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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Commission Meeting

Open Public Meeting

Hearing Room 2C  
Federal Energy Regulatory  
Commission  
888 First Street NE  
Washington, DC

Wednesday, January 19, 2005

The Commission met, pursuant to notice, at 10:13 a.m.

PAT WOOD, III, Chairman  
SUEDEEN G. KELLY, Commissioner  
NORA JEAN BROWNELL, Commissioner  
JOSEPH T. KELIHER, Commissioner

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A G E N D A

Consent Markets, Tariffs and Rates - Electric  
E-2, E-9, E-10, E-15, E-16, E-18, E-20, E-22, E-26, E-27, E-  
28, E-29, E-30, E-31, E-36, E-39, E-42, E-43, E-45, E-46 and  
E-47.

Consent Markets, Tariffs and Rates - Gas  
G-1, G-2, G-3, G-4, G-5, G-6, and G-7.

Consent Energy Projects - Hydro  
H-1, H-3, H-6, and H-7.

Energy Projects - Certificates  
C-1, C-2, C-3, C-4, C-5 and C-6.

Discussion Items  
E-1, Interconnection for Wind Energy and Other Alternative  
Technologies  
E-3, PJM Interconnection, L.L.C.  
A-3, a Report on Compliance Evaluations for Standards of  
Conduct for Transmission Providers

Struck Items  
E-21 and E-23

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

2 CHAIRMAN WOOD: This meeting of The Federal  
3 Energy Regulatory Commission will come to order to consider  
4 the matters which have been duly posted in accordance with  
5 the government and the Sunshine Act for this time and place.

6 Let's start with the pledge to our flag.

7 (Pledge of Allegiance)

8 CHAIRMAN WOOD: It was Joseph's birthday on  
9 Monday. So we're taking some pictures so we can have a  
10 little fun with them.

11 Welcome everybody to the meeting today. Today is  
12 an unusual day for purposes of being open here in the  
13 headquarters, and I wanted to mention that although I've  
14 authorized the staff to leave at 2 o'clock today as  
15 recommended by the Director of the Office of Personnel  
16 Management, our Docket Staff will be in the secretary's  
17 document filing counter down on the first floor through  
18 close of normal business at 5 o'clock. And thank you for  
19 that.

20 But also, we will be receiving paper filings  
21 there, as always, and we'll have a presentation on this at  
22 our next open meeting. I want to encourage people across  
23 the country to take advantage of our very open and  
24 liberalized eFiling, electronic filing capabilities for most  
25 of the types of filings that we accept here at the

1 Commission. Today moving through the city will be  
2 difficult, moreso than usual, and so we want to encourage  
3 people to take advantage of that.

4 And that information for those who don't know  
5 about our eFiling is very accessible, right on the very open  
6 page of our web site at [www.FERC.gov](http://www.FERC.gov). Filers get an e-mail  
7 acknowledging receipt of their electronic filings, and they  
8 will see their filings posted on the eLibrary sooner than if  
9 they were to file by paper. So if anyone needs help, we do  
10 have an eFiling help line, which is 202.502.8258, and our  
11 staff are more than happy to assist you. We get actually  
12 very nice customer feedback on this service that we've  
13 broadened over the past couple of years, and want to  
14 encourage people to take advantage of that.

15 COMMISSIONER BROWNELL: You'll give a personal  
16 tutorial, won't you?

17 CHAIRMAN WOOD: I will. I have learned how to do  
18 eFiling myself, although I usually don't have to move to  
19 intervene at a proceeding here at the Commission.

20 (Laughter)

21 I know how to do it if I ever did.

22 I want to welcome to my personal staff Dionne  
23 Thompson. Dionne, stand up.

24 (Standing)

25 Dionne joins us from OMTR South, she is an

1 attorney, and went to UVA law school and Harvard before  
2 that, but has worked out in private practice for a law firm  
3 and also on the Hill. So I'm glad to have Dionne with us.  
4 I know that Jason and Rob and Susan and Mark join me in  
5 welcoming Dionne to the Wood team.

6 And on the Agency-wide staff team, I would like  
7 to announce today that I have named McLane Layton to be the  
8 Director of the Commission's Office of External Affairs,  
9 effective next Monday. As you all remember, Kevin Cadden  
10 held that job until he returned to Harrisburg, Pennsylvania  
11 in the fall. And McLane is going to be starting with us  
12 next Monday. For the past 14 years, McLane has been  
13 legislative counsel to Senator Don Nichols of Oklahoma,  
14 advising the Senator on, among other things, energy,  
15 environmental and natural resources law and policy. And  
16 before, working with Senator Nichols, she was over as an  
17 attorney in the Department of Interior's Solicitor's Office,  
18 where our esteemed former chairman, Mark Naubay was  
19 Solicitor at the time.

20 So we're glad to have her, she's got good energy  
21 regulatory Hill experience, I'm pleased that she's going to  
22 be joining us. I know that the team over in OEA is going to  
23 be in for a real treat, because she's a delightful person  
24 and has got a lot of hustle, and we're really glad to have  
25 her come in here, both listening to and communicating with

1 our many diverse constituencies.

2 And finally -- not finally. In the Other  
3 Announcements category, I'd like to announce today that I  
4 plan to send out today an invitation to the Board members,  
5 CEOs and COOs of the various regional transmission  
6 organizations and independent system operators to attend a  
7 roundtable here at the Commission on March the 10th. We  
8 keep in mind, of course, the restrictions under which we  
9 function, which are the government and the Sunshine Act and  
10 the Commission's ex parte rule, but we want to be able to  
11 give these important executives and Board members an  
12 opportunity to meet us, both the Commissioners and our  
13 staff, and learn what we do as it affects their work, and  
14 for us to meet and learn more about them and their work  
15 since they are, as I've mentioned before, covering two-  
16 thirds of the country's economy, we want to make sure that  
17 we maintain a cordial and good understanding with these  
18 important players.

19 A visit to the Market Monitoring Center, of  
20 course, is on tap, as it is for all of our visitors to the  
21 Commission, and will also some discussions of general topics  
22 of mutual interest to all of us. So we're looking forward  
23 to this event, and we believe it will help further the  
24 Commission's goals of good oversight and good operation of  
25 the nation's energy markets.

1                   I want to welcome also John Cecil. John, where  
2 are you, John? John Cecil.

3                   John Cecil is Associate General Counsel for  
4 Energy at the Federal Trade Commission. This was a position  
5 created by newly confirmed Chairman Majoris. Debbie was  
6 over about two weeks ago and brought John and our friend  
7 Mike Lableski, who we've seen here many times on testimony  
8 on energy issues to the Commission. John will be actually  
9 Debbie's direct adviser on energy issues, which as we know  
10 with the past several years of energy involvement, a lot of  
11 concerns that were raised from customers and from their  
12 elected representatives about energy issues and competitive  
13 markets.

14                   So we really look forward to our continuing long-  
15 term relationship with the Federal Trade Commission, which  
16 has been a wonderful partner and a wonderful leader in our  
17 country on behalf of competitive markets. And John, we  
18 welcome you to this particular position and look forward to  
19 your visit here today, and know that you'll be back here  
20 often. We want to support your efforts and those of  
21 Chairman Majoris and the members at the FTC as much as we  
22 can. So we're glad you're here.

23                   All right. Magalie?

24                   SECRETARY SALAS: Good morning, Mr. Chairman, and  
25 good morning, Commissioners.

1                   The following items have been struck from the  
2 agenda, since the issuance of the sunshine notice on January  
3 12. They are: E-21 and E-23.

4                   Your consent agenda for this morning is as  
5 follows:

6 Electric items E-2, -9, -10, -15, -16, -18, -20, -22, -26, -  
7 27, -28, -29, -30, -31, -36, -39, -42, -43, -45, -46 and -  
8 47.

9                   Gas items: G-1, -2, -3, -4, -5, -6, and -7.

10                  Hydro: H-1, -3, -6, and -7.

11                  Certificates: C-1, -2, -3, -4, -5 and -6.

12                  As required by law, Commissioner Kelly is recused  
13 from the following cases on the consent agenda. E-30, E-47  
14 and G-3.

15                  Specific votes for some of the other items on the  
16 consent agenda are as follows: E-20, Commissioner Brownell  
17 concurring with a separate statement. E-31, Commissioner  
18 Kelly dissenting in part with a separate statement. G-1,  
19 Commissioner Brownell dissenting in part with a separate  
20 statement, and Commissioner Keliher dissenting in part with  
21 a separate statement. G-2, Commissioner Brownell dissenting  
22 in part with a separate statement; and C-1, Commissioner  
23 Brownell dissenting in part with a separate statement. And  
24 Commissioner Keliher votes first this morning.

25                  COMMISSIONER KELIHER: Aye, noting my dissent in

1 part on G-1.

2 COMMISSIONER BROWNELL: Aye, noting my dissent in  
3 part on E-31, and the three cases from which I'm recused.

4 COMMISSIONER KELLY: Aye, noting my concurrence  
5 on E-20 and partial dissent on G-1, G-2, and C-1.

6 CHAIRMAN WOOD: And I vote Aye.

7 I do want to mention, before we hop into the  
8 regular meeting, that in that packet of consent items, and I  
9 appreciate in particular coming off the holidays and with  
10 the short week we've got this week how much we actually were  
11 moving through the consent agenda; but there are some  
12 notable items there. I just want to call attention and  
13 briefly mention what they were.

14 Among all the many others, Nevada Power, we  
15 addressed, they'd requested direct transmission services  
16 pursuant to Section 211, 212 of the Federal Power Act. In  
17 E-9, -10 and -20, a series of orders that conclude that the  
18 Southwest Power Pool has complied with its RTO orders, and  
19 met the conditions thereunder for becoming an RTO, including  
20 the, I think surprisingly contentious joint operating  
21 agreement, which I wish it had been a little bit easier; but  
22 nonetheless, moves forward.

23 The Georgia Power case, in which two of my  
24 colleagues are writing separately, was a case to address the  
25 relationship between our open access gas rules and the

1 State's retail choice program, which I think has been  
2 acknowledged by those who look at such things as really  
3 being one of the more successful energy retail choice  
4 programs in the world. And so we think after some, I think  
5 this case has been with us since I've been at the Commission  
6 if not before; I think we really have got here a fix that  
7 should work over the long term, and I recognize we're not  
8 fully unanimous on that, but I think by and large it's a  
9 consensus document that I do think will support their  
10 efforts going forward down in Georgia.

11 The Hyos case was a rejection of a proposed  
12 settlement, and then a relatively lengthy initial decision  
13 on an offshore pipeline case. And a series of three hydro  
14 cases which we're doing a separate press release on today.

15 One is an interesting one in Montana where, it's  
16 called Clark Fork, where we actually dismiss a license  
17 amendment, since the EPA has taken over operation of the  
18 remediation of this site and its ultimate close down. It  
19 was a 3.2 megawatt plant called the Milltown Dam. We here  
20 issue our Notice of Intent to accept an implied surrender of  
21 the hydropower license, and then we can act on the actual  
22 surrender itself after we hear comments to see if that's  
23 exactly what we want to do. But this is an unusual case  
24 where we actually have deferred under the Power Act to  
25 another agency, which has had a really superseding

1 responsibility here to really take over the cleanup and  
2 really pull FERC out of the loop.

3 On H-3, the School Street case, we dismissed an  
4 application by Green Power for a preliminary permit to stay  
5 the proposed Cohoes Falls Project, concluding that really  
6 the preliminary permit is barred by the Federal Power Act,  
7 Sections 15 and 6 of the Power Act, which require rejection  
8 of permits that compete with filed applications after a  
9 certain time; and that time period has already expired.

10 And then in Tapoco, which is kind of a good news  
11 story, we approved a settlement, issued a new license to a  
12 359 megawatt hydroelectric project on the Little Tennessee  
13 and Cheoah Rivers in North Carolina and Tennessee. This was  
14 a subject of some legislation that was passed late last year  
15 by Congress, introduced by Senator Alexander from Tennessee,  
16 which actually takes some acreage out of the Great Smokies  
17 National Park, and exchanges that out through legislation to  
18 enable this project actually to take place, and be a new  
19 project generating some -- is it a new project, Mark?

20 MR. HERSHFIELD: It's a re-license.

21 CHAIRMAN WOOD: It's a re-license, accepting some  
22 more hydroelectric power in that region that is rich with  
23 that renewable resource. So I appreciate the staff  
24 processing the case so quickly, and of course appreciate  
25 Congress being mindful of the need to balance the needs for

1 natural resource protection through the National Park  
2 System, and Clean Resource Development.

3 So that's some good news stuff.

4 Magalie?

5 Discussion Items with Presentations

6 SECRETARY SALAS: Mr. Chairman and Commissioners,  
7 the first item on your Discussion agenda this morning is E-  
8 1, Interconnection for Wind Energy and Other Alternative  
9 Technologies. And this is a presentation by Jeff Dennis,  
10 Bruce Poole, Kumar Agarwal and LaChelle Brooks.

11 @ MR. DENNIS: Mr. Chairman and Commissioners, good  
12 morning. My name is Jeff Dennis from the Office of the  
13 General Counsel. With me this morning from the Office of  
14 Markets, Tariffs and Rates, are Bruce Poole, Kumar Agarwal,  
15 and LaChelle Brooks.

16 Before we get started this morning, I wanted to  
17 recognize some other staff members who really helped us out  
18 with this, and really made a lot of contributions. Pat Rini  
19 from OMTR, Mike Miller from OMD, and Mike Henry and Abe  
20 Silverman from the Office of the General Counsel.

21 E-1 is a draft notice of proposed rulemaking  
22 proposing certain technical standards for the  
23 interconnection of large wind generating plants, to be  
24 included in Appendix G to the large generator  
25 interconnection agreement adopted by the Commission in Order

1 No. 2003.

2 To give you some background, in Order No. 2003  
3 the Commission adopted standard procedures for the  
4 interconnection of large generating facilities and a  
5 standard large generator interconnection agreement, and  
6 required public utilities that own, operate or control  
7 facilities for transmitting electric energy and interstate  
8 commerce to file revised open access transmission tariffs  
9 containing these standard provisions, and to use them when  
10 providing interconnection service to all generating  
11 facilities with a capacity of more than 20 megawatts.

12 On rehearing, in Order No. 2003A, the Commission  
13 recognized that the standard procedures and agreement were  
14 designed around the needs of large, traditional, synchronous  
15 generating facilities, and that generators relying on  
16 nonsynchronous technologies such as wind plants, might find  
17 that a specific requirement is in applicable or that a  
18 different approach is needed.

19 Accordingly, the Commission clarified that LGIA  
20 Article 5.4 regarding power system stabilizers, LGIA Article  
21 5.10.3 regarding the interconnection customers  
22 interconnection facilities construction, and LGIA Article  
23 9.6.1 concerning the required power factory design, would  
24 now be applied to wind generators. Further, the Commission  
25 noted that there might be other areas of the LGIA and LGIP

1 that would call for a slightly different approach for  
2 generators relying on wind and other technologies with  
3 unique electrical characteristics.

4 To accommodate this possibility, the Commission  
5 added to the LGIA a blank appendix G as a placeholder for  
6 requirements specific to such technologies, to be developed  
7 at a later time.

8 Wind generating facilities use nonsynchronous  
9 induction generators as opposed to the synchronous generator  
10 technology typically used in traditional electric generating  
11 plants. Previously, wind generating facilities were often  
12 small and had little impact on the transmission system, and  
13 thus many of the requirements placed on traditional  
14 generators were found unnecessary for wind plants.

15 Today, however, wind generating plants are larger  
16 and represent a larger percentage of the total generating  
17 capacity accessing the grid. As a result of this increased  
18 market penetration, certain technical standards for  
19 interconnection of wind plants are necessary.

20 The draft Notice of Proposed Rulemaking before  
21 you proposes provisions to be included in Appendix G  
22 specific to the interconnection of wind generating  
23 facilities. These provisions recognize the technical  
24 differences of large wind generating plants and increased  
25 presence of wind generation on the transmission grid, and

1 seek to accommodate wind plants while ensuring the  
2 continuing reliability of the nation's electric transmission  
3 system.

4 The NOPR responds in part to a petition for  
5 rulemaking filed by the American Wind Energy Association on  
6 May 20th, 2004. The Commission held a technical conference  
7 on the petition on September 24, 2004, and also solicited  
8 post-technical conference comments.

9 The purpose of the September 24th conference was  
10 to discuss the technical requirements for interconnecting  
11 wind and other alternative technologies, and how they may  
12 respond differently to transmission grid disturbances and  
13 have different effects on the transmission grid.

14 The Commission also held a technical conference  
15 on December 1st, 2004 in Denver, Colorado regarding open  
16 access transmission tariff issues related to wind  
17 generation. Today's draft NOPR is in response to the  
18 September 24th technical conference, not the December 1st  
19 technical conference, and relates solely to the  
20 interconnection of wind plants.

21 Generally, the draft Appendix G sets forth  
22 proposed technical standards for the interconnection of wind  
23 plants in three areas: Low voltage ride-through capability,  
24 data exchange capability between the wind plant and the  
25 system operator, which engineers call supervisory control

1 and data acquisition or SCADA capability, in power factor or  
2 reactor power design.

3 Bruce Poole will now present the specific  
4 technical requirements included in the proposed Appendix G.

5 MR. POOLE: Good morning. Specifically, the  
6 proposed Appendix G would require wind plants seeking to  
7 interconnect to the transmission provider system that they  
8 demonstrate the ability to stay on line during reduced  
9 voltage disturbances on the grid. This is called low  
10 voltage ride-through, and a specific standard is provided in  
11 Appendix G.

12 The draft Appendix G would also allow the  
13 transmission provider to waive this requirement on a  
14 comparable and not unduly discriminatory basis. His study  
15 showed that to be acceptable from a reliability standpoint.

16 Additionally, the draft Appendix G proposed today  
17 would require wind plants seeking to interconnect to the  
18 grid to possess the capability to transmit data to and to  
19 receive instructions from the control area and the  
20 transmission provider.

21 Further, Appendix G proposed in the draft NOPR  
22 would require wind plants to maintain a .95 leading to .95  
23 lagging power factor standard, which was developed in Order  
24 No. 2003.

25 The transmission provider may waive this power

1 factor requirement on a comparable and non-unduly  
2 discriminatory basis where studies show that the reactive  
3 power is not needed for the particular location of the  
4 planned wind plant, or for a plant of the size that is being  
5 proposed at that location.

6 I'll now turn it back to Jeff Dennis to conclude.

7 MR. DENNIS: Thanks, Bruce.

8 The draft NOPR notes the intention of the  
9 Commission to allow transmission providers to seek  
10 variations from the terms of the proposed Appendix G  
11 pursuant to the regional reliability, consistent with or  
12 superior to, and independent entity variations applied in  
13 Order No. 2003.

14 Further, the draft NOPR seeks comment on several  
15 specific issues related to the proposed Appendix G. The  
16 Commission also seeks comment on whether there are any other  
17 generating technologies that should also comply with the  
18 specific technical requirements in Appendix G.

19 Comments on the NOPR will be due 30 days from the  
20 date of its publication in the Federal Register. This  
21 concludes our presentation. Thank you.

22 CHAIRMAN WOOD: Jeff and Bruce and LaChelle and  
23 Kumar, thank you all very much. That's nice work, and very  
24 timely.

25 Suedeen, I know you had some thoughts.

1                   COMMISSIONER KELLY: Yes. First, I did want to  
2 thank staff. I think that -- well, I know that you've done  
3 an amazingly fast turnaround. The technical conference was  
4 less than four months ago, and we've had lots of holidays in  
5 the meantime, and there were a high volume of comments after  
6 the technical conference, and I know that you went through  
7 all of them and you really produced an excellent piece of  
8 work.

9                   I know you worked hard during the holidays, so  
10 thank you very much for your dedication. And I think it's  
11 worthwhile, it's timely. The wind technology is growing in  
12 importance in America; Congress has extended the production  
13 tax credit, emphasizing Congress' interest in wind  
14 technology. We have 19 states now in the United States that  
15 have adopted renewable portfolio standards, and the industry  
16 wants to see more wind and the public wants to see more  
17 wind.

18                   What we're doing here is an important step, and  
19 most likely just the first of a number of steps to better  
20 accommodate the existing transmission system and its  
21 regulation to integrating wind into the grid.

22                   I have been very pleased that there's been such  
23 broad participation among industry groups in the development  
24 of this interconnection agreement, and I just wanted to  
25 mention who they were. They included transmission

1 providers, public utilities, OWIA, which has done a  
2 tremendous job and taken on quite a bit of work in giving us  
3 their proposal initially for what the interconnection  
4 agreement should look like.

5           EEI was very active, Bonneville, PJM, the  
6 National Rural Electric Cooperative Association, National  
7 Grid, and the American Transmission Company. And because of  
8 that broad participation, I feel that we have done a good  
9 job in this proposed rule of balancing the unique needs of  
10 wind generators against the concern that I know also exists  
11 that wind not be subject to a set of rules that somehow  
12 provide an undue advantage over synchronous generators.

13           I think we've struck a good balance; however, I  
14 look forward to comments from the public to see if they  
15 agree.

16           In particular, we've asked, as Jeff mentioned, a  
17 number of questions, and Jeff mentioned one of them; whether  
18 there are other nonsynchronous technologies that should be  
19 subject to this rule.

20           Another one that I'd like to emphasize relates to  
21 the proposal in this NOPR to allow wind generators access to  
22 base case data prior to filing an interconnection request.  
23 Right now, Order 2003 prohibits this for any generator prior  
24 to interconnection requests, and I'm very interested in  
25 receiving comments and reading those comments on whether

1 this is an appropriate way to go for wind. Is wind  
2 different from other generators? And what CEII concerns or  
3 confidentiality concerns exist if we were to pursue this  
4 route, and if there are any, can they be accommodated while  
5 still at the same time allowing wind generators the ability  
6 to determine and choose among the various technologies that  
7 exist out there which is the right technology for the  
8 particular wind conditions.

9 So, Mr. Chairman, I'm also looking forward to our  
10 other initiatives; I know that the team is working hard on  
11 next steps after post our December 1 technical conference,  
12 to look at whether we need to reform our regulation of the  
13 transmission grid in other areas. So I think this is a  
14 great first step, and thank you very much.

15 CHAIRMAN WOOD: Thank you, Suedeem.

16 Joe? Nora?

17 COMMISSIONER BROWNELL: I just wanted to say  
18 thank you to staff, thank you to the participants, but thank  
19 you, Suedeem, for your leadership on this issue. It's  
20 terrific, and we're glad that you have taken this on.

21 I would echo what you said, but I'd also actually  
22 like to ask the fundamental question of whether base case  
23 information ought to be made available to everyone on a  
24 broader basis. We hear one of the prime barriers to entry  
25 for new technologies for smaller entrants is access to

1 information. It makes the cueing process I suspect less  
2 than efficient, and I think there are security issues; but I  
3 think we need to think about how we would manage those.

4 So I'd like to open it up, to hear from a lot of  
5 people on this issue and a lot of various folks who  
6 represent different technologies. But thanks for taking  
7 the lead here.

8 CHAIRMAN WOOD: Joseph?

9 COMMISSIONER KELIHER: Pat? I still call you  
10 'Mr. Chairman'; I'm still trying to get used to 'Pat.'

11 CHAIRMAN WOOD: It's just 'Pat.'

12 COMMISSIONER KELIHER: I know. I grew up around  
13 Congress, and people are always called by their titles, so.

14 I just had a brief comment.

15 As staff indicated, the Commission recognized in  
16 Order 2003A that the interconnection law was designed around  
17 traditional generation facilities, and then a different  
18 approach may be needed for wind facilities; and the NOPR is  
19 designed to take a balanced approach, accommodating the  
20 special characteristics of wind facilities without  
21 undermining reliability of the transmission system, and  
22 that's something that we have to be very careful about, and  
23 not to err so far in the direction of promoting wind that we  
24 do undermine reliability. And I think the proposed rule is  
25 careful in that respect, and it avoids that pitfall and

1 strikes the right balance.

2 So I do support the proposed rule, and look  
3 forward to the comments. Thank you.

4 CHAIRMAN WOOD: Thank you, Joe.

5 The only thing I would add on that, and Bruce  
6 mentioned is one of the three kind of core substantive  
7 issues that are attached in the Appendix G, but one is of  
8 course the power factor design criteria, which is the  
9 shorthand for reactive power, which is certainly something  
10 that I'm interested in and that we are focusing on  
11 internally; and again as we promised at the last meeting,  
12 we'll have something out on shortly, with a workshop in  
13 early March to follow.

14 But the reactive power issues are just central to  
15 the health of that grid, and I'm really pleased that that  
16 particular issue is recognized here for this technology.

17 Standardization worked real well, when I was in  
18 Texas, standardizing how transmission providers provide  
19 interconnection service to generators. We've had the 2003  
20 approach on, that this which we adopted last year and are  
21 now moving pretty briskly through compliance for, and it  
22 worked for wind, and we've got small-gen still up on deck,  
23 ready to go sometime here in the spring.

24 What this is about, more than just  
25 standardization, they're reducing cost to interconnecting

1 generators of all sizes and technologies has taken away  
2 barrier to entry. And certainly the Commission noticed this  
3 in 888, noticed it in 2000, we noticed it in the S&D NOPR.  
4 This is a very significant barrier to entry, and not  
5 necessarily an intentional one; it's just that utilities may  
6 not be as interested in taking care of some of these things.

7 What we have done through this series of  
8 processes over the past couple years is really say "this is  
9 important to us, it's important to the country, it's the  
10 right thing for the public interest to be addressed here, is  
11 to allow new technologies and new generators to come in to  
12 the grid and participate in this great open market for the  
13 customer. And I think that's a good move, and I was very  
14 pleased that -- I just second all your comments, Suedeen and  
15 other people who helped get this particular item focused on  
16 the level of really, the level of detail that can  
17 operationalize the interconnection of wind power.

18 It's certainly not a be-all end-all, but it's an  
19 important resource that is attracting a lot of adherents,  
20 particular in the Western part of the country where there is  
21 a lot of wind, and I think we need to be moving along  
22 briskly with the market to make sure we've got the right  
23 regulatory tools in place. So this is a good move.

24 COMMISSIONER BROWNELL: Can I say one more thing?  
25 Because I would be remiss and punished harshly that I did

1 not mention that I believe Pennsylvania was the 20th state  
2 to pass an RPS law.

3 (Laughter)

4 And I need to go home again at some point, and I  
5 just want to make sure that we recognized that.

6 CHAIRMAN WOOD: You would be punished harshly,  
7 and I know by whom.

8 COMMISSIONER BROWNELL: Governor Rendell.

9 CHAIRMAN WOOD: I did notice that actually a  
10 Spanish company is moving a fabrication facility for wind to  
11 the State of Pennsylvania.

12 COMMISSIONER BROWNELL: Yes. We need those jobs.

13 CHAIRMAN WOOD: Kamaisa NIO {ph}, we were hearing  
14 about that yesterday in the lunchroom from an old friend of  
15 mine that used to work here; and I remember Katy McGinty  
16 mentioned that at the WCEE deal, but anyway, that's good  
17 news to see that not only does it bring clean power to  
18 America, it brings some jobs here, too, and we sure like  
19 being about that.

20 So let's vote.

21 @ (Voice vote.) (Unanimous 'aye' vote.)

22 COMMISSIONER KELIHER: It's funny how I know our  
23 sequence, even though it changes every week.

24 COMMISSIONER BROWNELL: You know, it is good.

25 COMMISSIONER KELIHER: It's pretty good. It

1 works. I'll take it.

2 COMMISSIONER BROWNELL: It is good.

3 We do have this flexibility; I thought we were  
4 clockwise, but theoretically we go counterclockwise, just to  
5 keep everybody on their toes.

6 CHAIRMAN WOOD: I get to go last, for some silly  
7 reason, but I don't know why.

8 SECRETARY SALAS: As long as I have one of each.

9 (Laughter)

10 The next item for discussion this morning is E-3,  
11 Project manager Interconnection, L.L.C. This is a  
12 presentation by David Mead, David Kathan, Deborah Ott, and  
13 Lynn Lichtenstein.

14 @ MR. KATHAN: Good morning, Mr. Chairman and  
15 Commissioners. My name is David Kathan, and I am with the  
16 Office of Markets, Tariffs and Rates. Before I present the  
17 PJM order, I would like to acknowledge the other members of  
18 the project team: Lynn Lichtenstein, David Mead, Debbie  
19 Ott, Michael Goldenberg, Greg Bersen and Tatyana Kramskaya  
20 were key contributors to the draft PJM order. With me at  
21 the table are Lynn Lichtenstein, Debbie Ott, and David Mead.

22 The draft order reiterates and amplifies the  
23 Commission's policy on PJM's local market power mitigation  
24 that we directed in the May 6 order. The draft order  
25 accepts for modifications PJM's proposed policies on

1 suspension of offer capping, frequently mitigated units, and  
2 generation retirements.

3 This draft order furthers the Commission's goal  
4 of providing appropriate compensation to generators needed  
5 for reliability in load pockets, but subject to market power  
6 mitigation. The draft order addresses three sub-dockets and  
7 the ELO3236 proceeding, and members of the team will  
8 summarize the findings in each of the sub-dockets.

9 In response to rehearing request of the May 6  
10 order, the draft order largely rejects rehearing. First,  
11 the draft order denies rehearing and affirms the  
12 Commission's finding that PJM's tariff is unjust and  
13 unreasonable because its mitigation rules may prevent  
14 certain generators needed for reliability from recovering  
15 their going-forward costs.

16 Second, it concludes that restricting mitigated  
17 bids to marginal cost plus 10 percent for these units may  
18 undermine reliability by causing these frequently mitigated  
19 units to retire prematurely, because they cannot recover  
20 their going-forward costs.

21 Third, it denies rehearing concerning rebuttal  
22 presumption of reliability, but does agree that units  
23 mitigated less than 80 percent of the time should also have  
24 an opportunity to demonstrate that they require alternate  
25 compensation.

1 PJM's tariff does provide these less frequently  
2 mitigated units the ability to seek alternative  
3 compensation.

4 Finally, the order partially grants rehearing of  
5 the request to remove the exemption from mitigation for the  
6 post-1996 units. However, the draft order recognizes that  
7 some units may have been built in reliance on the exemption,  
8 and has found that reliance on the exemption raises  
9 equitable concerns.

10 Consequently, the order grandfathers units that  
11 relied on the exemption.

12 Dave Mead will next present findings associated  
13 with the first compliance filing.

14 MR. MEAD: Good morning. In response to the  
15 direction in the May 6 order, PJM submitted its first  
16 compliance filing in July of 2004, on a suspension of offer  
17 capping when competitive conditions exist in a load pocket.  
18 The July filing proposes a definitive threshold for  
19 competitiveness, based on the existence of greater than  
20 three jointly pivotal suppliers in the load pocket.

21 If three or fewer jointly pivotal suppliers exist  
22 in the load pocket, PJM's mitigation procedures remain in  
23 place; otherwise, they are lifted.

24 The draft order accepts the proposed dynamic hour  
25 by hour application of the no-three-pivotal suppliers test,

1 but opens a new Section 206 proceeding to explore whether a  
2 better competitive alternative exists.

3 In the November 2004 filing, PJM filed the second  
4 compliance filing in response to the Commission's direction.  
5 The second compliance filing includes tariff provisions and  
6 discussion in three areas: First, the draft order accepts  
7 PJM's proposed offer cap for frequently mitigated units.  
8 This offer cap consists of the unit's incremental operating  
9 cost plus the higher of a \$40 per megawatt hour adder, or  
10 the unit-specific going forward costs as reflected in an  
11 agreement between PJM and the generation owner.

12 The draft order finds that PJM's frequently-  
13 mitigated unit offer capping policy represents a reasonable  
14 default alternative that provides administrative simplicity  
15 and regulatory certainty.

16 Debbie Ott will now discuss the remaining  
17 features of the order.

18 MS. OTT: Good morning. Second, the draft order  
19 partially accepts PJM's new Part 5 to its tariff that  
20 governs the deactivation of generating units. The draft  
21 order accepts the proposed notice periods for a unit that is  
22 to be deactivated, and the proposed compensation for units  
23 that do not deactivate because of reliability reasons.

24 It does not accept PJM's proposed tariff language  
25 that would require units to operate past their deactivation

1 date because PJM has not adequately shown that it has the  
2 authority to require generators to operate beyond a  
3 reasonable notice period.

4 Finally, the draft order accepts PJM's report on  
5 scarcity pricing and denies at this time the request to  
6 require PJM to adopt scarcity pricing or markets for non-  
7 spinning reserves. Based on the record in this proceeding,  
8 there is insufficient evidence to require PJM to file a  
9 scarcity pricing mechanism at this time. Thank you.

10 CHAIRMAN WOOD: Thoughts?

11 COMMISSIONER BROWNELL: I can't resist my usual  
12 schpiel about, as we develop markets and they're developing  
13 slowly, I think we have to be cautious about mitigation and  
14 I think we have to be cautious about interfering in markets  
15 to the extent, for example, that we would not allow people  
16 to make business decisions to retire units.

17 And I think if we see that as a continued  
18 problem, we have to ask what market signals are not being  
19 sent to get new generation built. And so I think it  
20 behooves us, in this transition period, to be pretty  
21 disciplined about asking some very tough questions about  
22 where these markets are going and what is working and what  
23 is not.

24 So I think this sort of is a good step; I think  
25 that we did ask the tough questions, but I would urge us to

1 continue to do so, because we're certainly not at perfect  
2 equilibrium anywhere at this point.

3 CHAIRMAN WOOD: I think as the economy starts  
4 growing back, as I see it doing, and the excess supply that  
5 we've had in our markets, really, pretty much except for a  
6 few small ones, in southwestern parts of certain states that  
7 start with C in New England, that there's not, that there  
8 would be a need to get more generation here. Even though  
9 the last one was about wind, kind of the theme of the  
10 meeting -- friends in the press -- is interconnection of new  
11 generation and how does generation get into the marketplace?  
12 Congress opened that field up in '92 with the Policy Act and  
13 the EWG certifications, which made it very easy for non-  
14 utility generators to get into play here; but it's one thing  
15 to have a legal right to do, but if you don't have a  
16 business opportunity there, as you point out and have done  
17 so frequently, it's kind of a fake promise. So we don't  
18 need to have that.

19 I think the balance here that we hit -- the only  
20 one that I was a little, probably would have maybe thought  
21 more about is the one Debbie just talked about there at the  
22 end, was the scarcity pricing; and while it is a bit more of  
23 a regulatory construct than I prefer to see in markets, the  
24 transition is slow. And going from the old world to the new  
25 probably sometime needs some facilitating tools.

1                   The scarcity pricing, which PJM said they don't  
2 need to do now, quite frankly their plate is full and I  
3 think in the interest of kind of project management,  
4 approving their decision on project management, I can live  
5 with this. But I do sense an anomaly here, that you've got  
6 PJM without a scarcity pricing type proposal; it was an  
7 issue pointed out in the Edison Mission case that we got  
8 back on New York's AMP yesterday, is how do you make sure  
9 scarcity pricing signals do go through; you've got a  
10 vertical demand curve.

11                   There's a lot of things that are now -- the MISO  
12 market, the New York market, the New England market all have  
13 some sort of scarcity pricing, some more sophisticated than  
14 others; but PJM is going to not have that, even while all of  
15 its neighbors do -- I don't know about Ontario. So I'm a  
16 little mindful that -- and the Commission order here says:

17                   Based on the record before us we do not have  
18 evidence that resulting prices failed to appropriately  
19 reflect scarcity conditions, and that's true. Therefore, we  
20 don't require PJM to file it at this time. However, we  
21 require the MMU, in its ongoing monitoring, to determine  
22 whether PJM's overall pricing approach is achieving  
23 efficient, competitive prices.

24                   I know that they are going through a process of  
25 working with their stakeholders on a broader, kind of

1 resource adequacy approach, of which tools like this tend to  
2 always be a part, as we saw in New York, for example.

3 But I just want to flag this as one that I'm very  
4 interested in and want to make sure that the market  
5 participants keep their eye on that ball. Because all  
6 their neighbors are doing something along this way, in the  
7 TEMT; we approved the MISO, for example. When the choice is  
8 shedding load or cutting operating reserves, the prices do  
9 rise to attract supply and also demand responses. And, you  
10 know, that's what we want; but sometime in the current  
11 market structure when you don't have much flexibility for  
12 demand to play in the market, and the curve just kind of  
13 goes up like that to way high prices, which we note that can  
14 happen in PJM, because hockey stick bidding is permitted  
15 here, that's not helpful to customers; it's actually not a  
16 great pricing rule either to the generators, because it's so  
17 odd and it just happens only on certain minutes.

18 A scarcity pricing curve kind of starts to make  
19 that curve a bit more slanted; and although again it's  
20 mobile laboratory coerced construct, and it matters what  
21 numbers you pick and it starts to look more like ratemaking  
22 again, it has attracted a lot of interest, I know, from the  
23 investment community; not just on Wall Street, but more  
24 broadly into the New York market, and it's viewed I think by  
25 them, it's one of the more attractive features that provides

1 stability.

2 As you remember in the New York market, that was  
3 also supported by the State commission there as being one  
4 that was helpful for customers, because it provided some  
5 predictability that tended to knock some volatility out of  
6 the market and, you know, when you have those things where  
7 you've got the customers and the suppliers kind of lined up  
8 for something, I tend to think that's worth a second look.

9 So it's my hope that with this I think balanced  
10 answer in this order today, although it might have wanted to  
11 do a little bit more, I think this works for where they are  
12 now, and I just want to keep it flagged on their front  
13 burner.

14 COMMISSIONER KELLY: I agree with Nora that,  
15 basically I think your point was that a market is supposed  
16 to do a better job than regulators of quickly, accurately  
17 and efficiently reflecting and responding to existing  
18 conditions.

19 In this situation it's clear that it hasn't, and  
20 I do support the ultimate outcome of this order; which is to  
21 permit generators who are chronically unable to recover  
22 their full costs, but who nevertheless are also prevented  
23 from shutting down because they're needed for system  
24 reliability, to seek cost-based RMR contracts.

25 Obviously, it's totally unacceptable to force

1 businesses, including generators. to operate at a loss.

2 And I agree with you, Nora, that we need to keep  
3 an eye on this situation; in a perfectly functioning market  
4 this wouldn't happen. And so we need to be vigilant in  
5 looking at the development of these markets and ensure that  
6 the trade-offs that we're making are working correctly.

7 CHAIRMAN WOOD: All right. Let's vote.

8 @ (Voice vote.) (Unanimous 'aye' vote.)

9 CHAIRMAN WOOD: I notice that we're being  
10 transcribed by words now, and it's very timely and extremely  
11 accurate.

12 So whoever is -- is that you doing the typing?

13 THE REPORTER: No, sir.

14 SECRETARY SALAS: Captioning.

15 That's your Executive Director's staff.

16 CHAIRMAN WOOD: Way to go.

17 Well, thank whoever is back there typing. You're  
18 doing a lovely job.

19 COMMISSIONER BROWNELL: It's a little scary,  
20 though; you know, you think you're being brilliant and you  
21 look up there and you go "Oh, my God, are those the words  
22 coming out of my mouth?"

23 (Laughter)

24 SECRETARY SALAS: Mr. Chairman and Commissioners,  
25 the last item for discussion this morning is A-3. This is a

1 Report on Compliance Evaluations for Standards of Conduct  
2 for Transmission Providers. Deme Anas, Janice Garrison-  
3 Nicholas and Bob Pease. And Brian Craig.

4 MS. ANAS: Good morning, Mr. Chairman and  
5 Commissioners. As Magalie announced -- so I won't repeat  
6 it.

7 With the issuance of Order No. 2004B in August,  
8 the Commission required transmission providers to comply  
9 with the standards of conduct requirements by September  
10 22nd. OMOI proposed a two-phase process of reviewing  
11 transmission providers, OASIS and Internet web sites to be  
12 followed with more in-depth audits.

13 First we identified 190 transmission providers  
14 subject to Order No. 2004. Coincidentally, 95 are natural  
15 gas pipeline transmission providers and 95 electric utility  
16 transmission providers.

17 Beginning in September, 28 staff from operational  
18 audits and financial audits and enforcement commenced  
19 reviewing 190 Internet websites and OASIS. A review focused  
20 on accessing the Internet websites, OASIS websites, finding  
21 the required information, identifying missing information,  
22 and working to bring the transmission provider into  
23 compliance.

24 For each transmission provider, we analyzed  
25 whether it had posted 12 elements of required information or

1 if there were links for the required information. These  
2 elements include the posting of the following items:  
3 Written procedures explaining how the transmission provider  
4 intends to implement Order No. 2004, emergency deviations  
5 from the standards of conduct, names and addresses of  
6 marketing and energy affiliates, identifying shared  
7 facilities with marketing and energy affiliates,  
8 organizational charts, job descriptions, listing of  
9 potential merger partners, listing of transfers of  
10 employees, listing of incidents of disclosure of information  
11 from the transmission provider to marketing or energy  
12 affiliate, notices when a nonaffiliated customer authorizes  
13 the transmission provider to share its information with a  
14 marketing or energy affiliate, a log with the circumstances  
15 and manner in which a transmission provider exercised  
16 discretion under its tariff, and discount information.

17 Where a transmission provider failed to post  
18 certain information, OMOI staff notified the transmission  
19 provider's chief compliance officer of the omission and  
20 recommended changes to bring the company into compliance.  
21 Following an agreed-upon length of time, staff re-accessed  
22 the website to verify the changes.

23 Initially, we found that 58 transmission  
24 providers posted all the required elements. However, the  
25 majority of transmission providers, 142 or 69 percent, did

1 not post all the required information. As of January 15th,  
2 113 of those transmission providers have come in to full  
3 compliance, bringing the total compliant up to 90 percent.  
4 And we are continuing to work with the remaining 19  
5 transmission providers to bring them into compliance.

6 I note that there are also several transmission  
7 providers with extensions of time or pending waivers, so  
8 those have not been fully reviewed.

9 I'm going to highlight a few results of our  
10 review. The majority of transmission providers posted  
11 written procedures describing how they would implement the  
12 standards of conduct; 161 of the 190. Following our calls,  
13 25 more have posted procedures. We continue to work with  
14 the remaining 4 transmission providers to have them post  
15 written procedures.

16 One area where a majority of transmission  
17 providers failed to comply was with respect to voluntary  
18 consent notices. The transmission providers are required to  
19 have a link for posting notice if a nonaffiliated customer  
20 authorizes a transmission provider to share its information  
21 with a marketing or energy affiliate.

22 For example, if a nonaffiliated customer signed  
23 an agency agreement with a marketing or energy affiliate and  
24 authorized the transmission provider to share the  
25 nonaffiliated customer's information with the marketing or

1 energy affiliate, the transmission provider should post  
2 notice of this voluntary consent.

3 On first review, 117 of the 190 transmission  
4 providers did not have a link for voluntary consent  
5 notification. Following contact from OMOI, 96 additional  
6 transmission providers have added a link, and we are working  
7 with the remaining 19.

8 Although the majority of transmission providers  
9 now have a link for voluntary consent. It appears that some  
10 transmission providers may not fully understand what  
11 information to post or for how long it should be posted. A  
12 notice must identify when a nonaffiliated customer has  
13 signed an agency agreement and authorized the affiliated  
14 transmission provider to share its information with a  
15 marketing or energy affiliate. The notice must also include  
16 a statement that the transmission provider did not provide  
17 any preferences, either operational or rate-related in  
18 exchange for that voluntary consent.

19 CHAIRMAN WOOD: And how long should that stay up?  
20 Until that agreement no longer exists?

21 MS. ANAS: For the best transparency, it should  
22 probably be until the agreement expires.

23 CHAIRMAN WOOD: Okay.

24 MS. ANAS: But that comes to one of our later  
25 recommendations.

1           I also want to share some of the interesting  
2           comments made to staff during the calls. One compliance  
3           officer told its company they needed to get everything up on  
4           the web, but was told by management "not to worry about it,  
5           because it would take FERC a while to get to them."

6                           (Laughter)

7           In a couple instances, the chief compliance officer  
8           hadn't even been named, so our calls certainly triggered  
9           that.

10           I think we were all a bit disappointed that our  
11           initial review showed that 69 percent of the transmission  
12           providers were not in compliance. For the most part, the  
13           companies were very responsive to our calls, and made the  
14           revisions promptly. As of now, 90 percent are in compliance  
15           and are working closely with the rest.

16           We have a couple of Next Steps that we'd like to  
17           share. First, based on the information obtained during our  
18           website reviews and other observations, OMOI will begin our  
19           next phase with respect to implementation of the standards  
20           of conduct. Under Phase II, we will begin, in February,  
21           compliance audits, which are more in-depth audits to  
22           ascertain whether transmission providers are complying with  
23           the current standards of conduct.

24           One thing, for example, is we look at postings  
25           and compare them to internal records in DEA to verify the

1 accuracy of the postings. In addition, we will look at  
2 whether and how transmission providers have complied with  
3 the remaining standards of conduct requirements; among  
4 others, the independent functioning and the information and  
5 disclosure prohibitions.

6 Second, we've gotten feedback, questions and  
7 inquiries on various implementation issues, including  
8 voluntary consent and discretionary waiver postings.

9 We propose that the Commission host a chief  
10 compliance officer's conference in the spring to try and  
11 work out some of these continuing questions. As you may  
12 recall, the Commission hosted a chief compliance officer  
13 meeting last May in Houston, and industry groups hosted a  
14 smaller one last fall. Staff believes that there is some  
15 room to discuss best practices, how transmission providers  
16 are handling some of the posting requirements, and any other  
17 implementation issues. A date and specific agenda for the  
18 meeting will be forthcoming.

19 This concludes my presentation.

20 CHAIRMAN WOOD: Thanks, Deme.

21 One of the reasons we do these enforcement things  
22 more publicly now, in the past several meetings, and we'll  
23 continue, is to let the world know what we are doing because  
24 I think we're interested in compliance, not in the gotcha's.  
25 The gotcha's we'll do, if we find them we'll certainly do

1 that; it's our job, but our job is also to let people know  
2 what our working staff is up to, and hopefully we won't get  
3 other COOs giving you what their management told them about  
4 FERC not watching anymore, because in fact FERC is.

5 And I'm really pleased and proud of the work that  
6 the joint teams on the investigation side of OMOI are doing,  
7 not only on this but on many other things, and want to  
8 encourage you to keep that up.

9 Again, our main interest here is that people  
10 comply with these rules that were done after a lot of  
11 thought, and balance, and that we allow the transparency in  
12 the market then to govern and dictate the majority of the  
13 practices there, and FERC only intervenes when things get  
14 really out of hand.

15 COMMISSIONER BROWNELL: I, who am usually the  
16 harshest on the companies, think that actually this is a  
17 pretty good track record, given the chaos and the  
18 reorganizations that have gone on in the last couple of  
19 years. Sixty-nine percent isn't acceptable, but it's I  
20 think pretty good. We visited a lot of companies, and I've  
21 talked to the compliance people, and I think people are  
22 working pretty hard.

23 So I have to say, and I'm sorry for the guys that  
24 are dumb enough that don't think they're going to get  
25 caught; but I think that the majority of the companies are

1 really making a best effort in what is sometimes pretty  
2 confusing. I mean, I think there are still a lot of  
3 questions outstanding, and I continue to ask the question  
4 about what resources are being dedicated to this, and to  
5 what end.

6 So I have to give everybody an attaboy, including  
7 our own staff, because I think people are trying.

8 CHAIRMAN WOOD: I know you and Suedeen were at  
9 the conference in Houston last year, and I think  
10 recommendation on kind of, really they were put in between,  
11 so that Phase III would be actually a good idea. Look  
12 forward to setting that up. And if we need to do that out  
13 on the road, just, be guided by your recommendations on  
14 that.

15 COMMISSIONER BROWNELL: We just have to turn up  
16 the air conditioning in Houston, because we were freezing.  
17 And so was Deme. It's just that big blast of cold -- I just  
18 don't think we need it.

19 COMMISSIONER KELIHER: That's how you've  
20 populated the entire Sun Belt, we would all be blue states  
21 today if it weren't for air conditioning.

22 COMMISSIONER BROWNELL: But we believe --

23 (Laughter)

24 COMMISSIONER BROWNELL: We believe in kind of  
25 efficiencies and saving the resource. So we think a couple

1 of degrees up would work.

2 CHAIRMAN WOOD: All that new gas-fired efficient  
3 generation down therein Texas.

4 COMMISSIONER BROWNELL: It was working, wasn't  
5 it.

6 CHAIRMAN WOOD: Thank you all, and we look  
7 forward to further reports on progress with implementation  
8 and feedback from the companies about what works and what  
9 doesn't.

10 Okay, folks.

11 (Whereupon, at 11:10 a.m., the open public  
12 meeting concluded.)

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