

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

Before the  
FEDERAL ENERGY REGULATORY COMMISSION  
1002nd Commission Meeting  
Thursday, February 20, 2014  
Hearing room 2C  
888 First Street, N.E.  
Washington, D.C.20426

The Commission met in open session, pursuant to  
notice, at 10:02 a.m., when were present:

COMMISSIONERS:

CHERYL A. LaFLEUR, Acting Chairwoman  
PHILIP MOELLER, Commissioner  
JOHN NORRIS, Commissioner  
TONY CLARK, Commissioner

FERC STAFF:

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

1 Discussion Items:

2 E-1 Third-Party Provision of Ancillary Services;

3 Accounting and Financial Reporting for

4 Electric Storage Technologies

5 (RM11-24-001 and AD10-13-001)

6 PRESENTER: LINA NAIK, OGC

7 Also Present: Christopher Handy, OE

8 Mary Cain, OEPI

9 Bob Snow, OEPI

10 Rahim Amerkhail, OEP

11 G-1 Enterprise Products Partners L.P and

12 Enbridge Inc. (OR12-4-000)

13 PRESENTER: DEREK ANDERSON, OGC

14 Also Present: Adrienne Cook, OEMR

15

16

17

18

19

20

21

22

23

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

25

1 P R O C E E D I N G S

2 (10:02 a.m.)

3 ACTING CHAIRWOMAN LaFLEUR: Good morning. This  
4 is the time and place that has been noticed for the open  
5 meeting of the Federal Energy Regulatory Commission to  
6 consider the matters that have been duly posted in  
7 accordance with the Government in the Sunshine Act.

8 Please join us in the Pledge of Allegiance.

9 (Pledge of Allegiance recited.)

10 ACTING CHAIRWOMAN LaFLEUR: Well good morning,  
11 everyone. Thank you for being here. It has been another  
12 eventful month here at FERC.

13 I want to start by congratulating Norman Bay on  
14 his nomination as Commissioner, to be named Chairman on  
15 confirmation. We wish him a smooth confirmation process.  
16 In the meantime, we have a lot of work to do we are focused  
17 on getting it done.

18 So to that end, since the January 16th Open  
19 Meeting we have issued 67 notational orders, including  
20 several orders in response to recent cold weather across the  
21 country.

22 On February 7th, the Commission for the first  
23 time invoked its emergency authority under the Interstate  
24 Commerce Act and directed the Enterprise TEPPCO Pipeline to  
25 prioritize shipments of propane for one week to help

1 alleviate severe propane shortages in the Midwest and  
2 Northeast. The Commission later extended its order for an  
3 additional week in response to an agreement between the  
4 pipeline and the National Propane Gas Association.

5 In the past month the Commission also acted on  
6 petitions from PJM and the New York ISO to permit generators  
7 in those regions to recover their full costs in the face of  
8 high demand for electricity and the spike in natural gas  
9 prices.

10 As recent events and our discussion last month at  
11 our January meeting demonstrate, the cold weather this  
12 winter has tested both the electric grid and our markets. I  
13 believe that the Commission should evaluate the recent cold  
14 weather events and winter performance to help inform our  
15 work on gas/electric interdependency, competitive market  
16 design and oversight, and infrastructure regulation.

17 Therefore, I am announcing today that the  
18 Commission will hold a Commissioner-led technical conference  
19 to explore the operational and market issues we have  
20 confronted this winter and the lessons to be learned.

21 Bearing in mind that there is still a month of  
22 winter left--at least where I'm from; it's pretty warm here  
23 today--the technical conference will be held on Tuesday,  
24 April 1. Notice of topics to be discussed will follow in  
25 the near future.

1           Also this month the Commission approved  
2 compliance filings to complete the transfer of the  
3 reliability coordinator function from WECC to a new company,  
4 Peak Reliability.

5           With this transfer of responsibility, WECC will  
6 operate solely as a Regional Entity for the Western  
7 Interconnection. I want to congratulate both WECC and Peak  
8 Reliability and thank all of those who worked over the last  
9 several months to achieve this bifurcation.

10           Also of note, the physical security of the  
11 electric grid has garnered a lot of attention lately. I  
12 want to thank Joe McClelland and everyone in the Office of  
13 Energy Infrastructure security for all their work in this  
14 area, which includes working cooperatively with asset  
15 owners, grid operators, and state and federal agencies to  
16 share confidential information that they can use to enhance  
17 the security of the grid, perform modeling to identify key  
18 facilities, and help asset owners address vulnerabilities  
19 specific to their systems.

20           I also want to thank Mike Bardee and the Office  
21 of Electric Reliability for taking on the assignment of  
22 working with NERC to determine whether mandatory reliability  
23 standards under Section 215 of the Federal Power Act are  
24 needed to protect the physical security of our electric  
25 infrastructure.

1           Finally, before turning to my colleagues, I want  
2 to ask members of the Commission's 2014 Leadership  
3 Development class, who I believe are work us, to stand and  
4 be recognized. I know there's one behind me.

5           (People stand.)

6           ACTING CHAIRWOMAN LaFLEUR: Well thank you for  
7 being here. The Leadership Development--I guess I can let  
8 you sit down, rather than make you stand, but thank you.

9           (Laughter.)

10          ACTING CHAIRWOMAN LaFLEUR: The Leadership  
11 Development Program, or LDP, is a competitively selected  
12 program launched here at the Commission in March 2008 to  
13 provide training and developmental opportunities to  
14 Commission employees. I am happy to have one alum right on  
15 my team in Josh Koneckney.

16          The success of the program has been demonstrated  
17 over the years with more than 40 percent of graduates being  
18 promoted to a supervisory role at the Commission within a  
19 year of completing the program.

20          This year's class of 15 was selected from a  
21 record number of 96 applicants, and includes representatives  
22 from 11 different Commission offices.

23          So congratulations to all of you, and thank you  
24 to Jennifer Meffert, who I'm sure is hiding somewhere, who  
25 worked so hard to make the program successful.

1                   Colleagues?

2                   COMMISSIONER MOELLER: Thank you, Madam Acting  
3 Chair. I have a statement on grid security that I will  
4 post. I will let that speak for itself.

5                   I want to congratulate you on setting up the tech  
6 conference for April 1st. As we all know, we have had a  
7 couple of warm winters before this one; my concern was that  
8 it was masking our growing reliance on natural gas for  
9 electricity, and I am hoping that the April 1st tech  
10 conference can be a thorough discussion of those issues.

11                   Related to propane, I think we want to  
12 congratulate the staff of the FERC, the Propane Association,  
13 and the pipeline for working through those issues on a very  
14 timely and sensitive matter. Those were confidential  
15 discussions, so we don't know the details of what was worked  
16 out, but I hope that in the context of confidential  
17 negotiations we can learn some lessons in case something  
18 like this is faced by a future Commission, so that we  
19 protect the interests of consumers but also protect the  
20 interest of the pipeline to adequately deliver the products  
21 that flow through it.

22                   I too want to add congratulations to WECC, as you  
23 noted in your remarks.

24                   And finally, a statement related to our E-9 that  
25 we will be considering. This has to do with a solar

1 developer in Massachusetts. And I don't know exactly what  
2 happened; I'm going to hope that it was a misunderstanding;  
3 but we were waiting for the Mass DPU to act. They were  
4 waiting for us to act. Today we act and it is now in their  
5 court to address the petition by this developer.

6 But I want to again send thanks to you, Madam  
7 Acting Chair, that you dislodged this Order which has been  
8 sitting around for over two years. And I feel for a  
9 developer waiting for two government agencies to act, and at  
10 least today we act. So thank you for dislodging it.

11 ACTING CHAIRWOMAN LaFLEUR: Commissioner Norris?

12 COMMISSIONER NORRIS: Yes, thank you.

13 Let me echo your comments, Phil, on the propane  
14 situation. Thanks to all the parties involved for working  
15 towards a solution on this.

16 I know folks who are dependent upon propane,  
17 families, businesses, farmers. This has been a real shock  
18 in terms of price, particularly to low-income families, but  
19 also just safety and health of folks relying upon this. So  
20 I am glad we all took action and we'll continue to monitor  
21 it and make sure that we take any further appropriate action  
22 that is necessary.

23 Thank you, Chairwoman LaFleur, for your  
24 announcement of the technical conference. I think it will  
25 shed light on these recent--I'm hopeful it will shed light

1 on these recent cold-weather events on consumers, and  
2 identify potential lessons learned.

3 I think in particular this technical conference  
4 will provide an opportunity for the Commission, industry,  
5 stakeholders, and the public to evaluate the tight supply  
6 conditions and high energy prices experienced during this  
7 cold-weather snap over the last month-and-a-half, and  
8 hopefully soon to wrap up. But maintaining confidence in  
9 our jurisdictional markets is paramount, and I believe it is  
10 our responsibility to fully explore the reasons behind these  
11 high energy prices.

12 I also believe the technical conference will  
13 provide an opportunity to gain insight regarding the market  
14 and operational challenges, including among other things  
15 potential fuel supply issues the regions faced during the  
16 recent cold-weather events, and to inform the Commission  
17 regarding any potential changes we may need to make going  
18 forward for next winter.

19 Finally, I do want to make some comments, as you  
20 both have, regarding physical security. There has certainly  
21 been a lot of attention given this issue in the past few  
22 weeks regarding our physical infrastructure.

23 Thank you for your leadership in directing our  
24 staff to meet with NERC and the industry to further  
25 discussion this situation. I think with the upcoming EEI

1 meetings, and I'm sure many meetings taking place across the  
2 electric sector, this issue will be discussed a lot in the  
3 next few weeks and months.

4           It is important that they all engage, and we all  
5 engage, I think, in this discussion and express our  
6 thoughts. So I am going to do that here today.

7           First let me say that vigilance towards grid  
8 security is imperative in today's world. Just the health  
9 and safety of Americans and our economy are certainly  
10 dependent upon a reliable grid and supply of electricity.  
11 There are multiple examples from the 2003 blackout, to  
12 Hurricane Sandy, and everything in between. We cannot be  
13 more aware of the necessity of a reliable supply of  
14 electricity to this country.

15           I would say comments from Defense Secretaries to  
16 high military officials, and other informed government  
17 officials have certainly made us aware of the very credible  
18 threat we face from cyberattack, how that threatens our  
19 national security.

20           From GMDs, to EMPs, to natural disasters, there  
21 is no lack of awareness of multiple threats to the stability  
22 of our grid. We have over 400,000 circuit miles of  
23 transmission in this country. We have 55,000 substations  
24 100kV and higher in this country.

25           I don't think it's any secret that we've been

1 vulnerable to physical attack for probably decades in this  
2 country. The electric industry, in my view, has always  
3 placed a high priority on reliability. And now with Section  
4 215 of the EAct-05 and the ERO and mandatory standards, I  
5 think we have taken additional steps and made good progress  
6 on the reliability of the grid.

7           However, I want to express my concerns about  
8 channeling our resources and efforts on physical security,  
9 along with the long list of other threats to the grid like  
10 cyber, natural disaster, EMPs, GMDs. We have currently in  
11 place multiple ways to address this, and I think we're doing  
12 a good job--not that we shouldn't be doing more, and always  
13 looking to make the grid more reliable--but we have defense-  
14 in-depth with the drilling and exercises, like NERC did last  
15 November, important to maintaining a trained and well-  
16 educated group of operators out there that run our system;  
17 communication across the industry and with law enforcement  
18 agencies, which we may have not done enough of I think now  
19 is increasing. I mentioned to Joe in my office, we should  
20 be going to the National Association of Sheriffs' annual  
21 convention and making them aware that those substations need  
22 to be watched, and have them understand the critical  
23 importance of those.

24           I think the response has been really positive  
25 from law enforcement across this country with this new focus

1 on physical security. But I also want to recognize the  
2 importance of modernizing our grid, and that we build the  
3 grid of the future.

4 Deployment of PMUs and other wide-area management  
5 systems to help us with situational awareness will address  
6 multiple threats to our system, not just physical. We saw  
7 in the Southwest where greater situational awareness can  
8 help mitigate outages.

9 Resiliency, redundancy, and system planning, all  
10 of these increase our ability to make the grid more reliable  
11 and efficient. I would remind everyone that in response to  
12 Metcalf, power was rerouted, power was maintained, in  
13 Silicon Valley and elsewhere.

14 My concern is that many people have jumped on  
15 this reaction train with regard to Metcalf. While I don't  
16 mean to disregard the incident in any way, I would remind  
17 everyone that it is an isolated incident. And, to my  
18 knowledge, no conclusions have been drawn from law  
19 enforcement agencies about the nature of the attackers, or  
20 that there is anything in the current works for additional  
21 attacks. Speculation, I guess, is my point.

22 Yet, a number of elected officials, and a former  
23 colleague, have called for significant measures specifically  
24 geared toward erecting physical barriers to our grid  
25 infrastructure. I am concerned that that may be a 20th

1 Century reaction to a 21st Century problem.

2           While there may be some locations where it would  
3 be appropriate or wise to increase physical barriers, I  
4 caution over-reaction in this area. Our future is in a much  
5 smarter and more nimble grid, along with better  
6 communication and coordination to mitigate against multiple  
7 forms of risk, including all of those I have mentioned.

8           In just a few meetings I have had with industry  
9 officials, reacting to calls since last fall for taking  
10 action against this isolated incident in physical security,  
11 I am getting the impression that there could be billions of  
12 dollars spent on concrete barriers and fences in response to  
13 one isolated incident and addressing only one element of  
14 multiple threats to our system.

15           I believe it is more prudent and more secure to  
16 approach this in that broader sense of security: defense in  
17 depth, building the modern grid, and training security--a  
18 multi-functional approach that encompasses the grid of the  
19 future. We should be cautious about spending valuable time  
20 and resources, not to mention piling up billions of dollars  
21 in consumer costs in the rate base with the deployment of  
22 walls and fences.

23           If we learn more from law enforcement agencies,  
24 we should take appropriate action. But with 400,000 miles of  
25 circuit transmission lines, and 55,000 substations, the

1 strategy should be focused again on multi-functional  
2 resilience and mitigation, while at the same time we build  
3 an electric grid that can better serve the integration of  
4 our resources, enable micro grids, and smart grid  
5 technology, and make it secure in many more ways than  
6 spending billions on concrete barriers and fences.

7           So I just wanted to get that out there for you  
8 folks as you go into our EI meetings, and other meetings  
9 amongst industry, and our NERC and FERC meetings, at least  
10 from this Commissioner's standpoint, take a step back, look  
11 to the future and build a more resilient grid that can  
12 address multiple problems and not take reactionary  
13 responses, spending a lot of money when we have to watch the  
14 costs in this in making sure we are addressing the most  
15 significant risks first as the highest priority and be wise  
16 about this.

17           So thank you, Chairman LaFleur, for letting me  
18 share those thoughts.

19           ACTING CHAIRWOMAN LaFLEUR: Thank you very much,  
20 Commissioner Norris. Commissioner Clark.

21           COMMISSIONER CLARK: Good morning, and welcome.  
22 I just want to highlight a few things.equal opportunity

23           First of all, the tech conference, Madam Chair,  
24 thanks for scheduling that. I think it will be a very  
25 enlightening day and very worthwhile. I think all of us

1 have heard from a number of the regions that have been  
2 dealing with this, with somewhat different issues in each of  
3 the regions. So it's a good opportunity for us to spend a  
4 little bit more time delving into it in a way that maybe  
5 would not be conducive to that sort of fact finding at just  
6 a regular Commission meeting. So, really, a more focused  
7 effort on that I think it very appropriate. So thanks for  
8 scheduling that.

9           The Propane Order, I just want to thank all of  
10 the work of staff, and also the pipeline itself for the work  
11 that it has been doing in prioritizing propane. It's, as  
12 has been noted, the first time that that emergency authority  
13 was invoked under the Interstate Commerce Act. So to that  
14 degree it's a big deal.

15           It probably speaks to something of the unique  
16 nature of propane, and as one of those folks who used to  
17 live in the upper Midwest and used to be one of the guys for  
18 10 years out banging on my propane tank about this time of  
19 year wondering if it would limp all the way to the summer-  
20 fill season when it was less costly to fill up, I certainly  
21 have an appreciation for those folks who have been going  
22 through that.

23           But in past years, it has always been a case of  
24 maybe you wanted to get through to the summer-fill because  
25 it was a little cheaper to fill. This year it was a more

1 dangerous situation than that, which was that there were  
2 actual supply shortages of the product itself that have  
3 become a concern. And there is still an ongoing concern. I  
4 mean this is an issue we will be dealing with for several  
5 weeks.

6           Hopefully this action, in concert with others,  
7 will help alleviate that. But it does speak to the rather  
8 unique nature of propane in terms of the products that are  
9 shipped over some of these FERC-jurisdictional lines, and  
10 that it's actually directly used to heat homes so it can  
11 become a matter of life and death for people in that region  
12 of the country. And I think the response was certainly  
13 appropriate.

14           I would also recognize that it is not a silver  
15 bullet. There are a lot of actions that are being taken up  
16 and down government at different jurisdictional levels that  
17 are also helping to alleviate that, as well as things that  
18 are being done in the private sector. So it is things like  
19 governors in releasing LIHEAP funds to make fuel available  
20 and more affordable for folks of low income; it's things  
21 like the Department of Transportation waiving some  
22 requirements so that truckers can bring more product in;  
23 things like propane dealers themselves adjusting some of  
24 their own policies so that they lower minimum fill  
25 requirements. All these things should help get us through

1 this rather remarkable winter that we've been experiencing.

2 With that, I will wrap up and look forward to  
3 getting into our discussion today.

4 ACTING CHAIRWOMAN LaFLEUR: Thank you, very much.

5 Madam Secretary, I think we are ready to go to  
6 the Consent Agenda.

7 SECRETARY BOSE: Good morning, Madam Chairman.

8 Good morning, Commissioners.

9 Since the issuance of the Sunshine Act Notice on  
10 February 13th, 2014, no items have been struck from this  
11 morning's agenda. Your Consent Agenda is as follows:

12 Electric Items: E-2, E-3, E-4, E-5, E-7, E-8,  
13 E-9, E-10, E-11, E-12, E-13, and E-14.

14 Gas Items: G-1.

15 Hydro Items: H-1 and H-2.

16 Certificate Items: C-1 and C-2.

17 As to E-10, Commissioner Norris is concurring  
18 with a separate statement. We are now ready to take a vote  
19 on this morning's agenda. The vote begins with Commissioner  
20 Clark.

21 COMMISSIONER CLARK: Aye.

22 SECRETARY BOSE: Commissioner Norris.

23 COMMISSIONER NORRIS: Noting my concurrence on E-  
24 10, aye.

25 SECRETARY BOSE: Commissioner Moeller.

1 COMMISSIONER MOELLER: Aye.

2 SECRETARY BOSE: And Chairman LaFleur.

3 ACTING CHAIRWOMAN LaFLEUR: I vote aye.

4 Thank you, Madam Secretary. If we could move to  
5 the Discussion Agenda.

6 SECRETARY BOSE: The first item for presentation  
7 and discussion this morning is E-1, a Draft Order Concerning  
8 Third-Party Provisions of Ancillary Services and Accounting  
9 and Financial Reporting For New Electric Storage Technology.  
10 There will be a presentation by Lina Naik from the Office of  
11 the General Counsel. She is accompanied by Christopher  
12 Handy from the Office of Enforcement; Mary Cain, Bob Snow,  
13 and Rahim Amerkhail from the Office of Energy Policy and  
14 Innovation.

15 MS. NAIK: Good morning, Chairman and  
16 Commissioners. Item E-1 is a draft order addressing  
17 requests that clarify certain elements of Order No. 784. In  
18 Order No. 784, the Commission revised its regulations to  
19 foster competition and transparency in ancillary services  
20 markets.

21 Among other things, the Commission relaxed  
22 restrictions with respect to the sale of Energy Imbalance,  
23 Generator Imbalance, Operating Reserve-Spinning, and  
24 Operating Reserve-Supplemental services, by allowing sellers  
25 with market-based rate authority for energy and capacity to

1 make sales of these ancillary services in certain  
2 circumstances.

3           The Commission also revised its accounting and  
4 reporting requirements to better account for and report  
5 transactions associated with the use of energy storage  
6 devices in public utility operations. Specifically, the  
7 Commission adopted new and revised energy storage plant and  
8 operation and maintenance expense accounts, and FERC Form  
9 Nos. 1 and 3-Q schedules to provide for reporting financial,  
10 operational, and statistical data on energy storage assets.

11           The draft order clarifies several elements of  
12 Order No. 784. For instance, the order clarifies that any  
13 intra-hour transmission scheduling practice is sufficient to  
14 allow sellers with market-based rate authority for energy  
15 and capacity to sell Energy Imbalance and Generator  
16 Imbalance Services at market-based rates.

17           The draft order notes that this clarification  
18 does not extend to the Operating Reserve products due to the  
19 need for more timely delivery of the service.

20           Further, the order clarifies that the Section 205  
21 filing requirement for sales of ancillary services made  
22 pursuant to a competitive solicitation applies only to sales  
23 not otherwise authorized in Order No. 784.

24           The order also clarifies that public utility  
25 transmission providers must post historical one-minute and

1 ten-minute area control error data to OASIS within 30 days  
2 after the issuance of this order.

3 Finally, the order clarifies the January 1, 2013,  
4 implementation date for reporting rule changes and notes  
5 that utilities are not required to resubmit 2013 Quarter  
6 Reports filed in the FERC Form No. 3-Q.

7 Additionally, in Order No. 784 the Commission  
8 directed the Chief Accountant to issue interim accounting  
9 guidance due to submission software limitations which  
10 prevent the new accounting and reporting requirements of the  
11 Order from being reported in the FERC Form Nos. 1 and 3-Q as  
12 of the respective filing dates of the forms.

13 The Chief Accountant will issue a delegated  
14 letter order today that provides the appropriate financial  
15 reporting and disclosures required for filers with energy  
16 storage assets and operations that must be implemented until  
17 the new accounting provisions of Order No. 784 are  
18 incorporated into the form submission software.

19 I will now discuss a new proceeding directed in  
20 Order No. 784.

21 The Commission found in Order No. 784 that the  
22 technical and geographic requirements associated with  
23 Reactive Supply and Voltage Control, and Regulation and  
24 Frequency Response Services precluded application of the  
25 existing market power screens to the sale of those services.

1           Instead, the Commission provided other options  
2 for such sales and stated its intention to gather more  
3 information regarding the technical, economic, and market  
4 issues concerning the provision of these services in a new,  
5 separate proceeding.

6           To that end, the Commission will issue a notice  
7 today announcing a staff-led workshop to be held on April  
8 22nd. The notice provides additional background regarding  
9 Commission policies and recent actions with respect to  
10 reactive power, frequency response, and frequency  
11 regulation. We encourage people to attend in person.

12           The topics tentatively scheduled for discussion  
13 include, among others, the technical, economic, and market  
14 issues concerning the provision of:

15           Schedule 2 Service within the broader context of  
16 the Commission's policies with respect to reactive power  
17 compensation;

18           Schedule 3 Service as it relates to frequency  
19 regulation outside of the RTO regions; and

20           Schedule 3 Service as it relates to frequency  
21 response.

22           The Commission will issue a subsequent notice  
23 providing the detailed agenda for the workshop.

24           This completes our presentation. We are happy to  
25 answer any questions.

1           ACTING CHAIRWOMAN LaFLEUR: Well thank you very  
2 much, Lina, to you and the rest of the team who are here,  
3 and all the ones behind you who work on all these issues.

4           As I noted back in July 2013 when we voted out  
5 the final rule of Order No. 784, the request to adapt our  
6 Avista policy to facilitate the provision of ancillary  
7 services in bilateral market regions really stemmed  
8 originally from a request from the Western States Power Pool  
9 and others in the West who are really increasingly dependent  
10 on third-party ancillary services to balance variable  
11 generation.

12           And certainly with the increased reliance on  
13 renewable generation across so many areas of the country, I  
14 think that ancillary services are sure to become an ever  
15 more important part of our energy services.

16           Today's order provides additional clarity on  
17 several pieces of Order No. 784 and, as Lina noted,  
18 establishes a date for a staff-led workshop to further  
19 discuss certain ancillary services including Reactive Supply  
20 and Voltage Control, Frequency Regulation, and Frequency  
21 Response, and I think that the--and really looking at  
22 whether the existing market power streams we have can be  
23 applied to the sale of those additional services.

24           I really think the team did a good job setting  
25 out in the Notice of Workshop what the questions are that we

1 are trying to get at, and I really commend that to people's  
2 attention and encourage participation in the workshop.

3 I had just one question. The Notice of Workshop  
4 also mentions Order No. 794, which is a Reliability Order  
5 under 215, our recently issued Frequency Response  
6 Reliability Standard. This is an area where, like our  
7 Reliability jurisdiction and our Market jurisdiction is  
8 touching, and I am interested if the team could explain how  
9 the Reliability Standard, Order No. 794, fits in with the  
10 Avista proceeding, and how frequency response will be  
11 considered at the workshop.

12 MR. SNOW: Thank you very much for that question.  
13 It is a very interesting one, and one people have been kind  
14 of wrestling with.

15 Order No. 794 approved the Reliability Standard  
16 BAL-003 frequency response and frequency bias setting. That  
17 Order requires, in addition to other things, an annual  
18 median frequency response obligation on the part of  
19 balancing authorities or frequency response sharing groups.

20 The Standard defines what performance is  
21 required, but it does not define or identify how that  
22 performance may be achieved.

23 From the standpoint of the Avista proceeding,  
24 Order No. 794 will help shape the demand on the resources  
25 for the frequency response, but the Avista proceeding may

1 help identify how that demand is met.

2           Performance--the required performance, from a  
3 physics point of view, is really the injection or withdrawal  
4 of power within a very short time after an imbalance.  
5 Sources of that power can be generation--all kinds, demand-  
6 response resources, or even newer technologies like storage.  
7 A more economic source may be a proceeding at least--  
8 procuring at least some of this response from market-based  
9 sellers, which is the general focus of the Avista  
10 proceeding.

11           The April workshop will further explore the types  
12 of resources that are available and technically capable of  
13 meeting the performance requirements under the Commission-  
14 approved standard BAL-003, and whether there are regulatory  
15 or market barriers preventing entities from utilizing the  
16 most efficient mix of resources to meet frequency response  
17 services.

18           For example, obtaining some services from third-  
19 party sellers may provide more economic and efficient  
20 approaches but may be difficult under the Avista proceeding.  
21 Thus, the primary areas of focus of the workshop will be  
22 whether there are options for performing--for permitting  
23 sales of frequency response services at market-based rates.

24           Last summer in Docket AD13-008, Commission staff  
25 sought comments on market implications of frequency response

1 and frequency bias settings. Commenters that responded had  
2 very different opinions regarding their respective  
3 generation mix.

4           Some stated the existing mix were more than  
5 capable of providing sufficient response and nothing,  
6 absolutely nothing, needed to be done. While others were  
7 having issues, they knew how they would get that response.  
8 The conference should assist in understanding these  
9 interactions, and how those that have more than enough  
10 response can sell those that have insufficient speed or  
11 magnitude of response.

12           ACTING CHAIRWOMAN LaFLEUR: Well thank you very  
13 much for that. It's very interesting. I feel like when you  
14 understand frequency response, then you're ready to go to  
15 electricity grad school, and I'm still kind of learning.  
16 But the interest in the frequency response, as I understand  
17 it, is really autonomous and occurs over such a broad area  
18 in the markets because they're smaller and all factor into  
19 that interconnection. It's just an interesting puzzle as  
20 you start to think of how they fit together. So very  
21 interesting issues.

22           Thank you so much. And, colleagues?

23           COMMISSIONER MOELLER: Thank you, Madam Acting  
24 Chair. I think today's action to the outside is a pretty  
25 good reflection about what FERC does, a pretty complex area,

1 and yet we considered arguments for clarification. We  
2 accepted some; we rejected others; and hopefully we've come  
3 up with a policy that promotes these services.

4 And although it will help the entire marketplace,  
5 frankly a lot of these changes are designed to help  
6 facilitate renewable and intermittent generation, along with  
7 the newer technologies that have a faster frequency  
8 response, or storage in the case of the accounting rules  
9 that we put together here.

10 So I think the key takeaway is that this  
11 Commission has been very amenable to trying to integrate  
12 intermittent resources, but we do it through market  
13 mechanisms. Transparency and access to markets. We don't  
14 do it with subsidies, or mandates; we allow market access.  
15 And that is one of the things that I'm very proud to support  
16 in today's Order.

17 Thank you for the time. Thanks to the team, as  
18 well.

19 COMMISSIONER NORRIS: Yes, thank you, as well. I  
20 think this is a great job of clarifying 784. To me this is  
21 further progress. This is about enabling new resources,  
22 particularly development of the deeper market for ancillary  
23 services, to address our changing resource mix. This is  
24 progress.

25 So I appreciate very much these fundamental

1 building blocks of resources: Reactive Power, Frequency  
2 Regulation, Frequency Response. All are part of getting our  
3 system to that modern grid feature I talked about. And I  
4 also recognize the masters degree program.

5 I was a little serious before, so let me just  
6 say, while you were talking there I was thinking of the  
7 movie "Stripes" where Sgt. Holka tells the less rhythmally  
8 gifted soldiers to help the ones that--the ones that are  
9 more rhythmally gifted to help the ones who are less  
10 rhythmally gifted.

11 (Laughter.)

12 COMMISSIONER NORRIS: This is where the engineers  
13 help us lawyers and economists and figure this all out, and  
14 it gets pretty deep. So I look forward to the technical  
15 conference as you engineers get to shine and help us realize  
16 how frequency response and regulation all work, and how we  
17 then construct markets that help maximize our system  
18 efficiency.

19 Thank you.

20 ACTING CHAIRWOMAN LaFLEUR: Thank you. Tony?

21 COMMISSIONER CLARK: Thanks to the team. I just  
22 have one quick question. It's actually an opportunity for  
23 you all. So the notice isn't out yet for the workshop on  
24 April 22nd, but it will be soon, but I'll you a chance to be  
25 sort of promoters for it.

1           If you were to promote the sorts of folks,  
2 representatives, resource interests that are going to be  
3 interested in attending that conference, what folks are  
4 going to be particularly interested in that?

5           And then if you could also talk about if your  
6 expectation is to hear both from organized markets as well  
7 as the more bilateral markets.

8           MR. AMERKHAIL: Well, as far as the types of  
9 resources we really think this would cut across all  
10 resources. It's actually--and I think Bob and Mary, our  
11 engineers, could probably confirm this--I think it is  
12 possible to provide both regulation and frequency response  
13 from both slow and fast resources. So we think everyone  
14 should be interested, and not just on the generation side--  
15 load, storage, load response resources and storage resources  
16 as well.

17           As far as RTO versus bilateral markets, we think  
18 some aspects of this would be relevant in both. For  
19 example, none of the RTOs have frequency response or  
20 organized reactive power markets, to my knowledge. And of  
21 course frequency response may not have been recognized as  
22 necessary in the past. Maybe it will be in the future. So  
23 that would probably apply in all areas.

24           But regulation is something that all of the  
25 organized markets already provide for. So that would

1 probably be more of a bilateral market issue.

2 COMMISSIONER CLARK: Thank you.

3 ACTING CHAIRWOMAN LaFLEUR: It sounds like we  
4 should open the overflow room.

5 Madam Secretary?

6 SECRETARY BOSE: We are now ready to vote. The  
7 vote begins with Commissioner Clark.

8 COMMISSIONER CLARK: Aye.

9 SECRETARY BOSE: Commissioner Norris.

10 COMMISSIONER NORRIS: Aye.

11 SECRETARY BOSE: Commissioner Moeller.

12 COMMISSIONER MOELLER: Aye.

13 SECRETARY BOSE: And Chairman LaFleur.

14 ACTING CHAIRWOMAN LaFLEUR: I vote aye.

15 The last item for presentation and discussion  
16 this morning is Item G-2. That's concerning a Draft Order  
17 in Docket No. OR12-04-000, involving Enterprise Product  
18 Partners L.P. and Enbridge, Incorporated.

19 There will be a presentation by Derek Anderson  
20 from the Office of the General Counsel. He is accompanied  
21 by Adrienne Cook from the Office of Energy Market  
22 Regulation.

23 MR. ANDERSON: Good morning Madam Chairman and  
24 Commissioners. We are here to present the Draft Order on  
25 Rehearing concerning a request by Enterprise Product

1 Partners and Enbridge for market-based rate authority for  
2 the Seaway Pipeline.

3           Beginning with the issuance of Order No. 572 in  
4 1994, the Commission has provided a generally applicable  
5 methodology with respect to applications from oil pipelines  
6 seeking permission to charge market-based rates.

7           The Commission defines "market power" as the  
8 ability of a pipeline to profitably maintain prices above  
9 competitive levels for a significant period of time. The  
10 Commission has applied the general methodology of  
11 Order No. 572 on a case-by-case basis.

12           In December of 2011, Enterprise and Enbridge  
13 filed an application seeking the authority to charge market-  
14 based rates for initial rates on its reversed Seaway  
15 pipeline, a crude oil pipeline transporting oil from  
16 Cushing, Oklahoma, to the Gulf Coast.

17           The Commission denied this application in May of  
18 2012, citing a lack of cost data in the application which  
19 Enterprise and Enbridge acknowledged could not be provided  
20 because the application concerned initial rates for a  
21 pipeline not yet providing service. Enterprise and Enbridge  
22 sought judicial review of the denial.

23           Prior to the Commission's denial, in April of  
24 2012 the Court of Appeals for the District of Columbia  
25 Circuit issued an Order in Mobil Pipeline Co. v. FERC which

1 directly addressed the Commission's approach to reviewing  
2 market-based rate applications for oil pipelines and the  
3 generally held principles developed and utilized in prior  
4 cases.

5           Consequently, in order to properly analyze the  
6 impact of the court's then-recent decision, the Commission  
7 granted rehearing of its denial of Seaway's application for  
8 the purpose of seeking comments from all interested entities  
9 on the proper interpretation of the Mobil decision.

10           Numerous pipeline and shipper entities submitted  
11 comments, each presenting its own interpretation of how  
12 Mobil did or did not affect the Commission's market-based  
13 rate regime for oil pipelines. The ultimate question  
14 concerning the Mobil decision was whether the methodology  
15 as set forth in Order No. 572 was still valid, or if the  
16 court's concern was the proper application of those methods.

17           The Draft Order on Rehearing sets forth the  
18 Commission's assessment of the impact on Mobil on its  
19 policies and procedures for reviewing an application from an  
20 oil pipeline seeking a market-power determination, including  
21 the application of Enterprise and Enbridge.

22           First, the Draft Order concludes that the Mobil  
23 decision did not fundamentally alter the methodologies set  
24 forth in Order No. 572. And in fact, the court supported  
25 the principles that were established in Order No. 572.

1           The Draft Order also concludes that the Mobil  
2 court found the approaches taken in market-based rate  
3 proceedings subsequent to the issuance of Order No. 572  
4 cannot be rigidly applied in all cases.

5           The primary issue in Mobil is that of price--  
6 specifically what price should be the focus of the market-  
7 power analysis. Up to the Mobil case, the analysis had  
8 centered on the applicant's tariff rate and whether the  
9 pipeline could maintain a rate above that level for a  
10 significant period of time, if granted market-based rate  
11 authority.

12           In Mobil, the court found that it was improper to  
13 focus on Mobil's tariff rate because the rate was below--  
14 and perhaps far below--the competitive level. It was the  
15 potential for rate increases above the competitive level,  
16 said the court, which should be the proper focus of the  
17 market-power analysis.

18           The Draft Order on Rehearing provides a  
19 methodology for conducting a price analysis in oil pipeline  
20 market-based rate proceedings that focuses on the  
21 competitive realities of the market, and not solely on the  
22 tariff rate of the applicant pipeline.

23           By examining the behavior of market participants,  
24 including pipelines and shippers, the Draft Order predicts  
25 that a more complete and accurate picture of competitive

1 price levels and competitively priced alternatives will be  
2 developed.

3           The Draft Order suggests that such an approach  
4 will avoid the concerns raised in Mobil about whether the  
5 analysis is truly answering the fundamental question of  
6 whether a pipeline applicant could raise its rate above the  
7 competitive level.

8           The Draft Order upholds Order No. 572's  
9 principles while developing new methods for measuring  
10 competition consistent with mobil, provides guidance on how  
11 oil pipelines can demonstrate a lack of market power, and  
12 allows an accurate determination of competitive factors  
13 relevant in assessing oil pipeline markets.

14           Finally, the Draft Order also affirms the May  
15 2012 denial of Enterprise and Enbridge's waiver requesting  
16 market-based rates be allowed to serve as Seaway's initial  
17 rates for the reversed pipeline.

18           The Draft Order notes that Seaway is a new  
19 entrant to the market and does not possess the data on usage  
20 and market participation necessary to conduct a proper  
21 market power analysis consistent with Mobil and the Draft  
22 Order.

23           It is noted that Seaway is in service and is  
24 presently shipping under cost-based and negotiated rates  
25 filed subsequent to its application for market-based rate

1 authority. Seaway may make a new request for market-based  
2 rate authority using current data.

3 This completes our presentation. We would be  
4 happy to answer any questions.

5 ACTING CHAIRWOMAN LaFLEUR: Well thank you very  
6 much, Derek and Adrienne, and to the rest of the team. I  
7 put this on the agenda because I think it is an important  
8 Order.

9 As we see so much growth in the domestic oil  
10 industry, we are seeing more pipeline business at the  
11 Commission and I think that this Draft Order we have before  
12 us really sets out with greater clarity what the standards  
13 are that pipelines have to meet in order to qualify for  
14 market-based rates, following on the D.C. Circuit's Opinion.  
15 And I hope it will be helpful to those who practice in this  
16 area and are in this business.

17 One of the things that the Draft Order takes  
18 great pains to say many times is that it is not  
19 fundamentally altering the Standards of Order No. 572, but  
20 just clarifying them and I think taking a very kind of fact-  
21 and market-based approach to how they will be applied.

22 Given that Order No. 572 remains intact, could  
23 you explain what you think are the most important  
24 clarifications that the Order makes?

25 MS. COOK: The most important clarification that

1 the Order puts forth is that changing market dynamics, a  
2 broader sense of where market influences are at that  
3 particular point in time in a completely competitive  
4 marketplace, that we're able to take into account those  
5 issues in the analysis.

6 Previously, Pegasus had--the assumption was that  
7 a filed tariff rate was the only price proxy, and now we are  
8 allowing for a more global view of that--global view of the  
9 market to do the analysis.

10 ACTING CHAIRWOMAN LaFLEUR: So looking at rail  
11 and other alternatives to pipelines.

12 MS. COOK: Yes. Everything is taken into  
13 account.

14 ACTING CHAIRWOMAN LaFLEUR: Thank you.  
15 Colleagues?

16 COMMISSIONER MOELLER: Well, Acting Chair, again  
17 thank you for putting this Order on the agenda. As you  
18 noted, and as Commissioner Clark has witnessed firsthand,  
19 the country is experiencing a boom in domestic oil  
20 production and we are seeing a lot more oil pipeline action  
21 here at the Agency certainly than five years ago.

22 Thank you for representing your team. It was  
23 obviously a pretty big team. It's a very well-written  
24 Order, and I would recommend it to even the people who  
25 follow electricity because it sets out some of the changing

1 dynamics. And again I think it hopefully reflects the fact  
2 that this Commission evolves in its analysis of market power  
3 and how there are alternatives, and hopefully giving the  
4 proper direction to those applicants who may request market-  
5 based rates in the future.

6 So thanks to you and the team for highlighting it  
7 this morning.

8 COMMISSIONER NORRIS: Good suggestion. Electric  
9 folks, read this Order, too.

10 (Laughter.)

11 COMMISSIONER NORRIS: I would just echo what my  
12 colleagues have said, that things are changing. We're  
13 responding, and I appreciate all your work on this. Thanks.

14 COMMISSIONER CLARK: Just thanks to the team.  
15 The Interstate Commerce Act is getting a lot of love today  
16 at the Commission.

17 (Laughter.)

18 COMMISSIONER CLARK: That's good. Yes, it is a  
19 well-written Order, and thanks to the team for your work.  
20 The take-away for me, and I think you said it well, was did  
21 the Mobil decision blow up 572? Or was the take-away from  
22 it that the Commission, an admonishment to the Commission to  
23 be very fact-specific in how it applies the Standards of  
24 572, and it concludes that the latter is the case. And then  
25 in addition to that, it offers some hopefully helpful

1 guidance to the industry.

2 I know that this is an Order that the industry  
3 and stakeholders have been very interested in, so I am sure  
4 they will want to wade into it. But it should provide some  
5 additional guidance for those folks who are looking to build  
6 and finance these lines as to the things that the Commission  
7 will take into consideration.

8 So thanks for the work.

9 ACTING CHAIRWOMAN LaFLEUR: Thank you. Madam  
10 Secretary?

11 SECRETARY BOSE: We are ready to vote, and  
12 Commissioner Clark the vote begins with you.

13 COMMISSIONER CLARK: Aye.

14 SECRETARY BOSE: Commissioner Norris.

15 COMMISSIONER NORRIS: Aye.

16 SECRETARY BOSE: Commissioner Moeller.

17 COMMISSIONER MOELLER: Aye.

18 SECRETARY BOSE: And Chairman LaFleur.

19 ACTING CHAIRWOMAN LaFLEUR: Aye.

20 And with that, thank you. We're adjourned.

21 (Whereupon, at 10:49 a.m., Thursday, February 20,  
22 2014, the 1002nd meeting of the Federal Energy Regulatory  
23 Commissioners was adjourned.)

24

25