estimate of national  
11 demand response potential in our "2009 National Assessment  
12 of Demand Response Potential."

13 There, staff estimated potential growth in demand  
14 response programs under a range of scenarios, including an  
15 expansion of then-existing demand response programs to all  
16 states. In that scenario, staff projected 82 gigawatts of  
17 demand response by 2019.

18 Our 2012 survey results of 72 gigawatts, although  
19 not directly comparable to the assumptions underlying  
20 staff's 2009 estimate, reflects the increased focus on and  
21 incorporation of demand response into meeting energy needs.

22 Also discussed in the report are the Commission's  
23 demand response actions, a review of remaining barriers to  
24 demand response as required by the Energy Policy Act of  
25 2005, and Smart Grid developments that support demand  
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1 response programs.

2 The complete report and databases of survey  
3 responses--along with previous reports in this series--are  
4 available on the Commission's website at [www.ferc.gov](http://www.ferc.gov).

5 I would like to thank members of the project team  
6 for their dedication and contributions to this project:  
7 Robin Aldina, Michael Lee, Lisa Medearis, and Andy Wilkerson  
8 and the contractor assistance provided by Z Inc. and DNV  
9 KEMA.

10 This concludes my presentation. I would be happy  
11 to take any questions.

12 CHAIRMAN WELLINGHOFF: Thank you, David. And  
13 here is the report [holding up the report], right here, that  
14 is going out today. And I do want to thank the entire team.  
15 I want to thank you for the briefing, David, and the entire  
16 team for the work you've done, and the contractors.

17 I also want to thank all those who responded to  
18 the voluntary survey. I know it is voluntary, but as a  
19 result of their time and effort we have a good  
20 representation of the work going on around the country.  
21 Without those 1,900 distribution utilities who contributed,  
22 we really could not have done what we did.

23 It allows the reader to see significant trends  
24 developing in both advanced metering and demand response  
25 capability, and I think we are seeing these trends with the  
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1 information that David has provided.

2 I've got a couple of questions, David. What are  
3 some of the factors driving the increase in demand response  
4 capability?

5 MR. KATHAN: Well it came from both the wholesale  
6 and the retail sectors. If I was to point to anything, I  
7 would point to in the wholesale that there was an expansion  
8 of demand response in particular in PJM in the Forward  
9 Capacity Markets. But there is also an increase in the use  
10 of demand response in MISO's load-modifying resources  
11 program.

12 But also there was an increase in the retail  
13 side, and especially in time-of-use programs in various  
14 parts of the country, particularly in the Southeast, and  
15 actually in the SPP region also.

16 CHAIRMAN WELLINGHOFF: And I know as part of the  
17 Demand Response Assessment 2009 we developed a tool to allow  
18 utilities, state regulators, and other interested parties to  
19 use the data for their state to analyze the effects of  
20 developing a demand response potential in their area.

21 Is that tool still available on FERC's website?  
22 And can the data from the report we're releasing today be  
23 used to update the tool with this new information on  
24 installed metering and demand response capabilities?

25 MR. KATHAN: Yes. That tool is still available,  
26

1 and it's available for download and for use off of our  
2 website. And when the tool was developed, the expectation  
3 was that others, including state PUCs, would have access to  
4 it. And the data provided by this latest survey could be  
5 used to update that tool. And we are aware that it has been  
6 in use. There's the Multi-State Interconnection-wide  
7 planning efforts that have been working on and using that  
8 tool, and the new data should be very beneficial to their  
9 work to improve and to gain an assessment of what the amount  
10 of demand response is in their regions.

11 CHAIRMAN WELLINGHOFF: Good. Well I think this  
12 is all good news. I think it shows that we are providing  
13 customers with more information about their consumption of  
14 electricity and associated prices, and hopefully we will be  
15 able to offer more options in that regard to make use of  
16 those prices.

17 Thank you, David.

18 Colleagues, any--Phil?

19 COMMISSIONER MOELLER: David, you have been at  
20 this awhile. You are kind of a grizzled veteran--and I mean  
21 that complementary.

22 (Laughter.)

23 CHAIRMAN WELLINGHOFF: In the best way, right?

24 COMMISSIONER MOELLER: In the best way, yes.

25 When you take a look at the request that is just  
26



1 out, I am curious. Maybe a couple of take-aways on the  
2 positive side, and where the challenges are, what you saw  
3 from here. And maybe you alluded to it in your answer to  
4 the Chairman with Real-Time, but what do you see as a really  
5 positive trend and perhaps of course, setting aside our  
6 friendly disagreement on compensation, what do you see as  
7 the challenges in this sector?

8 MR. KATHAN: Well I think that some of the real,  
9 things that have really happened, as I've already indicated,  
10 are the increase in the use and deployment of demand  
11 response. But the fact that advanced metering has  
12 accelerated in its deployment I think will be very important  
13 to support future demand response, both at the retail and  
14 the wholesale. I think that's really a good--new  
15 developments.

16 As far as challenges, we actually do discuss,  
17 have several barriers in the report. And in particular  
18 we've listed, you know, four major ones. Which was the need  
19 for improved cost-effectiveness tools and methods to  
20 determine how demand response can be measured for its  
21 cost/benefit.

22 We also suggested there is a need for improved or  
23 increased focus on measurement of demand reductions. We  
24 also looked at the need--that there's a problem--well, not  
25 quite a problem--there's a lack of customer awareness and  
26

1 engagement on demand response. And that is something that  
2 definitely work could be done on.

3 And also there is a need to focus on demand  
4 response specific forecasting tools and estimation tools.  
5 And actually a lot of work has been done on it. We talk  
6 about that in the report. And in particular, the Department  
7 of Energy has been sponsoring an effort, which we have been  
8 supporting, staff at FERC, called the National Forum on The  
9 Demand Response National Action Plan. And on those four  
10 areas I've already listed there will be--you know, work has  
11 been underway with being led by various experts around the  
12 country with working groups to examine and develop what is  
13 needed, what do we know now on those four areas. And that  
14 should be out within about the next month or so.

15 COMMISSIONER MOELLER: Thank you.

16 CHAIRMAN WELLINGHOFF: Thank you, Phil. John?

17 COMMISSIONER NORRIS: Thanks for noting David's  
18 long-term work on this. I was thinking as you were  
19 speaking, I think the same time I started on the State  
20 Commission and I met Kevin Kelly, you said it was seven  
21 years this report has been in existence? I think that was  
22 my first year on the commission about seven years ago when  
23 we were having to file the first survey that maybe perhaps  
24 you were doing, David.

25 So I also want to commend everybody who  
26

1 participated in the survey. We are dependent upon folks  
2 participating, and that was a great participation rate. So  
3 I want to cite that, and the positive picture this paints.

4 You noted the advanced metering increase here in  
5 your comments to Phil. What do--do you see different parts  
6 of the country making more progress? Is where they're  
7 making progress attributable to certain state action, or RF  
8 funds? Can you give us any more insight into how this is  
9 happening? Because it's clear that advanced metering is a  
10 great facilitator of demand response.

11 MR. KATHAN: Well our report does actually break  
12 down the advanced metering by state, and actually by region  
13 also. So if you look in the report, we have identified  
14 three areas which have the highest penetration at this  
15 point. And that's the West; that's the ERCOT part of Texas;  
16 and Florida.

17 And what is driving that? Well, these are  
18 decisions that have been made a number of years past. The  
19 states have realized the value of advanced metering, and it  
20 is ultimately their decision. And so many of these  
21 utilities in the areas I mentioned have made plans to do  
22 advanced metering deployments for years.

23 The ARA funding actually was a, no doubt a means  
24 to accelerate that deployment. But I think the states like  
25 California, Texas, and several in the Southeast have  
26

1 approved advanced metering prior to ARA. And a lot of what  
2 you are seeing now in this year's report is the fruition of  
3 those decisions made several years back.

4 COMMISSIONER NORRIS: Okay. Thanks. I recall  
5 that early on my State Commission days as well I had a  
6 meeting with a utility executive and I asked, you know, when  
7 are they going to be deploying these advanced meters so we  
8 can get more demand response in Iowa. And the response was:  
9 Well, we're going to wait and see how it works out for  
10 California first.

11 (Laughter.)

12 COMMISSIONER NORRIS: I'll never forget that  
13 conversation. So I've monitored it over the years, and it  
14 is interesting how state policies really are having an  
15 impact on this, and state commissions working with the  
16 utilities to approve the deployment of these. And now some  
17 success from that is good to see, and hope folks around the  
18 country will take note.

19 I also want to thank the team for adding the  
20 chapter on the Standards Development, Smart Grid Standards  
21 Development. I think it is very useful. People often ask  
22 me about the role FERC is playing in the standards  
23 development. Can you give us a brief description of where  
24 you think that stands, and what role you think the  
25 Commission should have or will have going forward?

26

1           MR. KATHAN: Well, Commission staff continues to  
2 monitor the National Institute of Standards and Technology's  
3 effort on Smart Grid Interoperability Standards' development  
4 process and related activities that is being fostered by the  
5 Smart Grid Interoperability Panel, SGIP, as necessary to  
6 inform management on developments in the NIST SGIP process.  
7 And that may warrant consideration of Commission action.

8           As the report describes, NIST and SGIP continue  
9 to make progress towards the development of Smart Grid  
10 Interoperability Standards. In particular, one I would like  
11 to point to is some activity that has been done in the SGIP  
12 process on the development of OPN ADR 2.0. OPN ADR 2.0 was  
13 an important new standard for communicating demand response  
14 signals and information to buildings. I think that is one  
15 of several that the SGIP has been doing that has  
16 implications for demand response.

17           CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

18           COMMISSIONER LaFLEUR: Well thank you, David, and  
19 thank you to the team that worked on the report. It is  
20 clear that demand response has come a long way since we were  
21 sending out radio signals to the water heaters in the late  
22 '80s--although I probably shouldn't make comments like that  
23 because then I sound grizzled.

24           (Laughter.)

25           COMMISSIONER LaFLEUR: Last week I know I tagged  
26

1 along with you at the Northeast Energy Efficiency Project,  
2 and we heard a lot about the difficulty of getting multi-  
3 state data and getting comparable consistent data. And I  
4 think these reports like this really provide a very  
5 important service in that.

6 Looking at the report, one of the things that is  
7 clear is that different regions of the country have had very  
8 different experiences in utilizing the peak demand reduction  
9 that's available. You know, the report maps out how much of  
10 peak reduction could be achieved, and how much has been  
11 achieved.

12 Could you comment, besides the AMI that you've  
13 already talked about, what are some of the factors why some  
14 regions have achieved so much more of their demand response  
15 that might be things we can learn from?

16 MR. KATHAN: There are lots of factors that lead  
17 to why one particular region has more demand response than  
18 another. And we've been looking at that across our various  
19 reports, and that is one of the reasons we have been  
20 developing the survey over the years to try to have  
21 consistency of reporting. We are also working on looking at  
22 possible changes in our next survey in order to improve  
23 consistency.

24 But as far as how much is being done across the  
25 country, there's a variety of reasons such as need for  
26

1 peaking capacity; availability of lower cost resources like  
2 in the Pacific Northwest. With hydro it's less cost-  
3 effective for peak reductions. Availability of technology.  
4 Availability of customers that are able to participate.  
5 There's a variety of reasons.

6 COMMISSIONER LaFLEUR: Thank you. I mean, I  
7 guess our goal is that everyone sees that it is a tool, that  
8 it's there. Different people need it to different extents,  
9 that's clear. Thank you.

10 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony?

11 COMMISSIONER CLARK: No questions. But just  
12 thanks to the team for a report that I know is a great  
13 undertaking. Maybe the observation that I had that really  
14 struck me I think was similar to a number of the other  
15 comments we've heard today, which is with regard to the  
16 large increase in AMI, which I take a lot of heart from.

17 I see that as a big take-away from this, and  
18 something that is very good in moving us towards I think  
19 where a lot of us would like to go. A lot of FERC activity,  
20 it seems to me, in regards to attempting to recognize DR in  
21 the wholesale marketplace comes about because there's this  
22 firewall, this curtain between wholesale prices and retail  
23 prices, and the fact that the value of demand response is  
24 not always reflected in retail rates, the value that it  
25 brings on the wholesale side.

26

1                   And to the degree that more of this AMI is  
2                   deployed, then it provides that case that we could maybe  
3                   move towards a more dynamic retail pricing scheme, or  
4                   something closer to real-time type pricing, which then may  
5                   get us away from some of the need to have some of the more  
6                   complex and, as Commissioner Moeller noted, more  
7                   controversial constructs that FERC has had to come up with.

8                   So I see that as a very positive thing.  
9                   Obviously it creates the need for close coordination with  
10                  our state colleagues, because it is on that retail side.  
11                  But I take a lot of heart from that movement towards AMI.

12                  So thank you for the report.

13                  CHAIRMAN WELLINGHOFF: Thank you, Tony. And  
14                  thank you again, David. We appreciate it.

15                  Madam Secretary, our next presentation.

16                  SECRETARY BOSE: Mr. Chairman, before moving on  
17                  to our next item, I just want to remind our audience to turn  
18                  off all cellular devices as they do interfere with our  
19                  microphone system and can cause the interference you're  
20                  hearing. Thank you.

21                  The next item for presentation and discussion  
22                  will be on Item A-4 concerning the California Cap and Trade  
23                  Overview. There will be a presentation by Patricia Schaub  
24                  from the Office of Enforcement. She is accompanied by Janel  
25                  Burdick and Rama Zakaria from the Office of Enforcement, and  
26



1 Maury Kruth from the Office of Energy Market Regulation.  
2 There will be a PowerPoint presentation on this item as  
3 well.

4 CHAIRMAN WELLINGHOFF: Good morning,  
5 (A PowerPoint presentation follows:)

6 MS. SCHAUB: Good morning.

7 Good morning, Mr. Chairman, and Commissioners:  
8 California begins enforcement of its cap and  
9 trade program in January 2013. We have been monitoring the  
10 development of this program for its potential implications  
11 for Western wholesale power markets. This presentation  
12 focuses on describing the program and looks specifically at  
13 elements that may affect the power markets.

14 California's Air Resources Board, or CARB, has  
15 primary responsibility for implementing Assembly Bill 32.  
16 Its regulations are aimed at reducing emissions of  
17 greenhouse gases--known in carbon equivalents--to 1990  
18 levels by the year 2020.

19 CARB has set caps on the annual amount of  
20 emissions each year which decline through 2020. One aspect  
21 of California's program to achieve these emission reductions  
22 is the cap and trade program.

23 Compliance with cap and trade is phased in, with  
24 electric industry and energy intensive manufacturing  
25 beginning in 2013. Other sectors, including transportation  
26

1 fuels and natural gas consumed by residential and commercial  
2 sectors will begin in 2015.

3 Entities that emit 25,000 Metric Tons of Carbon  
4 Dioxide Equivalents or more each year must comply with these  
5 rules. These are known as "covered entities". Other  
6 entities may also participate in the program--traders, for  
7 example.

8 For the electric sector, the program addresses  
9 all power consumed in California encompassing both power  
10 generated in the state as well as power imported into  
11 California.

12 To comply, covered entities must surrender  
13 compliance instruments--such as allowances--equal to their  
14 emissions. Allowances are tradeable and each allowance  
15 authorizes the holder to emit one metric ton of carbon  
16 dioxide equivalents. The power sector and some other  
17 industry sectors are granted allocations of allowances. And  
18 utilities are required to use these for the benefit of their  
19 ratepayers.

20 Allowances are issued by vintage year.  
21 Allowances are currently available for vintage years 2013  
22 and 2015. CARB tracks ownership of allowances through its  
23 Compliance Instrument Tracking System.

24 Covered entities may also use offsets, which are  
25 also compliance instruments, for up to 8 percent of their  
26

1 emissions. Offsets result from activities that reduce  
2 greenhouse gases. Planting trees, for example, can store  
3 carbon and offset emissions from power plants or other  
4 sources. These need to come, however, from programs  
5 approved by CARB which has up to 8 years to verify the  
6 offsets.

7           The program also entails penalties to be imposed  
8 by CARB for failure to submit sufficient compliance  
9 instruments to covers emissions, as well as for  
10 under-reporting emissions, data falsification, resource  
11 shuffling, manipulative trading, and for other violations of  
12 the program's rules.

13           CARB will auction allowances quarterly. The  
14 first was held on November 14, 2012. In that auction, all  
15 2013 vintage allowances were sold at the market clearing  
16 price of \$10.09, just above the administratively set floor  
17 price of \$10.

18           However, only 14 percent of the 2015 vintages  
19 sold, and they cleared at the floor price of \$10. The floor  
20 escalates 5 percent each year, plus an annual adjustment for  
21 inflation. The floor for 2013 is \$10.71.

22           The program does not include a ceiling on  
23 allowance prices. Instead, CARB plans to hold some  
24 allowances back in reserve so that it can increase supply  
25 should it perceive that prices for allowances are getting  
26

1 too high. Investor-owned utilities are required to submit  
2 the allowances that they are allocated into the auctions.

3 To reduce the opportunity for market participants  
4 to drive up allowance prices, CARB has implemented limits on  
5 how many allowances an entity may purchase in a given  
6 auction, as well as how many an entity may hold overall.

7 Allowances may also trade bilaterally, along with  
8 derivatives based on allowances. These derivatives, which  
9 have been trading on the Intercontinental Exchange for  
10 example, and other brokerage houses, include contracts such  
11 as forward contracts and options.

12 Generation sourced in California will have to  
13 comply based on their emissions. However, roughly a third  
14 of California's power comes from imports. Compliance for  
15 imports resides with the entity that first delivers the  
16 power into California.

17 If the source of the import is specified, the  
18 importer will have to submit compliance instruments to cover  
19 that source's emissions. If the source is not specified,  
20 the importer will be able to use a default rate, emission  
21 rate of .428 metric tons per megawatt hour. And then for  
22 sources that come from a known system, the importer may use  
23 a system-wide emission rate if it has been approved by  
24 CARB.

25 FERC staff in a number of offices have been  
26

1 actively monitoring the development of the cap and trade  
2 program. Staff has participated in conferences on the  
3 issues arising from cap and trade.

4 We have reached out to market participants, to  
5 CARB's market monitor, Marketing Analytics, to members of  
6 CARB's Emission Market Assessment Committee, and to CAISO to  
7 better understand the program and its implications.

8 Staff is also examining how cap and trade may  
9 affect power markets run by CAISO, including implications  
10 for price and supply. As the cap and trade program unfolds,  
11 staff will continue to monitor these effects on power  
12 prices, on CAISO, on other Western power markets, and will  
13 focus on bilateral allowance prices, trading, allowance  
14 derivative trading, auction results, imports into  
15 California, and power prices in California and around the  
16 West.

17 Staff has met with CARB and is pursuing a  
18 Memorandum of Understanding to allow for information sharing  
19 between CARB and FERC. Further, CARB staff will be at FERC  
20 in 2013 to discuss issues of mutual interest, including  
21 monitoring and surveillance.

22 This concludes our presentation and we are happy  
23 to take any questions.

24 CHAIRMAN WELLINGHOFF: Thank you to all members  
25 of the team for your work on this very important subject. I  
26

1 will be watching the development of this program with great  
2 interest.

3 Because the cost of compliance may soon  
4 contribute to the establishment of market prices in  
5 California, and possibly other parts of the West, it is  
6 important that our staff monitor and understand the effects  
7 on electricity prices in the region. So I am pleased that  
8 staff is preparing for this monitoring and analysis, and  
9 looking forward to the further discussions as this program  
10 develops.

11 Thank you all, again.

12 Colleagues, comments, questions? Yes, Phil.

13 COMMISSIONER MOELLER: Well thank you,  
14 Mr. Chairman. I appreciate you letting me call this issue,  
15 and for putting the staff resources into this particularly  
16 over the last six months or so.

17 First a couple of questions. And, Maury, welcome  
18 from California.

19 MR. KRUTH: Thank you.

20 COMMISSIONER MOELLER: Do you know who is trading  
21 these allowances? Do you have a sense as to who has  
22 purchased them, and in what kind of blocks? And other  
23 trading activity related to them?

24 MS. SCHAUB: The only allowances out so far are  
25 the ones that were issued in the auction in November. And

26

1 in terms of bilateral trading, the only trading that we've  
2 seen is derivative trading to date. The first physical  
3 deliveries that I've seen of allowances are actually for  
4 this month.

5 Janel, do you have anything to add?

6 MS. BURDICK: There is no limit on who can trade  
7 the allowances, though. So it's not only limited to people  
8 who are generators.

9 COMMISSIONER MOELLER: Sure.

10 MS. BURDICK: So we don't right now have an  
11 understanding of the topography of who is trading them, but  
12 that is something that we could see with a Memorandum of  
13 Understanding.

14 COMMISSIONER MOELLER: Okay.

15 MS. SCHAUB: And we will be getting more  
16 information.

17 COMMISSIONER MOELLER: And where does the money  
18 go?

19 MS. SCHAUB: Part of the money will go back to  
20 the states. Some of the proceeds, like for utilities, what  
21 they do with the allowances will be used to the customers'  
22 benefit to offset the increase in cost from their own  
23 generation. The California Public Utilities Commission will  
24 be determining how that happens and how that gets passed  
25 through to customers.

26

1                   COMMISSIONER MOELLER: Some of it into the  
2 California General Fund, presumably?

3                   MS. SCHAUB: Yes.

4                   COMMISSIONER MOELLER: Okay. Great. Well thank  
5 you to the team for the presentation and for the effort you  
6 have put into following this. The fact that you have  
7 encouraged CARB to come visit us is I think a testament to  
8 good staff resources. The fact that Mary Nichols has been  
9 in this building to visit us, to learn more about our  
10 enforcement activities and how we will be monitoring this is  
11 also a testament to hopefully a good working relationship  
12 between us and CARB. But it gets more complicated with all  
13 the different entities involved.

14                   So I think it is important we stand the message,  
15 as you did, Mr. Chairman, in your comments that we are  
16 watching this very closely as it unfolds. Because there are  
17 some serious jurisdictional issues about this in terms of  
18 interstate commerce that we won't go into today; other  
19 people in other forums are perhaps the best place to argue  
20 about those, but I at least have been happy that, after my  
21 letter in August to the Governor I think the CARB realized  
22 that the lack of definition on "resource shuffling" had some  
23 serious potential to disrupt Western markets.

24                   And what we sure don't want is to have a replay  
25 of 2000 and 2001. Some of us lived that a little too

26



1 intensely. So if we stay on this and keep monitoring it, we  
2 certainly minimize the chance of kind of the wheels coming  
3 off and us having another problem.

4 And as you alluded to, Mr. Chairman, this does  
5 have the potential of raising prices both in California--and  
6 society can decide if that's a good thing or not--but the  
7 rest of the West. And I think the rest of the West should  
8 be a little bit cognizant since it's an integrated market,  
9 not in the sense of organized markets but there's still  
10 plenty of bilateral trade that have the potential to be a  
11 little bit of a wealth transfer from other states to  
12 California.

13 So people should be cognizant of that.

14 The final point I will make is the fact that  
15 there is an organized market in California. And I  
16 appreciated your comments earlier about the expansion of  
17 organized markets in the last 13 years, a great historical  
18 point there. And the fact is that the existence of that  
19 organized market in California helps mitigate some of the  
20 potential problems.

21 It would be worse without an organized market in  
22 California, given the uncertainty of this coming on, some  
23 very chilling impacts of Dodd-Frank on the training  
24 community that's just been hinting in the last few months,  
25 and we just want to make sure that California has reliable  
26

1 sources of power.

2 I know we've talked about it a lot, and I will  
3 end by thanking you for putting the resources into following  
4 this so that we can all feel comfortable that we are  
5 watching it very closely.

6 CHAIRMAN WELLINGHOFF: Well thank you for your  
7 initiative, as well. John.

8 COMMISSIONER NORRIS: I'll thank the team. It's  
9 very helpful to keep abreast of what is going on out there.

10 Thanks, Phil, for your drawing attention to this.  
11 I think what California is doing is admirable, and I think  
12 our continued engagement in this to make sure it's done as  
13 efficiently and fairly and effectively as possible is a role  
14 we can play to be helpful.

15 So I think we should stay engaged and try and  
16 make this a success for them. Thank you.

17 CHAIRMAN WELLINGHOFF: Great. Cheryl.

18 COMMISSIONER LaFLEUR: Thank you. Well, as the  
19 team knows, because I've talked to you about this, I want to  
20 ask a question about some of the earlier cap and trade  
21 efforts and how they might shed light on what is going to be  
22 happening in California.

23 I was very involved and supportive of the  
24 launching of the Regional Greenhouse Gas Initiative in the  
25 Northeast, which has been in place for several years--rather  
26

1 quietly, I think.

2 A recent study by the Analysis Group showed  
3 that--well first of all I think it has shown that cap and  
4 trade programs can work. It was supposed to be a policy  
5 kind of demo, and it has worked.

6 A recent analysis by the Analysis Group showed  
7 that, although the cost of allowances was flowed through  
8 into electricity prices, in many cases they were offset by  
9 the--there was an economic net gain from the program because  
10 of the way some of the states chose to redeploy the  
11 allowances and energy efficiency, and redeploy the proceeds  
12 into energy efficiency and other efforts.

13 But I note that all 10 of the states that have  
14 participated in RGGI are in competitive markets: ISO New  
15 England, in New York ISO, PJM. I know it's a different  
16 design than CARB, but is there anything we've learned or we  
17 can learn from what's happened to those competitive markets  
18 that should, you know, help us as we look forward, or help  
19 give us some comfort about what might happen in California?

20 MS. SCHAUB: Yes. It's my understanding that  
21 both CAISO and CARB had conversations with participants in  
22 RGGI as they looked to, in CARB's case, developing their  
23 program. And in CAISO's case, in terms of adjusting to be  
24 able to accommodate what CARB comes out with.

25 From our perspective, part of what we saw was  
26

1 that you don't know what is going to happen. I mean right  
2 now we can look at what we think might occur, but overall we  
3 really do not know. And part of what we are going to have  
4 to examine is not only the effects of the cap and trade  
5 program itself, but of associated programs.

6 You mentioned the energy efficiency associated  
7 with cap and trade and RGGI. In California, the Greenhouse  
8 Gas Program is broader than just cap and trade, and that has  
9 potential implications. It does include energy efficiency,  
10 as well, and that has potential implications. There's a lot  
11 of moving parts. Those are part of what we're going to have  
12 to consider and what we're going to have to take a look at  
13 as we monitor the overall effect as well as the individual  
14 components.

15 COMMISSIONER LaFLEUR: Well thank you. As my  
16 colleagues have said, thank you for keeping an eye on it  
17 because it is an important new development in one of our  
18 largest markets.

19 Thank you.

20 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony.

21 COMMISSIONER CLARK: Thanks. I'm probably far  
22 less sanguine about cap and trade than perhaps some of my  
23 colleagues, but to a degree that's really a debate separate  
24 from what I think FERC is dealing with. So I do appreciate  
25 the focus on this, Mr. Chairman, and Phil, for you calling  
26

1       it. Because I do have concerns about California and the  
2       West. Not only some of the things that are not in the  
3       State's control at all, but other things that are going on,  
4       but some things that are but could have an impact on the  
5       wider Western market.

6                As I have said before, it is probably no surprise  
7       that I tend to be fairly friendly towards state flexibility  
8       when flexibility is an option. However, there are some  
9       things that can happen that bring some of these issues  
10      squarely, it seems to me, within FERC's wheelhouse,  
11      especially as it relates to potential broader price impacts  
12      on the Western market outside of California's borders but  
13      also very importantly on the reliability issues.

14               So I appreciate the fact that FERC staff and the  
15      Commission is paying attention to this and is watching it.  
16      It is something I intend to do, as well, over the next  
17      several months as this begins to be implemented.

18               And beyond that, as this does start to develop I  
19      would encourage us to consider other forum where we may  
20      continue to track this issue. And I don't know what that  
21      is, specifically, whether it's a technical conference or  
22      some other way in which we continue to make sure that we are  
23      monitoring this market. But it is obviously a big deal out  
24      West and could have impacts far beyond California's borders.

25               So, thank you.

26

1                   CHAIRMAN WELLINGHOFF: Thank you, again. Madam  
2 Secretary.

3                   SECRETARY BOSE: The last item for this morning  
4 will be on E-4, a Draft Final Rule Concerning The  
5 Availability of E-Tag Information To Commission Staff.

6                   There will be a presentation by Maria Vouras from  
7 the Office of Enforcement. She is accompanied by Gary Cohen  
8 from the Office of the General Counsel, William Sauer from  
9 the Office of Energy Policy and Innovation, and Nancy Bowler  
10 from the Office of Enforcement.

11                  MS. VOURAS: (Inaudible.)

12                  SECRETARY BOSE: The microphone, please, Maria.

13                  MS. VOURAS: Good morning, Mr. Chairman, and  
14 Commissioners. We are here to present a draft Final Rule  
15 concerning the availability of e-Tag information to  
16 Commission staff.

17                  Electronic tags, or e-Tags, are used to schedule  
18 the transmission of power across interchanges in whole  
19 electricity markets. This draft Final Rule amends the  
20 Commission's regulations to grant the Commission non-public  
21 and ongoing access to the complete e-Tags used to schedule  
22 the transmission of power.

23                  To effectuate access for the Commission, the  
24 draft Final Rule directs e-Tag Authors who create e-Tags,  
25 and Balancing Authorities who distribute and validate  
26

1 e-Tags, to designate the Commission as an addressee with  
2 view-only rights to the e-Tags.

3 After the Commission is designated as an  
4 addressee, the Commission will access the e-Tags by  
5 contracting with a commercial vendor that provides data  
6 management services.

7 In addition, this draft Final Rule will require  
8 that complete e-Tags be made available to Market Monitoring  
9 Units, or MMUs; Regional Transmission Organizations, or  
10 RTOs; and Independent System Operators, or ISOs; subject to  
11 appropriate confidentiality restrictions upon request of the  
12 e-Tag Authors and Balancing Authorities.

13 The e-Tag information made available under this  
14 Final Rule will help the Commission to detect and prevent  
15 market manipulation and anti-competitive behavior, monitor  
16 the efficiency of the markets, and better inform Commission  
17 policies and decisionmaking.

18 This information is necessary to understand the  
19 use of the interconnected electricity grid, particularly  
20 those transactions occurring at interchanges. For example,  
21 e-Tag information can enable the Commission to investigate  
22 whether entities may be engaging in manipulative schemes  
23 involving the circular scheduling of imports and exports  
24 into a market to benefit other positions held by these  
25 entities.

26

1           In addition, this information will help the  
2 Commission determine whether business practice standards  
3 involving e-Tags are being followed.

4           Moreover, access to complete e-Tag data for MMUs,  
5 RTOs, and ISOs will allow them to better identify behavior  
6 that may constitute market manipulation and allow them to  
7 refer instances of such conduct to the Commission. This can  
8 also aid the Commission in its own market surveillance by  
9 bringing to the Commission's attention problems identified  
10 by these entities.

11           This completes our presentation. We would be  
12 happy to answer any questions.

13           CHAIRMAN WELLINGHOFF: Thank you, Maria, and  
14 thank you all members of the team for your work on this  
15 Order. I appreciate it.

16           Access to information made available under this  
17 Final Rule will not only support the Commission's market  
18 surveillance and analysis efforts but will also help in  
19 monitoring the efficiency of the markets we regulate.

20           Ongoing access to e-Tags for power flows across  
21 interchanges will make it possible for the Commission to  
22 identify or analyze various behaviors by market participants  
23 to determine if they are part of a potentially manipulative  
24 scheme.

25           E-Tag information will also allow the Commission  
26



1 to better understand how transmission is used and the  
2 relationship between transmission scheduling practices and  
3 market rules.

4 This could, for example, help us to understand  
5 how Interchange pricing methodologies between RTOs create  
6 incentives to schedule Interchange transactions in ways that  
7 create loop flows and resulting market inefficiencies.

8 Similarly, access to e-Tags will enable the  
9 Commission to identify the extent to which the contract path  
10 system in bilateral markets results in loop flows such that  
11 market inefficiencies are compromised.

12 So again, thank you for the work on this.

13 Colleagues, comments? Phil?

14 COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
15 You can all blame me for calling this and delaying other  
16 activities--

17 (Laughter.)

18 COMMISSIONER MOELLER: --but I did think it was  
19 important for us to talk about it a little bit to make sure  
20 that people understood why we were wanting this  
21 information.

22 A couple of questions. We presumably are going  
23 to take over a contract, or contract with someone who will  
24 collect this data because NERC is giving up their contract  
25 to get this data in March. Can you tell us why NERC is  
26

1 giving up the ability to gather the e-Tag data?

2 MS. VOURAS: NERC has had, in their comments in  
3 the NOPR in this proceeding, NERC indicated that they do  
4 have currently with OATI a contract for Interchange  
5 Distribution Calculator Services, which includes e-Tag  
6 data.

7 They indicated that they would no longer be  
8 involved, and that they have transferred some of their e-Tag  
9 related responsibilities to NAESB. And that particular  
10 contract will expire, but the e-Tag and the Interchange  
11 Distribution Calculator will continue even after NERC's role  
12 ends with respect to that contract.

13 COMMISSIONER MOELLER: Okay. Well this is an  
14 enormous amount of data. Presumably maybe a million data  
15 points a day or something. Can we handle that kind of  
16 analysis of data?

17 MR. SAUER: Certainly e-Tags are very complex.  
18 As you know, there can be many different profiles as an  
19 e-Tag evolves. Certainly our plan, as we state as well, is  
20 to contract with a commercial vendor, one that has  
21 experience with e-Tag data as well, and we will be able to  
22 manage it. Certainly we know there are around 6 million  
23 e-Tags a year, so it's not--that's what we've estimated. So  
24 it's not a small amount of data, but certainly we feel  
25 confident that we can analyze it.

26

1                   COMMISSIONER MOELLER: All right. And I think it  
2 would be helpful for the people who watch what we do to know  
3 which offices are going to be using the data, and how they  
4 are going to use it.

5                   MS. VOURAS: Well certainly the Office of  
6 Enforcement will be using this data for purposes of  
7 detecting and preventing market manipulation and  
8 anti-competitive behavior. And OEPI will also be using this  
9 data. And I'll turn it over to Nancy and Will to talk a  
10 little bit more about that.

11                   MS. BOWLER: Sure. From the perspective of the  
12 Office of Enforcement, our surveillance group is screening  
13 the power markets to detect potential manipulation. And we  
14 use a variety of data inputs into our screens to look at  
15 various aspects of the markets.

16                   We have been able to look at a couple of e-Tags  
17 in the context of our investigations so we have an  
18 understanding of what they look like and what kind of data  
19 elements we'd like to pull from to better enhance our  
20 surveillance.

21                   Right now we do have surveillance screens that  
22 pull data from--where we get data from individual RTOs under  
23 Order No. 760, and the e-Tag datas would allow us to take  
24 this data and look at it more holistically and really to  
25 link the various data sets together in a way that we will be  
26

1 able to look better at the non-RTO-to-RTO transactions, as  
2 well as cross-RTO transactions.

3 MR. SAUER: And as to the Office of Energy Policy  
4 and Innovation, the Chairman's remarks at the beginning  
5 pointed to a lot of the uses that certain OEPI staff plans  
6 to use the data for. Certainly we generally will look at  
7 e-Tag data to see how transmission is used by market  
8 participants and by the market in general.

9 As to some of the specific areas that we're  
10 interested in, certainly staff has noticed in the past how  
11 Interchange pricing methodologies across the RTOs can cause  
12 loop flows and market inefficiencies. That is certainly an  
13 area that we have interest in.

14 Certainly on a broader level we hope to look at  
15 e-Tag information to assess how the contract path  
16 methodologies may, as well, encourage or cause loop flows or  
17 market inefficiencies.

18 So those are both areas that we want to dig into  
19 with e-Tag data.

20 COMMISSIONER MOELLER: Well thank you. Thank you  
21 to the team for the presentation. Thank you for indulging  
22 me the time. It is a subject which is also related to the  
23 previous topic we talked to in terms of resource shuffling.  
24 So I look forward to the comments coming in.

25 CHAIRMAN WELLINGHOFF: It is the era of big data.  
26

1 Absolutely. John.

2 COMMISSIONER NORRIS: Let me just say I think  
3 this is an incredibly important work you're doing for the  
4 integrity and efficiency of the markets, and this will be  
5 helpful data for us to continue to do our job to monitor  
6 these markets and make sure that we have the adequate  
7 information to do the job we are directed to do by this  
8 country.

9 So don't read anything into the brevity of my  
10 remarks here or lack of questions as not addressing how  
11 important this is. It's just I don't know how to repackage  
12 what the Chairman and Phil said. They are the exact same  
13 questions and comments I had, and to make it interesting the  
14 second time around.

15 (Laughter.)

16 COMMISSIONER NORRIS: So let me just say thank  
17 you, and I will take credit for getting us to our party  
18 sooner, since--

19 (Laughter.)

20 CHAIRMAN WELLINGHOFF: Cheryl.

21 COMMISSIONER LaFLEUR: Well I also want to thank  
22 the team. I think we got a lot of very helpful comments on  
23 the Notice of Proposed Rulemaking, and I appreciate the team  
24 being responsive and changing the method through which we  
25 get the e-Tag data to reflect the changes in NERC's role and  
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1       so forth. I think hopefully that will make it less  
2       burdensome and allow us to get the data in a timely way and  
3       effectively.

4               So thank you, very much.

5               CHAIRMAN WELLINGHOFF: Thank you. Tony.

6               COMMISSIONER CLARK: No questions. Thanks. I'll  
7       even take more credit than Commissioner Norris.

8               (Laughter.)

9               CHAIRMAN WELLINGHOFF: All right. Thank you,  
10       team. I think we're ready to vote on this item, Madam  
11       Secretary.

12              SECRETARY BOSE: And the vote on this item begins  
13       with Commissioner Clark.

14              COMMISSIONER CLARK: Aye.

15              SECRETARY BOSE: Commissioner LaFleur.

16              COMMISSIONER LaFLEUR: I vote aye.

17              SECRETARY BOSE: Commissioner Norris.

18              COMMISSIONER NORRIS: Aye.

19              SECRETARY BOSE: Commissioner Moeller.

20              COMMISSIONER MOELLER: Aye.

21              SECRETARY BOSE: And Chairman Wellinghoff.

22              CHAIRMAN WELLINGHOFF: I vote aye.

23              And that is almost the end of our meeting,  
24       although I would be remiss if I didn't note that after this  
25       meeting we will be judging the holiday tie contest by the  
26

1 six participants we have on the right here.

2 (Laughter.)

3 CHAIRMAN WELLINGHOFF: With that, that's the end  
4 of the meeting. Thank you. We're adjourned.

5 (Whereupon, at 11:13 a.m., Thursday, December 20,  
6 2012, the 988th open meeting of the Commissioners of the  
7 Federal Energy Regulatory Commission was adjourned.)

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