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United States of America

FEDERAL ENERGY REGULATORY COMMISSION

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CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC :
 CONSENT MISCELLANEOUS ITEMS :
 CONSENT MARKETS, TARIFFS AND RATES - GAS :
 CONSENT ENERGY PROJECTS - HYDRO :
 CONSENT ENERGY PROJECTS - CERTIFICATES :
 DISCUSSION ITEMS :
 STRUCK ITEMS :

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1,029th COMMISSION MEETING

Thursday, July 21, 2016

Commission Meeting Room

Federal Energy Regulatory Commission

888 First Street, NE

Washington, DC 20426

The Commission met in open session at 10:00 a.m., when were present:

- CHAIRMAN NORMAN BAY
- COMMISSIONER CHERYL LaFLEUR
- COMMISSIONER TONY CLARK
- COMMISSIONER COLETTE HONORABLE

1 PRESENTERS:

2 E-7, JAMIE MARCOS, Office of Enforcement

3 MELISSA LOZANO, Office of Energy Market Regulation

4 AARON PUJANANDEZ, Office of Energy Market Regulation

5 DAVID PIERCE, Office of Enforcement

6 LAURA CHIPKIN, Office of General Counsel

7

8 E-8, KEVIN RYAN, Office of General Counsel

9 DANIEL PHILLIPS, Office of Electric Reliability

10 SIMON SLOBODNIK, Office of Electric Reliability

11

12 A-3, TIMOTHY WELCH, U.S. Department of Energy Hydropower

13 Program Manager

14 KYLE L. JONES, JR., Senior Hydropower Program Manager,

15 U.S. Army Corps of Engineers

16 AMY S. KLEIN, Regulatory Program Manager, U.S. Army

17 Corps of Engineers

18 NICHOLAS JAYJACK, Federal Energy Regulatory

19 Commission, Office of Energy Projects, Deputy

20 Director, Division of Hydropower Licensing

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

2 SECRETARY BOSE: Thank you.

3 The purpose of the Federal Energy Regulatory
4 Commission's open meeting is for the Commission to consider
5 matters that have been duly posted in accordance with the
6 government and the Sunshine Act.

7 Members of the public are invited to observe,
8 which includes attending, listening, and taking notes, but
9 does not include participating in the meeting or addressing
10 the Commission. Actions that purposely interfere or
11 attempt to interfere with the commencement or conducting of
12 the meeting or inhibit the audience's ability to observe or
13 listen to the meeting, including attempts by audience
14 members to address the Commission while the meeting is in
15 progress, are not permitted. Any persons engaging in such
16 behavior will be asked to leave the building. Anyone who
17 refuses to leave voluntarily will be escorted from the
18 building.

19 Additionally, documents presented to the
20 Chairman, Commissioners, or Staff during the meeting will
21 not become the part of the official record of any
22 Commission proceeding, nor will they require further action
23 by the Commission. If you wish to comment on an ongoing
24 proceeding before the Commission, please visit our Web site
25 for more information.

1 Thank you for your cooperation.

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

8 (Pledge of Allegiance recited.)

9 CHAIRMAN BAY: I have one announcement to make,
10 and I would like to welcome our colleagues from Mexico who
11 are here today with us. Bienvenidos. We have CRE, CENACE
12 and SENER here today, and in particular, I would like to
13 welcome the director general of the electric reliability
14 for CRE Mr. Hector Alejandro Beltran Mora, who previously
15 appeared before FERC at a technical conference. We very
16 much appreciate you being here today.

17 Colleagues, any other announcements?

18 COMMISSIONER LA FLEUR: Thank you, Mr. Chairman.

19 I would also like to welcome our Mexican
20 colleagues and counterparts, General Mora and your
21 colleagues. We frequently talk about how much change is
22 going on in the energy system in our country, but I think
23 the level of transformation going on in Mexico is really
24 second to no place in the world, and it's really quite
25 remarkable.

1 I think the level of transformation going on in
2 Mexico is really second to no place in the world, and it's
3 really quite remarkable.

4 I also just wanted to quickly comment,
5 Mr. Chairman, on one item on the agenda, on the consent
6 agenda. I didn't call it because we had so much business
7 this morning. It's E-11, the proposed requirement of
8 frequency and voltage drive-through capabilities on small
9 generating facilities, nonsynchronous wind and solar. I
10 believe it's another good example of our adapting our FERC
11 jurisdictional tariffs to the changing resource mix and the
12 advances in technology, and I really appreciate the Staff's
13 work on it and their thoughtful consideration of the
14 potential safety issues relating to islanding.

15 Earlier this week I attended the international
16 meeting of the Power and Energy Society of IEEE, the
17 Institute of Electrical and Electronic Engineers. It was
18 me in a room with 3400 electrical engineers, and I scored
19 this awesome scarf, which has solar and wind and hydro and
20 transmission. But pertinent to this, the IEEE is working
21 hard on finalizing revisions to IEEE 1547, which would
22 support the order in E-11, and I encourage them to complete
23 that process. Thank you.

24 CHAIRMAN BAY: Thank you, Cheryl.

25 Tony?

1 COMMISSIONER CLARK: Good morning, and welcome
2 to everyone. I hope everyone had a good, happy and safe
3 Fourth of July holiday. Welcome also to our Mexican
4 colleagues. Thank you for being here as well. This month
5 I have no staff changing, which is a big announcement.
6 Thank you.

7 CHAIRMAN BAY: Thank you, Tony.
8 Colette?

9 COMMISSIONER HONORABLE: Thank you,
10 Mr. Chairman. Good morning, everyone.

11 I'm delighted also to welcome our Mexican
12 colleagues. It's always a pleasure to have you here,
13 particularly as our work is increasing, as we are
14 continuing to focus collectively, not only in our
15 respective regions but also as a continent, our work in
16 moving toward a cleaner energy future, the work that is
17 occurring internationally as we are all focusing on how we
18 can reduce greenhouse gas emissions. We also applaud your
19 ambition and your work in moving forward with your energy
20 reforms, and we've been very supportive and encouraging of
21 your continued work. It's a delight to have you here.

22 Last month, I had the honor of participating in
23 speaking at the first binational clean energy forum hosted
24 in Austin and addressed a number of your colleagues from
25 Mexico. Thank you for making had easy for me to hop down

1 just a couple of states. But most of all, I was encouraged
2 by your focus and also your willingness to work across
3 borders to get the job done. So welcome.

4 I also want to announce, I do have a staff
5 change, and I would like to say to Commissioner Clark, I
6 want Jesse back. I miss seeing him. And whenever I would
7 walk by the office, I would yell in, as a country person
8 from Arkansas would, hey, Jesse, and there's no Jesse, and
9 I'm upset about that.

10 I'm delighted to announce and introduce to some
11 the newest adviser on my team. Her name is Anna Fernandez.

12 Anna, will you stand.

13 Anna joins my office from the Office of General
14 Counsel with Max's blessing and has worked for a number of
15 years on a number of key issues that we've addressed here
16 at the Commission, most notably focusing on gas/electric
17 coordination. So it's the perfect time for Anna to join
18 our team, and we are delighted to have her.

19 Thank you, Mr. Chairman.

20 CHAIRMAN BAY: Thank you.

21 Colette, I only have one question for you. And
22 that is, are going to get seersucker?

23 COMMISSIONER HONORABLE: You've called me out as
24 a Southern person. I'm out of order. So when I arrived
25 in, I said to Tony, seersucker again, and he said yes, it's

1 always the July meeting.

2 Thank you, Commissioner Clark. I will do better
3 next time, Mr. Chairman.

4 CHAIRMAN BAY: Here at FERC we don't have a red
5 state/blue state divide. We have the seersucker crowd and
6 the nonseersucker crowd.

7 Madam Secretary, I think we're ready to proceed
8 to the consent agenda.

9 SECRETARY BOSE: Good morning, Mr. Chairman, and
10 good morning Commissioners. Since the issuance of the
11 Sunshine Act notice on July 14, 2016, no items have been
12 struck from this morning's meeting. Your consent agenda is
13 as follows: Electric items: E-1, E-2, E-3, E-4, E-5, E-9,
14 E-10, E-11, E-12, E-13, E-14, E-15, E-16, E-17, E-18, E-20,
15 and E-23.

16 Hydro items: H-1.

17 Certificate items: C-1 and C-2.

18 As required by law, Commissioner Honorable is
19 not participating in consent items E-4 and E-5. As to E-8,
20 Commissioner LaFleur is dissenting with a separate
21 statement. With the exception of E-8 where a vote will be
22 taken after the discussion and presentation of that item,
23 we will now take a vote on this morning's consent agenda
24 items, and the vote begins with Commissioner Honorable.

25 COMMISSIONER HONORABLE: Thank you, Madam

1 Secretary. Noting my recusals in items E-4 and E-5, I vote
2 aye.

3 SECRETARY BOSE: Commissioner Clark?

4 COMMISSIONER CLARK: Thank you. Aye.

5 SECRETARY BOSE: Commissioner LaFleur?

6 COMMISSIONER LA FLEUR: On the items for voting,
7 I vote aye.

8 SECRETARY BOSE: And Chairman Bay?

9 CHAIRMAN BAY: I vote aye.

10 SECRETARY BOSE: The first item for discussion
11 and presentation this morning is item E-7, a draft notice
12 of proposed rulemaking concerning data collection for
13 analytics and surveillance and market-based ratemaking
14 purposes. There will be a presentation by Jamie Marcos
15 from the Office of Enforcement and Melissa Lozano from the
16 Office of Energy Market Regulation. They are accompanied
17 by Aaron Pujanandez from the Office of Energy Market
18 Regulation, David Pierce from the Office of Enforcement,
19 and Laura Chipkin from the Office of the General Counsel.

20 MS. MARCOS: Good morning, Chairman and
21 Commissioners. E-7 proposes to revise the Commission's
22 regulations to collect certain data for analytics and
23 surveillance purposes from market-based rate sellers and
24 entities trading virtual products or holding financial
25 transmission rights and to change certain aspects of the

1 substance and format of information submitted for MBR
2 purposes.

3 The Commission proposes these changes in large
4 part in response to comments received on the Collection of
5 Connected Entity Data from Regional Transmission
6 Organizations and Independent System Operators Notice of
7 Proposed Rulemaking that was issued in Docket Number
8 RM15-23. This new proposal is also intended to combine and
9 streamline the collection of MBR and Connected Entity
10 Information, which the Commission needs to ensure just and
11 reasonable rates, into one relational database. This
12 proposal would eliminate duplication, minimize compliance
13 burdens, modernize the Commission's data collections, and
14 render the information collected by the Commission usable
15 and accessible for the Commission and its staff. In
16 furtherance of this effort, in items E-13 and E-14 to be
17 issued concurrently with E-7, the Commission withdraws the
18 Connected Entity NOPR issued in Docket RM15-23 and the
19 Ownership NOPR issued in Docket No. RM16-3.

20 The revisions proposed include new requirements
21 for those entities to report certain information about
22 their legal and financial connections to other entities to
23 assist the Commission in its analytic and surveillance
24 efforts. The Commission previously proposed to require
25 certain market participants in the

1 Commission-jurisdictional organized markets to require --
2 sorry, to file similar information about their financial
3 and legal connections in the Connected Entity NOPR.
4 However, as described herein, the proposal presents
5 substantial revisions from what the Commission proposed in
6 the Connected Entity NOPR, including, among other things, a
7 different set of filers, a reworked and substantially
8 narrowed definition of Connected Entity, and a different
9 submission process.

10 Specifically, the draft NOPR proposes to align
11 the definition of a connected entity to existing MBR
12 affiliate definitions and to eliminate reference to
13 non-voting stock and limited partnership shares to address
14 passive ownership concerns. This revised definition limits
15 upstream and downstream ownership and common control
16 relationship reporting to only those entities engaged in
17 Commission-jurisdictional markets and those that buy or
18 sell financial energy derivatives. The draft NOPR also
19 does not require the reporting of debt instruments or
20 structured transactions and clarifies the definition of a
21 trader and proposes that entities only report information
22 about traders employed by the company. The NOPR also
23 provides additional clarification on the types of contracts
24 that must be reported, and seeks comment on alternate
25 method of collecting contract information through Electric

1 Quarterly Report filings. Finally, the draft proposes that
2 entities report changes in connections within 30 days.

3 Melissa will now present the proposals related
4 to the MBR program.

5 MS. LOZANO: With respect to the market-based
6 rate program, the proposals include: (i), adopting certain
7 changes to reduce and clarify the scope of ownership
8 information that MBR sellers must provide; (ii), revising
9 the information required to be reported for purposes of the
10 asset appendix; (iii), withdrawing the requirement that MBR
11 sellers provide organizational charts adopted on Order No.
12 816.

13 Regarding MBR ownership information, the draft
14 NOPR proposes the same streamlining changes included in the
15 December 2015 NOPR on Ownership Information in MBR Filings.
16 Thus, the draft NOPR proposes to revise the requirements of
17 Order No. 697-A such that MBR sellers would only be
18 required to provide information on certain affiliate owners
19 (that is, owners that meet the definition of an affiliate
20 in the Commission's regulations). We propose that MBR
21 sellers need to identify only those affiliate owners that
22 either, (i) are an ultimate affiliate owner, defined as the
23 furthest upstream affiliate owner in the ownership chain
24 or; (ii) have a franchised service area or MBR authority,
25 or directly own or control generation, transmission,

1 intrastate natural gas transportation, storage or
2 distribution facilities, physical coal supply sources or
3 ownership of or control over who may access transportation
4 of coal supplies.

5 With respect to the asset appendices, MBR
6 sellers currently submit information about certain
7 long-term firm purchases and assets that they and all of
8 their affiliates own or control. The draft NOPR proposes
9 to revise this requirement such that each MBR seller would
10 report in the asset appendix only its assets and those of
11 any affiliate without MBR. It also proposes to collect
12 some new information not currently reported, including
13 certain information on generation units and long-term
14 sales. The draft NOPR does not propose to change the
15 Commission's market-power analysis established in Order No.
16 697 and subsequent orders.

17 The draft NOPR proposes to collect both
18 Connected Entity and certain MBR information using an
19 extensible markup language, or XML, schema submitted to a
20 Commission-administered relational database. Entities
21 submitting this information will assemble an XML package
22 that includes the information required to be in the XML
23 schema as well as any necessary attachments, including, if
24 relevant; a transmittal letter, indicative screen
25 workpapers, or MBR tariffs. A data dictionary, attached to

1 the draft NOPR, defines the framework for submitting
2 information to the relational database. The draft NOPR
3 also notes that a notice of a Technical conference --
4 Workshop, where Staff will work through issues related to
5 the data dictionary with industry, will be issued
6 contemporaneously with the NOPR. We anticipate that the
7 data dictionary, the XML schema definition with appropriate
8 validations, and a temporary environment, test environment
9 will be available on the Commission's Web site upon
10 issuance of a Final Rule.

11 This concludes our presentation. We would be
12 happy to answer any questions you may have.

13 (Audience interruption.)

14 CHAIRMAN BAY: Thank you, Jamie, Melissa, Aaron,
15 David, and Laura for that presentation. I would also like
16 to thank the entire data collection and NOPR team as well.
17 I know that you have been working --

18 (Audience interruption.)

19 CHAIRMAN BAY: Again, my thanks to the entire
20 team. I know that a lot of hard work has gone into this
21 NOPR. I support this NOPR and believe that it will help
22 the Commission implement a modern data collection program
23 and will enable us to undertake a regulatory mission more
24 effectively and efficiently. I particularly appreciate the
25 team's effort to be fair, thoughtful, and balanced in

1 responding to the many comments that we've received and
2 striking that balance in which we receive the information
3 that we need to further the public interest, while
4 streamlining the nature of the request and reducing the
5 burden on industry at the same time. So I very much
6 appreciate the hard work and the careful thinking that has
7 gone into this proposal.

8 I have one or two questions for you. One
9 question is based on your presentation, Jamie, where you
10 noticed that much of what we're doing here keys off of --

11 (Audience interruption.)

12 CHAIRMAN BAY: You noted that the draft NOPR
13 proposes to align the definition of connected entity to the
14 existing MBR affiliate definition. And I'm wondering if
15 you could talk about that more and how that alignment is
16 occurring.

17 MS. MARCOS: Sure. Thank you for your question.
18 We went back and looked at the connected entity NOPR
19 definition, and we responded to the comments so that we
20 would start the ownership category of the connected entity
21 definition with the affiliate definition that appears in
22 the Commission's -- currently appears in the Commission's
23 regulations. So we started with the affiliate definition
24 that's in the Commission's regulations, and then we have
25 three categories to kind of narrow down the group of

1 affiliates that would be reported for connected entities
2 purposes. And that group would be entities that also are
3 affiliates and participate in the organized markets or the
4 ultimate upstream affiliate owner of the reporting entity
5 or entities that are -- that trade in financial derivative
6 products. And so by narrowing down that definition, we're
7 keeping within the MBR affiliate definition and also
8 getting the information that we really need for our
9 analytics and surveillance purposes.

10 CHAIRMAN BAY: Thank you.

11 I noted as well that the draft order spends a
12 fair amount of time talking about relational databases. So
13 what is a relational database, and why would that be
14 helpful to Staff?

15 MR. PIERCE: Sure. Thank you for your question.
16 A relational database is a tool that we use to manage the
17 information that we collect and organizing it and making it
18 so that we can obtain the information in a reasonable way
19 over time. It's a structure that -- it's just an
20 effectively a data structure that allows us to access the
21 data, maintain the data, and keep the data current.

22 CHAIRMAN BAY: And is there any greater burden
23 for industry in submitting data on an XML format versus
24 providing it to us on a spreadsheet of some sort?

25 MR. PIERCE: I think there's some burden in

1 reformatting the data, but once it's reformatted, it's
2 about the same.

3 CHAIRMAN BAY: Thank you.

4 Cheryl?

5 COMMISSIONER LA FLEUR: Thank you, Norman.

6 I would also like to thank the team for your
7 work on this and your presentation. I had written
8 separately earlier on the connected entities proposal to
9 express some questions and concerns, but I'm very pleased
10 to support the revised proposal before us today. I very
11 much appreciate all the work of employees and the Office of
12 Energy Management Regulation, Energy Market Regulation, the
13 Office of General Counsel, and the Office of Enforcement to
14 work together to bring this joint proposal to us. I think
15 it's very sensible that it confines the definitions and the
16 formatting of the connected entities proposal with our
17 market-based rate authority applications.

18 And I also really applaud your work to build the
19 database. I know it will be an adjustment. It always is
20 whenever a system changes, but hopefully, in the long run,
21 easier both to input the data and then for us to work with
22 it. I'm particularly pleased with the amount of outreach
23 that you did, which we got good feedback on from the folks
24 coming up to the 11th floor, and I know that outreach will
25 continue and will continue to benefit the proposal. I hope

1 we get strong attendance at the technical workshop and look
2 forward to a lot of comments.

3 Thank you.

4 CHAIRMAN BAY: Thank you, Cheryl.

5 Tony?

6 COMMISSIONER CLARK: Thank you, Mr. Chairman.

7 I don't have any questions for the team, but
8 thanks for all your work. Thanks also to everyone who came
9 into the Commission and commented on this proposal. I
10 would characterize this as our information-gathering reform
11 2.0 effort at this point.

12 As I mentioned to a number of audiences when I
13 was asked over the last several months about the past
14 connected entity NOPR, sometimes when the Commission puts
15 out a notice of proposed rulemaking there is a huge body of
16 information that we have, and the Commission puts it out,
17 and we're, of course, interested in hearing feedback, but
18 we've got a pretty good base of information that we put out
19 a NOPR on.

20 Sometimes, and I think this was one of those
21 cases, the Commission is putting something out and really
22 is -- we're always generally interested in hearing your
23 feedback, but we're interested in hearing your feedback on
24 something that probably is not quite as well fleshed out.
25 We see it as an important issue, and that was probably the

1 case with the connected entity NOPR. I think it was
2 important that we put it out there.

3 But I really do appreciate the team's effort in
4 trying to bring together, as Cheryl noted, focusing on the
5 information that Staff feels it really needs from the
6 standpoint of the Office of Enforcement, the information
7 that it really needs, and streamlining it with some of the
8 information that we gather as part of our market-based
9 ratemaking efforts, which is one of the things we heard a
10 lot about from the commenters who came in, to try to make
11 this as streamlined a process as we possibly can so that we
12 have the information we need but it's not a burden on
13 industry, at least an undue burden on the industry. I
14 think we're getting closer to the market on this. I
15 appreciate that. I know we will hear continued feedback,
16 and I look forward to that as well.

17 Thank you.

18 CHAIRMAN BAY: Thank you, Tony.

19 Colette?

20 COMMISSIONER HONORABLE: Thank you,

21 Mr. Chairman. And thank you to Jamie and the team and
22 Melissa for your presentations this morning and also for
23 yeoman's efforts in this NOPR in particular.

24 We've seen a tremendous amount of work on your
25 part and by all of the stakeholders that have participated,

1 and I think this NOPR is a great example of why it's
2 important to participate in this process. We did receive a
3 lot of feedback following the connected entity NOPR, the
4 technical conference, the MBR ownership NOPR. And I
5 believe that this order reflects that we heard the concerns
6 of stakeholders and were measured in our approach to take
7 into account the needs of stakeholders. I believe as Jamie
8 mentioned, that this NOPR made substantial changes. In
9 particular in E-13 and 14, we are withdrawing the connected
10 entity and MBR ownership NOPRs, and they're being replaced
11 by a coordinated data collection NOPR, which I think
12 reflects better coordination on our part and an
13 appreciation of what's happening in the real world with
14 regard to how data is submitted. Many of the compliance
15 deadlines for this joint effort have been coordinated. The
16 data collection effort has been pared down to a manner
17 that's more reasonable for stakeholders that would have to
18 submit it. And again, I believe this is a testament to our
19 robust processes in which stakeholders can participate and
20 also educate us and advise us and recommend ways in which
21 we can do things better, and I think we should always heed
22 those when appropriate.

23 One of the items that I'm not sure we've gotten
24 just right yet and we explicitly requested stakeholder
25 feedback on it is the relationship between EQR and the data

1 collection described in the draft NOPR. This NOPR proposes
2 not to modify any EQR reporting requirements which would
3 result in potentially duplicative contract data collection
4 requirements, and I'm not sure if this is the best path,
5 but I look forward to continued stakeholder feedback on
6 this point.

7 One of the more notable differences between the
8 connected entities NOPR that's being withdrawn today and
9 this proposal is the manner in which the data is being
10 "delivered to us." I think in the connected entities NOPR
11 we originally would require RTOs and ISOs to submit the
12 data to us, and in this draft proposal, the data would be
13 submitted directly to the Commission. I hope that is
14 pleasing to stakeholders that expressed a concern about
15 that and relieve some of the requirements for additional
16 steps for stakeholders. And this draft NOPR contains a
17 footnote stating that the Commission would not be
18 prohibited from sharing on a confidential basis connected
19 entity data with market monitors and RTOs and ISOs. And I
20 believe that those entities would benefit from getting this
21 information when necessary.

22 I want to ask a question, in particular, I'll
23 direct it to Jamie, with regard to data collection. How
24 would you envision this negotiation would be shared? Would
25 market monitors and RTOs and ISOs potentially have access

1 to this data ongoing, or would there be an infrequent and
2 less regular sharing of information, from your perspective?

3 MS. MARCOS: We've had outreach with the market
4 monitors, and they are very interested in using this data
5 for their surveillance efforts. Currently, we have a very
6 robust coordination with the market monitors on any
7 investigative matters. So we foresee being able to share
8 connected entity information for investigative purposes and
9 to help them conduct their market surveillance. And so we
10 would like to hear comments from the market monitors or
11 from the industry on how they would like us to coordinate
12 our efforts with the market monitors in sharing this
13 information. But for now, our expectation is that we would
14 continue to move forward with our normal process of
15 coordinating with them on investigative efforts and
16 surveillance efforts.

17 COMMISSIONER HONORABLE: Thank you for that. I
18 think it provides greater light about how we envision this
19 process working. And I would say as a final point,
20 Mr. Chairman, that this speaks to our continued need for
21 coordination and cooperation, because in my mind this is
22 inherently an effort and an exercise that protects
23 consumers at the very end of the day.

24 And so I want to thank you again for your
25 efforts and thank stakeholders also for their efforts as

1 well.

2 Thank you.

3 CHAIRMAN BAY: Thank you, Colette.

4 Madam Secretary?

5 SECRETARY BOSE: Commissioners will now take a
6 vote on item E-7. The vote begins with Commissioner
7 Honorable.

8 Commissioner Honorable?

9 COMMISSIONER HONORABLE: Aye.

10 SECRETARY BOSE: Commissioner Clark?

11 COMMISSIONER CLARK: Aye.

12 SECRETARY BOSE: Commissioner LaFleur?

13 COMMISSIONER LA FLEUR: Aye.

14 SECRETARY BOSE: And Chairman Bay?

15 CHAIRMAN BAY: Aye.

16 SECRETARY BOSE: The next item for presentation
17 and discussion this morning is E-8, a draft Final Rule
18 concerning revised critical infrastructure protection
19 reliability standards. There will be a presentation by
20 Kevin Ryan from the Office of the General Counsel. He is
21 accompanied by Daniel Phillips and Simon Slobodnik from the
22 Office of Electric Reliability.

23 MR. RYAN: Good morning, Mr. Chairman and
24 Commissioners. Item E-8 is a draft Final Rule directing
25 the North American Electric Reliability Corporation, or

1 NERC, to develop a forward-looking objective based
2 reliability standard that addresses supply chain risk
3 management for industrial control system hardware,
4 software, and computing and networking services associated
5 with bulk electric system operations. The draft Final Rule
6 is being issued after receiving comments from 34 entities
7 on the July 15, 2015, notice of proposed rulemaking, NOPR,
8 and following the January 28, 2016, Staff-led technical
9 conference with additional comments and/or presentations
10 from 24 entities representing industry, government,
11 vendors, and academia.

12 The draft Final Rule adopts the proposal from
13 the July 15 NOPR finding that the record supports the
14 development of mandatory requirements pursuant to the
15 Commission's authority under Section II 15 D 5 of the
16 Federal Power Act for the protection of aspects of the
17 supply chain that are within the control of responsible
18 entities and that fall within the scope of the Commission's
19 authority under Section II 15 of the Federal Power Act.

20 The draft Final Rule explains that the new or
21 modified reliability standard developed to address the
22 Commission's directive should require each affected entity
23 to develop and implement a plan that includes security
24 controls to address the following security objectives:
25 One, software integrity and authenticity; two, vendor

1 remote access; three, information system planning; and
2 four, vendor risk management and procurement controls. The
3 draft Final Rule does not, however, require NERC to
4 implement -- impose any specific controls, nor does the
5 Commission require NERC to propose one-size-fits-all
6 requirements. In other words, the draft Final Rule directs
7 what gap NERC should address, not how NERC addresses that
8 gap.

9 In adopting the NOPR proposal, the draft Final
10 Rule finds that Section 215 of the Federal Power Act
11 provides the Commission with the authority to direct NERC
12 to address the reliability gap concerning supply chain
13 management risks identified in the NOPR. The draft Final
14 Rule also notes that the Commission's response -- that
15 NERC's response to the Commission's directive to address
16 the supply chain related reliability gap should, first,
17 respect Section II 15 jurisdiction by only addressing the
18 obligations of responsible entities and, second, not
19 directly impose obligations on suppliers, vendors, or other
20 entities that provide products or services to responsible
21 entities.

22 Finally, the draft Final Rule directs that NERC
23 submit a new and modified reliability standard within one
24 year of the effective date of the draft Final Rule.

25 This concludes our presentation.

1 CHAIRMAN BAY: Thank you, Kevin, Simon, and
2 Daniel. I appreciate the presentation. I appreciate the
3 hard work of the team on this order.

4 Unfortunately, supply chain risks pose threats
5 to our bulk power system, and recent malware campaigns
6 targeting supply chain vendors have highlighted the need
7 for additional protections under our CIP reliability
8 standards. As a result, I support today's Final Rule, and
9 I think it is an important step towards addressing that
10 particular risk.

11 As Kevin stated, the Final Rule directs NERC to
12 develop a forward-looking objective-based standard that
13 provides responsible entities with flexibility as to how to
14 meet those objectives and only addresses supply chain risks
15 that are within their control.

16 I have one or two questions for the team, and
17 one question is based on the aftermath of the cyberattack
18 in the Ukraine where I understand that DHS ICS-CERT issued
19 a number of recommendations, and one of those
20 recommendations was that utilities manage supply chain
21 risk. Why is that important? Why should utilities be very
22 careful in addressing that particular risk?

23 MR. SLOBODNIK: Because some of the -- because
24 some of the vulnerabilities and the threats come via the
25 supply chain. For instance, one of the objectives that is

1 addressed is software integrity and authenticity, and that
2 can impact software patching where malware is disguised as
3 a legitimate update. That is one example of where that
4 would be relevant.

5 MR. RYAN: And I would say generally, what we
6 are trying to do here is enforce or reinforce, I should
7 say, kind of the defense in depth that the CIP data already
8 provide. I think what we're doing here is trying to get a
9 little kind of closer to the border of not perfect but
10 definitely stronger, in the sense we are looking at
11 real-world threats, issues that have actually occurred.
12 And I think the record definitely reinforces the fact that
13 the threat underlying the Final Rule is acknowledged across
14 the board.

15 CHAIRMAN BAY: Did we receive any comments that
16 were helpful to the team in thinking about a framework for
17 a potential standard, that is, a framework in which we
18 direct NERC to draft a standard that requires entities to
19 develop a plan that meets certain objectives and that
20 incorporates certain controls?

21 MR. RYAN: I would say the record, entities did
22 definitely give us a list of kind of priorities that we
23 should focus on. But one of those priorities was
24 flexibility. And I think this Final Rule definitely
25 reflects a good measure of flexibility where we are kind of

1 letting the -- or trying at least to let NERC develop a
2 standard that would provide controls that work within the
3 responsible entities' current business practices and does
4 not inhibit their relationship with their vendors.

5 CHAIRMAN BAY: Thank you.

6 Cheryl?

7 COMMISSIONER LA FLEUR: Thank you, Mr. Chairman.
8 I would also like to thank the team for your work on this
9 issue. Unfortunately, I'm not able to support the order,
10 and it's pretty unusual for me to dissent in a reliability
11 order. In fact, as far as I remembered this morning, this
12 is the first time I ever have. I will be issuing a
13 detailed written dissent because I think it's important to
14 explain my reasoning.

15 I agree with my colleagues that the Commission
16 has the authority and, indeed, the responsibility to act on
17 supply chain threats because they are a very important
18 cybersecurity issue. But I do not believe that the record
19 or our understanding of the issues support the Final Rule
20 we are issuing today. Rather, I would prefer that we issue
21 a supplemental notice of proposed rulemaking to allow the
22 Commission, NERC, and stakeholders to appropriately craft
23 the structure of an effective standard before proceeding
24 further.

25 I recognize that today's order on the face

1 appears to afford a great deal of flexibility, but I
2 believe that flexibility is, in fact, a lack of guidance on
3 the issue we're addressing. I attended the tech conference
4 on this issue, and both the comments at the tech conference
5 and virtually all the comments we received at the record,
6 almost every person discussed the unusual jurisdictional,
7 technical, and commercial complexity of the issue and the
8 difficulty of adapting this issue to the structure of the
9 way our reliability standards work.

10 Indeed, this is something the Commission's
11 earlier order stressed and really asked only the most
12 general questions about whether this is a topic we should
13 take on. But now we're going to Final Rule when I don't
14 believe we've figured out how to structure the issues.
15 We're tasking NERC, in effect, to do something we haven't
16 figured out how to do, figure out how to adapt this risk to
17 a measurable, auditable and enforceable standard within the
18 parameters of our jurisdiction under the Federal Power Act.

19 I believe that we should always strive to be
20 clear in our orders, but I think that's particularly
21 important in the reliability area because of the unique
22 structure of our jurisdiction. Any standard we direct has
23 to be developed and approved by a supermajority vote of
24 stakeholders before it can even be filed with us. And then
25 once it's filed, if we don't think the standard is strong

1 enough or we think it's otherwise deficient in any way,
2 unlike every other aspect of our work, we can't rewrite it
3 and send it back. We have to reject it, remand it, and
4 start the stakeholder and voting process all over again.

5 Unfortunately, I have way too much experience in
6 telling NERC to bring us another rock and starting the
7 endless due loop of remand, refiling, remand, that has led
8 some standards to take many years to become effective.

9 And I think simply truncating the time we allow
10 for filing, as today's order does, we don't give NERC the
11 time they requested, doesn't actually lead in the long run,
12 I fear, to a shorter process but may actually lead to a
13 longer one. And I just think this is too important an
14 issue for that.

15 I think our most effective standards, and I
16 explain in my dissent, are those -- and those that we get
17 in place most promptly, are those where we issue very clear
18 and very structured guidance about what we want. Our
19 choice today isn't action or inaction, clearly we need to
20 act, but rather what action to take, and I would have
21 issued a proposed rule and taken the time to develop a
22 better record up front before proceeding.

23 Thank you.

24 CHAIRMAN BAY: Thank you, Cheryl.

25 Tony?

1 COMMISSIONER CLARK: Thank you, Mr. Chairman.
2 One of the things that was interesting to me as I listened
3 to the comments at the technical conference as well as read
4 through the comments that we received in response to our
5 initial notice was that there's a great sense of unanimity
6 that this is an issue, and it's a relatively big issue in
7 terms of threats to the reliability of the grid, and we've
8 seen current events that have borne that out. Rather, most
9 of the discussion that was held was about what is the best
10 way to mitigate the risk, is it through simply letting
11 industry take care of it themselves, is it through some
12 sort of rule, is it through a rule with some sort of
13 guidance, and always respecting the boundaries of 215
14 authority that the Commission is bounded by.

15 So that's where the real debate was in this, and
16 in my mind, I'm happy to support today's order because I do
17 think that it reaches the appropriate balance of pairing
18 together an appropriate sense of urgency on the issue with
19 a prudent flexibility that's going to be needed by NERC to
20 develop the rule.

21 In my mind, the closest parallel is probably the
22 Commission's directive to NERC on the physical security
23 standard. In that case, there was actually much quicker
24 turnaround that the Commission required. In this case
25 we've had significantly more comment leading up to it and

1 process leading up to this particular order.

2 But I think in many ways there are parallels to
3 it, both in terms of the directive to NERC to develop a
4 standard, in terms of the flexibility. For example, in the
5 physical security standard we weren't telling fence
6 builders how to build their fences, which would be beyond
7 our authority, but rather come up with standards so
8 utilities can incorporate those best practices to ensure
9 physical security of the grid. Very much the same way, I
10 think, in this supply chain management issue.

11 So I appreciate the work of the team. I look
12 forward to seeing the ongoing work of NERC, as this is now
13 back on their side of the court and they begin to develop a
14 standard responsive to the concerns the Commission is
15 expressing.

16 Thank you.

17 CHAIRMAN BAY: Thank you, Tony.

18 Colette?

19 COMMISSIONER HONORABLE: Thank you,
20 Mr. Chairman.

21 Gentlemen, thank you for the presentation, and
22 more broadly to our Staff here. Thank you for your work.
23 This is a unique and challenging matter, and I think our
24 work in this particular matter demonstrates that we did
25 heed the concerns raised by industry and government,

1 vendors, folks in academia and others.

2 Kevin, I think you noted the 34 comments
3 submitted after the NOPR, and then after the technical
4 conference, we received, I believe, additional 24 rounds of
5 comments in response to that.

6 I want to thank the stakeholders that provided
7 us with this information, and I think that as the comments
8 reflected, whether they were for or against our proposal
9 and how we move forward, most of all I think we do
10 collectively see that this is an evolving threat and risk
11 that can and does pose a threat to the reliability of the
12 bulk power system, as we've seen in events occurring around
13 the world.

14 And I believe that today's efforts really are a
15 step by the Commission, a first step in addressing those
16 risks. I agree with Commissioner Clark's description of
17 our effort here today, recognizing that reliability for
18 this Commission and keeping the lights on is job number one
19 and addressing and proposing how we move forward to address
20 those risks is ultimately this Commission's responsibility.
21 I applaud the work of NERC, because they have the task now
22 of developing a plan that will address it. Therein lies
23 the flexibility that this rule contemplates. And while the
24 rule requires responsible entities to develop a plan, most
25 of all, I want to reiterate something Kevin mentioned. We

1 don't tell them how to do it. So I see this, hopefully, as
2 being an organic process where they will report back to us
3 after a year, what they propose.

4 Most significantly, I want to underscore that I
5 see this effort in a positive light of getting started, and
6 unfortunately, it is a lengthy process, but I look forward
7 to engaging with not only our Staff here, more importantly
8 NERC and a number of stakeholders that have worked very
9 diligently on this effort, including, and something I
10 didn't mention earlier, RTOs and ISOs as well. I look
11 forward to the work that lies ahead in working with all of
12 you.

13 Thank you.

14 CHAIRMAN BAY: Thank you, Colette.

15 Colleagues, any other comments?

16 COMMISSIONER LA FLEUR: Yeah, I just wanted one
17 minute to address the physical security standard, because
18 that's something I also thought a lot about, and I was
19 extremely closely involved in that one.

20 Although the timeline was short, I thought that
21 was actually an example of very focused outreach in
22 advance. We ordered the Office of Electric Reliability to
23 work with NERC on the structure of a standard before we
24 issued the directive and agreed in advance on a timeline.
25 And as a result, we issued, I think -- even though we

1 didn't say build a fence, a pretty focused standard, and
2 they replied pretty quickly. Of course, reasonable minds
3 can differ.

4 Thank you.

5 CHAIRMAN BAY: Thank you, Cheryl.

6 Madam Secretary?

7 SECRETARY BOSE: Thank you, Mr. Chairman.

8 We will now take a vote on item E-8. The vote
9 begins with Commissioner Honorable.

10 COMMISSIONER HONORABLE: I vote aye.

11 SECRETARY BOSE: Commissioner Clark?

12 COMMISSIONER CLARK: Aye.

13 SECRETARY BOSE: Commissioner LaFleur?

14 COMMISSIONER LA FLEUR: No.

15 SECRETARY BOSE: And Chairman Bay?

16 CHAIRMAN BAY: I vote aye.

17 SECRETARY BOSE: The last item, the presentation
18 and discussion this morning is A-3. This panel will
19 provide a briefing on the revised memorandum of
20 understanding between FERC and the U.S. Army Corps for
21 nonfederal hydro power development at the Corps'
22 facilities. I will now introduce today's speakers in the
23 order in which their presentations will be given. In the
24 interest of time, discussion and questions will be held
25 until the end of the final presentation.

1 Our first presentation will be given by Timothy
2 Welch, hydro power manager at the U.S. Department of
3 Energy. Kyle L. Jones, Jr. is next, senior hydro power
4 program manager, U.S. Army Corps of Engineers. Next will
5 be Amy S. Klein, the regulatory program manager at the U.S.
6 Army Corps of Engineers. And finally, Nicholas Jayjack,
7 the deputy director, division of hydro power licensing, in
8 the Office of Energy Projects here at the Commission.

9 Please begin.

10 MR. WELCH: Good morning, Chairman Bay, members
11 of the Commission.

12 The synchronized approach for Commission and
13 Corps nonfederal hydro power project authorizations was
14 developed by Commission and Corps Staff under facilitation
15 provided by the U.S. Department of Energy. We will
16 identify the need for the approach, include an overview of
17 recent nonfederal hydro power development and core
18 facilities, describe the approach, and then outline its
19 expected benefits.

20 In 2012, the Department of Energy issued the
21 results of a study identifying the potential hydro power
22 capacity of approximately 12,000 megawatts at the nation's
23 80,000 nonpowered dams, with 6,900 megawatts of this
24 potential hydro power capacity at nonpowered U.S. Army
25 Corps of Engineers dams. Energy's 2012 report has

1 contributed to an increased interest in nonfederal hydro
2 power development at the Corps' lock and dams.

3 Both the Commission and the Corps have
4 regulatory authority with respect to this nonfederal
5 development, and developers and state and federal agency
6 personnel have expressed concern about redundancies and the
7 sequential nature of the respective federal permitting
8 processes resulting in unnecessary project delays.

9 In 2010, the Department of Energy, the
10 Department of the Interior, and the Corps of Engineers
11 signed a memorandum of understanding for hydro power to
12 "help meet the nation's needs for reliable, affordable, and
13 environmentally sustainable hydro power." That MOU led to
14 the creation of the Federal Inland Hydropower Working Group
15 made up of 16 federal agencies, including Energy, the
16 Commission, and the Corps of Engineers, that are involved
17 in the regulation, management, or development of U.S. hydro
18 power. A major goal of this federal hydro power working
19 group is to "create opportunities to better integrate and
20 coordinate regulatory processes."

21 In addition, in 2011, the Commission and the
22 Corps renewed their own memorandum of understanding and
23 pledged to "provide for the effective and efficient
24 pre-filing and post-filing environmental review for
25 non-federal hydropower development."

1 As a result of these comprehensive MOUs, the
2 respective staffs from the Commission and the Corps
3 initiated a series of discussions facilitated by the
4 Department of Energy on an approach for synchronizing the
5 Commission and the Corps processes for authorizing
6 nonfederal hydro power projects.

7 We are pleased to present to you today the
8 results of our discussions.

9 MR. JAYJACK: As previously noted, we've
10 experienced increased interest over the last 10 years in
11 developing new nonfederal hydro power projects in the
12 Corps' federal facilities. Since fiscal year 2007, the
13 Commission has licensed nearly 30 such new hydro power
14 projects having a combined installed capacity of over 400
15 megawatts. The Commission currently has 18 pending license
16 applications at various stages of processing for an
17 additional capacity of nearly 500 megawatts.

18 In the last year, construction of three
19 Commission licensed projects has been completed. Cannelton
20 number 10228, shown in the photo, Meldahl number 12667, and
21 Willow Island number 6902. Together, these projects have
22 an installed capacity of 220 megawatts.

23 Currently, five Commission-licensed projects
24 with a combined installed capacity of about 133 megawatts
25 are under construction: Red Rock number 12576, which is

1 shown in this photo, Marseilles number 13351, Townshend
2 number 13368, and Bald Mountain number 13226.

3 In part, given this recent and potential for
4 future nonfederal hydro power development at the Corps'
5 facilities, in 2014 Staff and consultants conducted a
6 series of interviews and workshops with FERC Staff, Corps
7 Staff, and hydro power developers experienced in
8 application development or processing. The purposes of the
9 interviews and workshops were to learn where processing
10 redundancies exist, how any process duplication could be
11 eliminated, and ultimately what steps could be taken to
12 better coordinate the processes and thereby shorten the
13 time for developers to receive all authorizations needed to
14 begin constructing new hydro power project at the Corps'
15 facilities.

16 The result of the discussions was the
17 development of a synchronized processing approach whereby
18 the Corps' environmental and engineering reviews would
19 occur concurrently with Commission Staff processing of
20 license application. The approach was presented and
21 discussed in a draft document issued by DOE for public
22 review and comment in the fall of 2014. DOE, Commission,
23 and Corps Staff subsequently convened a public workshop to
24 receive comment and input on the draft approach. Over 50
25 individuals representing more than 20 governmental and

1 nongovernmental organizations attended the workshop, many
2 of whom provided comments and recommendations on the draft
3 approach.

4 Based on the comments received on the draft
5 document and at the public workshop, earlier this year,
6 Commission and Corps Staff reconvened and finalized the
7 approach. The final approach document is appended to the
8 revised MOU which was recently signed by senior agency
9 officials at the Commission and the Corps.

10 MS. KLEIN: The final synchronized approach
11 includes two phases, an environmental review phase followed
12 by a detailed technical, engineering, and safety review
13 phase.

14 During phase I, the developer, Commission Staff,
15 and Corps Staff coordinate early to discuss the developers'
16 proposal and the need for information in support of the
17 Agency's permitting decisions. A developer then acquires
18 any needed information, prepares Commission license and
19 Corps section 404 permit applications, and then submits the
20 applications to the Commission and Corps respectively for
21 review.

22 The environmental effects of the proposed
23 project will then be evaluated up front through one
24 coordinated environmental review supporting the
25 Commission's licensing decision and the Corps's subsequent

1 sections 404 and 408 decisions. Phase I concludes with the
2 Commission's licensing decision, and if the section 404
3 permit application is deemed complete and satisfactory,
4 with status letters from the Corps on its section 404
5 permit application review and 408 environmental review.

6 MR. JONES: During phase II, a developer
7 prepares its detailed designs for the project in
8 coordination with Commission and Corps Staff and submits
9 the designs to the Commission and the Corps. The developer
10 also submits a section 408 application to the Corps for its
11 review. If approved, the Corps issues its 408 approval
12 decision and then subsequently issues the final 404 permit
13 decision to the developer with copies to the Commission.
14 Once all preconstruction requirements have been completed
15 and the Commission receives the Corps's written
16 construction approval, the Commission authorizes
17 construction of the project. Conducting the Commission's
18 and Corps' review processes in a synchronized matter
19 should: One, increase regulatory process efficiencies
20 through early developer engagement with Commission and
21 Corps staff to explain the project proposal and determine
22 information needs, and through agency performance of one,
23 coordinated environmental review; two, reduce the combined
24 Commission and Corps agency review times relative to the
25 status quo where one or more of the Commission and Corps

1 processes are conducted sequentially; three, result in a
2 single, joint NEPA environmental document, supplemented as
3 needed; and four, increase the likelihood that the Corps's
4 environmental review is complete or nearly complete at the
5 time of the Commission's licensing decision, which allows
6 the developers to invest in the project incrementally with
7 more certainty and less risk.

8 In conclusion, the two-phased approach reflects
9 a commitment by both the Commission and Corps staff to
10 coordinate information and regulatory needs for each of the
11 Commission and Corps processes and to work with the
12 developer, applicable agencies, and others to achieve an
13 efficient approach that synchronizes the agencies'
14 processes.

15 This concludes our presentation, and we are
16 happy to answer any questions.

17 CHAIRMAN BAY: Thank you, Tim, Amy, Nick, and
18 Kyle. I would also like to thank everyone at the
19 Commission, at the Department of Energy, and at the Corps
20 in their hard work in making this MOU possible. In
21 particular, I would like to recognize the leadership and
22 personal commitment of Assistant Secretary Jo-Ellen Darcy
23 and Eric Hansen at the Corps to get this memorandum of
24 understanding completed.

25 In my view, this MOU is an example of good

1 government. There's increased collaboration between
2 agencies that each have jurisdiction with respect to a
3 particular project. The review process has been
4 streamlined. There should be increased efficiency. And at
5 the end of the day, this should provide greater certainty
6 to developers and reduce the risk on them in developing new
7 nonfederal projects at Corps facilities. I really
8 appreciate the team's hard work on this effort, recognizing
9 that it involved Staff at several different agencies.

10 My one question for you is this: What do you
11 view as the greatest process improvement resulting from
12 this MOU?

13 MR. JAYJACK: So all three of the FERC and Corps
14 authorizations require environmental analysis in order to
15 support those decisions on whether to issue the permits.
16 And traditionally what has happened is the Commission Staff
17 has prepared a NEPA document, and a license is issued. And
18 then the Corps takes over from there and, to varying
19 degrees, conducts an additional environment analyses. And
20 what the developers have told us is there is uncertainty as
21 to what amount of additional environmental analysis needs
22 to be done after the license is issued. And they said that
23 this presents a problem in getting sufficient funding and
24 getting investors to feel comfortable about investing money
25 into the project.

1 So with this approach, we've heard what the
2 developers have told us, and one of the main goals of the
3 approach is to conduct all of the environmental review and
4 what we've termed a phase I before the license is issued,
5 such that the Commission and the Corps can both use that
6 single environmental document to support their permitting
7 decisions, with the result that the developers now have the
8 certainty with respect to the environmental analysis. And
9 then in phase II, postlicense issuance can focus on the
10 engineering and technical design of the project.

11 CHAIRMAN BAY: Thank you, Nick.

12 Kyle, you look like you wanted to say something.

13 MR. JONES: No, sir. I was just thinking. I
14 appreciate you giving me the opportunity to speak, though.

15 CHAIRMAN BAY: Okay. That sounds like a
16 significant process improvement. And so I really
17 appreciate the hard work of staff at the Corps and at FERC
18 in making the MOU possible. I also appreciate the
19 assistance of the Department of Energy, which I know has
20 been a very important supporter of hydro power development
21 in the United States.

22 Cheryl?

23 COMMISSIONER LA FLEUR: Thank you very much. I
24 would also like to thank our guests from the Department of
25 Energy and the Army Corps and thank all of you, including

1 Nicholas, the rest of the team at FERC, and all the other
2 agencies, some of Terry's people and Ann's people who
3 worked on the memorandum of understanding that you're
4 rolling out today.

5 I think and hope that this is an accomplishment
6 that will yield real value. We often hear that only 3
7 percent of the nation's dams currently generate
8 electricity. Of course, more than half of the potential
9 hydro power capacity in the United States is at Army Corps
10 of Engineers dams. The Army Corps owns or operates 700
11 dams across the country, of which only a little more than
12 10 percent currently generate electricity. So there's
13 tremendous potential for hydro power development.

14 We measure electricity service usually along
15 three dimensions: Reliability, cost, and environmental
16 impact. And hydro power has the opportunity and the
17 ability to help on all three dimensions, particularly
18 environmental because it's carbon-free electricity and, in
19 this case, low-impact development that leverages existing
20 infrastructure.

21 I also note that the process you've rolled out
22 directly responds to concerns that we've heard a lot from
23 developers about long development timelines and repeated
24 environmental processes, and I'm glad you're responding to
25 those concerns, and I hope it leads to more hydro

1 development.

2 Thank you.

3 CHAIRMAN BAY: Thank you, Cheryl.

4 Tony?

5 COMMISSIONER CLARK: Thanks to everybody's work
6 on this particular project. I just returned from a
7 cross-country trip with my family where my wife and kids
8 were subjected to me pointing out every FERC-jurisdictional
9 hydro dam that we passed on the way. So maybe there will
10 be a few more of those on the next trip we take.

11 This is just one of those things that from a
12 commonsense standpoint makes all the sense in the world.
13 We have these existing facilities that have the potential
14 to produce hydro power which is clean, it's dispatchable.
15 It's such a good resource in our energy resource mix. So I
16 applaud the effort, and the Chairman is exactly right. It
17 shows the best of government trying to streamline some of
18 these multiple processes.

19 Just a quick question. So we have the
20 streamlined process that's come about. Are there any next
21 steps that have been identified by the team, or is it more
22 just a matter of implementing what has been revised up to
23 this point and the MOU that's in place? Is there any kind
24 of logical next steps or ongoing assessment that takes
25 place now that we've had some significant changes that have

1 been made?

2 MS. KLEIN: The most immediate step is to
3 develop a rollout and training plan for the field. It's
4 one thing to release the document; it's another thing to
5 make sure it's read and understood and then implemented,
6 especially as there's always new staff coming on board and
7 that sort of thing. Now the team will work on developing
8 that training, those training materials, and ensure people
9 are prepared to use the process going forward.

10 Thank you.

11 COMMISSIONER CLARK: Thank you.

12 CHAIRMAN BAY: Thank you, Tony.

13 Colette?

14 COMMISSIONER HONORABLE: Thank you,
15 Mr. Chairman.

16 I want to thank all of you, our FERC team, our
17 colleagues at the DOE, at the Army Corps of Engineers.
18 Thank you all for your work. As demonstrated by your
19 presentation, this has been occurring over a number of
20 years now. And as demonstrated also by your presentation,
21 there's a great deal of untapped hydro potential in this
22 country.

23 As Commissioner LaFleur mentioned, we continue
24 to hear from developers and other stakeholders how
25 complicated, capital-intensive, and uncertain this process

1 is. And certainly with the generation mix changing so
2 rapidly, we need to continue to focus on hydro and the
3 potential that it brings to keep our energy mix diverse and
4 clean and certainly affordable. I, too, have spoken with a
5 number of stakeholders that speak about the need to
6 streamline the licensing and permitting processes. I want
7 to thank each of you in particular and your teams and our
8 folks here as well, because it does require a significant
9 amount of detailed coordination to even arrive at a place
10 to sign an MOU. As Amy mentioned, now to execute on that,
11 we recognize there is work that lies ahead. But I, too,
12 about this effort am very hopeful about the fruit that it
13 will bear. And I also would like to invite the
14 stakeholders that have been in to visit with us to also
15 share with us their view of how things are progressing as
16 you execute the MOU.

17 Again, this is an important piece that we need
18 to continue to focus on as we're moving forward in ever
19 increasingly changing times, and I want to thank you in
20 advance for your continued work.

21 CHAIRMAN BAY: Thank you, Colette.

22 Madam Secretary?

23 SECRETARY BOSE: This is not a voting item. So
24 we are through with the discussion and presentation items.

25 CHAIRMAN BAY: We are adjourned.

1 (Whereupon, at 11:05 a.m., the Commission
2 meeting was concluded.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceeding before
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Name of Proceeding:

CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC
CONSENT MISCELLANEOUS ITEMS
CONSENT MARKETS, TARIFFS AND RATES - GAS
CONSENT ENERGY PROJECTS - HYDRO
CONSENT ENERGY PROJECTS - CERTIFICATES
DISCUSSION ITEMS
STRUCK ITEMS

1,029th COMMISSION MEETING

Place: Washington, DC

Date: Thursday, July 21, 2016

were held as herein appears, and that this is the original
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Official Reporter