

1 FEDERAL ENERGY REGULATORY COMMISSION

2 1010th Commission Meeting

3 Thursday, November 20, 2014

4 Hearing Room 2C

5 888 First Street, N.E.

6 Washington, D.C.20426

7 The Commission met in open session,

8 pursuant to notice, at 10:10 a.m., when

9 were present:

10 COMMISSIONERS:

11 CHERYL A. LaFLEUR, Chairwoman

12 PHILIP MOELLER, Commissioner

13 TONY CLARK, Commissioner

14 NORMAN BAY, Commissioner

15 FERC STAFF:

16 KIMBERLY D. BOSE, Secretary

17 JEFF WRIGHT, Director, OEP

18 ANNA COCHRANE, OEMR

19 MICHAEL BARDEE, Director, OER

20 JOSEPH McCLELLAND, Director, OEIS

21 DAVID MORENOFF, General Counsel

22 JAMIE SIMLER, Director, OEPI

23 LARRY GASTEIGER, Acting Director, OE

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2 Discussion Items:

3 E-2 Docket No. AB13-7-00

4 PRESENTERS:

5 BETTY WATSON, OEPI

6 Accompanied by:

7 KATHERYN HOKE, OCG

8 LEANNE KHAMMAL, OEMR

9 THANB LUONG, OER

10 E-3 , E-4 Docket Nos AD14-16-000 ,

11 E-6, E-10 RM14-15-000, RM14-10-000

12 and RR14-5-000XXXX

13 PRESENTERS:

14 MATTHEW VLISSIDES, OGC

15 Accompanied by:

16 KAL AYOUB, OER

17 ERIC VANDENBERG, OEMR

18 G-1 Docket No. (none provided)

19 PRESENTERS:

20 MONIQUE WATSON, OEMR

21 Accompanied by:

22 DAVID MARANVILLE, OGC

23 RICHARD HOWE, OGC

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A-3 Docket No. (None provided)

PRESENTERS:

LAURA SWETT, OE

Accompanied by:

JAMIE MARCOS, OE

STEVE WILLIAMS, OE

ROBERT HUDSON, OE

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

2 THE CHAIRMAN: I am going to
3 call the meeting to order. This is the
4 time and place that has been noticed
5 for the open meeting of the Federal
6 Energy Regulatory Commission to
7 consider matters that have been posted
8 in accordance with the Government and
9 the Sunshine Act.

10 Please join us in the Pledge
11 of Allegiance.

12 (The Pledge of
13 Allegiance to the
14 Flag/)

15 THE CHAIRMAN: Good morning
16 everyone. It seems that I start every
17 meeting by saying it has been a busy
18 month at FERC and this is no exception.

19 Since the October meeting we
20 have issued 75 notational orders and
21 we have a full agenda today including
22 orders spanning our reliability,
23 markets and infrastructure
24 jurisdiction as well as approval of
25 the Exelon Pepco merger.

1 I would like to highlight a
2 few recent and upcoming events.

3 I feel a little bit like when
4 you watch TV, and they say, "Watch
5 tomorrow night," and this is
6 happening.

7 On October 28, FERC staff held
8 its second technical conference on
9 price formation focusing on offer
10 price mitigation and scarcity pricing.

11 On November 5, held was a
12 technical conference at the New York
13 Public Service Commission in ISO
14 Capacity Market and State Energy
15 Initiatives.

16 I appreciate the efforts of
17 everyone on FERC staff, the invited
18 speakers, and our New York colleagues
19 to make both of these events
20 productive and successful.

21 Upcoming on December 9, we
22 will hold our third and final workshop
23 on price formation focusing on out of
24 market operator actions.

25 Before I turn to my

1 colleagues, I just want to take a
2 second to recognize Mike McLaughlin
3 who, as has been previously announced,
4 will be retiring at the end of the
5 month.

6 We all had hoped to honor Mike
7 in person, but unfortunately he is not
8 here today due to a personal issue,
9 but I think it is still appropriate to
10 say a few words because, of course, he
11 will be watching online or watch it
12 later obviously.

13 Mike joined the Commission in
14 1984 as an advisor to Commissioner
15 Charlie Stallen the way a lot of
16 people started.

17 He served in leadership
18 positions in the Office of Pipeline
19 and Producer Regulation and the Office
20 of Electric Reliability and he has
21 been the Director of the Office of
22 Energy Market Regulation for more than
23 five years.

24 Obviously, he has been at the
25 forefront of managing the regulation

1 of electricity, natural gas and oil
2 pipelines during an era that has seen
3 a lot of transformation.

4 On a personal level, I feel
5 lucky to have worked with Mike for the
6 past four and a half years especially
7 the last year that I've been chairman.

8 I appreciate not just his
9 experience and insight but his
10 thoughtful and calm and unruffled
11 approach to resolving difficult
12 issues.

13 I am really going to miss him.
14 I know we all are and I look forward
15 to telling him that a person.

16 Now to my colleagues.

17 COMM MOELLER: Thank you,
18 madame chairman. I have comments that
19 relate to transitions, arrivals,
20 transfers, and departures, but to start
21 with references to Mike, it is fair to
22 say that millions of consumers
23 throughout the country have benefited
24 from Mike's insight and hard work and
25 policies that emanated from various

1 positions he has been in here.

2 As you noted he had the kind
3 of demeanor that was kind of a little
4 bit of an "Ah, shucks," Southern
5 Illinois mentality, but if you ruffled
6 him you knew it and that's a sign in a
7 manager and a policymaker.

8 We wish him the best in his
9 retirement as I think he splits time
10 between Southern Illinois this area.

11 In terms of additions, I am
12 happy to report that Jesse Hensley and
13 his wife Elizabeth who also works here
14 we welcome their latest and newest
15 addition to their family, Addison, on
16 November 4, election day, and in his
17 absence of paternity leave, I have the
18 pleasure and I appreciate, madame
19 chairman, your allowing this to
20 happen, Becky Robinson has been taking
21 western issues over for Jesse while
22 he's on paternity leave.

23 Becky is a rising economist
24 star in this agency. She is
25 originally from Alabama, she went to

1 Williams College, and then the
2 University of Cambridge in England,
3 again, this is someone who I think
4 with this agency you will hear a lot
5 more about because of her intelligence
6 and her attitude and we appreciate the
7 chance that she can be in our office
8 for a month.

9 Jason Stanick who many of you
10 know was an east advisor for me for
11 about eight years has moved on to
12 become the branch manager in the
13 Office of Enforcement Division of
14 Energy Market Oversight, a very
15 critical and interesting resource for
16 this Commission and we will be hearing
17 a lot more from in the future.

18 I want to thank Jason for his
19 outstanding service to the American
20 people in my office, he has made a lot
21 of terrific decisions that again
22 benefited others.

23 He was always working to make
24 sure that the orders of the agency,
25 even those that we dissented on, were

1 improved so that they would at least
2 withstand a court's scrutiny. He is a
3 true professional that this agency is
4 fortunate to have.

5 In his place is Christina Voss
6 who will be taking over on east
7 issues.

8 She has been in our office for
9 a few months and in the past some of
10 you may have known her then. She is
11 from my home state of Washington, Oak
12 Harbor. She went to the University of
13 Puget Sound with an emphasis on
14 economics and international policy.

15 She has been here at FERC for
16 nine years, and again, I feel very
17 fortunate that Christina will now be
18 taking over east issues in my office.

19 Thank you for the time.

20 THE CHAIRMAN: Than you and
21 welcome again to everyone new on the
22 floor. Commissioner Clark?

23 COMMISSIONER CLARK: For one
24 thing, an early Happy Thanksgiving to
25 everyone. I look forward to a good

1 Holiday Season over the next few
2 months.

3 First, to Mike, I saw him in
4 the hall yesterday when he indicated
5 that he would not be able to be here.

6 I thought if there was anyone
7 who probably did deserve a send-off
8 from the Commission in person it would
9 be Mike, but I understand that
10 something happened and he wasn't able
11 to be here.

12 Mike, really and truly has
13 been a great resource for the
14 Commission.

15 I can't tell you how many
16 meetings I've had with industry folks
17 that tend to end with a yes but then
18 there is a question, "Have you talked
19 to Mike McLaughlin about this?" and
20 usually their filings and
21 presentations were better because of
22 it.

23 We would also get a lot of
24 comments from folks around the country
25 when there was some particular issue

1 that was particularly thorny in any
2 given region of the country and they
3 would often say, "Yes, Mike came out
4 to visit us and he really helped
5 things along." That is a testament to
6 the work he has done.

7 Congratulations to Mike on his
8 retirement and hopefully we will be
9 seeing him around the office every now
10 and then.

11 There are lots of important
12 orders on Commission meeting agenda
13 today. We are going to be having a
14 number of them for discussion, so I
15 look forward to getting to that.

16 Thank you.

17 THE CHAIRMAN: Commissioner
18 Bay?

19 COMMISSIONER BAY: Thank you,
20 Chairman LaFleur. Mike McLaughlin?
21 Let me say that I've had the privilege
22 of working with Mike for more than five
23 years.

24 I have always appreciated and
25 admired Mike's dedication, his hard

1 work, his common sense, a virtue that
2 I think is not so common his judgment
3 and his commitment to public service.

4 He is really an extraordinary
5 a public servant and in many respects
6 he exemplifies the best that is FERC.
7 We are going to miss Mike, but we also
8 wish him well in his future endeavors.

9 THE CHAIRMAN: Great. Madame
10 Secretary, I think we are ready for the
11 consent agenda.

12 THE SECRETARY: Good morning,
13 madame chairman, and good morning
14 Commissioners.

15 Since the issuance of the
16 Sunshine Act notice on November 13,
17 2014, Item H2 has been struck from
18 this morning's agenda.

19 Your consent agenda is as
20 follows. Electric Items: E1, E7, E8,
21 E9, and E11. Gas Items: G2, G3, G4,
22 and G5. Hydro Items: H1, H3, H4.
23 Certificate Items: C1.

24 As to G5, Commissioner Bay in
25 concurring in part and dissenting in

1 part with a separate statement.

2 We are now ready to take the
3 vote on this morning's consent agenda
4 and the vote begins with Commissioner
5 Bay.

6 COMMISSIONER BAY: Noting my
7 partial concurrence and partial dissent
8 on G5, I vote aye.

9 THE SECRETARY: Commission
10 Clark.

11 COMMISSIONER CLARK: Aye.

12 THE SECRETARY: Commissioner
13 Moeller.

14 COMM MOELLER: Aye.

15 THE SECRETARY: And chairman
16 LaFleur.

17 THE CHAIRMAN: I vote aye.

18 THE SECRETARY: Our first item
19 for discussion this morning is Item E2
20 concerning the centralized capacity
21 markets and regional transmission
22 organizations and independent system
23 operators in Docket No. AB13-7-000.

24 There will be a presentation by
25 Betty Watson from the Office of Energy

1 Policy and Innovations.

2 She is accompanied by Katheryn
3 Hoke from the Office of the General
4 Counsel and Leanne Khaa; from the
5 Office of Energy Market Regulation and
6 Thanh Luong from the Office of
7 Electrical Liability.

8 MS. HOKE: Good morning,
9 chairman and commisioners. The draft
10 order before you follows up on two
11 technical conferences convened by the
12 Commission.

13 On September 25, 2013 a
14 technical conference on centralized
15 capacity markets and regional
16 transmission organizations and
17 independent system operators, RTOs,
18 ISOs.

19 On April 1, 2014 Technical
20 Conference and Winter 2013-2014
21 Operations and Market Performance in
22 RTOs ISOs.

23 Specifically as we will
24 explain it in more detail, the draft
25 order requires RTOs ISOs to file

1 reports with the Commission on the
2 status of their efforts to address
3 fuel assurance issues in their
4 respective regions.

5 The draft order also provides
6 guidance to assist RTOs ISOs in those
7 efforts.

8 Of issues explored at the two
9 conferences, generator performance and
10 efficient market operations were among
11 the most pressing concerns raised.

12 Throughout the conferences and
13 subsequent post technical conference
14 comments and continued analyses by the
15 RTOs ISOs and the Commission,
16 generator access to sufficient fuel
17 supplies and the firmness of generator
18 fuel arrangements were consistently
19 identified as a significant issues
20 contributing to poor generator
21 performance and inefficient market
22 operations.

23 The draft order before you
24 uses the term "fuel assurance" to
25 describe a broad concept that includes

1 a range of generator specific and
2 systemwide issues including the
3 overall ability of an RTO ISO's
4 portfolio of resources to access
5 sufficient fuel to meet system needs
6 and maintain reliability.

7 The draft order emphasize that
8 the need to adjust fuel assurance
9 applies to all resources regardless of
10 fule type.

11 The draft order explains that
12 fuel assurance has a direct and
13 immediate impact on generator
14 performance and less system
15 reliability.

16 Failure to address fuel
17 assurance could potentially lead to
18 volatile and often high fuel prices or
19 require costly operator actions to
20 ensure reliability.

21 The draft order finds that in
22 light of these potential risks to
23 reliability and just and reasonable
24 rates it is appropriate at this time
25 to initiate a review of how each RTO

1 ISO addresses fuel assurance.

2 Additionally, the draft order
3 recognizes that the Commission has
4 already acted in several individual
5 proceedings to put in place a number
6 of market rules and tariff changes
7 that can help address fuel assurance
8 concerns, but that a more
9 comprehensive review of these issues
10 and the efforts of RTOs, ISOs have
11 undertaken or planned to undertake is
12 warranted.

13 Finally, to assist RTOs, ISOs
14 and their efforts, the draft order
15 describes a range of potential
16 approaches.

17 In capacity markets and
18 resource adequacy constructs, energy
19 and ancillary services markets, or
20 both, but could be considered to
21 address market and system performance
22 concerns associated with fuel
23 assurance.

24 RTOs, ISOs will be required to
25 file reports within 90 days of the

1 date of this order on the status of
2 their efforts to adjust fuel assurance
3 issues.

4 Each RTO ISO should describe
5 the nature of fuel assurance concerns
6 specific to its region, the
7 comprehensive strategy or strategies
8 it has implemented or plans to
9 implement to address market and system
10 performance in light of each of its
11 fuel assurance concerns and the
12 specific programs and mechanisms it
13 will use to carry out its strategies.

14 Following the submission of
15 the RTO ISO reports, there will be a
16 30-day public comment period.

17 This concludes our
18 presentation. We are happy to answer
19 any questions. Thank you.

20 THE CHAIRMAN: Thank you Betty
21 and thank you to the team at the table.
22 I am not at the table that worked on
23 this order.

24 I would say that in the last
25 14 months, I have been asked probably

1 one hundred times, "What are the next
2 steps on the Commission's TED
3 Conference on the Capacity Markets and
4 on the Polar Vortex Tech --

5 I'm sorry. Cold Weather Tech
6 Conference in April 2014. Today's
7 order is a response to that question.

8 Those technical conferences,
9 and a lot of the other work the
10 Commission has done highlighted a key
11 issue that competitive markets are
12 confronting which is whether markets
13 are designed and whether pricing is
14 designed to ensure fuel availability
15 particularly during times of peak
16 demand so that reliability needs are
17 met.

18 Today's order reflects not
19 only the outcome of those specific
20 technical conferences, but also the
21 next step in addressing challenges
22 relating to gas electric
23 interdependency which, of course, are
24 being presented as we have so much
25 more domestic natural gas and more gas

1 used for generation.

2 As a result of all our work on
3 gas electric coordination, the
4 Commission identified to cut across
5 issues to tackle nationally
6 communications and scheduling.

7 At the same time we recognize
8 that an additional issue, and in some
9 ways the toughest issue, is whether
10 there are sufficient infrastructure
11 and market mechanisms in place to
12 ensure fuel is available when and
13 where it's needed.

14 We thought that issue had to
15 be addressed regionally rather than
16 nationally because of differences in
17 market structure, state regulation,
18 geography and infrastructure in the
19 different regions.

20 We want to recognize that a
21 lot of work has already taken place on
22 fuel assurance issues particularly in
23 ISO New England and PJM.

24 Today's order calls on all
25 regional market operators to report on

1 their actions to address fuel
2 assurance to enable the Commission to
3 continue to address this issue as
4 needed on a regional basis.

5 Colleagues?

6 COMM MOELLER: Thank you
7 madame chair. I am glad we are doing
8 this. I think it's a good order. I
9 think the timing is good.

10 We had a little discussion as
11 to whether this would be pushing the
12 RTOs too quickly, but again, this will
13 be a time period that is particularly
14 critical in terms of fuel
15 deliverability, those issues making
16 sure that the fuel is there to have
17 the power delivered and those range
18 from making sure that coal is
19 delivered by railroads, that gas is
20 delivered through pipelines, and key
21 to our order last year, the voluntary
22 nature of communication sharing I
23 trust will continue vibrantly over the
24 next few months. Thank you.

25 COMMISSIONER CLARK: Yes, I

1 thank you, the team, for the work that
2 you have been putting it on this all
3 throughout the processes.

4 This issue of fuel assurance
5 is a very important one. I thought it
6 had been brought home to us a number
7 of times for a number of presentations
8 over the last several months.

9 While the Commission has
10 always taken fuel assurance and issue
11 generator performance seriously in
12 past times, we had such healthy
13 reserve margins that in a sense you
14 could get away with a lot looser
15 operating system and let some things
16 maybe slide a little bit more from a
17 reliability standpoint, then it looks
18 like we will be able to do moving
19 forward.

20 A couple of bit of pressures
21 are coming on to the system and we
22 have seen it through the cold-weather
23 operations in the last few years which
24 have acted as a stress test on the
25 system, but we know that we don't have

1 those real large operating reserves
2 anymore.

3 We know we have a fleet that's
4 changing over rather dramatically in a
5 quick fashion both because of
6 environmental regulations and because
7 of market forces with regard to the
8 underlying fuel sources.

9 We also have fuel sources that
10 need to operate in a much tighter
11 timeframe on a real time basis. We
12 are not as dependent on a large fleet
13 of coal units that have 30 days of
14 supply out on the pile.

15 Even with those units that are
16 are still coal, we now know that we
17 are finding depleted coal reserves as
18 well, so they are not quite as
19 flexible as they have been in the
20 past.

21 A lot of pressure is coming to
22 bear. This is the next step which is
23 fuel assurance which is a big topic
24 and a broad one and we purposely left
25 it somewhat open ended so that the

1 regions themselves could talk about
2 the specific issues of fuel assurance
3 that might fall under that umbrella,
4 but there is important work and I look
5 forward to hearing back from all of
6 our regions in just a few months.

7 COMMISSIONER BAY: The team
8 has my thanks and I look forward to
9 reviewing the reports of the RTOs ISOs
10 on their efforts to address fuel
11 assurance issues within their regions.

12 THE CHAIRMAN: Thank you.
13 Madame Secretary.

14 THE SECRETARY: We will now
15 take a vote on Item E2. The vote
16 begins with Commissioner Bay.

17 COMMISSIONER BAY: I vote aye.

18 THE SECRETARY: Commissioner
19 Clark.

20 COMMISSIONER CLARK: Aye.

21 THE SECRETARY: Commissioner
22 Moeller.

23 COMM MOELLER: Aye.

24 THE SECRETARY: And chairman
25 LaFleur.

1 THE CHAIRMAN: Aye. Thank
2 you.

3 THE SECRETARY: The next item
4 is a presentation and discussion will
5 be a joint presentation on Items E3,
6 E4, E6 and E10 concerning certain
7 reliability matters in Docket numbers
8 AD14-16-000, RM14-15-000, RM14-10-000
9 and RR14-5-000 respectively.

10 There will be a presentation
11 by Matthew Vilssides. He is
12 accompanied by Kal Ayoub from the
13 Office of Energy Electric Reliability
14 and Eric Vandenberg from the Office of
15 Energy Market Regulation.

16 MR. VILSSIDES: Good morning
17 chairman LaFleur and Commissioners.

18 Today we will provide a
19 summary of Agenda Items E3, E4, E6,
20 and E10 which pertain to three North
21 American Electric Liability
22 Corporation or NERC, reliability
23 petitions, and separately a draft
24 comment from the Commission to the
25 Environmental Protection Agency or EPA

1 concerning a request.

2 First, agenda Item E3 is a
3 draft comment to the EPA concerning
4 Kansas City Board of Public Utilities
5 or EPU is a request for an
6 administrative order from the EPA to
7 allow the continued operation of BPUs
8 Yerman One Electric Generating Unit
9 for a period of six months and an EPA
10 policy memorandum issued concurrently
11 with its mercury and air toxic
12 standards.

13 The EPA indicated that it
14 intends to seek advice as necessary on
15 a case-by-case basis from the
16 Commission, among others, as the EPA
17 decides whether it will grant an
18 administrative order to an owner
19 operator.

20 The Commission then issued a
21 policy statement explaining that it
22 would advise the EPA by submitting
23 written Commission comments to the EPA
24 based on the Commission's review of
25 the information included in an

1 informational filing containing the
2 request for the administrative order
3 provided to the Commission.

4 This draft comment results
5 from that process. The draft comment
6 indicates that the loss fell below the
7 12 percent of the reserve requirement
8 mandated in the Southwest power pool
9 criteria unless BPU is able to procure
10 replacement energy for the unit.

11 I will now turn to the agenda
12 items regarding petitions submitted by
13 NERC.

14 Agenda Item E4 is a draft
15 final rule approving the physical
16 security reliability standards set
17 14-1 submitted by NERC in response to
18 an order issued by the Commission on
19 March 7, 2014.

20 While proving the physical
21 security reliability standard, the
22 draft final rule pursuant to the
23 Commission's authority under Section
24 215 B5 of the Federal Power Act
25 directs NERC to develop one

1 modification to the physical security
2 reliability standard.

3 The draft final rule directs
4 NERC within six months of the
5 effective date of the final rule to
6 remove the undefined term widespread
7 as used in the phrase widespread
8 instability from the physical security
9 reliability standard or alternatively
10 to modify that reliability standard to
11 address the Commission's concern that
12 the term is ambiguous.

13 The draft final rule also
14 directs NERC to submit an
15 informational filing within two years
16 of the effective date of the physical
17 security reliability standard
18 addressing whether the reliability
19 standard should encompass all
20 "high-impact control centers" as that
21 term is defined in reliability
22 standard Step 2-5.1.

23 The draft final rule does not
24 adopt the other proposals including
25 the proposal that would have directed

1 NERC to develop a modification to
2 allow applicable governmental
3 authorities, i.e., the Commission and
4 any other appropriate federal or
5 provincial authorities to add or
6 subtract facilities from the
7 applicable entities list of critical
8 facilities.

9 Agenda Item E6 is a draft
10 notice of proposed rulemaking that
11 proposes to approve revised
12 reliability standard BOW1-2 real power
13 balancing control performance and
14 certain new definitions proposed by
15 NERC.

16 The proposed reliability
17 standard is designed to ensure that
18 applicable entities maintain system
19 frequency with the narrow bounds
20 around a scheduled value.

21 In addition the draft notice
22 of proposed rulemaking proposes to
23 direct NERC to submit an informational
24 filing that addresses reliability
25 impacts on both the power system as a

1 result of inadvertent interchange and
2 unscheduled power flows.

3 Comments on the draft notice
4 of proposed rulemaking are due 60 days
5 after its publication in the Federal
6 Register.

7 Agenda Item E10 accepts NERC's
8 second performance assessment finding
9 that NERC continues to fulfill its
10 statutory and regulatory
11 responsibilities as the nation's
12 electric reliability organization.

13 The draft order discusses
14 improvements made to NERC's processes
15 and procedures since its last
16 performance assessment in 2009.

17 These improvements include
18 efforts to streamline the reliability
19 standards development process and the
20 formation of independent experts
21 review panel to provide a
22 comprehensive review of existing
23 reliability standards.

24 In addition, the draft order
25 encourages or directs NERC to take

1 several actions to further improve its
2 performance as the electric
3 reliability organization.

4 For instance, the draft order
5 directs NERC to submit an
6 informational filing within one year
7 reporting on its efforts to improve
8 coordination and consistency among the
9 regional entities.

10 Also the draft order directs
11 NERC to strengthen its future
12 performance assessments by including
13 an analysis of repeat violations in
14 NERC's corporate performance metrics.

15 This concludes our
16 presentation. Staff will take any
17 questions you may have. Thank you.

18 THE CHAIRMAN: Thank you and
19 thanks to everyone who worked on these
20 four orders which really span just
21 about all parts of our reliability
22 work.

23 I just want to highlight a
24 couple starting with the NERC
25 assessment.

1 There is something a little
2 bit artificial about it since we
3 actually give NERC feedback all the
4 time in our orders on standards of
5 which we have two on the agenda today
6 and at board meetings, and of course,
7 our staff, and OER, and OIS and OGC
8 and OE worked closely with NERC all
9 the time.

10 Nonetheless, this is the time
11 to step back every five years and take
12 a look at the span of the five years
13 and how NERC is doing.

14 I believe that NERC has made
15 substantial progress over the past
16 five years and many aspects of its
17 operation, but particularly
18 streamlining the standards development
19 process and the work to improve the
20 compliance and enforcement of the
21 standards.

22 But as the order points out
23 there are definitely opportunities to
24 continue to enhance their efforts and
25 the order points primarily to the

1 tighter development of metrics to
2 measure the performance of NERC in the
3 regional entities and improving
4 consistency of operation and practices
5 among the regional entities and we
6 look forward to hearing more about
7 those.

8 I also want to note E3, the
9 comments to the EPA on the Kansas City
10 Board of Public Utilities request for
11 an extension on the mercury and air
12 toxics rule.

13 I appreciated that back in, I
14 believe it was, 2011, when EPA
15 finalized its MATS rule, it included
16 an opportunity for the Commission to
17 comment on applications on the fifth
18 year extension to address the specific
19 reliability concern.

20 We put this on the discussion
21 agenda because this is the first time
22 we have been asked to offer such
23 comments to the EPA and we are doing
24 so.

25 As I always say, the

1 Commission is not an environmental
2 regulator, but we have a role to play
3 in ensuring that reliability is
4 protected while new environmental
5 regulations are implemented and this
6 order is an example of that and I look
7 forward to the continuing engagement
8 with the EPA on these issues.

9 I'm interested in looking at
10 this beat of the Kansas City order.
11 Do we have a sense based on your
12 ongoing conversations with the RTOs in
13 the EPA how many of these math
14 extension filings we expect to
15 receive?

16 MR. VILSSIDES: I don't think
17 staff knows how many will be ultimately
18 submitted to us.

19 I think staff is aware of two
20 potential submissions in the future,
21 but at this point, it's just a
22 possibility.

23 THE CHAIRMAN: I guess it is a
24 good sign that there is relatively few,
25 but we will handle them as they come.

1 Colleagues?

2 COMM MOELLER: Thank you,
3 madame chair. I do not have any
4 questions for the team.

5 These are relatively
6 straightforward orders, but I'm glad
7 you called them because as you pointed
8 out they do represent the range of
9 reliability issues.

10 Some of them have had a
11 relatively high profile in the last
12 year, a couple of them a little less
13 so, but as you noted, the extension on
14 MATS is critical and I am glad that we
15 stepped up and are giving our advice.

16 I expect that we will probably
17 be doing it some more. I will note
18 though that since, at least I have
19 testified in front of Congress, there
20 is still the issue of the fifth year
21 and as our former colleague Mark
22 Spitzer said, "The Hobson's Choice of
23 the generators choosing which federal
24 law they are going to violating in the
25 fifth year."

1 That's an issue that remains
2 out there and could only be fixed by
3 Congress.

4 On the physical security
5 standard, it reflects that we were
6 responsive to the comments where we
7 modified the proposal so that the list
8 that we could add to has been taken
9 off, to add or subtract from, I guess,
10 add to or subtract from that element
11 of the proposal has been eliminated
12 based on extensive feedback.

13 I think it shows that we can
14 be responsive to the comments on
15 something that again was put together
16 pretty quickly and a lot of people
17 both on the original proposal that
18 came to us and the staff that worked
19 on it deserve a lot of credit for the
20 quick turn around.

21 Thank your for the chance to
22 comment.

23 THE CHAIRMAN: Thank you.
24 Commissioner Clark.

25 COMMISSIONER CLARK: Yes,

1 thanks to all the members across the
2 agency that had been working on these.

3 I do have one question for the
4 team to address and it is on E4, the
5 physical reliability standard.

6 In reading through the
7 comments the Commission received, and
8 just also some comments in the general
9 press, some of the more pointed
10 critiques that some people had with
11 the Commission's proposal had to do
12 with a couple of assumptions that the
13 Commission had built into this was the
14 tens of thousands of transmission
15 stations and substations, it was
16 probably likely that this standard
17 would only apply to a discrete number
18 of those, number one, and with regard
19 to generation facilities not being
20 included in the general physical
21 reliability standards there were
22 comments on those as well.

23 I wonder if you could talk a
24 little bit about the rationale behind
25 that and why that is and the nature of

1 the bulk electric system reliability
2 that the Commission has oversight over
3 versus local reliability concerns
4 which might be of concern to specific
5 localities but may not apply to this
6 sort of physical security standard
7 under FERC authority?

8 MR. VILSSIDES: Commissioners
9 just to take a step back to look at the
10 genesis of this process.

11 That was the March 7 order
12 that was issued by the Commission
13 directing NERC to develop this
14 physical security reliability
15 standard, and as reflected in the
16 draft final rule, it was recognized in
17 the March 7 order that the facilities
18 that needed to be protected pursuant
19 to this standard would be the most
20 critical facilities ones that would be
21 rendered inoperable or damaged, could
22 have a critical impact on the
23 operation of the interconnection for
24 instability and controlled separation
25 or cascading failures of the bulk

1 power system when NERC developed the
2 reliability standard and submitted to
3 the Commission for its approval it
4 noted that basically the transmission
5 facilities that are captured under the
6 applicability criteria of the standard
7 comport with that mandate that was
8 presented in the March 7 order,
9 whereas a single generator unit
10 probably could not do that and I think
11 the comments in response to the order
12 by and large probably overwhelmingly
13 supported that position.

14 So I think by the order's
15 perspective that was how we approached
16 it, but Kal might have some technical
17 information.

18 MR. AYOUB: Commissioners, in
19 terms of losing a generator, each of
20 the interconnections have reserves in
21 place that can withstand the loss of
22 the largest name generator.

23 We also have a standard in
24 place so far mandatory standards, for
25 example, the TPL standards are in

1 place, and they call for this study of
2 the loss of generation and
3 transmission and mitigate such losses
4 and through corrective action plans.

5 Finally, we do have now
6 thousands in place while the balance
7 and standards which require the
8 balancing of load and generation in
9 real time through manual and automatic
10 processes.

11 There are standards in place
12 right now that could withstand that.

13 COMMISSIONER CLARK: Thank
14 you. So there are standards in place
15 already. In addition to that, add the
16 focus of the Commission that has been
17 on the bulk electric system to prevent
18 cascading outages across
19 interconnection and while acknowledging
20 that there are local reliability
21 concerns, it certainly should be of
22 concern to regulators generally
23 speaking in utilities when it comes to
24 the standards that the Commission
25 enforces under this particular Act that

1 is where we were focusing these efforts
2 on. Thank you.

3 THE CHAIRMAN: Commissioner
4 Bay.

5 COMMISSIONER BAY: First, I
6 thank the team for its work on these
7 orders.

8 I also commend NERC for
9 drafting a rule on physical security
10 and in doing so under tight time
11 frame.

12 While the rule probably does
13 not go as far as someone would like it
14 is still a step in the right
15 direction.

16 It is my hope that registered
17 entities have already begun the
18 process of doing risk assessments and
19 engaging in planning and I look
20 forward to seeing how the standard is
21 implemented once it is in effect.

22 Thank you.

23 THE CHAIRMAN: Thank you.
24 Madame Secretary?

25 THE SECRETARY: We will now

1 take a vote on these items together.

2 The vote begins with Commissioner Bay.

3 COMMISSIONER BAY: I vote aye.

4 THE SECRETARY: Commissioner
5 Clark.

6 COMMISSIONER CLARK: Aye.

7 THE SECRETARY: Commissioner
8 Moeller.

9 COMM MOELLER: Aye.

10 THE SECRETARY: And chairman
11 LaFleur.

12 THE CHAIRMAN: Aye.

13 THE SECRETARY: The next item
14 for presentation and discussion this
15 morning is on Item G1 concerning cost
16 recovery mechanisms for modernization
17 of natural gas facilities.

18 There will be a presentation
19 by Monique Watson from the Office of
20 Energy Market Regulation. She is
21 accompanied by David Maranville and
22 Richard Howe from the Office of the
23 General Counsel.

24 MS. WATSON: Good morning,
25 chairman LaFleur and Commissioners.

1 The draft order issues for
2 comment a proposed policy statement on
3 the analytical framework the
4 Commission will use to evaluate a cost
5 recovery mechanism for natural gas
6 pipeline companies that replace old
7 and any fishing compressors, leaks
8 from pipes, and perform other
9 infrastructure improvements and
10 upgrades to enhance the safe and
11 reliable operation of the
12 pipeline.systems.

13 There have been several recent
14 legislative and regulatory initiatives
15 to address natural gas pipeline
16 infrastructure safety and reliability.

17 For example, in 2012 Congress
18 passed the Pipeline Safety Regulatory
19 Certainty and Job Creation Act of 2011
20 which prompted the Pipeline and
21 Hazardous Materials Safety
22 Administration to publish a paper on
23 Pipeline Safety for Natural Gas
24 Pipelines which requested comments on
25 the effects of enhanced regulations on

1 safety and cost and the best method to
2 implement the proposed regulations.

3 Likewise the US Environmental
4 Protection Agency has raised concerns
5 about greenhouse gas emissions.

6 In April, it issues a series
7 of technical white papers for comment
8 on how to best pursue reductions of
9 emissions including from natural gas
10 compressors.

11 Last week the EPA also issued
12 a final rule requiring the natural gas
13 industry to monitor methane emissions
14 and report them immediately.

15 In light of these developments
16 using the principles outlined in the
17 January 2013 FERC order that allowed
18 Columbia Gas Transmission, LLC to
19 implement a similar tracker as
20 proposed the Commission would require
21 a pipeline seeking a modernization
22 cost recovery surcharge to meet five
23 standards.

24 First, the pipeline to base
25 rates must have been recently

1 reviewed. There were natural gas
2 general section for rate proceeding or
3 through a collaborative effort between
4 the pipeline and its customers.

5 Second, eligible costs must be
6 limited to one-time capital cost
7 incurred to meet safety or
8 environmental regulations and the
9 pipeline must specifically identify
10 each capital investment to be
11 recovered by the surcharge.

12 Third, captive customers must
13 be protected from cost shifts if the
14 pipeline loses shippers or increases
15 discounts to retain business.

16 Fourth, there must be a
17 periodic review to ensure that rates
18 remain just and reasonable.

19 And finally, the pipeline must
20 work collaboratively with its shippers
21 to seek their support for any
22 surcharge proposal.

23 The proposed policy statement
24 also seeks comments on several
25 questions including whether the

1 pipeline should be allowed to use
2 accelerated amortization methodologies
3 to recover the cost of any facilities
4 installed pursuant to a modernization
5 cost recovery mechanism.

6 The proposed policy statement
7 also seeks comments on whether the
8 Commission should make any adjustments
9 to its current reservation charge
10 crediting policy.

11 Comments on the proposed
12 policy statement are due 30 days from
13 the date of publication in the Federal
14 Register with reply comments due 20
15 days later.

16 That concludes our
17 presentation and staff is available
18 for questions.

19 THE CHAIRMAN: Thank you so
20 much Monique, and Richard and David and
21 the team for your work on this.

22 I think this proposed policy
23 statement is really an example of one
24 of the things that I think the
25 Commission has to be doing all the

1 time which is to be alert to new
2 trends and look for opportunities
3 where we need to adapt our regulation
4 as needed.

5 Obviously right now as a
6 country we are putting a lot of
7 pressure on our natural gas pipeline
8 system.

9 We are increasingly relying on
10 it for different sectors of the
11 economy, and at the same time
12 pipelines are dealing with an
13 increased emphasis and increased
14 requirements around safety
15 environmental monitoring and
16 compliance.

17 The intent of this policy
18 statement is to try to assure that our
19 rainmaking policies are supportive to
20 pipeline investments to meet safety
21 and environmental obligations while
22 also building in protections for
23 customers.

24 I hope that we receive
25 comments. I know I never need to say

1 this because because we always receive
2 comments, but I hope we receive
3 comments from a wide range of
4 interested parties on this proposal.

5 Thank you.

6 Commissioner Moeller.

7 COMM MOELLER: Thank you
8 madame chairman. Thank your for
9 bringing this issue to its prominence
10 through policy statement and thanks to
11 the team involved in putting it
12 together.

13 I have to say anytime Richard
14 Howe is involved in this statement, I
15 have had a lot of confidence that it
16 is going to be pretty good.

17 Also on my staff is Kristie
18 DeVoss who I know has over the weekend
19 noted some new items that got included
20 in the order and I do thank her for
21 that.

22 I think we need to also
23 express some appreciation to Secretary
24 Moniz who has been putting some time
25 and effort into this set of issues in

1 a very rational and in a well thought
2 out way, and I'm sure that they are
3 very interested at the Forestall
4 Building in this and I too look
5 forward to the comments that will be
6 submitted so that we could move
7 forward and give clarity to the
8 industry so that we can move forward
9 again under a new set of regulations,
10 a kind of a new environment.

11 Thank you.

12 THE CHAIRMAN: Thank you.
13 Commissioner Clark.

14 COMMISSIONER CLARK: Yes,
15 thank you, madame chairman, and to
16 members of the team.

17 This really is to me the next
18 step that were taking in an
19 evolutionary process with regard to
20 some of the emerging issues that are
21 affecting gas pipelines.

22 I think one of the first ones
23 was the Columbia settlement that we
24 had not too long ago started flushing
25 out some different ideas for how we

1 certainly can grapple with some of
2 these issues of aging infrastructure
3 and known and knowable costs that are
4 going to becoming on down the line and
5 how to deal with it.

6 It is also important from a
7 policy statement standpoint to take
8 that next step because it begins to
9 put the parameters around what the
10 Commission will be looking at more
11 than just a one-off settlement, but to
12 give some guidance to the industry and
13 things that we might be looking for.

14 It might even spur other
15 settlements outside of the policy
16 statement. It is important because as
17 a general matter regulatory
18 commissions usually don't want
19 trackers to get out of control.

20 I mean they have their
21 purpose. They can serve an important
22 role, but you also have to be a little
23 bit careful with them.

24 You don't want to have
25 everything thrown into the tracker

1 including the company coffee kit.

2 They are a tool, but they have
3 to be used right and so its important
4 that we flush out exactly what we are
5 thinking in terms of ways to use the
6 tracker right.

7 Usually as staff indicated
8 revolves around things like knowing
9 the knowable costs, discrete costs,
10 the one-time type of costs. So we are
11 specifically putting it down here in
12 the statement and looking forward to
13 hearing back on it and see if we
14 missed something a little better if it
15 looks like we are on target, but
16 hopefully it will provide some needed
17 guidance to an industry that is
18 looking to make significant
19 investments because of a number of
20 reasons.

21 THE CHAIRMAN: Thank you.
22 Commissioner Bay.

23 COMMISSIONER BAY: I don't
24 have anything to add to the comments of
25 my colleagues. Thank you, team.

1 THE SECRETARY: We will take a
2 vote on this item and the vote begins
3 with Commissioner Bay.

4 COMMISSIONER BAY: I vote aye.

5 THE SECRETARY: Commissioner
6 Clark.

7 COMMISSIONER CLARK: Aye.

8 THE SECRETARY: Commissioer
9 Moeller.

10 COMM MOELLER: Aye.

11 THE SECRETARY: And chairman
12 LaFleur.

13 THE CHAIRMAN: Aye.

14 THE SECRETARY: The last item
15 for presesntation and discussion this
16 morning is Item A3 concerning the 2014
17 enforcement report.

18 The presentation will be given
19 by Laura Swett from the Office of
20 Enforcement. She is acompanied by
21 Jamie Marcos, Steve Williams, and
22 Robert Hudson of the Office of
23 Enforcement.

24 MS. SWETT: Good morning,
25 madame chairman and Commissioners.

1 Today the Office of Enforcement is
2 releasing its annual report on
3 enforcement.

4 This report provides the
5 public with information on enforcement
6 staff activities in fiscal year 2014.

7 The report describes public
8 and non-public enforcement activities
9 including Commission approved
10 settlements, investigations, and
11 self-reports closed without
12 enforcement action or sanctions.

13 As in our passt annual
14 reports, we have sought to provide
15 transparency about enforcement
16 activities to inform regulated
17 entities.

18 This year, however, the report
19 provides even more detail regarding
20 matters that DOI decided not to pursue
21 and why particularly for those matters
22 involving potential market
23 manipulation.

24 For example, the section
25 discussing self reports closed with no

1 action provides descriptions of more
2 matters in prior annual reports.

3 Also this section illustrating
4 investigations closed with no action
5 describes all seven of the
6 investigations and enforcement closed
7 without action in fiscal year 2014.

8 The report also discusses our
9 audits to ensure that jurisdictional
10 entities comply with the Commission's
11 statutes, orders, rules, tariffs and
12 regulations.

13 Finally, the report discusses
14 market oversight, surveillance, and
15 analysis that we perform to assess the
16 competitiveness and efficiency of
17 wholesale energy markets and to apply
18 quantitative analysis and technical
19 expertise to market behaviour and
20 anomalies.

21 The priorities of our office
22 have not changed in the past few years
23 and have continued to focus on four
24 distinct areas. These matters
25 involving one: Fraud, and market

1 manipulation. Two: Serious
2 violations of the reliability
3 standards. Three: Anti-competitive
4 conduct. And four: Conduct that
5 threatens transparency in FERC
6 regulate markets.

7 Regarding these four
8 priorities, first, market manipulation
9 and fraud present a significant risk
10 to the markets that the Commission
11 oversees and also undermine the
12 Commission's goal of ensuring
13 provision of efficient energy services
14 for consumers at a reasonable cost.

15 This year almost half of the
16 investigations we opened involved
17 allegations of market manipulation or
18 false statements.

19 The second priority. Serious
20 reliability standards violations
21 compromise the public interests by
22 threatening the reliable and secure
23 operation of our bulk power systems
24 and third and fourth, anti-competitive
25 and other conduct that impede market

1 transparency, undermine the confidence
2 that consumers have in our wholesale
3 energy markets.

4 Now turning to OE's
5 accomplishment in fiscal year 2014,
6 let me begin with DOI.

7 DOI entered into eight
8 Commission approved settlement
9 agreements assessing total civil
10 policies of approximately \$25 million,
11 Disgorgments were about \$4 million
12 plus interest in unjust profits.

13 The settlements involved
14 electric, gas, and hydroelectric
15 matters, and they resolved among other
16 issues violations of open access
17 rules, the Commission's
18 antimanipulation rule and the
19 reliability standards.

20 Notably during this fiscal
21 year, the Commission approved a
22 settlement related to an self-reported
23 violation of the anti-manipulation
24 rule by direct energy services.

25 This was the first

1 self-reported of this kind to result
2 in a Commission approved settlement.

3 Importantly, Direct Energy
4 received a relatively small civil
5 penalty and disgorgement payment due
6 to its self-reporting, its strong
7 compliance program, quick action, and
8 full cooperation with Enforcement's
9 investigation.

10 Another important matter is
11 the Commission settlement of
12 reliability investigations. Those
13 involved the Arizona Public Service
14 Company and Imperial Irrigation
15 District.

16 These investigations arose out
17 of a joint inquiry between the
18 Commission and NERC into the September
19 2011 outage in Arizona and California
20 and New Mexico. This outage left
21 about 5 million or more people without
22 power.

23 Collectively, the two entities
24 agreed to civil penalties of \$15.5
25 million, \$10.25 million of which is to

1 be invested in reliability enhancement
2 measures beyond the reliability
3 standards.

4 Further, in connection with
5 the same outage, the Commission has
6 also issued a notice of alleged
7 violations against four other
8 entities.

9 Moving on now to the other
10 divisions. Enforcement Staff's
11 Division of Audits and Accounting
12 completed 19 audits this year.

13 These audits address financial
14 and non-financial issues generating
15 162 recommendations for corrective
16 action and directing over \$11.7
17 million in refunds.

18 Enforcement staff's division
19 and market oversight continue to
20 monitor wholesale natural gas and
21 electric markets to identify market
22 anomalies, inadequate or flawed market
23 rules and potentially improper
24 behaviour.

25 Market oversight also

1 presented the Annual State of the
2 Market's Report and seasonal market
3 and reliability assessments.

4 It also continued ensuring
5 compliance with the Commission's
6 filing requirements such as electric
7 quarterly report filings.

8 Finally, in fiscal year 2014,
9 the division of analytics and
10 surveillance reviewed instances of the
11 potential misconduct and referred
12 matters to DOI for investigation.

13 The Commission also continued
14 to enhance its ability to conduct
15 surveillance of the natural gas and
16 electric markets and to analyze
17 individual market participant
18 behaviour by gaining access to the
19 CFTC's large trader report data.

20 DOS also lead an extensive
21 review of the polar vortex of events
22 that occurred this past January and
23 February to determine whether
24 potentially manipulative trading
25 behaviour contributed to the high

1 natural gas prices and elevated
2 electricity costs.

3 A copy of our annual report is
4 now available on the Commission's
5 website.

6 This concludes our
7 presentation and we are happy to
8 answer any questions.

9 THE CHAIRMAN: Thank you,
10 Laura, and thank you to everyone who
11 worked on this excellent report.

12 But more important is it for
13 me to say thank you to all the
14 employees across all parts of
15 Enforcement, Investigations, Audit and
16 Accounting, a division of Energy
17 Market Oversight, which we already got
18 a shout out from Phil earlier this
19 morning in the Division of Analytics
20 and Surveillance for doing all the
21 work that you could write about in the
22 report.

23 Every year I hold up the
24 report, and say, "This is required
25 reading for all participants in the

1 market and all compliance officers for
2 anyone in the electric and gas
3 industry," but now that I am chairman,
4 I expect people will cancel their
5 weekend activities to read the report.

6 (Laughter.)

7 What in the report is
8 important reading is that it really
9 has two big components in my mind.

10 Some of it is a very handy
11 compilation of material that has been
12 released previously, so once it's out,
13 I no longer have to go look for a
14 specific file to see what some
15 settlement was because it is all in
16 here like enforcement settlements and
17 audit report recommendations.

18 The real meat is in the other
19 information some of which Laura
20 referred to that is only released in
21 the report including the summary of
22 self-reports and a summary of hotline
23 matters and investigations that were
24 closed with no action.

25 It's a very important part of

1 our transparency to put that out.

2 I have one just question to
3 expand a little bit on something that
4 you said in your remarks.

5 This is the first annual
6 report since the signing last January
7 of our memoranda of understanding with
8 the Commodities Futures Trading
9 Commission.

10 I wonder if you can comment on
11 how we have utilized the trading data
12 that we have been receiving from the
13 CFTC and in our ongoing cooperative
14 efforts with them?

15 MS. SWETT: I think my
16 colleague is probably best equipped to
17 answer that question.

18 MS. MARCOS: Good monring.
19 The large trader report that we have
20 started receiving from the CFTC has
21 been very helpful in helping us
22 discover potential market manipulation
23 and market misconduct, it has been
24 particularly useful in assisting DAS in
25 determining whether a market

1 participant has the financial incentive
2 to manipulate a commission
3 jurisdictional market.

4 For example, when DAS
5 identifies suspicious activity in
6 Commission jurisdictional markets, DAS
7 will then look to the large trader
8 report to see if that market
9 participant has a financial incentive
10 or an open financial position that
11 would benefit from kind of activity
12 and then that determination assists
13 staff in deciding whether to do an
14 in-depth review of that market
15 participant's trading activity, and it
16 has also contributed to DAS's
17 decisions to refer a matter to DOI for
18 an investigation.

19 So the large trader report has
20 been greatly helpful to our efforts
21 and we hope to continue that
22 participation with the CFTC.

23 THE CHAIRMAN: If I understand
24 it, and thank you, that was very
25 helpful, so we are regulating the

1 energy markets and the CFTC is
2 regulating their financial markets and
3 everything else.

4 But if people are doing things
5 say in the gas market because of
6 something that's happening elsewhere
7 before we had the report we had to do
8 discovery to try to figure that out
9 what they were doing elsewhere, so now
10 we can hold it again --

11 MS. MARCOS: That is correct.
12 Prior to receiving the large trader
13 report, if we wanted to see if there
14 was an open financial position that
15 could benefit from that conduct in the
16 physical markets or in our
17 jurisdictional markets, we would then
18 have to speak to the company or reach
19 out to another agency to get more
20 information about those financial
21 products.

22 THE CHAIRMAN: Thank you.
23 Commissioner Moeller.

24 COMM MOELLER: Thank you,
25 madame chairman. I had one question

1 and you asked it, so that proves that
2 we don't cook this in advance.

3 I guess I want to commend the
4 CFTC for this somewhat refreshing new
5 approach compared to the combativeness
6 that we faced with them several years
7 earlier.

8 I certainly hope that that
9 will continue and again we thank them
10 for a new willingness to work with us.

11 We have clearly heard from at
12 least the Senate, if not the rest of
13 Congress, that these two agencies need
14 to get together and resolve the
15 jurisdictional blurriness between us.

16 From my perspective we have
17 always been willing in the past and
18 I'm hoping that our colleagues there
19 will be willing as well since there is
20 a problem right now in terms of where
21 the jurisdiction begins and ends and
22 that does not serve the American
23 public while given what we are trying
24 to do.

25 Regarding the enforcement

1 report, I do feel that I have some
2 kind of paternal influence in this
3 annual report, and so I appreciate
4 that it's continuing to improve as
5 part of the ongoing challenge of
6 continuing to provide as much
7 transparency as possible out of our
8 enforcement efforts.

9 Given the nature of the job
10 that's not going to be easy, but I
11 have full confidence that Larry
12 Gasteiger will continue those efforts
13 as a group of dedicated individuals to
14 continue to do their job. The report
15 is a reflection of that, so thank you.

16 THE CHAIRMAN: Commissioner
17 Clark.

18 COMMISSIONER CLARK: Thanks to
19 everyone involved for an excellent
20 report, and again, I would just echo
21 the comments of the chairman in
22 emphasizing the importance for
23 compliance officers especially on those
24 sections of the report that deal with
25 the self-reports that were closed

1 without further action and
2 investigations that were closed without
3 further action which is the one place
4 you can get those.

5 The other item that I would
6 tag on is for accountants and
7 auditors.

8 There's a great section
9 towards the end of the book dealing
10 with the Division of Accounting and
11 Auditing where you can look case by
12 case the things that our auditors and
13 accountants are looking at when they
14 go into companies and do difference
15 compliance audits.

16 Again, a great guidebook for
17 the sorts of things that any regulated
18 entity might want to be thinking about
19 in terms of areas of emphasis for
20 their own companies.

21 THE CHAIRMAN: Commissioner
22 Bay.

23 COMMISSIONER BAY: Speaking of
24 transparency, what led the company
25 officers and Direct Energy Services to

1 believe that manipulation was
2 potentially occurring within their
3 company?

4 MS. SWETT: I do not have the
5 specifics of that handy, but I am happy
6 to get back to you unless someone else
7 would like to speak to that?

8 MR. RABEN: I can handle that
9 part.

10 COMM MOELLER: Come to the
11 microphone.

12 THE CHAIRMAN: This proves
13 that all of this is not rehearsed.

14 MR. RABEN: I don't even have
15 a name tag. Mike Raben from the Office
16 of Enforcement.

17 It was caught in two ways.

18 The first was that Direct
19 Energy had its outside counsel give a
20 presentation regarding the
21 constallation settlement that the
22 Commission entered into, and as a
23 result of that, a trader who was not
24 involved in the self-reported activity
25 went to one of his supervisors, and

1 said, "I think some of my colleagues
2 in the other office have been doing
3 exactly what we just heard about and
4 that doesn't sound okay," and the
5 Compliance Division at Direct Energy
6 immediately began an investigation and
7 literally the next day their back
8 office is reviewing the volume trades,
9 looked at the volumes, and said, "This
10 looks troubling," and also called the
11 compliance folks, and said, "We think
12 we may have a problem here."

13 So they found it as a result
14 of two different tracks.

15 COMM MOELLER: How helpful was
16 the transparency provided in the
17 Commission's order in the constallation
18 settlement?

19 MR. RABEN: The impression we
20 got from their counsel was that it was
21 exceptionally helpful to them because
22 they knew exactly what it was that we
23 had found, a troubling constallation,
24 and we were able to identify the same
25 pattern in their trading very very

1 quickly.

2 COMM MOELLER: Thank you.

3 THE CHAIRMAN: Thank you.

4 Thank you for asking that question and

5 bringing out that anecdote.

6 So we do not have a vote.

7 There is one more important job and

8 that is to wish everyone a Happy

9 Thanksgiving. This meeting is

10 adjourned.

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