

1 FEDERAL ENERGY REGULATORY COMMISSION

2 1011TH COMMISSION MEETING

3

4 Thursday, December 18, 2014

5 Hearing Room 2C

6 888 First Street, N.E.

7 Washington, D.C.20426

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10 The Commission Meeting in open session,

11 pursuant to notice at 10:00 a.m., when

12 were present:

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14 COMMISSIONERS:

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16 CHERYL A. LaFLEUR, Chairwoman

17 PHILIP MOELLER, Commissioner

18 TONY CLARK, Commissioner

19 NORMAN BAY, Commissioner

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1 FERC STAFF:

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3 KIMBERLY D. BOSE, Secretary

4 DAVID MOREENOFF, General Counsel

5 J. ARNOLD QUINNE, Director of Energy

6 and Innovation

7 LARRY GASTEIGER, Acting Director of

8 Office of Enforcement

9 JEFF WRIGHT Director Office

10 of Energy Projects

11

12 JAMIE SIMLER, Director Office of

13 Energy Market Regulation

14 MICHAEL BARDEE, Director, Office

15 of Electric Reliability

16 JOSEPH MxCLELAND, Director Office

17 of Energy Infrastructure Security

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1 PRESENTERS:

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3 JASON FEUERSTEIN, OER

4 Accompanied by:

5 FRANKLIN JACKSON, OEMR

6 MICHAEL CACKOSKI, OEMR

7 LINA NAIK, OGC

8 OLGA KOLOTUSHKINA, OGC

9 BEN FOSER, OEPI

10

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12 PRESENTERS:

13 ALAN HAYMES, OE

14 Accompanied by:

15 OMAR CABRALES, OE

16 LOUISE NUTTER, OER

17

18 PRESENTERS:

19 MICHAEL HIGGINS, STB

20 DAVID MCMILLAN, ALLETE

21 and Minnesota Power

22 STEVAN BOBB, BNSF

23 TODD RAMEY, MISO

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

2 CHAIRMAN LAFLEUR: Good morning, everyone. This
3 is the time and place that has been noticed for the open
4 meeting of the Federal Energy Regulatory Commission to
5 consider the matters that have been duly posted in
6 accordance with the government and the Sunshine Act.

7 Please join us in the Pledge of Allegiance.

8 (Whereupon, the Pledge of Allegiance was
9 observed.)

10 CHAIRMAN LAFLEUR: Again, good morning, again,
11 everyone. In the place of where my name tag would normally
12 be, I have a little show and tell from my husband from his
13 extensive model railroad collection.

14 It was not intended to be coal delivered to FERC
15 stocking, but rather a commentary or a little show and tell
16 item where we have folks coming in to talk about rail
17 deliveries in the midwest and we appreciate them making
18 that trip.

19 By way of introductory remarks, the Commission
20 received two pieces of very good news this past week.

21 As all of this audience knows, I'm sure, on
22 Tuesday, Colette Honorable was confirmed by the Senate on as
23 FERC Commissioner.

24 I had the pleasure of working with Colette quite
25 a bit when she was a president NERUC.

1 She is terrific and I look forward to having her
2 at this table for a future meeting.

3 Secondly, last week the Partnership for Public
4 Service ranked FERC number 5 out of 25 mid-sized agencies in
5 government based on the 2014 employee survey in employee
6 satisfaction and in employee commitment.

7 In addition, FERC's Office of General Counsel led
8 by the smiling David Morenoff was ranked number one out of
9 315 agency departments and the top of all government, the
10 top score in any category, small, medium, or large.

11 So that was a big honor and I guess for those of
12 us who work here it is no secret that we have wonderful
13 people, that it is a good place to work so it was nice to
14 have that recognized externally and I felt very fortunate
15 to be at the event.

16 As the year rapidly comes to a close, we are
17 closing out our combined federal campaign which in sort of a
18 way is the federal equivalent of the United Way that offers
19 opportunities, the ability to contribute up to 24,000
20 different charities of their choice helping so many people
21 in need in our community and around the world.

22 As of now with just a couple weeks left we are at
23 82% of our dollar goal. I want to thank everyone who has
24 contributed including my colleagues and others around the
25 table for their generosity.

1 If you have not contributed and you are
2 listening, I hope you will do so by December 31st because it
3 really is a critical effort.

4 I would like to thank all of the office captains
5 and key workers and the Sea to Sea Committee. I see Antoine
6 Porter in the back of the room. He is the cochair of the
7 campaign and we thank them for their tireless efforts.

8 Last, but not least, the indefatigable Edward
9 Gingold, who has brought so much passion to this effort
10 every year who works to make it a successful campaign.

11 Looking forward to the new year, last week the
12 Commission announced a series of technical conferences with
13 respect to the EPA's Clean Power Plan and its implications
14 for the Commission's work.

15 The conferences are intended to provide a forum
16 for participants to discuss how to address issues concerning
17 the reliability of the power grid and the efficient
18 operation of wholesale electric markets as states and
19 regions comply with the Clean Power Plan.

20 As we made clear in the notice, we will have a
21 National Overview Technical Conference here at the
22 Commission on February 19 following our regular open
23 meeting which will start at 9:00 a.m. rather than at 10:00
24 a.m.

25 Then three staff led regional technical

1 conferences one in Washington, DC for the east, St. Louis,
2 and Denver and we hope to be in a position to announce the
3 dates of those shortly.

4 Finally, just another housekeeping matter. We
5 have decided, as it was announced also last week, to move
6 this week of the January open meeting back a week to
7 Thursday, January 22.

8 We did that to better accommodate the holiday
9 schedule to give us a chance to get more cases filed for the
10 meeting and that means the Sunshine Act notice for the
11 January meeting will come out on January 15 rather than
12 January 8.

13 Moving to the agenda. We have had a busy month
14 with 77 notational orders since the November open meeting
15 and a rather long list of cases today, so thank you all for
16 your work on that.

17 I will now turn it over to Phil.

18 COMMISSIONER MOELLER: Thank you, Commissioner
19 LaFleur. I too want to send congratulations to our friend
20 Colette Honorable who will be joining us apparently in the
21 new year at some point.

22 Secondly, I want to reiterate what you mentioned,
23 the changes in the next two meetings, the fact that we will
24 delay the January meeting a week from when it is typically
25 held and also the earlier start time in the February

1 meeting.

2 Thirdly, I have a statement that I will read and
3 I will post. I believe there is a common misperception
4 about one element of our enforcement process and my
5 statement today is an attempt to clarify that
6 misperception.

7 Yesterday the Commission issued an order that
8 directed Houlian Chan HEEP Fund, CU Fund, and Powhatan
9 Energy Fund to show cause why they should not be found to
10 have violated the Commission's regulations and the Federal
11 Power Act by engaging in fraudulent up to congestion
12 transactions in PJM.

13 These allegations arose out of an investigation
14 conducted by Office of Enforcement staff as described in
15 staff's report on this matter.

16 The show cause order, the Commission noted that
17 issuance of the staff report does not indicate Commission
18 adoption or endorsement of staff's findings.

19 This statement reflects the Commission's
20 long-standing - long-standing practice - not to prejudge
21 the filings made in staff reports.

22 Instead the Commission will consider the entire
23 record in this proceeding to determine whether the
24 assessment of civil penalties is appropriate.

25 Thank you.

1 CHAIRMAN LAFLEUR: Thank you. Commissioner
2 Clark?

3 COMMISSIONER CLARK: Good morning and welcome. I
4 as well would like to add my congratulations to Colette who
5 will soon be joining us here at the dais and we look
6 forward to having her on the FERC.

7 Thanks, Chairman LaFleur for the technical
8 conferences that were recently scheduled. I certainly
9 appreciate your efforts and support for that.

10 I think that would be a good opportunity to
11 address issues that we have been getting lots of questions
12 about and for some period of time and should be an
13 excellent opportunity.

14 Finally, I would be remiss if I did not
15 congratulate my old alma mater, the North Dakota State
16 University Bison football team which is gunning for its
17 fourth straight Division I FCS National Championship.

18 We are in the semi finals next week against Sam
19 Houston State and if they win there then we will play
20 either New Hampshire or Illinois State and I know you will
21 all be watching closely over the holidays as I will be too.

22 CHAIRMAN LAFLEUR: Commissioner Clark, I applaud
23 you for moving from your lapel pin which I have teased about
24 up to a tie, and if North Dakota State takes the
25 championship we will be looking for a jersey at the January

1 meeting.

2 Commissioner Bay.

3 COMMISSIONER BAY: Thank you. I too wish to
4 congratulate Colette Honorable on her recent confirmation
5 and just say how much I look forward to working with her in
6 the new year.

7 CHAIRMAN LAFLEUR: Thank you. Mme. Secretary, we
8 are ready to move to the consent agenda.

9 THE SECRETARY: Good morning, Mme. Chairman, and
10 good morning Commissioners.

11 Since the issuance of the Sunshine Act notice on
12 December 11, 2014, no items have been struck from this
13 morning's agenda.

14 Your consent agenda is as follows. Electric
15 items are E-4, E-5, E-6. E-8, E-9, E-10, E-11, E-12, E- 13,
16 E-14, E-15, E-16, E-19, E-20, E-21, E-22, E-24, E-25, E-26,
17 E-27, E-28, and E-29.

18 Gas items. G-1, G-2, and G-3.

19 Hydro Items. H-1.

20 Certificate Items. C-2, C-3, C-4 and C5.

21 As to E-28, Commissioner Moeller is dissenting in
22 part with a separate statement.

23 As to E-29, Commissioner Moeller is concurring
24 with a separate statement.

25 We will now take the vote for this morning's

1 consent agenda beginning with Commissioner Bay.

2 COMMISSIONER BAY: I vote aye.

3 COMMISSIONER CLARK: Aye.

4 COMMISSIONER MOELLER: I vote aye noting my
5 personal dissent on E-28 and my concurrence on E-29.

6 THE SECRETARY: Chairman LaFleur?

7 CHAIRMAN LAFLEUR: I vote aye. We can move on to
8 the discussion agenda.

9 THE SECRETARY: The first item is a joint
10 presentation and discussion items on E-1, E-2 and E-3
11 concerning certain Order Number 1000 compliance filing
12 matters in Dockets Numbers ER 13-2447-000, ER 14 1944 000
13 and EL 13 - 88 - 000 respectively.

14 There will be a presentation by Jason Feuerstein
15 from the Office of Electrical Liability and Franklin
16 Jackson from the Office of Energy Market Regulation and
17 Michael Cackoski from the Office of Energy Market
18 Regulation.

19 They are accompanied by Lina Naik, Olga
20 Kolotushkina from the Office of the General Counsel, and
21 Ben Foster from the Office of Energy Policy and Innovation.

22 MR. FEUERSTEIN: Good morning Chairman LaFleur
23 and Commissioner.

24 In Order Number 1000 the Commission adopted
25 reforms to the Commission's electric transmission planning

1 and cost allocation requirements for public utility
2 transmission providers.

3 In addition to the regional transmission planning
4 and cost allocation requirements that have been the subject
5 to prior commission orders, Order Number 1000 established
6 interregional transmission coordination requirements that
7 provide for, among other things, the exchange of regional
8 planning information and data between neighboring
9 transmission planning regions, the development procedures
10 to identify and jointly evaluate a proposed interregional
11 transmission facility which is a transmission facility
12 located in two or more transmission planning regions which
13 may be more efficient or cost-effective than regional
14 transmission projects, and the inclusion of common language
15 in each public utility transmission providers open access
16 transmission tariff which describes the interregional
17 transmission coordination procedures for each pair of
18 transmission planning regions.

19 Order Number 1000 also required that each public
20 utility transmission provider in any transmission planning
21 region have together with the public utility transmission
22 providers in its own region and a neighboring transmission
23 planning region a common method or methods for allocating
24 the costs of a new interregional transmission facility
25 among the beneficiaries of that transmission facility in

1 the neighboring transmission planning regions in which a
2 transition facility is located.

3 The Commission required that each public utility
4 transmission providers interregional cost allocation
5 method, or methods, satisfy six interregional cost
6 allocation principles.

7 To be eligible for interregional cost allocation
8 and interregional transmission the facility must be
9 accepted in the relevant transmission planning regions
10 regional transmission plans for purposes of cost
11 allocation.

12 The draft orders before you today address the
13 compliance filings of the public utility transmission
14 providers located in MISO, PJM, and the Western
15 Interconnection which is comprised of CAISO, the Northern
16 Tier Transmission Group, Columbia Grid, and West Connect.

17 For the summaries of those orders, I will turn to
18 my colleague Michael Cackoski and Franklin Jackson.

19 MR. CACKOSKI: Good morning, Chairman LaFleur,
20 and Commissioners.

21 E-1 addresses common tariff provisions filed by
22 CAISO and the public utilities in the Columbia Grid,
23 Northern Tier Transmission Group, and West Connect
24 Transmission Planning Regions to comply with the
25 interregional coordination and cost allocation requirements

1 of Order Number 1000.

2 These entities which encompass all of the Order
3 Number 1000 transmission Planning regions in the Western
4 Interconnection have proposed to comply with the
5 interregional requirements by adopting common procedures
6 among all four regions.

7 The draft order finds that the filings partially
8 comply with the interregional coordination and cost
9 allocation requirements of Order Number 1000.

10 To comply with the interregional coordination
11 requirements each region proposes to post annual
12 interregional information which will include a study plan
13 information, initial study reports or system assessments
14 and regional transmission plan.

15 By March 31 of each year the regions will hold an
16 annual interregional coordination meeting to discuss the
17 annual interregional information and discuss on a
18 preliminary basis interregional solutions that may more
19 efficiently or cost-effectively meet regional transmission
20 needs.

21 In order for an interregional transmission
22 project to be jointly evaluated at the interregional level
23 the project sponsor must submit the interregional
24 transmission project into the regional transmission
25 planning process of each planning region that would

1 directly interconnect to the proposed interregional
2 transmission project.

3 To comply with the interregional cost allocation
4 requirements, the three non-RTO regions each propose to use
5 their regional cost allocation methods to evaluate
6 benefits.

7 CAISO has proposed language that creates a method
8 within its regional planning process for evaluating the
9 benefits of an interregional transmission project.

10 For all reasons, if an interregional transmission
11 project is deemed a more efficient or cost-effective
12 solution to a region's transmission need, and is selected
13 and in its regional transmission plan for purposes of cost
14 allocation, the cost of the interregional transmission
15 project allocated to the region will be further allocated
16 within the region in accordance with each region's regional
17 cost allocation method.

18 The draft order finds that the Western region's
19 proposal largely meets the interregional coordination and
20 cost allocation requirements of Order Number 1000.

21 However, the draft order directs CAISO to revise
22 its approach for calculating the benefits of a proposed
23 interregional project.

24 CAISO's benefit analysis considers avoiding costs
25 only while the other three regions have proposed to

1 consider benefits such as reductions in congestion costs,
2 transmission line losses, or reserve requirements in
3 addition to avoided costs.

4 The draft order finds that CAISO's approach may
5 result in CAISO playing a disproportionately lower share of
6 the cost for an interregional transmission project which
7 would not comply with the requirements of Order Number
8 1000.

9 The draft order also directs public utility
10 transmission providers enrolled in the Columbia Grid
11 Transmission Planning Region to propose an appropriate
12 effective date for their proposed tariff revisions and also
13 correct discrepancies between their Attachment K, the
14 Columbia Grid Order 1000 functional agreement and the
15 Columbia Grid Plan and an expansion functional agreement.

16 Finally, the draft order directs all parties to
17 revise their filings to reflect CAISO's future proposal for
18 evaluating benefits.

19 These further compliance filings must be
20 submitted within sixty days of the issuance of the order.

21 MR. JACKSON: Good morning, Chairman LaFleur and
22 Commissioners. E-2 addresses proposals filed by MISO and
23 its transmission owners and PJM and its transmission owners
24 to comply with the interregional coordination and cost
25 allocation requirements of Order Number 1000 between these

1 two regions.

2 MISO and PJM propose to comply with Order Number
3 1000's interregional transmission coordination requirements
4 by revising their existing joint operating agreements or
5 JOA.

6 This agreement among other things addresses
7 coordinated regional transmission planning between MISO and
8 PJM through a joint RTO planning committee comprising staff
9 representatives from both RTOs and an interregional
10 planning stakeholder for advisory committee.

11 These committees meet at least annually to review
12 each RTO's regional plans for integration into a
13 coordinated system plan which contains transmission issues
14 identified by each RTO and third parties.

15 MISO and PJM also propose to jointly evaluate
16 interregional transmission solutions through their existing
17 coordinated system plan study process.

18 The joint RTO planning committee will be
19 responsible for the screening and evaluation of potential
20 transmission solutions.

21 After completion of the coordinated system plan
22 study, the joint RTO planning committee will produce a
23 report detailing the transmission issues evaluated, studies
24 performed, solutions considered, and any cross-border
25 transmission projects recommended with the associated cost

1 allocation.

2 While PJM proposes to comply with the
3 interregional cost allocation requirements of Order Number
4 1000 by relying on its existing cost allocation methods in
5 the JOA, MISO proposes to remove the existing cost
6 allocation methods for cross-border reliability projects in
7 light of changes previously made to comply with the
8 regional requirements with Order Number 1000 which
9 prevented the cost of these projects from being regionally
10 allocated within MISO.

11 The draft order finds that MISO and PJM partially
12 comply with the interregional transmission coordination and
13 cost allocation requirements of Order Number 1000.

14 Specifically, the draft projects MISO's proposal
15 to remove the existing cost allocation method for
16 cross-board reliability projects because the elimination of
17 that method is not required to comply with Order Number
18 1000.

19 In addition, the draft order directs MISO and PJM
20 to modify the existing cost allocation method for
21 cross-border transmission projects in the JOA or to propose
22 a new method for cross-border reliability projects that are
23 eligible to be selected in MISO's and PJM's regional
24 transmission plans.

25 Additionally, among other things the draft order

1 directs MISO and PJM to clarify how interregional
2 transmission facilities that address regional transmission
3 needs driven by public policy requirements will be
4 evaluated and their cost allocated.

5 Item E-3 is related to E-2.

6 The draft order addresses Northern Indiana Public
7 Service Company's complaint against MISO and PJM regarding
8 the interregional transmission planning provisions of the
9 JOA.

10 The draft order directs Commission's staff to
11 convene a technical conference to explore the issues raised
12 in the complaints.

13 This concludes our presentation. Staff will be
14 happy to take any questions you may have.

15 CHAIRMAN LAFLEUR: Thank you very much Michael,
16 Jason, and Franklin, and thank you to everyone on the teams
17 that worked on these orders.

18 It has been more than two years since Order
19 Number 1000 was issued and we have spent much of that time
20 working on regional compliance filings for all of the
21 regions which we have largely addressed and just noting
22 that on the consent agenda today we found that California
23 ISO has fully complied with the regional transmission
24 planning and cost allocation requirements of Order Number
25 1000.

1 A number of the regions have already begun the
2 process of implementing their processes doing competitive
3 solicitations and those that have not yet will be doing so
4 shortly.

5 Today we take the next step and start in on the
6 interregional filings which I understand we have nine and
7 we are addressing two of them today.

8 This is an important next step and I would like
9 to highlight a couple of interesting aspects about these
10 orders.

11 For the Western interregional filings, I found it
12 noteworthy and significant that the four Western regions
13 decided to file together and develop an interconnection
14 wide coordination process rather than simply developing
15 paired interregional processes with the regions that are
16 neighboring.

17 That is a different approach than the one adopted
18 by the regions in the Eastern interconnection.

19 It is an approach that Order Number 1000
20 encouraged, but did not require. I am really looking
21 forward to seeing how things play out in the Western
22 Interconnection and watching the process of both
23 interconnections as they go forward.

24 Turning to PJM and MISO. It is no secret that
25 the somewhat convoluted scene between those two regions has

1 a complicated and lengthy history at the Commission.

2 I am hopeful that today's order on the
3 interregional compliance filing will help to improve an
4 aspect of that scene which is interregional coordination
5 mission of transmissional across the seam.

6 With that said, it is important that we as a
7 Commission continue to work to address particular scenes
8 and issues that arise and not just assume that the
9 interregional coordination process will solve all the
10 issues and in that vein we today act on a complaint brought
11 by Northern Indiana Public Service against PJM and MISO
12 regarding the transmission planning provisions of the Joint
13 Operating Agreement, the operating agreement and some
14 specific issues that NIPSCO has with respect to where it
15 resides on the scene and the impacts on each system.

16 We direct staff to convene a technical conference
17 to really dig into those specific issues and I very much
18 look forward that.

19 With that, Commissioner Moeller.

20 COMMISSIONER MOELLER: Thank you, Chairman
21 LaFleur. First, allow me to acknowledge all the hard work
22 of the teams involved.

23 There has been an extraordinary amount of work
24 done in this building and throughout the United States out
25 of Order Number 1000.

1 The draft rule came out four and a half years ago
2 and the process started really five and a half years ago.

3 We are getting through it, but there's a ways to
4 go and I hope people can work at it so that we can start to
5 get the certainty that Order Number 1000 was intended to
6 provide at a time when we are going to desperately need
7 some transmission expansion and upgrades in this country as
8 the fuel mix changes.

9 Keep at it. The end is coming closer, but there
10 is a ways to go.

11 I am particularly supportive of E-3 and the fact
12 that we are having the technical conference on the NIPSCO
13 issue that deserves a lot of attention and I will be
14 strongly supporting it today.

15 Thank you.

16 CHAIRMAN LAFLEUR: Thank you. Commissioner
17 Clark.

18 COMMISSIONER CLARK: No questions, but thanks to
19 the team for all of your hard work.

20 CHAIRMAN LAFLEUR: Commissioner Bay.

21 COMMISSIONER BAY: Nothing. Thank you.

22 CHAIRMAN LAFLEUR: You are dismissed from this
23 meeting but thank you for everything.

24 THE SECRETARY: We will now take a vote jointly
25 on these items, and just for the record, I would like to

1 restate the docket numbers because I may have misstated
2 them.

3 We will be taking vote on E1 in Docket Number ER
4 13 1447 - 000. E-2, Docket Number ER 13 - 1944 - 000 and
5 E-3 in Docket Number EL 13 - 88 - 000 respectively. The
6 vote begins with Commissioner Bay.

7 COMMISSIONER BAY: Aye.

8 COMMISSIONER CLARK: Aye.

9 COMMISSIONER MOELLER: Aye.

10 CHAIRMAN LAFLEUR: Aye. What we do say is a lot
11 less complicated than what the Secretary has to read on
12 these orders.

13 THE SECRETARY: The last item for discussion and
14 presentation this morning is on Item E-3.

15 It is the staff overview of coal delivery issues
16 for electric generation. There will be a presentation Alan
17 Haymes from the Office of Enforcement.

18 He is accompanied by Omar Cabrales from the
19 Office of Enforcement and Louise Nutter from the Office of
20 Electric Reliability.

21 They will also be accompanied by other presenters
22 for today who are, for one, Michael Higgins. He is the
23 deputy director for the Office of Public Assistance in
24 Governmental Affairs and Compliance from the Surface
25 Transportation Board.

1 David McMillan, he is senior vice president of
2 external affairs at ALLETE Minnesota Power.

3 Stevan Bobb, he is the executive vice president
4 and chief marketing officer from BNSF Railway.

5 Finally, Todd Ramey, he is the vice president of
6 system operations and market services from MISO.

7 MR. HAYMES: Chairman LaFleur, and Commissioners,
8 good morning and Happy Holidays.

9 Staff will provide an overview of the reliability
10 and market impacts associated with coal delivery
11 interruptions will present challenges for some electric
12 generators in the central of the country.

13 This overview is a collaborative effort of the
14 Office of Enforcement's Division of Energy Market Oversight
15 and the Office of Electric Reliability and other offices
16 within the Commission.

17 The extreme cold weather of last winter brought
18 attention to the issue of replacing the draw down of coal
19 inventory in the central United States.

20 Since the middle of 2013, many generators already
21 had problems getting requested delivery levels.

22 One concern centered on the rail delivery of
23 Powder River Basin or PRB coal by BNSF.

24 There are 166 power plants throughout the US that
25 use PRB coal representing 172 gigawatts of capacity.

1 The majority of these plants are in the MISO SPP
2 Endicott Regions.

3 Rail operations in the midwest are going through
4 a period of adjustment and multifaceted challenge.

5 Coal is just one of several commodities vying for
6 space on the rail system. Because of these developments
7 and their implications for electric reliability in markets,
8 staff has paid particular attention to the cold delivery
9 picture.

10 Staff analyzed the fundamentals involved,
11 monitored regulatory developments and had discussions with
12 a number of stakeholders.

13 The utilities and RTO's that we spoke with
14 related various levels of concern about their ability to
15 maintain and build their stockpiles prior to the winter.

16 While much of what staff heard was specific to
17 individual entities we heard a number of common themes.

18 For instance, generators who rely on BNSF for
19 delivery of PRB coal, claim to have consistently received
20 less coal than they had requested.

21 Generators asserted that their deliveries were
22 being rationed along with other commodities on a rail
23 system that was overtaxed and hampered by disruptions
24 caused by construction intended to improve future capacity.

25

1 PRB coal deliveries in Central US have been below
2 the previous levels all year as well as for the second half
3 of 2013.

4 As we can see the inventory of all types of coal
5 in the central states lag well behind the inventories of a
6 year ago.

7 Coal stockpiles at the US power plants are below
8 the five-year average.

9 At the state level, the greatest impact is on
10 plants and MISO and SPP that rely on PRB coal from
11 stockpiles in Iowa and Oklahoma more than 40% below last
12 year's level.

13 Other heavily affected states are Minnesota,
14 Wisconsin, Missouri and Texas where stockpiles are between
15 25% and 40% below last year's.

16 It is likely that the below level stockpiles will
17 persist through 2015 as railroads struggle to keep up with
18 overall demand before system upgrades are complete.

19 This is raising concerns among some generators
20 that low stockpiles coming out of the winter could create
21 challenges in the summer of 2015.

22 Some generating utilities and independent plant
23 operators are not able to establish coal stockpiles that
24 meet the targets they have met and they have set up this
25 winter.

1 Certain affected generators that use PRB coal
2 delivered by BNSF have taken steps such as reducing output
3 and using trucks to conserve coal and build inventories.

4 The relatively mild summer also helped to
5 mitigate the deficiency going into this winter. It is
6 possible that individual power plants could run low on coal
7 in the event of protracted cold weather and coal
8 deliveries.

9 At some locations they cannot count on deliveries
10 at all once the water portion of their delivery route is
11 frozen over.

12 The RTOs can rely on fuel diversity and supply
13 surplus capacity to help manage any unexpected loss of
14 generation due to coal supply shortages.

15 A handful of generating companies, and MISO, and
16 SPP, have had their reference prices adjusted through
17 consultation with the market monitors.

18 A higher reference price reflects the opportunity
19 cost of using limited fuel supply and enables the generator
20 raise its offer without being subject to market power
21 mitigation.

22 Higher offer prices allow the generator to run
23 less and conserve coal. These conservation measures
24 typically reduce generation in the hours and days that load
25 is relatively low.

1 These offer adjustments have been effective in
2 reducing coal consumption by some units resulting in minor
3 market effects thus far.

4 In recent months MISO's off peak prices have
5 increased compared to a year ago while peak prices have
6 been little changed.

7 This is a reasonable result because the RTO calls
8 on these units only at times of higher loads. The higher
9 offer price the units out of the low load hours such as the
10 off peak shoulder period.

11 This can be an efficient market solution as long
12 as the generators have estimated coal needs and offer
13 impacts well.

14 If the coming winter presents challenges similar
15 to last year's experience, the coal inventory problems
16 could result in significant marked impacts.

17 However staff would expect to see a somewhat
18 measured reduction of coal generations supply as plant
19 operators with inventory issues take more and more
20 conservation actions.

21 By itself coal inventory deficiencies should not
22 produce significant power market dislocation, however the
23 inventory of just deficiencies could result in more
24 significant impacts when combined with other events such as
25 high level of unplanned outages or natural gas

1 destructions.

2 This completes our presentation and we will be
3 happy to answer any questions you may have.

4 CHAIRMAN LAFLEUR: Next, we will hear from Deputy
5 Director Higgins and I particularly appreciate your being
6 with us this morning.

7 MR. HIGGINS: Thank you. I am Michael Higgins,
8 deputy director in the Office of Public Assistance,
9 Governmental Affairs and Compliance at the Surface
10 Transportation Board, and I appreciate the opportunity to
11 be here this morning.

12 Before getting started with my presentation, I
13 will provide a little bit of background information about
14 the Surface Transportation Board.

15 We were created in 1996 with the termination of
16 the Interstate Commerce Commission. The agency is
17 decisionally independent from USDOT, but we are affiliated
18 administratively with that department.

19 We are managed by three board members who are
20 appointed by the president and confirmed by the Senate.

21 Currently that is Daniel Elliott who is our
22 chairman. Vice chairman Deb Miller and board member Ann
23 Begeman.

24 At present we are staffed at the level of
25 approximately 130 full-time federal employees and that is

1 primarily comprised of attorneys, economists, industry
2 analysts, environmental experts and operating and
3 administrative personnel.

4 Our primary mission is regulation of the nation's
5 freight rail system and we do that from an economic
6 standpoint.

7 Our jurisdiction focuses on rates, services, and
8 practices, market entry and exit, rail line construction,
9 mergers and acquisitions, required financial reporting from
10 the railroads, and also associated environmental review in
11 connection with the National Environmental Policy Act.

12 There are certain exceptions to our jurisdiction
13 and two in particular.

14 First of all, we do not have jurisdiction over
15 transportation that is provided under private contract.

16 Additionally, we have exempted certain services
17 in certain traffic groups from our jurisdiction and that
18 would include traffic that is moving in box cars, various
19 commodities and much of the intermodal traffic that moves
20 over the railway system.

21 Generally speaking, the agency acts as a
22 specialized regulatory court and cases are brought to us
23 upon complaint that the agency has is very limited
24 independent investigative authority.

25 We also have jurisdiction over other modes of

1 transportation including transportation by water carrier
2 and non-contiguous domestic trade, transportation in
3 non-energy pipelines, limited jurisdiction over certain
4 transportation that is provided by motor carrier, and we
5 also have some jurisdiction over Amtrak's On Time
6 Performance.

7 As most people are aware, there have been certain
8 issues with transportation by rail over the last 12 to 18
9 months in the United States affecting the freight rail
10 system across the country and it has been particularly
11 pronounced in certain regions.

12 From our standpoint there have been a couple of
13 factors that have contributed to the dislocation that we
14 have seen in the freight rail system over this period.

15 First of all, we have significant rebound in the
16 nation's economy and we saw a significant traffic increase
17 with respect to domestic and intermodal movement of
18 containers and trailers.

19 Both the United States and Canada produced a
20 bumper crop. We have also seen that the Class I railroads
21 have acknowledged that they did not anticipate some of the
22 traffic changes that occurred over the last period.

23 Some of that is related to shale oil production,
24 carload movements of trucks and traffic associated with
25 production of that petroleum, significant increases in

1 crude oil unit train volumes and increased coal at
2 utilities.

3 Additionally, a significant and contributing
4 factor to the rail service problems was the severe winter
5 that we had in 2013 stretching into 2014.

6 Over much of the nation we had sustained cold
7 temperatures and significant snow accumulation which
8 disrupted rail operations.

9 Additionally, we saw major congestion at the
10 Chicago Gateway which is a significant gateway between
11 having freight moving from the Western part of the country
12 to the Eastern part of the country.

13 With respect how the Surface Transportation Board
14 became aware of the problem, really with the onset of
15 winter in 2013, we saw an increase in the number of
16 informal complaints coming into our rail customer public
17 assistance program.

18 Primarily, these are calls and emails to our team
19 of industry analysts and attorneys in that office.

20 The reports from affected shippers included
21 inability to obtain rail cars, erratic service, increased
22 cycle times, stalled or stranded rail shipments, factory
23 slowdowns, and in some cases shutdown scenarios and also a
24 need to divert traffic to other modes of transportation.

25 Additionally, railroad operating metrics that we

1 monitor showed negative trends and this includes a
2 declining system average train speeds, longer term, longer
3 dwell time at major terminals, and also an increase in the
4 number of rail cars online.

5 As the situation began to worsen and became more
6 prevalent, the Surface Transportation Board took a number
7 of informal actions.

8 The staff of my office worked informally with
9 shippers and railroads to mitigate acute service problems
10 and this was primarily shippers of grain, chemicals, and
11 coal.

12 We initiated weekly service calls with Canadian
13 Pacific Railway and with BNSF Railway to gain a real-time
14 perspective on conditions in the industry.

15 We held a number of field meetings in the areas
16 of the country that were most significantly affected by the
17 service downturn.

18 This is North Dakota, South Dakota, Minnesota and
19 Montana to meet with shippers to better understand the
20 issues that were affecting them.

21 Our board members held in-person meetings with
22 senior level executives from both CP and BN as well as
23 representatives of various shipper groups.

24 Additionally, Chairman Elliott requested that the
25 Class I railroads report on their plans to handle peak

1 volumes in the September and October shipping season.

2 On the formal side, the agency took a number of
3 actions as a result of the service deterioration starting
4 with a hearing that was held on April 10 in Washington DC.

5 The purpose of this hearing was to explore the
6 service issues with representatives of the shipper
7 stakeholders and also the Class I railroads and to hear
8 about the railroad industry's recovery plans.

9 Coming out of that hearing on April 15, based on
10 information that we received, it was clear that there was a
11 shortfall in delivery of fertilizer in time for the
12 spring's planting season, and the Board issued an order
13 asking for two railroads to report their plans to ensure
14 that fertilizer deliveries would arrive on time and we
15 asked them to report on their progress over a six-week
16 period.

17 Following that order, as we saw conditions with
18 respect to moving grain primarily in the Northern Plains in
19 the upper midwest continue to show troubling signs.

20 We issued an order asking CP and BN to provide
21 plans for improving service to grain shippers and also to
22 provide weekly status reports on their operations.

23 Additionally, we had a formal hearing in Fargo,
24 North Dakota. The purpose of that was to continue to
25 explore the challenges facing the rail industry and also to

1 hear again from the stakeholders in the regions that were
2 primarily affected by service shortcomings coming.

3 Coming out of this hearing we also issued an
4 order to one specific Class I railroad to provide
5 additional information to us about some of the matters that
6 had come up in the testimony that it provided at the
7 hearing.

8 Finally, on October 8, the Board issued an order
9 requiring weekly reporting from the Class I railroad
10 industry on certain service performance metrics, so that
11 not only the Board, but also the stakeholders, could have
12 an understanding of how conditions were either improving or
13 not improving out there in the field.

14 This was an interim order, I would mention, and
15 it is anticipated that the Board will have a full notice of
16 proposed rulemaking in which we will receive comments from
17 the stakeholders on how the interim order has been helpful
18 or has not been so helpful.

19 With respect to coal shippers and service
20 challenges, I mentioned earlier that a lot of the initial
21 information that we received about service problems came
22 into our rail customer and public assistance office.

23 A number of coal shippers have reached out to
24 this office to ask for assistance from our staff and we
25 have reached out on an individual basis to work with Class

1 I railroads to see if we can create solutions to solve some
2 of the more acute problems that these shippers were facing.

3 Several industry groups have participated in the
4 hearings that we held at the formal hearing, the Western
5 coal traffic, where certainly several utilities have
6 appeared and filed comments in these proceedings.

7 We have also heard from members of Congress and
8 elected officials, from impacted states commenting on the
9 situation affecting utilities serving their locations.

10 Finally, we have under consideration currently a
11 petition that was filed by the Western Coal Traffic League
12 which has asked the board to adopt and enforce a coal
13 service recovery plan presented by BNSF Railway.

14 This matter, again, is still under consideration.
15 The pleadings are available on the Board's website, but a
16 decision has not yet been issued.

17 In terms of continuing actions that will take
18 with respect to monitoring rail service, we will continue
19 to have weekly and monthly calls with all the Class I
20 railroads.

21 We will continue to engage the shipper
22 stakeholders. The STB is polishing on its website the
23 service performance data that it has received in response
24 to the interim order.

25 As I mentioned, we anticipate going forward with

1 a full notice of proposed rulemaking on data reporting.

2 We are continuing to monitor that data for signs
3 of either improvement or deteriorating service levels and
4 we are continuing to engage with other federal and state
5 agencies.

6 I am happy to answer any questions.

7 THE SECRETARY: We are going to move forward with
8 presentations, Madame Chairman, and we will hold the
9 questions and discussion until after your presentations.

10 Thank you.

11 MR. MCMILLAN: Good morning, thank you, Chair
12 LaFleur, Commissioner Moeller, Commissioner Clark, and
13 Commissioner Bay for holding today's panel discussion on
14 this critically important topic of coal delivers by rail.

15 My name is Dave McMillan. I am a senior vice
16 president at ALLETE and the executive vice president at
17 Minnesota Power which is ALLETE's largest division.

18 My comments today will focus on Minnesota Power's
19 recent experiences and challenges with coal deliveries by
20 rail particularly by the BNSF Railway Co.

21 Minnesota Power generates transmits and delivers
22 or distributes electricity across a 26,000 square mile
23 region in Northern Minnesota to about 144,000 customers, 16
24 municipalities whose contracts are regulated by FERC, I
25 might my add, and importantly, some of the nation's largest

1 industrial customers.

2 These are, iron mining, forest paper pipeline and
3 refining customers that all compete in international
4 markets, and importantly, this handful of companies
5 consumes well over one half of the electricity we produce.

6 Minnesota Power is also a member of the Western
7 Coal Traffic League which is a voluntary association of
8 utility coal shippers of coal mines west of the Mississippi
9 River.

10 WCTL, as you just heard, has actively pursued
11 assistance from the STB to remedy these service problems.

12 Coal is Minnesota Power's primary fuel for
13 electric generation. The company currently operates three
14 coal-fired power plants that consume a little over 5
15 million tons of coal each year.

16 This coal all originates in the Powder River
17 Basin area, mines in Wyoming, and Montana, and is
18 transported to us in single or joint carrier service by
19 BNSF.

20 Your staff, in the 2014 and 2015 winter energy
21 market assessment, highlighted concerns over local
22 stockpiles going into this winter and the stresses on the
23 rail transportation system that continue to affect reliable
24 deliveries of Powder River Basin coal.

25 Quoting from that presentation at your October

1 meeting, replenishment of coal stockpiles at some power
2 plants captive to single supply source, some transportation
3 routes have proven more challenging on a more constrained
4 rail system.

5 Our rail service experiences are consistent with
6 FERC staff's findings.

7 During the winter 2013-2014 we experienced severe
8 disruptions in BNSF service to all of our coal-fired
9 facilities and for extended periods of time we were forced
10 to either curtail or limit coal-fired generation.

11 Our largest generating station, the Boswell
12 Energy Center, was forced to run at minimum capacity on
13 some of the highest load days of winter and at one point we
14 were down to four days of pool supply.

15 We were also forced to utilize emergency trucking
16 of coal and storage at an offsite dock facility to our
17 second largest plant.

18 While our service woes temporarily subsided this
19 spring, it came back once again in the late summer and fall
20 and in August of this year we took the unprecedented step
21 of temporarily shuddering four coal-fired units and other
22 locations in an attempt to rebuild coal inventories of
23 Boswell by diverting coal bound for those units to Boswell.

24 Today, our coal inventories at Boswell are at
25 acceptable levels, and while that is good news, the

1 inconsistency we have experienced with BNSF service and the
2 lack of an enforceable service recovery plan does not give
3 us complete confidence that current inventories will
4 continue.

5 Last winter and again this fall while our coal
6 units were shut down, Minnesota Power was forced to replace
7 its own generation with about \$27 million on higher priced
8 purchases from the MISO market.

9 The good news is that organized markets like
10 MISO's work and work well we have had no electric service
11 disruptions.

12 The bad news is the purchased energy prices were
13 significantly higher than our self-generation costs. Those
14 increased costs are ultimately borne by our wholesale and
15 our retail electric customers and those major industrial
16 customers, I mentioned costs, none of them can afford to
17 pay.

18 As I said in my testimony on this very topic at
19 the April STB hearing, Minnesota Power approaches problems
20 with creativity and optimism.

21 We have had a long working relationship with BNSF
22 that dates back to one of the first unit train movements in
23 the country in 1968.

24 Recently we have been proactively looking for
25 ways to jointly address the infrastructure side of these

1 service issues with them.

2 We have been in constant communication with BNSF
3 during the service crisis and we have regularly informed
4 them of the impact that their service problems are having
5 on our operations and our customers.

6 To its credit, BNSF has in recent weeks added
7 equipment and improved service and kept the lines of
8 communication open.

9 While the STB is charged with overseeing service
10 provided by the nation's railroads, the potential impacts
11 on electric reliability require the Commission's continued
12 attention.

13 The Commission demonstrated its willingness to
14 act last year when you exercised your authority under the
15 Interstate Commerce Act to direct priority treatment for
16 propane.

17 While the Commission cannot specifically order
18 railroads to provide service to utility coal shippers,
19 there are steps that this Commission can take consistent
20 with your responsibility to ensure economical and reliable
21 wholesale electric service.

22 Staff has committed to monitoring coal stockpiles
23 and working with the STB and this is a good and necessary
24 first step. We encourage you to continue to coordinate and
25 collaborate closely with the STB and with DOE.

1 Just as the Commission identified the need for
2 greater attention to gas electric interdependency issues,
3 we believe there is a need for the Commission to closely
4 follow electric rail interdependency and coordination
5 issues building upon today's panel discussion.

6 We very much appreciate the Commission's interest
7 and involvement in addressing these service issues. All of
8 them affect our ability to meet our electric customers'
9 needs.

10 I am happy to answer questions as well. Thank
11 you.

12 MR. BOBB: Good morning. Before I begin, I do
13 want to say it was very nice to see the rail cars this
14 morning, and Commissioner Clark, I really like your tie.

15 COMMISSIONER CLARK: Steve, I am sure you do.

16 MR. BOBB: I would like to thank FERC for this
17 opportunity to address BNSF's service performance for our
18 coal customers and concerns about our coal delivery
19 shortfalls impacting electricity availability.

20 We clearly understand our service has not met
21 customer expectations across all the markets we serve.

22 At the same time, we believe actions taken by
23 both BNSF and our customers is mitigating risk through
24 electricity availability.

25 This morning I want to briefly share BNSF's

1 position in the thermal coal markets, explain our
2 challenges in meeting coal transportation demand, describe
3 what we have done to address those challenges, and share
4 some results to date.

5 We strongly believe that the investment we are
6 making will result in a stronger railroad and will support
7 more capacity and improved service for all customers and
8 markets.

9 Before I progress, I do want to acknowledge that
10 we have a customer present today. Your business is
11 important to us and as we previously indicated we know that
12 we have not met your expectations.

13 The unsafe operations, nothing is a higher
14 priority than restoring the fluidity of our network.

15 We operate a rail network serving 28 states and
16 three Canadian provinces.

17 During my comments, I will refer to our operating
18 regions. Our primary coal route is located in the Central
19 Region shown in gray on this map.

20 However, we do move coal on the North and South
21 Regions as well.

22 Our customer base is all segments of the US
23 economy. We connect our customers and the communities we
24 serve, domestic and global markets.

25 Our primary coal origination takes place in the

1 Power River Basin of Wyoming and Montana.

2 We have multiple routes to move PRB coal to its
3 destination markets and you can see those multiple routes
4 to move coal out of the PRB on the left side of this slide
5 and the almost 140 utility destinations that receive PRB
6 coal hauled by BNSF on the right.

7 You have no doubt heard from utilities along our
8 Northern route about challenges receiving coal.

9 In 2013, BNSF handled over 50% of the rail
10 industry's volume growth and North Dakota has been at the
11 center of this growth.

12 Each dot in this map represents a customer
13 facility added to or expanded on our network since 2010.

14 The cover activities to connect those facilities,
15 the work events to deliver and pool rail cars from those
16 locations, the growing number of through trains moving this
17 traffic and the capacity expansion work plus maintenance
18 taking place on a constrained network all contributed to
19 significant congestion as our flex capacity was used up.

20 The re-routing of traffic away from this
21 geography on to our Central Region, our primary coal route,
22 spread the congestion and resource constraints onto that
23 geography.

24 In addition to the economic development dynamics
25 indicated by this slide our grain volumes came back

1 strongly in October 2013.

2 The sharp ramp-up of grain trains on top of
3 steadily increasing coal trains running on the network
4 further slowed our network and last October or November we
5 faced a congesting slowing network.

6 Coal burning declined in 2011 and again
7 significantly in 2012 when low natural gas prices displaced
8 coal burning.

9 Quite frankly, since 2007, much national policy
10 action and customer dialogue suggested a very different
11 future for coal use.

12 Demand returned greater than expected in 2013 and
13 remains strong this year.

14 You can see the BNSF coal volumes track closely
15 with burn over time, although where steep changes of rail
16 capacity are required, there is a leg.

17 Rail economic regulatory processes do not provide
18 an investment return for reserve capacity.

19 Planning an execution of moving coal volumes
20 involves tri-party coordination between mines, BNSF, and
21 utilities.

22 The key planning item, customer contract
23 declarations kicks off the process during third quarter
24 when customers declare the tons they want transported for
25 the following year.

1 You will hear many participants in this process
2 quote a variety of numbers to illustrate expected demand.

3 We focus on these annual customer declarations
4 which for 2004 totaled about 286 million tons.

5 We will unfortunately not move that number
6 missing by about 5%.

7 You can see the impacts of February and June
8 weather and our overall network capacity congestion
9 throughout most of 2014.

10 You can also see the improved network momentum we
11 are currently achieving following the substantial
12 completion of our 2014 expansion and maintenance program.

13 The increased availability of key resources,
14 track, people, and locomotives is driving the faster train
15 speeds for late November and month to date, December.

16 We maintain very close contact with our customers
17 regarding their stockpile status.

18 This chart reflects a weekly snapshot of changes
19 in inventory status of customers who are on our critical
20 list.

21 We focus our network resources and often at train
22 set capacity when customers reach critical inventory
23 thresholds.

24 Our overall objective remains to maximize the
25 total volume moved across the network while adjusting

1 resources to address a manageable amount of network flex.

2 The improving momentum of our network is
3 reflected in the strong trend of improving stockpile base
4 for customers represented in each weekly inventory
5 snapshot.

6 We expect to see overall BNSF served PRB
7 stockpiles improving during 2015 with the rebuilding
8 complete in 2016.

9 As of yesterday we have three trains remaining to
10 load this year from Minnesota Power's contract declaration.

11 The final train to meet their 2014 contract
12 declaration is expected to deliver on December 24.

13 We have made great progress on adding resources
14 to our railroad. People, locomotives, maintenance and
15 expansion capital will meet or exceed all our 2014 plans in
16 these areas.

17 You can visually see the expansion projects
18 focused across the geography where most significant
19 capacity challenges have manifested.

20 The BNSF Network and the US Rail Network are
21 experiencing tight capacity with current volume demands.
22 BNSF and the rest of the industry are investing in the
23 necessary additional capacity.

24 As this key private sector solution investment
25 occurs, we believe there are also other private-sector

1 solutions that are underway or have been attempted.

2 For example, we have worked our customers to make
3 commercial adjustments such as providing coal contract
4 flexibility where that could make a difference.

5 Ultimately increased capacity is a key solution
6 and we are well along and in some cases ahead of plan in
7 all facets of capacity.

8 We continue to stay in close communication with
9 our customers so they know what to expect and we know about
10 critical needs.

11 While not able to successfully react to every
12 customer support call, I believe our team has done a very
13 good job under difficult circumstances of fielding the
14 calls and attempting solutions.

15 You have no doubt heard of requests for
16 regulatory action that mandates commodity or geography
17 preferences.

18 This will not create more capacity.

19 BNSF customer volume will be negatively impacted
20 as a chosen commodity or region will move at the expense of
21 all others.

22 The recent Canadian directive on grain is
23 instructive as the impacts of such a course.

24 I will finish with this comment.

25 We are going to invest whatever it takes to

1 handle all of our customers' business both current and
2 future.

3 Commissioners, thank you for this opportunity to
4 provide a progress update and I am happy to address further
5 questions you might have.

6 MR. RAMEY: Good morning, Chairman LaFleur, and
7 Commissioners, I am Todd Ramey. I am vice president of
8 system operations at MISO and I would like to thank the
9 Commission for inviting me to be part of this morning's
10 discussion.

11 As the Commission is aware, coal is a critical
12 fuel source for maintaining reliability of the
13 mid-continent grid.

14 At MISO we initially became aware of reduced coal
15 inventories coming out of last winter. At that time
16 several of our members primarily located in the Northern
17 and Western parts of our footprint were reporting that the
18 harsh winter operations combined with the slowdowns of rail
19 deliveries had resulted in inventory reductions and in some
20 cases significant reductions.

21 As rail delivery issues have continued throughout
22 the year we have coordinated with our members as they have
23 taken steps to build or at least to try to maintain
24 inventories as they prepare for reliable operations this
25 coming winter.

1 Some of the steps taken to maintain or restore
2 coal piles have included limiting output at certain
3 coal-fired plants and in a few cases taking some units
4 completely off-line.

5 Fortunately, the MISO system has not experienced
6 significant reliability degradations to date due to efforts
7 to reduce coal burns.

8 This is due in part to the large size of the MISO
9 system and our ability to leverage resources across the
10 wide region to meet the load reliability requirements of
11 the system.

12 In addition, the relatively low loads driven by
13 the mild summer and fall weather conditions we had this
14 year have minimized stress on the system.

15 While rail delivery issues have not resulted in
16 reliability impacts to date we have observed impacts to the
17 wholesale power market.

18 As you might expect reduced output from
19 relatively low cost coal-fired generation has resulted in
20 an increase in prices for electricity.

21 Clearing prices for fall were up 9% compared to
22 the fall of 2013. The price impact was largest during off
23 peak hours where prices were 16% higher than last fall.

24 This was driven primarily by coal conservation
25 measures and an increase and delivered coal costs.

1 Since MISO is not directly responsible for
2 managing coal in towards to plants and footprint, the
3 primary focus of our operations team is on maintaining
4 situational awareness of coal pile levels.

5 To that end we have begun to be more proactive in
6 identifying potential issues.

7 We recently completed a survey of our generation
8 owners looking for information relating to their confidence
9 and fuel deliveries and inventories.

10 We also have improved our situational awareness
11 through discussions with our market monitor.

12 Market participants facing coal delivery issues
13 often work with a market monitor to adjust their energy
14 offers upward as part of their conservation efforts.

15 Through these discussions with our market
16 participants and other analysis performed by our IMM, the
17 market monitor estimates that over one third of the coal
18 fired generation at MISO has implemented some form of coal
19 conservation measures over the past six months.

20 We are fortunate that we have not experienced any
21 regional reliability impacts related to coal delivery
22 issues faced by some of our members this year.

23 However, should this situation continue or worsen
24 or should reduced inventories coincide with an extended
25 severe weather event, it is possible that we could see an

1 impact on system reliability.

2 In furtherance, a good operational planning MISO
3 fully supports efforts to restore coal inventories to
4 planned levels as soon as practically can be managed.

5 Thank you and I look forward to the discussion.

6 CHAIRMAN LAFLEUR: Thank you all very much for
7 being here at such a busy time of the year and for that
8 very informative set of presentations.

9 Let me thank Ted Franks, the Deputy Director of
10 our Office of Electric Reliability for pulling this panel
11 together for us this morning.

12 As I said I particularly appreciate Deputy
13 Director Higgins being here.

14 It is interesting to note that FERC and the
15 Surface Transportation Board have a little bit of common
16 heritage because when the Interstate Commerce Termination
17 Act happened in 1996, we hooked up the oil and petroleum
18 pipeline jurisdiction and you got the rail and barge.

19 Steve, this train is for you.

20 They were brought down from Boston. My husband,
21 in addition to Pennsylvania, which these are collector
22 Santa Fe cars, and locomotives, he said he would be willing
23 to go online and rush order some Santa Fe coal cars.

24 I really appreciate his willingness to expand his
25 collection in the service of FERC, but I said this would be

1 fine.

2 This is a very serious and interesting issue
3 because it really illustrates how interdependent that many
4 parts of our economy are and during the past year to a year
5 and a half we have spent a lot of time talking about the
6 importance of fuel supply and fuel infrastructure for
7 electricity, but primarily focused on natural gas which is
8 a "just in time" production fuel and focused on the
9 sufficiency of our pipeline infrastructure.

10 This really illustrates that obviously it is an
11 issue that affects our coal delivery infrastructure as well
12 and that fuel assurance concerns not only can impact
13 reliability, but as we heard from several of you, affect
14 the cost to customers of electricity.

15 I very much appreciate the efforts that BNSF is
16 putting forth to increase the throughput and speed of the
17 system and the effort that MISO is making to stay on top of
18 the issues and use the markets to adjust processes to make
19 sure it is not a reliability issue.

20 I noticed the Surface Transportation Board has
21 asked for certain weekly status reports. I am interested
22 as we go through this winter and even into next summer,
23 what are the metrics that we should be looking at as a
24 Commission to stay on top of how much progress we are
25 making on this issue?

1 Obviously you can look at coal piles, but that is
2 just in a way the tip of the iceberg.

3 How do you think we should continue to follow
4 this?

5 MR. BOBB: One of the key indicators that we have
6 reported for quite some time is the velocity of our network
7 and that represents not only fluidity, but also the
8 availability of key resources of velocity of the network is
9 a key.

10 Then we are about moving volume.

11 If you follow the weekly coal originations over
12 time we believe that will also be an indicator of our
13 progress.

14 CHAIRMAN LAFLEUR: Is there anyone else? I know
15 that we do look at coal piles up from Minnesota Power and
16 others.

17 MR. MCMILLAN: Chairman LaFleur, any metrics that
18 you can look at, or the STB, or the rail carriers can help
19 address.

20 Consistency is important. I don't know right
21 offhand what those might be, but velocity is obviously an
22 important dwell time, cycle times on my colleague here at
23 BNSF, they have tripled the number of sets in our service
24 which is an indicator, but it all gets down to how are they
25 moving and what is the congestion on the system.

1 I am not an expert in those metrics, but finding
2 those and helping to assure consistency over time is really
3 what we would ask for most.

4 CHAIRMAN LAFLEUR: Thank you. It is something we
5 certainly need to continue to monitor learning more about
6 it all the time, but it directly affects our obligation to
7 make sure that customers have reliable service at just and
8 reasonable rates.

9 With that, I will turn it over to Commissioner
10 Moeller.

11 COMMISSIONER MOELLER: I have some questions, but
12 I would like to defer to Commissioners Clark and Bay
13 particularly because of Tony's deep involvement in railroad
14 issues.

15 COMMISSIONER CLARK: Thank you, Phil. It feels a
16 little bit like "old home week" here at the Commission.

17 I see former Chairman Roger Nober of the STB back
18 there. Roger, and I, when he was chair of the Service
19 Transportation Board, and I was chair of the Public Service
20 Commission, stomping around wheat fields and grain
21 elevators in Western North Dakota about ten years ago or
22 so.

23 Steve, it is good to see you again.

24 You have a fine taste in both ties and schools,
25 but be careful because you are sitting next to a very

1 prominent Golden Gopher.

2 In the sense of collegiality, we will not rub in
3 the last few times that the two teams met in football.
4 They have not scheduled us anymore and so there probably
5 won't be a rematch.

6 A few questions for Mr. Higgins.

7 If you could help me understand a little bit and
8 others if you can to fill in the gaps.

9 I understand there are different types of rates
10 that you talked about that will apply over different
11 shipments, so some are more of a market base contract rate,
12 and some were, I assume, made a regulated captive shipper
13 type rate.

14 When it comes to a constrained system, what are
15 the regulations that govern how rail shipments are made as
16 common carriers so that when a railroad makes a decision
17 about, "We are going to be shipping oil versus coal versus
18 a grain shipment," how do those decisions get made?

19 Does it have to be done in a particular way or is
20 it up to the discretion of the railroad to do that?

21 MR. HIGGINS: Rate setting is up to the
22 discretion of the railroad, however, we have jurisdiction
23 to review common carriers rates, tariff rates under a
24 reasonableness standard that has evolve over time and it is
25 fairly well-developed at this point.

1 COMMISSIONER CLARK: But in terms of service,
2 Steve or Dave, if you can help out with this, when there is
3 a call to be made, if you have a constrained system, not
4 all of it can flow, you have got more either declarations
5 or nominations, and I cannot remember the exact terminology
6 that you can possibly meet in a given time frame, how are
7 the decisions made with regard to what goes first?

8 MR. BOBB: I will talk from a practicable
9 operating perspective. It is about volume.

10 Our transportation teams which makes the daily
11 decisions, the hourly decisions of which trains to move
12 when don't have visibility into the rates or the economics
13 of the train.

14 They know they have a train network and they know
15 they have volume to move and so the focus is on moving the
16 most volume we can while meeting as many of our service
17 obligations as we can and at varying levels of congestion
18 you can go all the way down to de-prioritizing to just
19 simply move trains, but economic results of those trains
20 are not part of that decision criteria.

21 COMMISSIONER CLARK: That is one of the
22 assumptions or allegations that you sometimes hear is,
23 "Well, look at that oil train, it has got \$10 million worth
24 of commodity on it, and the coal is not really worth that
25 much relative to it versus a grain shipment which depending

1 on the price where it might be somewhere in the middle, but
2 from a common carrier obligation what you are saying is
3 that you have operational people whose obligation is simply
4 to move as much product as they can.

5 MR. BOBB: From a common carrier obligation, we
6 are to perform reasonable service upon reasonable request
7 and from a rail operations perspective our objective is to
8 move the most volume we can and we do attempt to respond to
9 unique customer circumstances.

10 If we have a facility that its operations will be
11 impacted by not receiving a rail car or a train we will
12 attempt to do all we can to move that through the network,
13 but the more prioritization you put into a constrained
14 network the more difficulty you have in moving volume.

15 So we attempt to manage a few flex points as I
16 mentioned in my presentation, but again, economics are not
17 part of that decision.

18 COMMISSIONER CLARK: With regard to this issue of
19 managing certain assets when it comes up flexible, I think
20 is what you called it, one of the concerns I have heard
21 brought forth by some utilities is the sense that there may
22 be a different definition of criticality of supply that the
23 utility industry uses versus the rail industry and one of
24 the examples that was brought forward as they said, that
25 the railroad might look and say, "Once you get coal piled

1 down to the five or ten day period that looks like a
2 critical situation to us," and utilities on the other hand
3 say, "Heading into winter, if it is less than 30 days,"
4 that's a critical issue for our industry.

5 Are the discussions that go on back and forth
6 about that issue of what really is a critical point at
7 which a real customer has to be served?

8 MR. BOBB: Certainly criticality is a function of
9 the circumstance, but in terms of the measuring our
10 inventory progress over time within our weekly snapshots we
11 focus on customers that are reporting to us 20 days or less
12 of inventory.

13 Then within that we also, when we have a plant
14 that is reporting single day inventories, that has another
15 level of focus for our operating organization.

16 We have picked that as a threshold as the network
17 is healed and velocity and momentum have improved we are
18 seeing that list become a much smaller number of customers
19 to focus on.

20 We think, as time moves forward in 2015, we will
21 see the more broad indicators of inventories as measured
22 monthly through the various organizations that begin to
23 show that improvement as well.

24 COMMISSIONER CLARK: Focusing on 2015 and 2016
25 which has been a big target date as I understand it for

1 your folks on the rail side, and it is also a big issue for
2 those of us on the electric utility side, for 2015 - 2016,
3 it has been pegged as just really a tight year especially
4 for MISO.

5 If anyone who wants to jump on this question to
6 talk about, have there been communication channels set up
7 at either between the utilities and the railroad or the
8 utilities, railroad and somehow bring in the regional grid
9 operators on that issue of the coordination that's going to
10 need to take place in the 2015-2016 time frame when MATS
11 rules are kicking in and we've got a lot of coal to gas
12 conversion happening and you have lots of retrofits
13 happening right at that time, certain plants cannot be down
14 and other plants are down, so the system is just going to
15 operating much more tightly and in a different way than it
16 has in the past so I'm wondering, Todd, if you have had
17 communications with the railroad versus certain utilities
18 just to ensure that that line of communication is happening
19 during a period of time where we are going to have to be so
20 concerned about the logistics of how this rolls out.

21 MR. RAMEY: To date at MISO our conversations on
22 this issue have been with our generation owners.

23 We have not yet engaged in conversations with the
24 rail delivery companies.

25 But you are right, so I mentioned in my remarks

1 that coal pile draw downs this year have not yet resulted
2 in a significant issue from a reliability perspective on
3 the system.

4 That in no small part is also supported by
5 relatively healthy reserve margins that we currently have.

6 Plain reserve margins look like flexibility to
7 help manage reliability issues and minimize risks of
8 uncertainty going forward.

9 But you're right, Commissioner Clark, as we move
10 in just twelve, eighteen months from now the expectation is
11 planning reserve margins coming down significantly, that
12 looks like increased risk to uncertain futures.

13 We will continue to work with our coal-fired
14 generation owners to help them understand our view, MISO's
15 view of the potential reliability impacts of specific units
16 or plants that may be at risk of coal pile depletion.

17 We have already done a number of those studies at
18 the request of members this year, what would happen to the
19 network if our coal pile at Sherco or Weston goes to zero
20 and that unit comes offline.

21 We can, to those kinds of studies that helps to
22 provide information for our members to use as they consider
23 levels of criticality to help support them in their
24 discussions with their rail service providers.

25 COMMISSIONER CLARK: Those are all the questions

1 I have. Mr. Higgins, I noted this as I was looking through
2 the federal survey of agencies that have high employee
3 satisfaction.

4 STB was also very high amongst federal agencies,
5 so I don't know if there is something that agencies have,
6 that a lot of economists working at them, having hung
7 around a lot of economists for a lot of years, it actually
8 shocks me that that would be the case, but maybe they are
9 much happier than they seem.

10 CHAIRMAN LAFLEUR: Commissioner Bay?

11 COMMISSIONER BAY: Thank you. Just a few quick
12 questions. Todd, could you help me get my arms around the
13 extent of the problem in MISO now that we are into the
14 winter season.

15 Is it primarily located in the upper Midwest?
16 Are you seeing this problem with respect to stock, I mean
17 coal stockpiles in other parts of MISO?

18 MR. RAMEY: Primarily it is focused on the
19 Northern Western parts of the footprint, so most of the
20 concerns from customers have been for plants in Wisconsin,
21 Minnesota, upper peninsula of the Michigan areas as well,
22 but as I mentioned before, Dr. Padden, our independent
23 market monitor works directly with our coal-fired asset
24 owners that are implementing conservation measures and it
25 certainly applies to coal-fired plants outside of those

1 states.

2 He mentioned to me that it is about a third of
3 the coal-fired generation the footprint has been attempting
4 some sort of conservation measures over the past six months
5 primarily on the North Western part of the footprint, but
6 there are other areas in Illinois and Indiana and I
7 understand also had some concerns.

8 COMMISSIONER BAY: Thank you. Steve, I
9 appreciate your being here today for our meeting and I also
10 appreciate the briefings that you provided to the
11 Commission over the last few months.

12 My question for you is this: If we hit some
13 really extreme winter weather coal piles go down at
14 different generators in the upper midwest, does BNSF have a
15 plan to deal with that emergency?

16 MR. BOBB: We have plans for winter preparedness
17 and we learned a few things last year and have added to
18 those plans.

19 So we always prepare for winter and we are more
20 prepared for winter this year than we were last and a lot
21 of that is because we have been improving momentum on the
22 railroad as opposed to decreasing momentum and we have a
23 lot of capacity.

24 One of the key challenges we faced last year was
25 that the weather compounded on already constrained

1 capacity.

2 As we come into this winter with the expansion
3 programs we put in place you will look at our railroad from
4 Dilworth, Minnesota West it is a very different railroad
5 than it was last year.

6 We think we have a lot of infrastructure in place
7 that enables us to deal with that winter.

8 Certainly, as we face traffic situations with our
9 customers we can coordinate and have demonstrably flexed
10 capacity to deal with those unique circumstances as they
11 come up and we would be prepared to do so again as
12 necessary.

13 COMMISSIONER BAY: In an emergency if necessary
14 you would prioritize the delivery of coal?

15 MR. BOBB: We think it is a two-party equation
16 and certainly our customers' choices around the economic
17 dispatch is part of the answer and certainly part of the
18 answer is how we move as much coal as we can.

19 COMMISSIONER BAY: My last question is for
20 Michael, and Michael, I very much appreciate STB's careful
21 monitoring of this situation and its continuing efforts to
22 resolve delivery issues and also your close collaboration
23 with FERC.

24 Let us say that despite the best efforts of BNSF
25 to address these issues unfortunately we have an emergency,

1 the coal is not getting to the plants that need them, does
2 the surface transportation Board have any kind of emergency
3 authority that it could exercise in those circumstances?

4 Again all hoping that we never get to that
5 situation, but if we do, what can you do?

6 MR. HIGGINS: The Surface Transportation Board
7 does have emergency service authority under its statute
8 which allows it when certain conditions are met, and that
9 would apply to a significant service failure causing a
10 regional problem of a significant magnitude we do have the
11 authority to implement measures that would essentially
12 direct traffic or prioritize service.

13 This is tough to talk about it in terms of
14 hypotheticals. This is an area of the law that really
15 hasn't been invoked very often.

16 The last time was in the aftermath of the Union
17 Pacific Southern Pacific merger, basically, 1996 - 1997
18 time frame, and during the integration of those two systems
19 there were certain problems that materialized primarily in
20 the Houston and the Gulf Coast area which resulted in
21 essentially a gridlock scenario and the Board was called
22 upon in that situation to deploy its emergency service
23 authority which it did for, I believe, up to the limit of
24 the statutory period which is 240 days and it had certain
25 measures of opening gateways to allow other carriers to

1 provide service over lines of foreign roads basically and
2 potentially in the worst case scenario the Board does have
3 that in its toolbox.

4 COMMISSIONER BAY: Thank you.

5 CHAIRMAN LAFLEUR: Commissioner Moeller.

6 COMMISSIONER MOELLER: Thank you. A few points
7 and then some quick questions.

8 I want to thank the staff and in particular our
9 guests for coming here today, an excellent overview with a
10 lot of good discussion.

11 We have had a number of railroad aficionados in
12 my office including myself.

13 That is hard to believe, but as a seven year old,
14 I used to ride the Burlington home from school in suburban
15 Chicago.

16 But I also have some experience with this issue
17 because I used to work for a company that had some coal
18 issues during the washout of 2004, 2005 when we burned a
19 lot of expensive gas in place of coal that wasn't there, so
20 I am very familiar with the issue.

21 I appreciate that everyone is on it. I would
22 like to pick up something that Commission Clark
23 articulately said, kind of similar to how the gas industry
24 is hopefully learning more about the electric industry
25 natural gas, and vice versa, as the industries merge.

1 I am thinking, and I am hoping the railroads can
2 focus a little bit more on the details of the electric
3 industry and vice versa.

4 We have as Tony said particularly a couple of
5 years that are going to be challenging in different ways in
6 different seasons in different markets.

7 It is kind of the Summer of 2015 we are most
8 concerned about PJM. It's after 2015 that were concerned a
9 lot about of what MISO will be going through as we
10 transition the fleet in a very short amount of time.

11 I am hoping that each side can learn more about
12 each other, but particularly the railroads can be cognizant
13 of different seasonal reliability challenges we will be
14 having in different markets in the United States so that no
15 one is caught unaware.

16 Out of curiosity, Michael, you mentioned you
17 regulate non-energy pipelines. What would be some of those
18 products? CO2?

19 MR. HIGGINS: I think that fertilizer would be
20 one example of products moving in those pipelines.

21 COMMISSIONER MOELLER: Thank you. Dave. Just to
22 give us some context, what is generally the end-use cost to
23 consumers of transport of coal?

24 What is the cost impact here that we are talking
25 about?

1 MR. MCMILLAN: Chair LaFleur and Commissioner
2 Moeller. Labor is our biggest cost if you think big picture
3 and right behind it is fuel, coal, which is comprised of
4 the coal itself and the coal delivery component and they
5 are rapidly climbing towards a point where they are getting
6 to be number one, and number two, and I do not know what
7 will happen if they will switch positions or not, but it is
8 a big deal, it is the single biggest and most controllable
9 or the most impactful factor we have across the range of O
10 and M costs that end up on a customer's bill.

11 COMMISSIONER MOELLER: A final question for Dave,
12 Steve and Todd. Commissioner Bay alluded to this in terms
13 of extreme weather.

14 What are your internal forecasts looking at in
15 terms of the extent of potentially cold weather in the
16 upper Midwest this winter and to what extent do blizzards
17 potentially disrupt rail delivery of coal?

18 MR. MCMILLAN: Chair LaFleur, Commissioner
19 Moeller, I can start thanks in part to some of our
20 conservation measures and thanks in part to a massive
21 increase in the equipment placed in our service by Steve
22 and the BNSF we enter January in much better shape than
23 what we were last year.

24 The coal pile is full and with some certainty
25 that it will stay full in February and March we look good

1 this year compared to where we have been at our biggest
2 power plants. That's how I would answer that your
3 question.

4 COMMISSIONER MOELLER: It is always cold in
5 Minnesota, but what are you looking at this year?

6 MR. MCMILLAN: We are not looking for severe or
7 any polar vortex this year, but we still given our
8 industrial load and 82% system load factor we run our coal
9 units hard all the time especially our bit ones.

10 Weather is a factor, but we are always running
11 those.

12 COMMISSIONER MOELLER: Steve, and Todd, what are
13 your weather projections looking like?

14 MR. BOBB: You can buy a number of forecasts and
15 you will get a number of answers.

16 The forecast from the company that we use day in
17 and day out for wind warnings and those kinds of things on
18 our railroad generally suggests that we will not have as
19 difficult a winter as we did last year.

20 The more difficult weather is forecast to be a
21 little more east than last year, that was centered right
22 over North Dakota and Montana, but we feel more prepared
23 coming into this winter than we did last.

24 You asked the question about what is the impact
25 of a blizzard.

1 We are able to keep trains moving through very
2 adverse weather. We can continue to move our crews on the
3 rail if we need to, so we are usually the last thing to
4 shut down after the highway system, but we have seen
5 circumstances where we do have to suspend operations over a
6 geography for a matter of hours or a day and then restart.

7 COMMISSIONER MOELLER: Todd, what do think about
8 the winter?

9 MR. RAMEY: My focus is on control room system
10 operations, so long term forecast for me would be next
11 Thursday.

12 And I can tell you that through next Thursday, I
13 am not seeing any polar vortex.

14 Beyond that, I wait for the next day to toll in
15 the 10-day forecast, so I'm expecting average weather after
16 that.

17 COMMISSIONER MOELLER: Thank you very much.

18 CHAIRMAN LAFLEUR: Thank you very much again to
19 all of you for those presentations and thank you all for
20 coming and we wish all of you a happy and safe holiday.
21 The meeting is adjourned.

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