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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :
CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC :
CONSENT MARKETS, TARIFFS AND RATES - GAS :
CONSENT ENERGY PROJECTS - MISCELLANEOUS :
CONSENT ENERGY PROJECTS - CERTIFICATES :
DISCUSSION ITEMS :
STRUCK ITEMS :
- - - - -x

908TH COMMISSION MEETING
OPEN MEETING

Commission Meeting Room
Federal Energy Regulatory
Commission
888 First Street, N.E.
Washington, D.C.

Thursday, September 21, 2006
10:05 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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9 SECRETARY MAGALIE R. SALAS

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21 ALSO PRESENT:

22 JANE W. BEACH, Reporter

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

2 (10:05 a.m.)

3 CHAIRMAN KELLIHER: Good morning. This open
4 meeting of the Federal Energy Regulatory Commission will
5 come to order to consider the matters which have been duly
6 posted in accordance with the Government in the Sunshine Act
7 for this time and place.

8 Please join us in the Pledge of Allegiance.

9 (Pledge of Allegiance recited.)

10 CHAIRMAN KELLIHER: Welcome to the first meeting
11 of the new Federal Energy Regulatory Commission.

12 The Commission has changed significantly since
13 July. I see the room is packed. We have a standing room-
14 only crowd here, and I suspect our website might record
15 record hits today for the meeting, because people are very
16 curious about this rare creature they see, a five-member
17 FERC.

18 It's something that actually, besides a very
19 short period in 2001, the last period where the Commission
20 had a full complement, was 1997 to 2000, so we -- since that
21 period, we've operated with three and with four. Four,
22 frankly, is the hardest number, because it has the annoying
23 tendency of even numbers to divide evenly on occasion.

24 But we've managed to operate with four; we were
25 successful with three, and we are now at five, and five is

1 the number that we were designed to have, back in 1935 --
2 or, really, 1920, I suppose.

3 So, we are back to five, and five is probably the
4 right number. It provides the greatest diversity of views,
5 and we have a lot of difficult issues to deal with at the
6 Commission, so we will need that diversity of views.

7 Now, I also want to thank the Senate for making
8 this meeting possible, frankly. If the Senate hadn't acted
9 in July, you'd be looking at a blank screen, or perhaps a
10 FERC technical conference.

11 (Laughter.)

12 CHAIRMAN KELLIHER: Because Suedeen and I would
13 not have been able to meet by ourselves. We would not have
14 established a quorum, so, thank you to the Senate, which not
15 only acted to preserve a quorum, but gave us excellent
16 Commissioners.

17 Now, the new Commissioners, they have very
18 diverse backgrounds. They bring a diverse background here
19 to the Commission, and they're already having a very
20 significant impact on Commission policy and deliberations
21 that they started voting on within days or hours of taking
22 the oath of office, and I feel some pity for Phil Moeller,
23 because Phil took the oath of office on a Monday, went to
24 lunch, and when he got back from lunch, I had to tell him
25 that he had to start voting by the end of the day, because

1 he made a quorum, and we had some matters that had to go out
2 very quickly.

3 So, he should have taken a longer lunch, perhaps.

4 (Laughter.)

5 CHAIRMAN KELLIHER: Now, since the July open
6 meeting, the Commission has issued 180 Notational Orders,
7 which is a very large number, and the new Commissioners have
8 participated in 168 of those notationals.

9 So, this may be the first open meeting for the
10 new Commissioners, but they have been participating for two
11 months now, and they have helped issue 168 Orders. I think
12 that shows the new Commissioners arrived ready to work and
13 assume their responsibilities.

14 Now, I recognize that most of the interest today
15 is in the new Commissioners, not in Suedeen and I.

16 (Laughter.)

17 CHAIRMAN KELLIHER: We're kind of old hat, and I
18 suspect that you either think you've figured us out, or you
19 probably think you figured us out by this time, and I
20 realize what you really want to do is give a hard look at
21 the new Commissioners.

22 So, recognizing that, I'm going to curtail my
23 usual opening announcements about upcoming technical
24 conferences, and I'm going to ask my colleagues to make some
25 short remarks, and I understand Mark's spouse, Jackie

1 Spitzer is here, and he can introduce her. I'll let you
2 introduce Jackie, but before then, let me turn to Suedeen
3 and see if she wants to give a word of welcome to our new
4 colleagues.

5 COMMISSIONER KELLY: Thank you, Joe. Yes, I
6 would like to talk a little bit about the three of them, in
7 a context, since I've had the pleasure of working with them
8 now for four to six weeks.

9 And as I was getting ready to say these things,
10 it reminded me of when I was teaching in the law school and
11 I was asked to prepare a class to give graduating law
12 students, tips on how to become a leading lawyer when they
13 got out.

14 And I came across a body of research and
15 literature from two Ph.D.s from Harvard and MIT, that they
16 had written on leadership, and that subsequently has been
17 put into a book that's won the Harvard Business Award in
18 2000.

19 And in that literature, they actually focused on
20 women in leadership roles. And they found that in America,
21 when a woman takes on a leadership role, she lacks, usually,
22 the presumption of credibility and competence in the eyes of
23 most American people, both men and women.

24 She lacks the presumption that she will be a
25 successful leader, and, so, in order for a woman in America

1 to become a successful leader, she has to learn that
2 reputation for credibility and competence.

3 To earn this reputation, these professors,
4 business professors said that women have to overcome three
5 hurdles: Well, I looked to see if there was any literature
6 on whether political appointees start out in leadership
7 positions, with or without a presumption of credibility and
8 competence, and I couldn't find any literature on it.

9 But, I thought, lest there be any doubt, I'm here
10 to testify to the fact that these three men have met and
11 have overcome the three hurdles.

12 Hurdle Number One: Are you more than a pretty
13 face?

14 (Laughter.)

15 COMMISSIONER KELLY: Well, now, as you can see,
16 they all have pretty faces.

17 (Laughter.)

18 COMMISSIONER KELLY: But I am here to say that
19 they are more than a petty face. I think I'm going to go in
20 alphabetical order:

21 Phil was raised on a ranch in Spokane, so he
22 knows of what he speaks, and he also has a degree from
23 Stanford University, so he's fit for the job, from the
24 beginning.

25 Mark, he was born in Pennsylvania, he grew up in

1 Philadelphia, he went to Dickinson College, and he attended
2 the University of Michigan School of Law, fit from the
3 beginning.

4 John has also had a diverse background. He
5 attended the University of Nevada, he has a B.S. in
6 Mathematics, he has an MAT in Mathematics; he came to
7 Washington, D.C., he graduated from Howard; he got this
8 Masters at Howard, and he has his JD from Antioch School of
9 Law, all three, fit from the beginning. You have met Hurdle
10 Number One.

11 Hurdle Number Two: Are you merely a token?

12 (Laughter.)

13 COMMISSIONER KELLY: Or have you earned your
14 appointment?

15 Well, I am here to say that they have earned
16 their appointments. Bill has been head of the Washington,
17 D.C. Office of Alliant Energy, an electric and natural gas
18 utility in Madison, Wisconsin.

19 Prior to that, he worked in the Washington office
20 of Calpine. From 1997 to 2000, he served as Energy Policy
21 Advisor to Senator Gorton, and he has focused on an array of
22 energy issues in his career. You've earned your position.

23 COMMISSIONER KELLY: Mark is an attorney. He's
24 represented taxpayers, he's been in that coveted position of
25 tax lawyer. He's been certified as a specialist in tax law

1 by the Arizona Bar since 1987, and in 1992, he ran for and
2 was elected to the Arizona State Senate.

3 He served in the Legislature and he became Chair
4 of the Judiciary and Finance Committees, and was elected by
5 his peers to the position of Senate Majority Leader in 1996.

6 He was very active and highly regarded as a state
7 senator, and he was elected to the Arizona Corporation
8 Commission in 2000. Mark, you've earned your position.

9 John is also a lawyer. He has been in various
10 public and private positions of law. He's has a utility
11 practice for a quite awhile.

12 It's included several public-sector positions, as
13 well. He was Administrative Assistant to a Commissioner of
14 the Public Utilities Commission of Nevada, and he's
15 participated in numerous cases before the Nevada Commission.

16 He was appointed by the Attorney General of
17 Nevada to serve as the State's first Consumer Advocate of
18 customers of public utilities. While Consumer Advocate,
19 John represented Nevada's utility consumers before the
20 Commission, the FERC, and the Nevada Supreme Court.

21 He's been a Consumer Advocate for two terms.
22 He's participated in dozens and dozens of complex utility
23 rate and regulatory matters. John, you've earned your
24 appointment.

25 The last and final hurdle: Do they really have

1 the right stuff for this job? I have reviewed their resumes
2 and I'm here to report that they do, indeed.

3 The one telling thing in each of their resumes
4 that confirms they have the right stuff: Phil served
5 successfully for ten years as Staff Coordinator for the
6 Washington State Senate Committee on Energy, Utilities, and
7 Telecom.

8 You made it through that successfully, and you
9 have the right stuff.

10 Mark, just being elected to the Arizona
11 Corporation Commission, I think, in 2000, says that you have
12 the right stuff. His term continues until January 2007, and
13 we're glad that he decided to come here instead.

14 But, after two years, Mark was elected Chairman
15 by his colleagues. He received recognition for his
16 leadership of the Commission, and, most notably, for
17 revitalizing the reputation of the Commission, which had had
18 numerous setbacks among state regulatory bodies. You have
19 the right stuff.

20 And John: I told you that John has a diverse
21 career. He has been in many trenches.

22 In addition to Consumer Advocate before the
23 Nevada Commission, he also served as Staff Attorney for the
24 Federal Trade Commission, Energy and Product and Information
25 Division in Washington, D.C.

1 He was also Assistant Majority Staff Counsel to
2 the United States Senate Commerce Committee. In addition,
3 he was Deputy DA in the Consumer Fraud Division in the
4 Washau County DA's Office in Reno. John, you have the right
5 stuff.

6 So, I just wanted all of you to know of the
7 accomplishments and qualifications of the three
8 Commissioners who join us, and to tell you that, personally,
9 I've been very pleased to work with them the last four
10 weeks. They're bright, they're knowledgeable, they have
11 expertise, they bring valuable perspectives to the
12 Commission, and they're a pleasure to work with. I'd like
13 us to welcome them to the Commission.

14 (Applause.)

15 CHAIRMAN KELLIHER: I'd like to now recognize
16 Mark Spitzer, to see if he'd like to make any short
17 comments, introduce Jackie, introduce his staff. It's your
18 time.

19 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
20 I appreciate it very much.

21 They tell you not to follow child acts or animal
22 acts, and they should add to that, do not follow
23 Commissioner and Professor Kelly.

24 (Laughter.)

25 COMMISSIONER SPITZER: She's a tough act to

1 follow.

2 Mr. Chairman, thank you. I do have few
3 introductions and some brief remarks. My wife is present,
4 Jackie Spitzer. Wave your hand, Jackie. She hates this.

5 (Laughter.)

6 COMMISSIONER SPITZER: I underestimated the
7 difficulties involved in moving across the country 2500
8 miles, largely because I didn't do any of the work.

9 (Laughter.)

10 COMMISSIONER SPITZER: I was responsible for the
11 care and the transport of Filibuster, our three-pound
12 Pomeranian.

13 (Laughter.)

14 COMMISSIONER SPITZER: Jackie was responsible for
15 the child and his medicine and two houses and all our
16 belongings, and the short-term rental, and all of the
17 tchotchkes, large and small, from two homes, and I am
18 forever -- I have been indebted for the duration of our
19 marriage, but continue to be so, and without Jackie's love
20 and support and understanding, I would be adrift, and I
21 thank you.

22 I'd like to introduce my personal staff. We have
23 a wonderful team that hit the ground running. They have
24 done a fabulous job, and I'm very grateful for their hard
25 work during the last six weeks.

1 I'll start with Phil Dion, who came out from
2 Phoenix with me. He's behind me. There is Monique Watson,
3 Martin Kirkwood, Christine Bailey, and Tiffany Gray. We're
4 very pleased to have them as part of our team.

5 I'd like to thank the Chairman and all of my
6 colleagues and the Commission staff for their hospitality
7 and graciousness in welcoming me to Washington, D.C., and
8 the Commission and the Chairman, whose door is always open.
9 He has helped me greatly as we enter into this new position,
10 and I'm grateful for all of my colleagues and all of the
11 Staff at the Commission, who have been very good to me and
12 who have helped me learn promptly and quickly.

13 I have very strongly-held views. Some of you are
14 aware of some of them from my prior tenure on the Arizona
15 Commission, but while I do have strongly-held views, my
16 instincts and approach are those of an attorney, like
17 Suedeen, who taught young lawyers.

18 I'm proud to be an attorney. I think it's a
19 noble profession, and my instincts are those of an attorney.
20 I believe in applying the facts to the law. I've done so as
21 a tax lawyer, and I've done so in my public career, as well.

22 I really enjoy working with the factual record.
23 Well, "enjoy" might be the wrong word for some of the
24 voluminous cases we're going to have, and so if I like
25 working with the record, I'm going to love this position.

1 You've got interesting facts, diverse areas of
2 law, and very complicated substantive law that is
3 challenging, and, most importantly, the matters that we are
4 involved in, are of vital and critical importance to this
5 country and to the consumers of this country, who we
6 represent.

7 Just as a few final remarks, I really appreciate
8 the humor of Commissioner Kelly. I've long believed that
9 humor is not only important, but essential in deliberative
10 work, particularly where the stakes are high and the
11 controversies complex and deep.

12 And I have always believed, in my public life, in
13 the importance of humor on occasion, to diffuse tense
14 situations. I had a mentor in my law practice, who's now
15 Chief Justice of the Arizona Supreme Court, and she has
16 reminded me over the years, of the importance of humor as an
17 attorney, except in death penalty cases, she said.

18 (Laughter.)

19 COMMISSIONER SPITZER: Well, I don't anticipate,
20 Mr. Chairman, unless there's a change --

21 (Laughter.)

22 COMMISSIONER SPITZER: -- in our agenda,
23 handling that type of matter, so I look forward to the
24 humor. Then, finally, you do not replace Nora Brownell,
25 certainly not Mark Spitzer.

1 But I will strive to work very hard. Nora was a
2 wonderful Commissioner, she was a great friend to the people
3 of Arizona. I look forward to continuing that level of
4 commitment, dedication, and work ethic, and, Mr. Chairman,
5 I'm very, very pleased to be here and ready to start work.
6 Thank you.

7 CHAIRMAN KELLIHER: Thank you, Mark.
8 Commissioner Moeller?

9 COMMISSIONER MOELLER: Thank you, Mr. Chairman,
10 and, thank you, Commissioner Kelly, for those kind remarks.

11 It's an honor to be here. I still express
12 appreciation to the President for nominating me, to the U.S.
13 Senate for confirming me, and in the last few weeks, for the
14 help of the Staff and my fellow Commissioners, to learn a
15 new job.

16 I'm quite sympathetic to my colleagues from the
17 West, not only taking a new job, but also having to move
18 their families out here. I only had to change a commuting
19 pattern, but, nevertheless, I'm still very happy to be here.

20 I have, throughout my career, always had an open-
21 door policy to people, so I hope you will all feel that, as
22 well, that when you have things to tell us about, that you
23 will come in and see us.

24 I know a fair number of people in the audience,
25 but issues will always change, ideas will be diverse, and

1 you are always welcome to express them, both to me and to my
2 staff, and I look forward to that over the next few years.

3 It's a little daunting, the number of things that
4 are on our plate, but we'll be working together and getting
5 through them in a way to serve the American public.

6 I want to introduce my staff, as well. My two
7 Electricity Analysts are Jason Stanick, Jigna Sigwani, also
8 Jennifer Quinlan, and Blanche Goss. They are part of the
9 team and you'll get to know them as well.

10 Again, it's great to be here, and I appreciate
11 the help that my colleagues have already afforded me.

12 CHAIRMAN KELLIHER: Thank you. Commissioner
13 Wellinghoff?

14 COMMISSIONER WELLINGHOFF: Thank you, Mr.
15 Chairman and my fellow Commissioners, and thank you,
16 Commissioner Kelly, for your opening remarks with respect to
17 my other --

18 CHAIRMAN KELLIHER: John, your microphone. Your
19 mike is off. Just flip it up.

20 COMMISSIONER WELLINGHOFF: Here we go. I learned
21 where the bathroom is and now I have to learn how to turn on
22 the mike.

23 (Laughter.)

24 COMMISSIONER WELLINGHOFF: Okay, one step at a
25 time.

1 (Laughter.)

2 CHAIRMAN KELLIHER: Well, you've been voting.
3 That's what scares me.

4 (Laughter.)

5 COMMISSIONER WELLINGHOFF: And, with that,
6 perhaps I should introduce my staff.

7 (Laughter.)

8 COMMISSIONER WELLINGHOFF: Which I am very
9 pleased to have. I did also have to hit the ground running,
10 and with that, let me introduce to you, my staff, and I'll
11 start on this end: Rose Johnson; Jim Peterson; Mary Beth
12 Tighe, David Moroff, and, of course, all of you will get to
13 know or already do know May Briscoe, who is, unfortunately,
14 upstairs trying to do some things with my office that we're
15 still trying to get settled in.

16 But like Phil mentioned, I also have an open-door
17 policy, and I would encourage all of you to please at any
18 time, call me or call upon my staff, and if you have
19 anything you want to discuss, I'd be happy to do that.

20 But it is an honor and a privilege to be a member
21 of this Commission. It certainly is a privilege to serve in
22 this position.

23 It's an honor to serve with my fellow
24 Commissioners and their level of expertise and their
25 knowledge and ability, and it also is an honor to serve with

1 the FERC Staff.

2 And I want to emphasize this: In the month and a
3 half I've been here, I can't tell you how impressed I am
4 with the Staff you have, Joe. It's an incredible Staff, and
5 I'm so looking forward to continuing to work with them over
6 the period of time that I have left.

7 It is also remarkable that we do have five
8 Commissioners for the first time, I guess, in five or six
9 years. I was reminded of this by Tom Herlihy, the Executive
10 Director of the Commission, who was in my office and we were
11 talking about doing some things, changing the lights and so
12 forth.

13 FERC doesn't own this building; it's owned -- we
14 lease it, actually, and he was mentioning, well, sometimes,
15 there's a little difficulty. We've got to negotiate with
16 the landlord. In fact, we're having problems now with the
17 carpets.

18 And I looked down at my carpet and said, Tom, my
19 carpet is perfect. What are you talking about? He said,
20 yeah, it's perfect, because nobody has used it in five
21 years.

22 (Laughter.)

23 COMMISSIONER WELLINGHOFF: So, I'm glad that I'm
24 filling a space that wasn't otherwise occupied.

25 But just as some brief final remarks, I would

1 like to give you a little bit of my interests and the areas
2 that I am interested in emphasizing here in my term at the
3 Commission. The three issues that are of particular
4 interest to me, are:

5 Demand response in electric markets; promoting
6 efficiency in energy infrastructure; and renewable and
7 distributed resources. These are areas that I've had
8 longstanding contact and interest and work in over the 30-
9 year career that I've had in energy.

10 Each of these areas, Joe and Suedeen, prior to me
11 getting here, really have guided this Commission with
12 significant strides, and I really appreciate that I'm coming
13 into a point where there are people before me who have
14 already made significant strides in these areas.

15 Among others, many of the country's organized
16 wholesale electric markets provide opportunities for demand
17 resources to participate and be compensated with market
18 value. The Commission also recently took steps to implement
19 Congress's directive to promote the use of advanced energy-
20 efficient electric transmission technologies.

21 In addition, the Commission has recognize the
22 unique characteristics of wind generation and its
23 interconnection role. These are all things that the
24 Commission has done prior to my arrival, and certainly
25 things that they should be commended for in these areas.

1 And I'm committed to assisting you in building on
2 these initiatives, and I also would like to just briefly
3 highlight important issues in each area: The first one
4 being demand response that I spoke of, and I believe,
5 really, that this is an untapped resource.

6 It's one that I think, if properly implemented,
7 can mitigate market volatility, limit price spikes, and
8 improve resource adequacy, and alleviate congestion, in
9 addition to improving reliability.

10 I think it's important in that area to align
11 demand-response objectives with consumers' financial
12 interests, to open the markets to demand response by
13 encouraging loads to participate as a resource in all energy
14 capacity and ancillary service markets, and to remove market
15 barriers.

16 It's also important to encourage the most
17 efficient technologies with respect to demand response, and,
18 finally, and most importantly, and something that I look
19 forward to doing, and something the Chairman and I have
20 talked already about, and that's working closely in
21 collaboration with the states in this area, because states
22 share jurisdiction there.

23 So, in sum, I look forward to working together
24 toward demand response becoming an equal partner to supply-
25 side resources in organized electric markets, by providing

1 equal access opportunities and fair market value.

2 The other area that I mentioned, optimizing
3 energy efficiency infrastructure: Energy infrastructure
4 that the Commission addresses in its Orders today, will be
5 with us for at least 30 and perhaps, in many instances, more
6 than 60 years.

7 We cannot afford to build infrastructure that is
8 inefficient, anymore. I believe that, therefore, this
9 Commission, as a matter of policy, should consider energy
10 efficiency as one important factor, and should provide
11 appropriate incentives to that end, when it considers the
12 issues related to authorizing the construction of
13 infrastructure for gas and electric markets.

14 Improving energy efficiency has the potential to
15 reduce costs, make the best use of limited resources, and
16 improve environmental quality, all of which will enhance
17 services and contribute to competition.

18 In many instances, technology advances that will
19 promote those goals, are either already available or under
20 development.

21 Again, I look forward to working with each of you
22 to promote these goals.

23 And, finally, in providing for the opening of
24 markets to renewable and distributed resources, diversity of
25 supply can lower cost to consumers.

1 It can stabilize markets, can enhance
2 reliability, and promote resource adequacy. In support of
3 these goals, it's important to ensure that renewable and
4 distributed generation resources have equal,
5 nondiscriminatory access that recognizes the unique
6 operating, physical, and financial characteristics of these
7 resources, and also recognizes that the public policy
8 choices that have been made by over 22 states to enact
9 renewable portfolio standards, are important and should be
10 recognized.

11 So, like demand response, I look forward to
12 working together with my fellow members of the Commission to
13 ensure that distributed resources and renewable resources,
14 are equal players in the energy markets we oversee. Thank
15 you, Mr. Chairman.

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1 CHAIRMAN KELLIHER: Thank you.

2 Madam Secretary, let's turn to the consent
3 agenda.

4 SECRETARY SALAS: Good morning, Mr. Chairman, and
5 good morning Commissioners and a very warm welcome to
6 Commissioners Spitzer, Moeller and Wellinghoff. Welcome.

7 The following items have been struck from the
8 Commission's agenda since the issuance of the Sunshine
9 notice on September 14th. They are E-4, E-15 and E-33.

10 Your consent agenda for this morning is as
11 follows. Electric items E-2, 3, 5, 6, 7, 8, 10, 11, 12, 13,
12 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29 and 30.

13 Miscellaneous items M-1 and M-2.

14 Gas items G-1 and G-2.

15 Certificates C-1 and C-4.

16 As required by law, Commissioner Moeller is not
17 participating in the following consent items. They are E-3,
18 6, 8, 13, 14, 17 and 20.

19 And now, we will proceed to vote, with
20 Commissioner Wellinghoff voting first.

21 COMMISSIONER WELLINGHOFF: Aye. I vote aye.

22 COMMISSIONER MOELLER: Aye.

23 COMMISSIONER SPITZER: Aye.

24 COMMISSIONER KELLY: Aye.

25 CHAIRMAN KELLIHER: Aye.

1 SECRETARY SALAS: Thank you.

2 COMMISSIONER KELLY: As you can see, we're on a
3 honeymoon.

4 (Laughter.)

5 SECRETARY SALAS: The first item on your
6 discussion agenda is E-1. This is California Independent
7 System Operator Corporation and it is a presentation by
8 Jennifer Shipley, David Mead, Harry Singh, Carlos Clay, Olga
9 Kolotushkina, Aileen Roder, Heidi Werntz, Mahmood Mirheydar,
10 Katie Detweiler.

11 MS. SHIPLEY: Good morning, Mr. Chairman,
12 Commissioners. My name is Jennifer Shipley and besides
13 those sitting with me at the table, I would like to
14 recognize -- if those present could please stand, the rest
15 of the team that worked on the MRTU tariff filing: Annette
16 Marsden, Michael P. McLaughlin, Shawn Bennett, Travis McGee,
17 Erin Bloom, Linda Bowers, Christopher Jones, Katharine
18 Gensler, Saeed Farrokhpay, Heidi Nielsen, Tim Roach, Cliff
19 Franklin, Ed Vistway and Shaheda Sultan.

20 The team represents the Office of Energy Markets
21 and Reliability, including the divisions of rates west,
22 reliability and policy and rulemaking, the Office of
23 Enforcement and the Office of the General Counsel.

24 In this order, the Commission conditionally
25 accepts for filing subject to modification the tariff the

1 California ISO filed to implement its market redesign and
2 technology upgrade proposal.

3 The proposed MRTU tariff is the product of more
4 than six years of analysis, broad stakeholder input from
5 those within and outside California, coordination with state
6 authorities and Commission guidance. The Commission order
7 is providing guidance to the California ISO and its market
8 participants, including ruling on interim remedies for
9 critical design flaws. Staff believes that the MRTU tariff
10 proposal, as modified by the draft order, would address
11 three of the key factors that contributed to the California
12 and western energy crisis of 2000 and 2001: the lack of
13 adequate resources, flawed market rules and market
14 manipulation.

15 Significant components of the MRTU tariff include
16 a more effective system for managing congestion, a
17 financially-binding day-ahead market, system improvements
18 that will increase operational efficiency and enhance
19 reliability, a more transparent pricing system, improved
20 market power mitigation measures, the opportunity for demand
21 response resources to participate in the ISO markets and,
22 lastly, a process that respects the resource adequacy
23 requirements established by the California Public Utilities
24 Commission and other local regulatory authorities, with
25 provisions to allow the ISO to procure additional capacity

1 if needed.

2 The proposed MRTU tariff will use a pricing
3 method that will allow the ISO to recognize all transmission
4 bottlenecks so that schedules submitted in the day-ahead
5 timeframe can actually fit on the grid in real-time,
6 allocate the use of transmission facilities to energy buyers
7 and sellers in a nondiscriminatory and efficient manner, and
8 make more efficient use of transmission and generation
9 resources to serve load and provide system resources on a
10 least-cost basis.

11 Although the draft order proposes to
12 conditionally accept the MRTU tariff, it also orders certain
13 significant changes to address improvements and concerns
14 raised by the numerous participants in the proceeding. The
15 draft order rejects the ISO's proposal to apply a 15 percent
16 planning reserve margin to all LSEs in its control area, but
17 allows it to be applied only as a default if the local
18 regulatory authority fails to act.

19 It rejects the ISO's request for an exception or
20 delay in complying with the long-term firm transmission
21 rights final rule and directs it to comply with that final
22 rule in order to expedite the provision of long-term
23 transmission rights to users of the transmission grid. The
24 draft order directs Commission staff to convene a technical
25 conference to assist the ISO and parties outside its control

1 area to identify seams issues that require resolution.

2 The draft order also directs the ISO and
3 neighboring control areas to meet to resolve seams between
4 them and to jointly report on the progress of these efforts
5 in quarterly status reports filed with the Commission.

6 The draft order directs the ISO to work with
7 market participants to present additional opportunities for
8 demand response and for interested parties to provide
9 proposals to the Commission within 60 days.

10 It accepts the ISO's CRR allocation proposal but
11 directs the ISO to file with the Commission the complete
12 results of its CRR dry run.

13 It directs the ISO to develop scarcity pricing
14 for reserve shortages within 12 months of MRT
15 implementation, and it directs various modifications to the
16 ISO's proposed market power mitigation measures.

17 In addition to the technical conference on seams,
18 the draft order directs technical conferences on the
19 allocation of import capacity for resource adequacy purposes
20 and business practice manuals.

21 The draft order directs the ISO to file tariff
22 language to implement convergence bidding within 12 months
23 after MRTU implementation, but also directs the ISO to
24 develop and file interim measures to address the potential
25 economic incentive of LSE's to underschedule in the day-

1 ahead market until the implementation of convergence
2 bidding.

3 Additionally, the draft order requires numerous
4 compliance filings and tariff modifications.

5 Finally, the draft order states that the
6 implementation of MRTUs should proceed on a deliberate basis
7 and, therefore, orders protections to ensure that systems
8 are tested and ready before they are implemented.

9 Additionally, it directs the ISO to file post-
10 implementation performance reports on a quarterly basis.

11 In summary, the MRTU proposal, as modified in the
12 draft order, will address the flaws in the current market
13 design, enhance the reliability of the Cal ISO controlled
14 grid and better protect wholesale customers from price
15 volatility and gaming. This will help protect not only
16 California but also the entire west from a repeat of the
17 energy crisis.

18 Thank you. The Staff is prepared to answer any
19 questions you may have.

20 CHAIRMAN KELLIHER: Thank you. That was an
21 excellent presentation of the order and I do want to commend
22 the Staff. This was a very difficult order and I think you
23 did a first rate job on this. So we will start with that.

24 Now we need to be very clear on MRTU. What is
25 the purpose of this order? Why are we issuing this order,

1 what do we think it will accomplish. I mean our goal is
2 very clear: it's to prevent a recurrence of the California
3 and western power crisis from 2000 to 2001. The causes of
4 that crisis are well understood.

5 There were three principal causes: a lack of
6 electricity supply in California, which caused California to
7 lean on the rest of the west, significantly to the detriment
8 of the rest of the west. Second, poor market rules that
9 governed the organized markets in California. And, three,
10 market manipulation. Those are the three causes of the
11 crisis.

12 Now we've made a lot of progress in those three
13 fronts over the past few years. In particular, the
14 Commission acted quickly to issue the new market
15 manipulation rules to take advantage of the authority that
16 Congress gave us last year. We have taken action to improve
17 the market rules, in some cases as far back as December
18 2001. So the Commission has acted to improve the market
19 rules in the Cal ISO market.

20 But some of those rule flaws that contributed to
21 the crisis six years ago remain. Now those rule flaws, the
22 fact that those rule flaws remain mean that there's a
23 continued threat of a recurrence of the California and
24 western power crisis.

25 Now on supply, California has made some

1 significant progress to improve electricity supply, but
2 there's a need for significant progress, particularly in
3 southern California. So California has taken some steps,
4 but they proposed a major step here in the MRTU filing with
5 the resource adequacy requirements.

6 MRTU makes further progress in all three of these
7 areas. It takes steps with the resource adequacy
8 requirement to assure adequate electricity supply in
9 California. It makes very significant incremental reforms
10 in the market rules that help contribute to fix the problems
11 that contributed to the crisis six years ago. And it also
12 takes further steps to guard against market manipulation.

13 Really the question before the Commission today
14 is not whether organized markets should be established in
15 California; that question was asked and answered many years
16 ago. Really the question that is pending before us today is
17 should we take steps to reform the market rules, assure
18 adequate supply in California, and take further steps to
19 prevent market manipulation.

20 The question really is whether, given the
21 prospect of electricity supply problems in California, we
22 should do nothing. The question is whether, knowing that
23 market rule flaws remain in the California ISO market that
24 helped cause the crisis six years ago, doing nothing in the
25 face of those flaws is a responsible course. And the

1 question really is whether we should take greater steps to
2 guard against market manipulation.

3 Now I frankly think it would be irresponsible for
4 us not to act. I think we actually followed the responsible
5 course here today. Now I know there's concerns about seams
6 and I think those concerns are completely legitimate, but I
7 should point out that seams exists today, they're not
8 created by MRTU.

9 I also should point out that seams exist in other
10 power markets. They exist between and among organized
11 markets and there are seams between organized and bilateral
12 markets in other parts of the country. So the existence of
13 seams is really -- it's not unique to the west.

14 Now we take the concerns about seams very
15 seriously and the Commission has been urged to convene a
16 technical conference to address the seams issue and we order
17 a technical conference in this order.

18 Now there's also concerns about transmission
19 congestion and it's also very clear that congestion exists
20 today. It is largely masked, it is largely hidden, but it
21 exists today. It is not created by the measures in MRTU
22 relating to transmission congestion.

23 Now our process, as Staff indicated, has been
24 very deliberate. This is a process that stretches back 36
25 years and 30 orders. I don't see how you could not

1 characterize that as a deliberate approach. If it got any
2 more deliberate, it could be called a glacial approach,
3 frankly.

4 (Laughter.)

5 So it has been a very deliberate approach.

6 I think it's important to note that although we
7 approve MRTU, we do order very significant changes. We are
8 not approving the filing as presented to us. We make
9 significant changes.

10 Now there have been some comparisons between MRTU
11 and SMD, and I think those -- nothing could be further from
12 the truth to compared SMD to MRTU. If you look at it, what
13 was the essence of the SMD proposal? The SMD proposal, if
14 you boil it down to simple terms, it was a proposal by the
15 Commission to impose a certain market design on every region
16 of the country. It didn't matter whether those regions
17 particularly desired that particular favored form of market
18 design, it would be imposed on them.

19 Now what is MRTU? MRTU is a proposal by the Cal
20 ISO to fix the rule flaws that in some cases have existed
21 for years. So the comparison between SMD and MRTU really
22 doesn't withstand any kind of scrutiny. So the issue today
23 isn't SMD, it is whether we should act in a responsible way
24 to prevent the recurrence of the California and western
25 power crisis. I also should point out that the Commission

1 terminated the SMD rulemaking by a unanimous vote more than
2 a year ago.

3 So our purpose is to prevent another crisis. I
4 want to say that I'm very impressed with the work that the
5 Staff have done to prepare this order for us and I also want
6 to say I'm very impressed with my colleagues and the way
7 we've acted on this order. I think it has been a very
8 interesting process. It's really the first very difficult
9 vote that the Commission has taken together. And I just
10 want to say I'm impressed with how we came together on this
11 order.

12 And with that, I'd like to turn to any of my
13 colleagues. Commissioner Kelly?

14 COMMISSIONER KELLY: Thank you, Joe.

15 I have a very personal interest in this order and
16 in the California market. As many of you know, I was at the
17 California ISO on an eight-month sabbatical from January
18 through August of 2000 when the market melted down. I was
19 working for the ISO and I was also trying to learn for my
20 purposes as a professor, as an energy practitioner and as an
21 advisor to the New Mexico joint senate/house energy
22 committee how the ISO worked and how the California market
23 worked.

24 And I saw in the first 3-4 months how it worked
25 and it worked apparently pretty well. But then a shortage

1 hit and, as you all know, the market structure in California
2 did not work well at all in resolving that crisis and, in
3 fact, it failed miserably.

4 I left California, came back to New Mexico, I
5 studied more in retrospect about the problems in the
6 California market and I worked with the senate joint house -
7 - the joint house/senate energy committee in New Mexico to
8 revise New Mexico's retail marketing legislation and retail
9 competitive access legislation. So I followed the
10 California market. I was there for it. I saw the flaws in
11 action and I studied what the problems were.

12 Since then, California has worked to remedy those
13 flaws, and I've been involved in watching that, facilitating
14 it to the extent I could, and finally having the MRTU case
15 come before us. It hasn't been lightly decided. The
16 participants in the market in California did not willy-nilly
17 put this together. It's been, as Joe mentioned, six years
18 of analysis and concern.

19 This is the order. It's 386 pages. There's only
20 six pages of an appendix here. This is the result of six
21 years of careful analysis and many days or weeks of careful
22 reading on my colleagues and my part. It's very well
23 thought out and it goes a long way towards remedying the
24 flaws in the California market.

25 I think it's fair to say that the California

1 market has done little but limp along since the crisis
2 occurred at basically the minimum level needed to keep the
3 lights on and, in fact, there was concern last summer that
4 the lights might not stay on. There's not been much
5 investment in transmission or generation even given the ever
6 growing demand for electricity.

7 Increasing reliance on imported energy that is
8 itself harder to get because the rest of the west is growing
9 as well. Obviously something needed to be done. I'm aware
10 that this case has raised many concerns and I believe that
11 we have addressed those concerns in this order.

12 Given that change was unquestionably needed and
13 indeed long overdue, I believe we've done the best, the very
14 best that can be done to serve the interests of the public
15 in California, as well as the rest of the west.

16 CHAIRMAN KELLIHER: Alex? Mark?

17 COMMISSIONER SPITZER: Mr. Chairman, thank you
18 very much. I had identified this matter as one of the most
19 important that I would be deciding possibly during my entire
20 tenure here right out the chute. And I want to thank first
21 our team for their hard work on this, as well as my
22 colleagues and the excellent work of the large group of
23 people who worked on this order.

24 Interestingly, I prepared remarks that ended up
25 being very quite similar to the statements so far. I guess

1 you could say misery loves company, but I'd prefer to
2 conclude that we have great minds thinking alike.

3 (Laughter.)

4 CHAIRMAN KELLIHER: We reason together.

5 COMMISSIONER SPITZER: Correct. I won't say this
6 was a labor of love over a period of six years, but the
7 degree of effort that went into this I will say was enhanced
8 even by those who might disagree with the outcome. I think
9 the process was helpful and, as has been pointed out by my
10 colleagues, the final order reflects a number of changes
11 that were made to accommodate what I believe are very
12 legitimate concerns.

13 I became an Arizona commissioner in January 2001
14 and the immediacy and magnitude of the western electricity
15 crisis of 2000-2001 are forever etched in my memory. This
16 Commission is acutely aware of the need to do everything
17 possible to prevent a repetition of that cataclysm.

18 The circumstances that produced the California
19 crisis have been well chronicled and include an imbalance
20 between supply and demand, inadequate transmission, an
21 absence of retail price signals, a total reliance on the
22 spot market, flawed market rules, market manipulation and
23 misconduct and an abnormally low hydropower season. We had
24 the perfect storm.

25 The question before the Commission is not whether

1 this or any order will eliminate any possibility. The
2 California electricity market will again malfunction. The
3 variables at issue are beyond the power of this Commission.
4 Instead, the question is whether these MRTU rules improve
5 upon the status quo.

6 I am convinced that MRTU is a step in the right
7 direction. The resource adequacy measures address a matter
8 of profound importance to California's neighbors, that they
9 not be leaned on to their detriment. MRTU represents a
10 positive and structural change. The EPCRA 2005 reliability
11 provisions enacted by Congress with the rules proposed by
12 this Commission underscore the importance of adequate
13 supply.

14 I recognize the concern that MRTU imposes a
15 market unfamiliar to some western participants. I would
16 point out in response that long-term contracts remain not
17 only viable but essential under these new rules. This order
18 has been amended to be consistent with the Congressional
19 mandate regarding long-term firm transmission rates.
20 Moreover, the resource adequacy provisions are designed to
21 mitigate price volatility, the bane of consumers throughout
22 the region. Finally, the proposed technical conference on
23 seams issues affords the parties yet another opportunity to
24 compare their concerns.

25 As Churchill stated, this order is not the end of

1 the end nor the beginning of the end, but the end of the
2 beginning. This Commission will maintain a watchful eye
3 over the west to ensure reliability, transparency and just
4 and reasonable wholesale markets.

5 And finally I would associate myself with the
6 Chairman's views regarding what I believe is an inept
7 analogy to standard market design. In fact, the order is
8 the complete reverse. Standard market design, which it had
9 many meritorious points -- speaking as someone who advocates
10 state's rights -- did have a conflict with legitimate
11 interests of the states in determining their own destiny,
12 particularly on resource adequacy measures.

13 This is a proposal by a state and the Commission
14 has a legitimate interest to serve the vitality in the
15 region. I think this is in fact a process at work, so I
16 congratulate the parties and congratulate my staff and my
17 colleagues.

18 CHAIRMAN KELLIHER: Can I just pick up on your
19 last comment? One way I think to have a sharp contrast
20 between SMD and MRTU would be to look at what the effect
21 would be on the non-California west under the two scenarios.
22 Under SMD, an organized market would have been imposed on
23 every state in the west. One already exists in California,
24 but SMD would have imposed it on every state in the west.

25 Under MRTU, organized markets remain limited to

1 California, they do not extend outside of California to any
2 western state, but the rules that govern that organized
3 market are improved, some of the flaws are eliminated. So
4 again I really think the analogy we can dispense with
5 altogether.

6 So colleagues, Phil?

7 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
8 Many of my thoughts have already been made by the three
9 previous Commissioners, but, like everybody probably in this
10 room, we all had horror stories about what happened in 2000
11 and 2001, not just in California but for those of us who
12 hail from the Pacific Northwest and other parts of the west,
13 we felt the pain as well and in many cases still are.

14 But I agree with this order. I'd particularly
15 like to focus on four areas in my mind: the continued focus
16 on resource adequacy that you've already mentioned, the fact
17 that the seams that currently exist will get some focus,
18 particularly with the technical conference, I appreciate
19 that being included in the order, and the fact that the
20 order is designed to increase more market participants in
21 the California market. That should also have its benefits.
22 And finally the focus on transmission congestion and the
23 cost of that congestion that should provide better market
24 signals to alleviate those problems.

25 Thank you.

1 PRESIDING JUDGE: Commissioner Wellinghoff?

2 COMMISSIONER WELLINGHOFF: Thank you, Mr.
3 Chairman. And Joe, I do appreciate your opening remarks.
4 In fact, I support, endorse and adopt them and I also would
5 do the same with the other Commissioners' remarks,
6 especially the discussion with respect to the impact on the
7 rest of the west. As most of you know, I'm from Nevada and
8 I certainly would not want to do anything that would put my
9 fellow Nevadans in harm's way. And I don't think this order
10 does anything to do that; in fact, I think it does the
11 opposite.

12 And I think this proposal by the Cal ISO brings
13 with it the promise to deliver to consumers of California
14 lower electric bills and more reliable service, in addition,
15 I think, to also helping the situation in the west.

16 And that promise of course is predicated upon the
17 assumption that the market modifications requested in the
18 order were requested by the Cal ISO and as modified in the
19 order will result in greater market efficiency.

20 And I have to say that I was skeptical at first
21 when I read the Cal ISO's initial proposal, but now I'm
22 cautiously optimistic that the order before us does advance
23 the experiment that consumers, regulators and other
24 stakeholders in California generally support. And I think
25 more importantly it provides for additional process to

1 further refine MRTU and, most importantly to me anyway, it
2 contains sufficient safeguards to mitigate any serious
3 market price dislocations potentially affecting consumers
4 either within California or in adjacent states that may
5 inadvertently result from its implementation.

6 And in my opinion, the most important of those
7 safeguards is demand response. The requirement for enhanced
8 demand response has been interwoven into this order. The
9 order provides that demand response participate in the Cal
10 ISO market under comparable requirements as supply and be
11 paid fair market value. That decision on the part of this
12 Commission gives me the comfort to support this order.

13 As I mentioned in my opening remarks, demand
14 response if properly implemented can mitigated market
15 volatility, eliminate price spikes, improve resource
16 adequacy, alleviate transmission congestion and improve
17 reliability. I think this order, with the inclusion of the
18 robust demand response programs we're proposing here will
19 hopefully demonstrate that the functioning of electric
20 markets can be improved for the benefit of all consumers.

21 Thank you.

22 CHAIRMAN KELLIHER: Shall we vote?

23 COMMISSIONER MOELLER: Aye.

24 COMMISSIONER WELLINGHOFF: Aye.

25 COMMISSIONER SPITZER: Aye.

1 COMMISSIONER KELLY: Aye.

2 CHAIRMAN KELLIHER: Aye.

3 SECRETARY SALAS: The second item for discussion
4 is H-1. H-1 is the settlements in hydroelectric licensing
5 proceedings under Part I of the Federal Power Act and it is
6 a presentation by John Katz and Ann Miles.

7 MR. KATZ: Good morning. Ann and I feel kind of
8 lonely --

9 (Laughter.)

10 MR. KATZ: Good morning, Mr. Chairman,
11 Commissioners. Item H-1 presents to you a policy statement
12 on hydroelectric licensing settlements. The policy
13 statement first recognizes the support, the strong support
14 at the Commission for policy statements and indicates the
15 importance to the Commission of settlements being presented
16 in such a way that the Commission can meet the requirements
17 of the Federal Power Act, particularly the substantial
18 evidence standard and the comprehensive development standard
19 under which the Commission views all of its orders in the
20 hydro area.

21 The policy statement sets forth certain steps
22 that parties to settlements can take in developing their
23 settlements in order to help the Commission meet those
24 standards. Specifically, first examining the impacts and
25 purposes of the hydroelectric project in question. Second,

1 developing appropriate measures based on record evidence.
2 Presenting that to the Commission with an explanation such
3 that the Commission can understand the parties' intent and
4 how indeed the settlement does meet the screens by which the
5 Commission needs to judge proposed settlements. The policy
6 statement also provides for comments to be made on it by
7 interested parties and provides a 45-day timeframe for those
8 comments to be filed with the Commission.

9 Like I said, we probably should also give a shout
10 out to former chairman Pat Wood and commissioner Nora
11 Brownell, who played a major role during their time in the
12 Commission in developing this policy.

13 With that, Ann and I would be happy to answer any
14 questions you have.

15 CHAIRMAN KELLIHER: Commissioner Moeller, would
16 you like to speak?

17 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
18 As I mentioned earlier, I hail from the Pacific Northwest
19 and we have a disproportionate number of hydro facilities
20 there. I appreciate the fact that the Commission has put
21 together this policy statement because, as you well know
22 unless you've not been around one, the hydro relicensing
23 process involves a balancing of all kinds of different
24 interests. Power is one of them, but there are many other
25 entities and interests involved.

1 This policy statement should give proper
2 guidelines and direction for parties in the future to
3 consider. But I also appreciate my colleagues being
4 amenable to there being a comment period. I know it's a
5 little bit unusual for a policy statement, although it's not
6 unprecedented. But as a new Commissioner and one who hails
7 from the west in general, the Pacific Northwest
8 specifically, I felt more comfortable endorsing such a
9 policy statement after the various parties had some time to
10 comment on it. I appreciate that.

11 Thank you.

12 CHAIRMAN KELLIHER: Thank you. I'll make a few
13 comments and then turn to my colleagues.

14 As Staff indicated, the need for a guidance
15 document on hydro settlements is something the Commission
16 has grappled with for quite a while, and it really was first
17 raised with me by the Hydro Power Reform Coalition about two
18 years ago when I was a Commissioner. And they raised a
19 concern I thought -- ended up agreeing that it was a very
20 legitimate concern. They didn't so much object that from
21 time to -- well, let me back up.

22 From time to time, the Commission does and has
23 modified proposed hydro settlements. We modify some of the
24 terms of settlements. I don't think there was an objection
25 to us doing so per se; there was a recognition that we have

1 certain legal duties and in some cases are compelled to
2 modify or strike terms of hydro settlements.

3 What the Hydro Power Reform Coalition sought was
4 clear guidance on the circumstances under which we might
5 feel obliged or compelled to do so. They asked us for a
6 guidance document, because they wanted to know up front
7 before settlement discussions where the boundaries were.

8 Because in the end, parties can agree to any
9 terms they choose, but there is a legal limit on what can be
10 included in a FERC license. A settlement is incorporated in
11 a license. Our ability to -- or the scope of a FERC license
12 is not unlimited. So if parties choose to agree to terms
13 that cannot properly be included in a FERC hydro license,
14 they can enter into a side agreement that's enforceable in
15 another fora.

16 So they wanted that kind of guidance up front,
17 that way it actually frees parties to enter into terms that
18 have very broad scope, broader perhaps than a FERC license
19 and, if necessary, they can enter into a side agreement
20 that's enforceable in another forum.

21 Now the Commission does encourage settlement and,
22 as Commissioner Moeller indicated, hydro power settlements
23 raise very many difficult issues, they're very complex, and
24 we encourage settlements as a means of resolving these
25 disputes. I think the policy statement actually will

1 facilitate settlements and facilitate resolution of those
2 disputes.

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1 I think the statement is a good document. I
2 really enjoyed reading it, and I know the hydro folks in the
3 crowd will probably enjoy reading it as well. I hope they
4 will.

5 But I think that what it is, is a clear
6 explanation of our precedent in this area. We draw certain
7 broad principles from our case law and precedent.

8 We offer those principles as guidance to enable
9 parties to reach compromise, reach consensus on settlements
10 that do not require subsequent modification by the
11 Commission.

12 Now, I don't believe that the policy statement
13 represents a change in Commission policy or precedent; I
14 think, instead, it recapitulates the precedent, states it
15 more clearly, and provides clear guidance.

16 As Commission Moeller indicated, although the
17 policy statement, at least in my view, doesn't represent a
18 change in Commission policy, we do seek public comment, and
19 I want to credit his leadership in this area, for suggesting
20 this change, and it was included at his specific request.

21 I want to commend the Staff in OGC and OEP, under
22 the leadership of John Katz and Ann Miles, in developing
23 this policy statement, and offering clear guidance in this
24 area, is a priority for me as Chairman, and I'm glad that
25 we're acting today.

1 So, I'd like to recognize any of my colleagues
2 who want to speak on this. John?

3 COMMISSIONER WELLINGHOFF: Thank you, Mr.
4 Chairman. I just want to -- anecdote. Some of you may
5 know that Phil and I went up to our nomination hearings
6 together, our confirmation hearings, together at the Senate,
7 and were asked a number of questions by the Senators there,
8 some of the individually to us, and some of them sort of as
9 a panel.

10 Anytime the Senators would ask any hydro
11 questions, I'd point to Phil.

12 (Laughter.)

13 COMMISSIONER WELLINGHOFF: Phil was the guy on
14 hydro. So, I certainly, given Phil's expertise in the area,
15 not only defer to him, but I want to commend him for what
16 he's done here with respect to requesting that we do have
17 some comments, and I certainly would support that, and do
18 support the Order with that in it. Thank you.

19 COMMISSIONER KELLY: In my three years -- almost
20 three years now at the Commission, I have heard consistently
21 from stakeholders, that they wanted a hydroelectric
22 licensing agreement settlement guidance document.

23 I think that's not surprising, since over one-
24 third of our pending hydro projects, have proposed
25 settlements. And we've long advocated for settlements, and

1 I hope that that continues.

2 It can save time and money, it can avoid the need
3 for protracted litigation, but, most of all, it ensures that
4 the interests of the varied participants in licensing
5 proceedings, are taken into account in ways that they want
6 it taken into account.

7 We have general policies regarding which
8 settlement provisions we might and might not or will and
9 will not accept, based on the law and precedent. And that's
10 what this document does. It codifies in one place, our
11 existing policies and precedents.

12 It's not a statement of a new policy, so I do not
13 believe that this guidance document is going to hold any big
14 surprises for anyone, but I do believe that it will serve as
15 a useful road map for parties engaged in settlement
16 negotiations.

17 Personally, I am a big fan of hydropower because
18 of its many benefits. Importantly, it's immune to price
19 increases in fossil fuels; it's also renewable. It has also
20 begun to serve a very important role in fostering other
21 renewables such as intermittent renewables like wind,
22 because it can be so easily packaged with them.

23 It also provides many recreational opportunities.
24 It can marry flood control with power, and it's very
25 reliable.

1 I'd like to add to what my colleagues said, that
2 I'm pleased that all of us were able to participate in the
3 development of this guidance. Most of us on this
4 Commission, come from hydro-challenged states.

5 In fact, Elizabeth, of my staff, did a little bit
6 of research: Nevada, 6; Arizona, four; New Mexico, three;
7 D.C. -- I took a personal tour of Rock Creek Parkway, and I
8 didn't find a single one.

9 (Laughter.)

10 COMMISSIONER KELLY: But Commissioner Moeller
11 hails from the Northwest and in his home state of
12 Washington, there are 73. So I am very thankful that you
13 were a big participant in the development of this guidance,
14 and your expertise and your interest in hydro, serves this
15 Commission well, and serves the public well, and serves the
16 people of the Northwest well, so, thank you, Phil.

17 CHAIRMAN KELLIHER: Shall we vote?

18 COMMISSIONER WELLINGHOFF: Aye.

19 COMMISSIONER MOELLER: Aye.

20 COMMISSIONER SPITZER: Aye.

21 COMMISSIONER KELLY: Aye.

22 CHAIRMAN KELLIHER: Aye.

23 SECRETARY SALAS: The final item for discussion
24 this morning, is C-2. This is Rockies Express Pipeline,
25 and it's a presentation by Berne Mosley, Jack Donaho, Sandra

1 Delude, and Gene Snyder.

2 MR. MOSLEY: Good morning, Mr. Chairman and
3 Commissioners. I'd like to introduce myself. I'm Berne
4 Mosley from the Office of Energy Projects, and also from the
5 Office of Energy Projects, we have Jack Donaho here, we have
6 Gene Snyder, from the Office of Energy Markets and
7 Reliability, and, finally, to my left, Sandra Delude, from
8 the Office of the General Counsel.

9 The Draft Order in C-2, makes a preliminary
10 determination that it's in the public convenience and
11 necessity for Rockies Express Pipeline to construct and
12 operate a major expansion project known as REX-West, which
13 is designed to transport Rocky Mountain supplies to major
14 markets in the U.S.

15 The map shows Rockies Express currently-
16 certificated facilities, and the proposed REX-West
17 facilities. Rockies Express currently-certificated
18 facilities are located to the west of the Cheyenne Hub in
19 Colorado, and are shown in solid red.

20 The 136-mile segment from the Meeker Hub in
21 Colorado, to the Wamsutter Hub in Wyoming, is currently in
22 operation. The 191-mile segment from the Wamsutter to the
23 Cheyenne Hub, is under construction, with a projected in-
24 service date of January 2007.

25 As part of the REX-West, and as shown by the

1 dotted red line, Rockies Express proposes to extend its
2 system from the Cheyenne Hub, to an interconnection with
3 Panhandle Eastern Pipeline Company in Missouri.

4 Some specifics about the project: REX-West is a
5 1.5 Bcf per day project that includes 713 miles of new
6 natural gas transmission facilities from its certificated
7 system in Colorado to Missouri, and approximately 177,000
8 horsepower of additional compression at five new compressor
9 stations and two currently-certificated compressor stations.

10 In addition, the Rockies Express Project proposes
11 to lease 625,000 decatherms per day of capacity from Questar
12 Overthrust Pipeline.

13 Back to the map, the Overthrust capacity that
14 we're talking about in the lease, shown in orange on the
15 map, will extend the Rockies Express system, 140 miles west
16 from Wamsutter to the Opal Hub in Wyoming.

17 Finally, in a related filing, TransColorado Gas
18 Transmission Company seeks authority to expand its existing
19 facilities, shown in blue, to transport up to 250,000
20 decatherms per day of natural gas produced in the San Juan
21 Basin, from the Blanco Hub in New Mexico, to Rockies Express
22 at an existing interconnection located at the Meeker Hub in
23 Colorado.

24 Rockies Express projects a January 1, 2008 in-
25 service date for the project.

1 Some of the rates and service aspects of this
2 proposal: The Draft Order approves Rockies Express's
3 proposed recourse rates, consisting of two rate zones, Zones
4 1 and 2, and three additional incremental recourse rates to
5 cover the use of certain specifically defined facilities,
6 namely, the Overthrust lease that we mentioned earlier; the
7 Meeker Hub facilities; and the Cheyenne Hub facilities.

8 Rockies Express's request for a predetermination
9 that it can roll in the cost of certain additions to its
10 currently-certificated facilities, into its Zone 1 rates, is
11 also granted.

12 Finally, the Draft Order finds that the Rockies
13 Express conduct of its open season, was consistent with
14 Commission policy.

15 The Order also approves certain rate and
16 contractual incentives granted to shippers, based on their
17 commitment to the project, and it approves certain
18 nonconforming provisions contained in the precedent
19 agreements for two shippers.

20 Thank you. This concludes the presentation, and
21 we're available for questions.

22 CHAIRMAN KELLIHER: Thank you. I just want to
23 make a brief comment that this is a very important project.
24 This project, if approved, would provide a direct link for
25 natural gas supplies in the Rocky Mountains, to reach the

1 major markets in the East and Midwestern United States, and
2 that, if approved, Rockies Express would be a significant
3 addition to our energy infrastructure, our gas
4 infrastructure.

5 Today's Order really makes a preliminary finding
6 dealing with the non-environmental issues. We still have to
7 make an issue in subsequent Orders, addressing environmental
8 issues. Those will be considered when our environmental
9 review and analysis is complete, and we're moving
10 expeditiously to complete our environmental review on the
11 project, to determine whether or not it is in the public
12 interest.

13 With that, Commissioner Wellinghoff?

14 COMMISSIONER WELLINGHOFF: Thank you, Mr.
15 Chairman. I do appreciate very much, your putting this on
16 as a discussion item.

17 I think the case, as I see it, and this project,
18 is a prime example of the issue -- one of the issues that I
19 identified in my opening remarks regarding energy efficiency
20 and energy infrastructure.

21 This Rockies Express proposal will, in fact, when
22 built, install 176,930 horsepower of compression, using a
23 combination of turbines, gas turbines, reciprocating
24 engines, and electric compressors.

25 The turbine compressors produce waste heat that,

1 with existing technology, could be recovered and converted
2 to electricity. In fact, it may be possible to use this
3 process to generate electricity that could reduce costs.

4 And I recognize the need for increased gas
5 supplies, and this project certainly will do that, and I do
6 support this Order as a preliminary determination on non-
7 environmental matters.

8 However, I'd request, Mr. Chairman, if we could,
9 to have the Staff issue a data request in this case, in the
10 further proceeding, to investigate the consideration of
11 energy efficiency options in this extensive infrastructure
12 project.

13 CHAIRMAN KELLIHER: Sure. I agree with your
14 request, and I have already directed Staff to prepare that
15 kind of a data request.

16 COMMISSIONER WELLINGHOFF: Thank you very much.

17 COMMISSIONER KELLY: I wanted to comment also on
18 the importance of this project, not only to the West, but to
19 the Midwest. This Rockies Express -- and I like the
20 nickname, REX-West.

21 REX-West is a king of pipelines. It follows on
22 the beginning of a trend that's occurred over the last few
23 years, directing Rockies gas eastward. There are many
24 basins, gas-producing basins in the country that are
25 declining, or, at best, holding level.

1 However, we have some good news, and that is that
2 basins in the Powder River Basin, with coalbed methane and
3 coalbed methane gas, are increasing in production. That's
4 the gas that this pipeline is going to tap into, so it will
5 provide a significant market for producers in the West, to
6 take it initially to the Midwest, and then on to Ohio.

7 And it will be a boon to consumers in the
8 Midwest, who are currently served primarily by Gulf gas and
9 gas from Canada. So it will add another significant supply
10 into the Midwest, including the Chicago Hub, and give
11 consumers an additional choice.

12 So I am very pleased with the development that
13 this project has taken and with the work that the Staff has
14 done on taking steps towards getting it certified.

15 CHAIRMAN KELLIHER: All right, any other
16 comments? Mr. Spitzer?

17 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
18 To step back for a moment to look at the big picture, gas
19 infrastructure is one of the great challenges of this
20 country.

21 In specific cases, we had two general rate
22 proceedings in Arizona for the gas LDCs. Arizona Public
23 Service had an emergency rate case, a general case, and two
24 gas-adjuster cases, all of them fueled -- pardon the pun --
25 by gas prices and their great volatility.

1 And this is a circumstance that's gone on now for
2 five years. The hedge funds, you know, may have lost \$5
3 billion in the last couple of weeks, but the ratepayers
4 throughout the country have borne the brunt of the supply-
5 demand, the increased demands globally for natural gas, and
6 the fact that we trade as a global commodity.

7 And you can have all the supply you want, but
8 absent transport, it does us no good. So, the efforts at
9 the federal level, as well as all the private-sector
10 investment, in terms of increasing supply, cannot bear fruit
11 without adequate transport.

12 Commissioner Kelly pointed out the hydro-
13 challenged desert regions. I don't know if Nevada has done
14 better than Arizona, but we have no deposits in Arizona, we
15 have no storage facilities, at least yet, and so increased
16 transport is an imperative.

17 I also thank Commission Wellinghoff for raising
18 the issue that what I would describe, in layman's terms, as
19 in-for-a-dime/in-for-a-dollar, and let's see what we can
20 accomplish in terms of generating additional benefits, and
21 at least explore that issue, and, to the extent that cost-
22 effective means can be demonstrated, that's something that I
23 would support as well, Mr. Chairman. Thank you.

24 CHAIRMAN KELLIHER: Thank you. Any other
25 comments? Commissioner Moeller?

1 COMMISSIONER MOELLER: Mr. Chairman and members,
2 this appears to be a very good project, and it is one of
3 many options we have to take to increase our supplies of
4 natural gas in this country, and I support it.

5 I do want to point out that yesterday I was
6 watching the internal FERC channel, and the presentation --

7 CHAIRMAN KELLIHER: How very studious of you.

8 (Laughter.)

9 CHAIRMAN KELLIHER: That's impressive.

10 (Laughter.)

11 COMMISSIONER MOELLER: Well, the dry run of the
12 presentation was up, but then it was combined with the audio
13 from a very steamy soap opera.

14 (Laughter.)

15 COMMISSIONER MOELLER: So, it was certainly the
16 most interesting contrast that I've seen during my time.

17 COMMISSIONER KELLY: So that's why so many people
18 watch the internal channel?

19 (Laughter.)

20 CHAIRMAN KELLIHER: Shall we vote?

21 COMMISSIONER WELLINGHOFF: I vote aye.

22 COMMISSIONER MOELLER: Aye.

23 COMMISSIONER SPITZER: Aye.

24 COMMISSIONER KELLY: Aye.

25 CHAIRMAN KELLIHER: Aye.

1 I think we're done today. Thank you very much.
2 This is the end of first meeting together, and there are
3 many more to come. Thank you.

4 (Whereupon, at 11:20 a.m., the meeting was
5 adjourned.)

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