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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Docket Numbers
TRANSPARENCY PROVISIONS OF THE : AD06-11-000
ENERGY POLICY ACT OF 2005 :
- - - - -x

Hearing Room 2C
Federal Energy Regulatory
Commission
888 First Street, NE
Washington, DC
Friday, October 13, 2006

The above-entitled matter came on for technical,
conference pursuant to notice, at 9:35 a.m.

BEFORE: JOSEPH T. KELLIHER, CHAIRMAN

1 APPEARANCES :

2 COMMISSIONERS PRESENT :

3 COMMISSIONER SUEDEEN G. KELLY

4 COMMISSIONER MARC SPITZER

5 COMMISSIONER PHILIP MOELLER

6 COMMISSIONER JON WELLINGHOFF

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P R O C E E D I N G S

(9:35 a.m.)

CHAIRMAN KELLIHER: Good morning. It's Friday the 13th, so we're here. Welcome to the Conference to discuss possible Commission policies regarding the transparency of natural gas and electricity markets in light of the passage last year of the Energy Policy Act of 2005.

Today's discussions are intended, first, to review the needs of market participants regarding information about the availability and prices of wholesale natural gas and electricity markets; second, to develop ideas for possible policy actions by the Commission; and, third, to consider the Commission's jurisdiction in taking such actions. We'd also like any thoughts on the effectiveness of prior Commission actions on price indices and wholesale natural gas and electricity markets.

Revelations of false reporting of price index developers in 2000 and 2002, and the near collapse of energy trading moved many major players to sharply reduce the volume of price-forming wholesale transactions.

On January 15, 2003, Commission Staff reported to the Commission regarding serious doubts about the accuracy of information reported on many wholesale natural gas price indices. The Commission responded by initiating a process designed to actively engage all segments of the natural gas

1 and electricity industries, a process that led, initially,
2 to the July 2003 Policy Statement on Price Formation, and,
3 subsequently, Staff reports to the Commission in 2004 on
4 the Policy Statement's effects.

5 In that report, Staff found that industries'
6 actions led to significant improvements in the accuracy and
7 credibility of price indices.

8 I review that history just to highlight that this
9 is not the first time that the Commission has addressed
10 price transparency, but is, instead, part of a continuing
11 effort that predates the Energy Policy Act and stretches
12 back a number of years.

13 The Energy Policy Act provisions regarding price
14 transparency, are very interesting, at least in my view.
15 First, it is my view that this provision, read in
16 conjunction with the market manipulation provisions of the
17 law, give the Commission a new legal duty.

18 The Commission has always had a legal duty to
19 protect jurisdictional customers from exploitation. We now
20 have new legal tools under the Energy Policy Act, to fulfill
21 that historic duty.

22 These, in fact, give us a new legal duty to
23 protect the integrity of the markets themselves. I see that
24 in the price transparency authority, as well as the anti-
25 manipulation authority.

1 With respect to the price transparency
2 provisions, it's clear that we have always had authority to
3 collect the information we need from jurisdictional
4 companies, in order to discharge our legal duties.

5 However, the EAct price transparency provisions
6 authorize us to do something quite different, to facilitate
7 price transparency that is, quote, "for the public interest,
8 the integrity of markets, and fair competition, as well as
9 the protection of consumers."

10

11 Under the EAct provisions, we're authorized to
12 act, but not required to act. Our authority is
13 discretionary.

14 We also have authority to require the
15 dissemination of information from market participants,
16 rather than natural gas companies. I think we've been very
17 deliberate in the possible exercise of our EAct price
18 transparency authority.

19 With many of the mandatory provisions of the
20 Energy Policy Act well underway earlier this year, I
21 directed the Commission Staff to begin to meet with a wide
22 variety of interested parties across the electricity and
23 natural gas industries, to discuss energy markets and the
24 possibility for Commission action, using the Act's
25 transparency provisions.

1 Based on these 34 meetings, Staff decided to hold
2 a workshop on September 26 designed to help some of the
3 participants better understand the available information.
4 The intention of that workshop was to sharpen perceptions in
5 preparation for presentations to the Commission here today.

6 Today, the issues of transparency, appear to have
7 shifted away from the narrow focus on index development,
8 towards other issues like access to information about long-
9 term contract prices, understanding the relationship between
10 physical and financial trading, and getting more information
11 about supply and demand.

12 To explore these concerns, I asked the panelists
13 to tell us what specific information about the availability
14 and prices of natural gas and electricity sold at wholesale
15 and in interstate commerce is not available today, but
16 should be, because any policy initiative undertaken by the
17 Commission would have to be specifically related to
18 reporting information. We also asked the question, how
19 could that information be disseminated?

20 The language of the transparency provisions of
21 the Energy Policy Act of 2005 appears to have expanded the
22 Commission's consideration of possible initiatives beyond
23 its preexisting authority, so we also asked the question,
24 how does the Commission's historical natural gas and
25 electricity jurisdiction work in the Energy Policy Act of

1 2005, giving the Commission the Authority to collect or
2 disseminate the information or have it collected or
3 disseminated?

4 Finally, because of the history of Commission
5 activity related to price indices over the last five years,
6 we also asked, in the context of prior efforts, what more,
7 if anything, should the Commission do with respect to
8 development and publication of natural gas and electricity
9 price indices?

10 With that, I'd like to turn to my colleagues and
11 see if they have any comments they'd like to make. Then
12 I'll turn to Steve Harvey, who can discuss the structure of
13 the Conference, and then we can hear from the panelists.

14 Colleagues, comments?

15 (No response.)

16 CHAIRMAN KELLIHER: This is the second of two
17 days of Technical Conferences.

18 (Laughter.)

19 CHAIRMAN KELLIHER: You have to understand that.

20 COMMISSIONER SPITZER: Mr. Chairman, you pretty
21 much said it all. I would just want to emphasize the nexus
22 between this proceeding and interests of ratepayers
23 throughout the country.

24 In many jurisdictions, you have automatic
25 adjustment provisions. In Arizona, our electric company had

1 a purchased-gas adjuster that was automatically implemented
2 without Commission approval of our action, and per the gas
3 LDCs there were surcharge mechanisms in place. So
4 ratepayers were very much affected by prices.

5 The markets have evolved phenomenally since 1982
6 in natural gas. I'm a believer that competition in natural
7 gas has very well served American consumers, but the prices,
8 as we've learned in the past four or five years, have direct
9 impacts on ratepayers through these mechanisms.

10 And financial markets and the degree to which we
11 have financial trading has benefits for ratepayers, but also
12 potential mischief.

13 I look forward to the testimony. Thank you, Mr.
14 Chairman.

15 CHAIRMAN KELLIHER: I'll turn to Steve Harvey.
16 He can explain the structure of the meeting, but, before you
17 start, I'd like to point out that sometimes there's a
18 perception in the regulated community, that electricity
19 always comes first at FERC. I just want to point out gas
20 has gone first today.

21 (Laughter.)

22 MR. HARVEY: Very good.

23 To get the broadest feedback from across the
24 industry at today's session, focusing both on those who use
25 relevant market information, and those who produce it, we're

1 going to try what is for me a novel approach to managing two
2 extremely large panels. Each panel is made up of as broad a
3 representation of interests as we can accommodate.

4 After introducing the panel, I'll give industry
5 representatives here at the table, three minutes each to
6 deliver their initial statements regarding their
7 transparency needs.

8 I will hold each of them strictly to three
9 minutes, so I apologize in advance for cutting anyone off,
10 but as I think they all know, I will cut them off.

11 We will then proceed to questions and answers.
12 Both the industry representatives and the information-
13 providers we have today, whom we've asked to sit in the
14 front row of the audience section, because of their numbers,
15 are invited to participate.

16 Whether they get involved in the questions and
17 answers or not, though, in the interest of fairness, I'll
18 give the information-providers each two minutes to respond
19 generally, or to summarize their thoughts, as well.

20 We will end this panel on natural gas issues, no
21 later than noon, in order to give several of our panelists
22 and others of us here, time for lunch before the 1:00 start
23 of the electricity panel this afternoon.

24 Because of these unfortunate, but necessary,
25 tight time limitations, I encourage any interested person,

1 whether on these panels or not, to submit statements to the
2 record in Docket Number AD06-11-000.

3 I'm going to go ahead and introduce everyone on
4 the panel, initially, and I will preemptively say that
5 you're welcome for the opportunity to speak to us today, so
6 that we can economize any of your introductory statements,
7 and you can get right to it, seeing that you only have three
8 minutes of time.

9 Let me go through our rather long and quite
10 distinguished list of people and we will go in this order of
11 speaking, as well: Christopher Conway, President of Conoco-
12 Phillips Gas and Power, and Chairman of the Natural Gas
13 Supply Association, is also speaking for the Independent
14 Producers Association of America today.

15 Donald Santa is President of the Interstate
16 Natural Gas Association of America; Jane R. Lewis-Raymond is
17 Vice President and General Counsel, Corporate Secretary, and
18 Chief Compliance Officer of Piedmont Natural Gas, who is
19 speaking for the American Gas Association today.

20 Les Fyock is Vice President of the American
21 Public Gas Association; Alex Strawn is Senior Purchasing
22 Manager of Proctor and Gamble, and Chairman of the Process
23 Gas Consumers Group.

24 Paul Cicio is President of the Industrial Energy
25 Consumers of America, and Sheila Rappazzo is Chief of Policy

1 Section of the Office of Gas and Water of the New York State
2 Department of Public Service.

3 During and after the question and answer session,
4 we will also be hearing from the following information
5 providers: Michael Prokop is Executive Vice President of
6 Amerex Brokers; Porter Bennett is President of Bentek Data.

7 Bob Anderson is Executive Director of the
8 Committee of Chief Risk Officers and President of the Energy
9 Data Hub; Sean O'Leary is the Chief Executive Officer of
10 Genscape.

11 Chuck Vice is President and Chief Operating
12 Officer of the InterContinental Exchange; Larry Foster is
13 the Global Editorial Director for Power, of McGraw Hill,
14 Platts; and Dexter Steis is Executive Publisher of Natural
15 Gas Intelligence.

16 Robert Levin is Senior Vice President, Research
17 Department, New York Mercantile Exchange; Andrew Ott is Vice
18 President of Market Services at PJM, and is also speaking on
19 behalf of the ISO/RTO Council; and Randy Rischard is
20 Publisher of SNL Energy.

21 With those, hopefully complete and hopefully
22 accurate introductions of everyone, we'll go ahead and start
23 with Mr. Conway.

24 MR. CONWAY: Thank you, Mr. Chairman. I'm also
25 very happy to start in the morning.

1 For all of the economists, I'd like to focus on
2 three main points: First, NGSAs strongly believe the
3 natural gas markets are responding to supply-and-demand
4 functions.

5 U.S. GDP has nearly tripled in 20 years, while
6 domestic natural gas production has flattened during the
7 last ten. Since 2000, despite increasing imports, natural
8 gas supply has been flat or declining, and has not kept pace
9 with demand being driven higher by the economic growth and
10 national environmental concerns.

11 The natural gas price environment stems from
12 demand competition for a limited supply and higher
13 production costs.

14 Varied response to short-term market
15 fundamentals, with price declines averaging more than 60
16 percent so far this year, is evidence of a healthy,
17 efficient natural gas market.

18 The second point: Mandatory price reporting
19 requirements to improve transparency, could have unintended
20 consequences. Natural gas markets have responded
21 voluntarily to increase the level of transparency.

22 Over the last two years, we've seen a rise in
23 reported volume and number of transactions and a decline in
24 the number of indices with insufficient reporting. The
25 price reporting mandate could drive participants from

1 reportable transactions, possibly harming liquidity.

2 In addition to NYMEX and ICE, IFERC month-ahead
3 data alone reflects pricing data for more than half of the
4 average U.S. daily consumption.

5 NGSAs is not suggesting that FERC should be less
6 vigilant for signs of abuse, only that sufficient
7 information continues to be available to them and market
8 participants. FERC should consider informing Congress that
9 it has fully evaluated the current price discovery
10 mechanisms, and that no remedial action needs to be taken.

11 Finally, NGSAs believes that the natural gas
12 market is already among the most transparent of commodity
13 markets in the U.S. Recently-passed laws and regulations,
14 including Sarbanes-Oxley, the Energy Policy Act, and FERC
15 Market Manipulation Rules, undercut a healthy market. A
16 well-functioning market requires all players to participate
17 freely without artificial prohibitions.

18 Price efficiency in a market, does not mean
19 stable prices and does not indicate any particular level of
20 price. Efficiency means that price reflects and is
21 sensitive to changes in the market. Changes in natural gas
22 prices since last year reflect an efficient marketplace.
23 NGSAs continues to be supportive of any voluntary and truly
24 constructive steps that can serve to enhance market
25 transparency, without also harming underlying competition

1 and liquidity. We look forward to an ongoing dialogue with
2 FERC and other market participants on this issue. Thank
3 you.

4 MR. HARVEY: Thank you. Mr. Santa?

5 MR. SANTA: Good morning. Unlike most of the
6 other panelists and those they represent, INGAA's interstate
7 pipeline members are not significant participants in the
8 natural gas commodity business.

9 Interstate pipelines have been fully unbundled
10 for over a decade since Order 636. Putting aside the
11 imbalance resolutions such as pipeline cash-out mechanisms,
12 natural gas commodity transactions undertaken by the
13 interstate pipelines, currently are limited to purchases and
14 sales of natural gas for operational purposes -- things like
15 line-pack and compressor fuel.

16 In making these purchases and sales, interstate
17 pipelines are price-takers. As a result, INGAA's members
18 are not significantly affected by the issues raised in today's
19 technical conference, and are not in a position to comment
20 authoritatively on specific questions that the Commission
21 directed to this panel.

22 While the focus of the questions posed in the
23 Commission's Notice for this Technical Conference, is worth
24 noting, briefly, that there is already tremendous
25 transparency in the natural gas transportation function, due

1 to the posting requirements that apply to interstate
2 pipelines, as non-discriminatory open access transmission
3 providers, briefly, pipelines are required to post on their
4 Internet websites, transactional reports, discount reports,
5 indices of customers, operationally-available capacity,
6 undersubscribed capacity, maintenance schedules, critical
7 notices, damage, and service interruption reports, and
8 affiliate information, among other data.

9 One thing that has changed since the last
10 Commission Technical Conference on transparency, is the new
11 EPAct authority that gives the Commission clear jurisdiction
12 to require commodity price reporting by market participants.

13 Unlike the last time, there's no need to look at
14 pipeline tariffs as the jurisdictional hook to promote
15 greater commodity markets' transparency; the Commission can
16 now do this directly.

17 Still, speaking personally, I think the
18 Commission should look long and hard before it crosses the
19 threshold to exercise its new authority. Has it been
20 demonstrated that something is lacking in the price
21 reporting that the market already is providing, and that
22 consumers are suffering as a result?

23 I think it's important to remember that
24 regulatory mandates can have unintended consequences and
25 that once an agency such as the Commission, chooses to

1 regulate, it is very difficult to step back from that
2 regulation, if it later proves to be unwise. I will now
3 conclude, thank you, and look forward to the discussion.

4 MR. HARVEY: Thank you. Next is Ms. Lewis-
5 Raymond.

6 MS. LEWIS-RAYMOND: Thank you. I am, indeed,
7 delighted to be here today to state once again that the
8 American Gas Association strongly supports natural gas
9 market transparency.

10 As you know, there are concerns described by many
11 of our members, our customers, and our state regulators,
12 regarding natural gas price volatility and natural gas
13 market transparency, which beg the question as to whether
14 improvements can be made in these areas.

15 In recognition of the new statutory authority
16 granted to this Commission by Congress, AGA believes that it
17 is now time for the Commission to use some of this new
18 authority.

19 Specifically, AGA recommends that the Commission
20 should now take the following actions: First, it is time to
21 mandate reporting of fixed-price trades by all market
22 participants. Such a mandatory reporting system should
23 apply the same reporting rules to all market participants,
24 including judicially nonjurisdictional entities.

25 Congress recognized this in enacting EAct, that

1 it would make no sense to limit reporting to just the
2 traditional jurisdictional entities. It gave the Commission
3 clear and express authority to obtain information about
4 prices of natural gas from any market participant.

5 Voluntary reporting, while great, does not appear
6 to go far enough in assuring greater market confidence
7 today. We believe that a mandatory price reporting program
8 would improve the overall understanding of the natural gas
9 marketplace, by increasing the transparency of the volumes
10 bought and sold at fixed daily or monthly prices, thus
11 increasing public confidence in those prices.

12 We also believe, as we've stated in the past,
13 that counterparty identification to the index publishers, on
14 a confidential basis, would help with the verification and
15 calculation of accurate market prices.

16 AGA does not make these recommendations lightly.
17 It is very sensitive to the reporting burdens that could
18 arise, and urges the Commission to carefully, and with
19 detailed participant input, construct a mandatory reporting
20 system that minimizes the administrative burden, avoids
21 duplicative reporting, and carefully defines trades subject
22 to mandatory reporting.

23 Second, to ensure a fair and workable system, it
24 is important that the Commission maintain the safe harbor
25 provision from the 2003 Policy Statement.

1 Third, AGA believes that the Commission should
2 explore the creation of electronic information systems.
3 Section 23 of the Natural Gas Act allows the Commission to
4 establish an electronic information system, only if it
5 determines that existing price publications are not
6 adequately providing price discovery.

7 If the Commission were to explore establishing
8 alternative information systems, it must assure, though,
9 that the costs and administrative burdens associated with
10 such a system, would be de minimis.

11 AGA members would oppose administratively-
12 complex, time-consuming, and expensive operations such as
13 what has been embodied in the proposals we have seen to
14 date.

15 With that, I want to just emphasize that we are
16 about ensuring public confidence in natural gas prices. It
17 is an ongoing effort, and we must, as the Chairman has said,
18 do it in a way that is responsible and helps consumers.

19 If we cannot achieve that, then the action will
20 not be worth pursuing. Thank you.

21 MR. HARVEY: Thank you. Mr. Fyock?

22 MR. FYOCK: The American Public Gas Association
23 has long advocated for increased transparency and now
24 recommends that the Commission take the following actions,
25 consistent with its Natural Gas Act Section 23 mandate:

1 First, mandatory price reporting, preferably to a
2 central hub, is necessary to ensure comprehensive price
3 reporting and market integrity.

4 APG has long supported such reporting, and the
5 time is right for the Commission to require it. The
6 Commission now has a statutory mission to facilitate price
7 transparency by prescribing rules that will provide for the
8 timely dissemination of information about the availability
9 and prices of natural gas sold at wholesale.

10 If the Commission is satisfied with less than
11 full reporting, which is the case today, it will fail its
12 NGA Section 23 mandate by not providing necessary confidence
13 and credibility to the natural gas markets.

14 Reliance on a central hub, would simplify
15 reporting. All would submit data to a single repository,
16 which would match, verify, and scrub the data and then
17 provide the resulting clean data for published indices,
18 research, and the like.

19 The data hub and data reporters would, of course,
20 proceed in conformance with the Commission's 2003 Policy
21 Statement, except that APGA believes that counterparty
22 information should also be provided.

23 Secondly, the Commission should investigate
24 whether additional data should be collected on a weekly
25 basis, namely, pipeline line pack and imported LNG volumes

1 in the interstate pipeline supply mix.

2 Currently, only such data, timely released to the
3 public, is the EIA Weekly Storage Report. This report
4 covers a very small datapoint, yet moves the market in
5 substantial and seemingly anomalous ways, unrelated to true
6 market fundamentals.

7 This additional data, along with the data already
8 collected by EIA, would provide the public a better sense as
9 to market supply and demand fundamentals, and thus would
10 dampen the price volatility that is the single most notable
11 attribute of the natural gas commodities market today.

12 APGA is confident that these proposals for the
13 Commission's facilitation of natural gas transparency, would
14 not materially increase any burden on the industry. Thank
15 you for the opportunity to present APGA's views.

16 MR. HARVEY: Thank you. Mr. Strawn?

17 MR. STRAWN: Good morning. I'm Alex Strawn. I
18 work for Proctor and Gamble, but, today, my remarks are on
19 behalf of the Process Gas Consumers.

20 A little bit about PGC: PGC is a trade
21 association of industrial gas consumers, who require natural
22 gas in many of their key operations. Our membership
23 consists of a broad cross section of U.S. industry, both
24 geographically and in terms of products produced, including:
25 Metals, aluminum, steel, cars, textiles, consumer products,

1 and glass.

2 Our membership employs millions of people in
3 North America, and we use more than roughly a Tcf of gas
4 annually. We've been an active industrial consumer voice in
5 the price indices debate for years.

6 PGC has participated in various FERC and industry
7 meetings to discuss the issues related to the indices.
8 Through our active participation in this debate and our
9 review of all the data produced as a result of industry and
10 FERC initiatives, PGC's position on the status of the
11 natural gas indices, remains unchanged.

12 PGC still believes that a few years ago,
13 confidence in the data integrity of the price indices, was
14 undermined by the inappropriate action of a few gas traders.

15 PGC opposes any attempts at market manipulation,
16 and believes that government should penalize abusers,
17 however, PGC supports the use of free market price reporting
18 systems as the most effective way of providing industry with
19 price transparency at supply and market area hubs.

20 The Commission focus should remain on how to
21 improve the credibility of existing price reporting systems,
22 rather than have them design a new system.

23 Mandatory reporting is an unnecessary step that
24 would add new costs to the reporting parties, both large and
25 small. The case has not been made to require

1 nonjurisdictional parties to be required to divulge the
2 details of private contracts.

3 There are enormous competitive concerns for
4 industrials, which I will elaborate on later, given the
5 opportunity. No federal agency should be given wholesale
6 access to data that underlies the derivation of the price
7 indices.

8 There's no need for a single data collector or
9 index provider. FERC does not need to pick a winner.

10 Competition must be allowed to flourish in
11 multiple data collection and index providers. Our members
12 use the price indices. We are the consumers. I thank
13 you for your time today and I look forward to your questions
14 and comments and the debate. Thank you very much.

15 MR. HARVEY: Thank you. Mr. Cicio?

16 MR. CICIO: The Industrial Energy Consumers of
17 America's membership are significant consumers of natural
18 gas from every major energy-intensive consuming sector.

19 The emphasis of this Conference on facilitating
20 price transparency in markets for the sale and
21 transportation of physical natural gas in interstate
22 commerce cannot achieve its objective, because the price and
23 volume of the over-the-counter market is not transparent.

24 All natural gas markets are linked. The natural
25 gas physical, futures, and nonregulated, over-the-counter

1 derivatives, are linked, and price discovery is linked, not
2 separate.

3 The FERC cannot adequately address the price
4 transparency of the physical market, without consideration
5 to the quality of price transparency of these other natural
6 gas markets.

7 The problem resides in the OTC markets, where
8 there is a lack of price transparency. The clear intent and
9 responsibility of FERC is to ensure that the natural gas
10 market is functioning efficiently, fairly, and that the
11 derived market price is trustworthy, that is, without
12 manipulation.

13 The only way to have confidence that the price
14 has not been manipulated, is by FERC and CFTC, that is, the
15 Commodities Futures Trading Commission, oversight of how
16 much volume major market players are controlling across all
17 natural gas markets, including physical, futures, and the
18 OTC market, not just the physical natural gas market.

19 It is critically important to note that the
20 physical market volume is dwarfed by futures and OTC market
21 volumes.

22 The Commodities Futures Modernization Act of
23 2000, removed government oversight from the natural gas OTC
24 markets. We refer to this as the Enron gap.

25 A case in point is the Ameren Advisors Hedge

1 Fund, that reportedly lost around \$9.2 billion on natural
2 gas trades. The Wall Street Journal reports that Ameren
3 controlled 100,000 contracts.

4 This means that Ameren controlled the equivalent
5 of one trillion cubic feet of natural gas, the equivalent of
6 54 percent of our country's monthly demand. This looks like
7 market power to consumers.

8 Three are three key points: IECA member
9 companies are unanimous in their view that the current
10 system is not working sufficiently. It is questionable that
11 it delivers trustworthy price discovery.

12 IECA membership is considering support for
13 mandating reporting for large traders.

14 Number two, IECA encourages the FERC to support
15 government oversight of the volume traded on all natural gas
16 markets, not just NYMEX, but the entire OTC market. This
17 will ensure price trustworthiness.

18 Number Three: IECA requests that FERC subpoena
19 the Ameren records, to determine whether price manipulation
20 did occur. Thank you.

21 MR. HARVEY: Thank you. Ms. Rappazzo?

22 MS. RAPPAZZO: Good morning.

23 From a New York perspective, we are concerned
24 that lack of transparency regarding natural gas supply
25 conditions, causes uncertainty in the market, and that

1 uncertainty can result in higher prices.

2 Without adequate information available in a
3 timely fashion, the market cannot function efficiently.
4 This situation may also create an environment in which
5 market manipulation can thrive.

6 In the absence of adequate market data, it is
7 impossible to determine whether manipulation is a factor
8 affecting prices, or not.

9 By way of background, lack of adequate and timely
10 market data, was demonstrated following the significant
11 damage done to the gas supply infrastructure, caused by the
12 hurricanes last year.

13 Our efforts to obtain up-to-date damage and
14 supply information, found that some information was readily
15 available. NMMS Reports covered production in federal
16 waters and the outer continental shelf in the Gulf, however,
17 information on the production with state jurisdictional
18 waters and onshore, was basically ad hoc. Each state had
19 its own process.

20 One state provided up-to-date data on production
21 that was shut in; other states did not provide any data
22 until regular reports were filed a couple of months later.

23 There was also incomplete data publicly available
24 at that time, regarding the status and operations of the
25 processing plants.

1 Now, in addition to the hurricanes, it's not only
2 that whole hurricane situation last year that demonstrated
3 the lack of transparency in the market. We've all seen how
4 the market reacts, or, in some cases, I'd say, overreacts to
5 the weekly storage reports issued by EIA.

6 It's only one piece of information, that storage
7 report, but the market seems to use the weekly storage
8 reports as a surrogate for the whole market story and for
9 the changes in supply or demand.

10 The storage report is used this way by the
11 market, essentially because it's the only piece of
12 information that's out there on a real-time basis.

13 But if the market had adequate information
14 available on a real-time basis, then that posting at 10:30
15 on Thursday morning by EIA, would not hold the significance
16 that it seems to.

17 Now, we recognize that steps have been initiated
18 to help facilitate the availability of data. FERC has
19 recently issued a ruling requiring pipelines to report
20 damage, including estimates of how extensive the damage and
21 time framework for repairs.

22 We understand that EIA plans to initiate a survey
23 in emergency situations, of gas processing plants'
24 operations, damage, and recovery efforts.

25 These are certainly steps in the right direction,

1 but it's not complete. They're not complete on their own;
2 we need more.

3 So, in conclusion, we believe that inadequate
4 availability of production and supply system data, creates
5 uncertainty in the markets and has an adverse impact on
6 prices.

7 We believe that a procedure needs to be developed
8 to provide consistent, comprehensive, and timely
9 information, so that the market can operate efficiently.
10 Thank you.

11 MR. HARVEY: Thank you. Before going to
12 questions, I would just remind the representatives from the
13 data providers or information providers, o the front row,
14 that in the questions and answers, they're available, as
15 well, and you should feel free, either to come to these
16 seats on my left to speak, or to the two microphones.

17 With that, I'll defer to any Commissioner who has
18 questions.

19 CHAIRMAN KELLIHER: Can they respond now, before
20 we ask questions?

21 MR. HARVEY: If you have a question for them,
22 you should feel free to do that. We'll give them some time
23 at the end to sum up, if they'd like.

24 CHAIRMAN KELLIHER: Okay. It would probably be
25 more helpful for us, if they react now to some of the

1 presentations they just heard, rather than ask for our
2 questions.

3 We have it kind of arranged like a hockey game.

4 (Laughter.)

5 CHAIRMAN KELLIHER: It's time for you to come
6 onto the ice and take those gloves off.

7 (Laughter.)

8 CHAIRMAN KELLIHER: If anyone in the second line
9 wants to respond to the first panel, you have an opportunity
10 to do so. If you want to forego that for the moment, that's
11 fine, as well, but it's an opportunity for you to respond to
12 some of the presentations you just heard.

13 Anyone moving?

14 (No response.)

15 CHAIRMAN KELLIHER: Oh, yes, come on. First
16 man on the ice?

17 MR. HARVEY: You will need to identify yourself.

18 MR. FOSTER: Thank you, Mr. Chairman. My name is
19 Larry Foster. I would like to address briefly, the issues
20 of mandatory reporting, which I'm sure we'll get back to.

21 Platts has been engaged in this discussion for
22 three or four years now. While we do see some potential
23 benefits from mandatory reporting and the completeness of
24 information that we would receive, we think the costs would
25 far outweigh the benefits.

1 We're mindful of the concerns that Mr. Conway
2 raised that if, under mandatory reporting, companies wanted
3 to avoid that and stop doing fixed-price reportable deals,
4 surveys could dry up and we would be back in the position
5 that we were about five years ago, and we do feel that
6 that's a real threat.

7 We feel the process itself of establishing a
8 mandatory reporting process, would not be easy; it would be
9 a long, drawn out proceeding here at FERC, depending on how
10 it was structured.

11 If you set up a new centralized hub, as NPGA
12 recommended, and as AGA has suggested, that, in turn, would
13 be another long, expensive, protracted proceeding.

14 At Platts, we have invested literally millions of
15 dollars in creating the systems that we use to do our price
16 reporting. AGA has said it wants a system that is
17 administratively simple and for which the costs are de
18 minimis. I highly question whether you could set up a new
19 system that would have de minimis costs.

20 I think our basic, most important point is that
21 before the Commission took a major step like that, it should
22 look at what the problem is now, that proponents of
23 mandatory reporting are trying to solve.

24 As I heard it this morning, the problem is that
25 not enough people report. We always welcome more reporting

1 into our surveys.

2 The deep irony here, is that the companies, by
3 and large, that support voluntary reporting, are reporting.
4 The companies, many of which support mandatory reporting,
5 are not currently reporting, including most AGA members.

6 So, to me, the initial inquiry is, why are those
7 companies not reporting? What incentives or disincentives
8 are not in line to incent those companies to participate in
9 our surveys?

10 AGA members make very, very heavy use of index
11 prices, by their own recognition, and we don't understand
12 why they don't want to participate in the process that
13 creates those index prices.

14 So, to us, the threshold question is, why do
15 companies that presumably would have an incentive to
16 participate in voluntary surveys, why are they not doing so?

17 Thank you.

18 CHAIRMAN KELLIHER: Ms. Lewis, do you agree,
19 first of all, with the observation or argument that most
20 AGA members -- or many -- don't report, and, if so, can you
21 explain why?

22 MS. LEWIS-RAYMOND: I would like to address that,
23 thank you, Mr. Chairman.

24 This Agency has the information on who is and who
25 is not reporting, because, of course, you require

1 jurisdictional entities to report to you, whether or not you
2 are reporting.

3 I have not looked at that information recently,
4 but I can tell you that Piedmont Natural Gas does report on
5 a voluntary basis. I am glad, Larry Foster, that you have
6 raised these issues, because I do have a bit of a different
7 perspective on this whole issue now, than I did six months
8 ago.

9 Many AGA members do not report under a voluntary
10 process, because the number of fixed-price deals that are
11 done, are low. The cost and the administrative burden of
12 putting together a compliance program that addresses the
13 risks, notwithstanding the safe harbor provisions, as I
14 understand, but that address the potential legal and other
15 risks of reporting, should you have an error, are high.

16 I know that from the outside world, they would
17 not be deemed to be cumbersome, but it does require a
18 process to be put in place; it does require sitting down
19 with the internal auditing folks, at least, to set up at
20 least an annual review of how the reporting is taking place.

21 It require that your mid- or back office are
22 involved in the reporting process, and it does require that
23 companies work through with their legal departments and
24 their chief risk departments, all the various ramifications
25 of reporting.

1 And for companies that are working hard on other
2 issues, it does not always rise to the level of the highest
3 priority task. AGA members, however, in this process that
4 we went through to come up with our position today, are
5 willing to report, if it's mandated, obviously, and we're
6 willing to sit here today and say mandate reporting, because
7 we do believe that is very important for our consumers of
8 natural gas, to know that the indices upon which most of our
9 gas supply contracts are based, are formulated with all of
10 the fixed-price deals that are going on in the marketplace.

11 We will never know how large the
12 fixed-price marketplace is; we will never know whether or
13 not we have the bulk of the fixed-price trades reflected in
14 the indices, unless we can take that step and say let's
15 mandate all the fixed-price deals being reported.

16 COMMISSIONER WELLINGHOFF: I'm just a little
17 confused. Did you just say that your members are willing to
18 report, if it's mandatory, but they're not willing to
19 report, if it's voluntary?

20 MS. LEWIS-RAYMOND: Yes.

21 COMMISSIONER WELLINGHOFF: Thank you.

22 (Laughter.)

23 CHAIRMAN KELLIHER: Can you supply for the
24 record, or respond to a question about whether AGA members
25 do voluntarily report? It sounds like the initial response

1 was, you don't know with precision.

2 MS. LEWIS-RAYMOND: Some do and some don't. At
3 one point, I had a real good sense of that, and I don't
4 know. We would have to cull through all of the filings that
5 have been made at this Commission, to determine the answer
6 to that question.

7 It might be something that Staff here keeps track
8 of. I am not aware.

9 COMMISSIONER KELLY: Do we have these, Steve?

10 MR. HARVEY: Yes, we do. I'm trying to find the
11 tab that summarizes it.

12 CHAIRMAN KELLIHER: Let's proceed. Does else on
13 the second line -- go ahead.

14 COMMISSIONER KELLY: Larry, would you mind coming
15 back. I had some followup questions. Both you and Chris
16 said that fixed-price reportable deals would decline, if
17 there were mandatory reporting. Can you explain why that
18 would occur?

19 MR. FOSTER: I don't believe I said they would
20 decline. I believe I said they could decline, and that has
21 been a concern throughout the last few years, and I think
22 it's really more a question for Chris than for me.

23 But some companies that are arguably not under
24 the Commission's jurisdiction, do not want to be mandated in
25 what they do. If they are required to do something, they

1 may look for a way to not have to meet that requirement, and
2 not doing fixed-price reportable deals, would be one way to
3 avoid the reporting requirements.

4 COMMISSIONER KELLY: Chris?

5 MR. CONWAY: I have a comment. If you look at
6 NGSA membership, there's a large number who report today,
7 who go through all the things Jane was talking about, to get
8 there.

9 For us, it's not a cost issue, mandatory or not
10 mandatory. I think, as Jane described, there is a cost.

11 I don't know if the mandate path allows TAC-
12 regulated entities to then pass through that cost, and that
13 is driving some of the thought process here, that there are
14 other entities out there in the marketplace that may not
15 have that avenue.

16 So I think that for the smaller players, there is
17 a cost barrier that is in place. I think the effect can be
18 that when you mandate or possibly require counterparty
19 information, some of these issues that expose some of the
20 players in the market, in their minds, their choice is just
21 to stop doing fixed-price deals. They no longer show up as
22 a counterparty on Conoco-Phillips, who may be reporting a
23 deal that they did with them, and they don't have to be
24 saddled with the costs of the audit process, and all those
25 things are no longer problems. So they just back out of the

1 fixed-price market.

2 NGSA, as a group, is not worried about costs;
3 we're worried about the principle, that it may, in fact,
4 provide less reporting and reverse the trend that we've seen
5 since the Policy Statement of 2003, which I think has been a
6 dramatic success, when you look at how that reporting volume
7 has changed for the better.

8 COMMISSIONER KELLY: If they moved out of the
9 fixed-price deal markets, where would they go?

10 MR. CONWAY: They're going to buy off index.

11 MR. FOSTER: That's our concern. The tail ends
12 up chasing the dog. You have less and less deal-making upon
13 which to base the index.

14 COMMISSIONER KELLY: Alex?

15 MR. STRAWN: I echo the sentiments on this side
16 of the panel. That's exactly what would happen. You'd
17 have less reporting, not more. There's an aspect here that
18 really hasn't been talked about, though it's been hinted at.

19 And that is, the members that make up my body, in
20 some cases, I have competitors within my own body. I don't
21 even get to see the information that we talk about, that I
22 represent here today, because we're in highly competitive
23 industries.

24 For those reasons, in some cases, it's not
25 comfortable and it's not advantageous for them to always

1 talk about counterparty data.

2 There is reporting that goes on; there's
3 reporting that goes on from our group in the past; there's
4 reporting that goes on today on a voluntary basis.

5 If you make every deal mandatory, you will drive
6 it to the indices, alone, and you will actually have the
7 opposite effect of what you're trying to produce. You'll
8 have less liquidity; you'll have less reporting, and you
9 will have index deals which have less depth than you had
10 before.

11 COMMISSIONER KELLY: Can you explain what the
12 competitive concern is about reporting?

13 MR. STRAWN: It depends on who you're doing your
14 deals with, what the likely cost structure could be. It's
15 not what the specific counterparty is; it's not who the
16 specific counterparty is; it's what might be inferred from
17 who that counterparty is, therefore inferring some type of
18 cost structure.

19 So, if you know that I'm doing a deal with
20 Company X, that could be a particular price structure and
21 that gives that particular company in my marketplace, an
22 advantage in terms of competitive information, understanding
23 how I'm building up my costs for my products.

24 COMMISSIONER KELLY: If identity were
25 confidential, would that make a difference?

1 MR. STRAWN: I don't think so. People in a
2 competitive market, are extremely bright and they're very
3 cunning in the way that they can derive data.

4 If they know that everyone is reporting and they
5 understand the volumes, the relative volumes, I think a lot
6 of that can be discerned. But beyond that, our concern as
7 industrial consumers, is, okay, we're trying to understand
8 what's broken here.

9 Is there some new data that we're not aware of?
10 We feel, like all of us, the industrial consumers, like
11 we've weathered some really difficult storms over the last
12 couple of years with natural disasters, Katrina, just a host
13 of thing that have happened, and we're gaining confidence in
14 the current indices.

15 It seems like the market is becoming more and
16 more resilient and resistant to the very hard bumps we've
17 been through. What we're trying to understand -- that's why
18 I'm here and I'm very privileged and feel very honored to
19 have the opportunity to respond -- we're trying to
20 understand what has changed and what is producing less
21 certainty on the part of the Commission Chairman, and so
22 forth, that makes you think that we need more reporting and
23 we need more disclosure than we had before, when it seems
24 like the market is responding in a more vibrant, more
25 cohesive fashion, and it's ignoring a lot of the hard knocks

1 that we've seen before.

2 It's more resilient than it's ever been, and
3 reporting has actually, from what I understand, been
4 increasing, not decreasing, on a voluntary basis.

5 So if you make it mandatory, again, I think you
6 reverse the trend, because of the highly competitive nature
7 of all of our businesses, not to mention the fact that you
8 have a cost component. We're concerned about cost, and now
9 you add a reporting burden for which we're not even sure of
10 what the cost is; we're not sure what this new reporting
11 entity is going to look like.

12 You have the reverse reaction by our members.
13 You actually produce uncertainty, where we don't believe
14 there is a growing uncertainty today.

15 CHAIRMAN KELLIHER: Commissioner Wellinghoff?

16 COMMISSIONER WELLINGHOFF: I'm still trying to
17 understand this issue. Mr. Strawn, if you have mandatory
18 reporting, the people then will go to the index?

19 MR. STRAWN: I can't say that for certain, but,
20 based on the polling I've done of our own members, and
21 understanding the highly sensitive nature of
22 competitiveness, and understanding competitive advantage
23 from one, initially, to another, it is our opinion that
24 there is a high likelihood that it will drive more
25 industrial end users and many consumers, to index reporting.

1 That's our opinion.

2 COMMISSIONER WELLINGHOFF: If everybody trades on
3 the indexing, there's no need for this, right?

4 MR. STRAWN: That's exactly my point. There will
5 be a few people, but it will be so thinly traded, that
6 you'll have more volatility than you had before, because
7 you'll have two or three pieces of information, instead of
8 the breadth of information you have today, you'll have such
9 a narrow pyramid.

10 COMMISSIONER WELLINGHOFF: You, realistically,
11 see that happening?

12 MR. STRAWN: I guess what I'm saying is, you have
13 a positive trend today. I could see the trend moving in a
14 different direction, or there's uncertainty.

15 What our members don't like, is uncertainty, so,
16 now, you are creating a new index. We don't understand what
17 it's about; we don't understand exactly what will happen.

18 Should we have confidence in it? We have current
19 confidence. We don't really understand what will happen
20 with the new index; we don't understand how it will operate;
21 we don't understand how the information will be
22 disseminated.

23 We don't know if everyone will report; we don't
24 know if there's going to be less, more; there's uncertainty,
25 and that is really what drives our concerns.

1 COMMISSIONER WELLINGHOFF: Thank you.

2 CHAIRMAN KELLIHER: Ms. Lewis?

3 MS. LEWIS-RAYMOND: If I may, we had this debate
4 in our first three or four years, and I guess that has been
5 the reaction, every time we've talked about whether or not
6 the Commission -- or reporting should be mandated.

7 The response has always been, if you do that,
8 certain members of the industry will just walk away from
9 fixed-price deals, so that they don't have to report, which,
10 in a way, suggests that the only reason they're doing fixed-
11 price deals is not because they have a business purpose to
12 them, but because they want to be able to report something
13 to the index developers.

14 I'm having trouble buying that argument. I also
15 think that if you take where Commissioner Wellinghoff was
16 going, and the index deals dry up, if you're making
17 assumptions, the next assumption would be that the industry
18 would be driven back to the fixed-price market, then there
19 would be something to report again.

20 So I recognize that this is the argument we've
21 had all along, and I think that we are now, for lack of a
22 better word, calling their bluff. Let's mandate and see
23 what happens.

24 CHAIRMAN KELLIHER: Mr. Conway, then Mr. Cicio,
25 then Mr. Steis, who is presumably here to make some

1 statement.

2 MR. CONWAY: I just want to make one comment
3 regarding one thing Jane said about people might be doing
4 fixed-price transactions, just to have something to report.

5 I would say I think, actually, when I look at our
6 Company, we can do fixed price in many different ways. Many
7 of those ways are not reportable, per the guidelines, so we
8 have a choice about how we do that.

9 The fact of the matter is, we, in fact, make an
10 effort to bring liquidity to the market in reportable
11 transaction areas by doing those kinds of deals. I think
12 our other players in the market, like us, do try to make the
13 market work.

14 I just wanted to point out that I don't think
15 there's a bad reason people do reports. I think there's a
16 good reason people are doing those.

17 CHAIRMAN KELLIHER: Mr. Cicio?

18 MR. CICIO: Prior to this event, we surveyed our
19 member companies. We have 30 companies are substantial
20 consumers of natural gas in locations across the country.

21 I can only report that their view, having talked
22 -- well, I should also say that my Board members are energy
23 managers. They are the people that are actually purchasing
24 natural gas.

25 These are not government affairs types, and in

1 their view, in talking to their suppliers, marketers,
2 producers, too few are reporting, still. When there's too
3 few reporting, there's not enough datapoints to give a
4 datapoint the trustworthiness and confidence that my
5 customers want, and that is our view.

6 It's quite different than the process gas
7 consumers, but we believe that it is time to move on to a
8 system -- well, we are considering mandating -- supporting
9 mandating of the indices. Thank you.

10 COMMISSIONER KELLY: I have a question for Staff.
11 I know that price reporting has increased since we issued
12 our Policy Statement, but prior to the issuance of the
13 Policy Statement, it had fallen off dramatically.

14 What is the status of price reporting, relative
15 to prior to our Policy Statement? Is it increasing,
16 relative to all pre-existing data points?

17 MR. HARVEY: I can characterize it at a very high
18 level. We have experts, actually, just a few feet away from
19 me, so I'll defer to them, but I think the low point in
20 reporting for most of these indices, was in 2002, subsequent
21 to the revelations of the Commission's interim staff report
22 on line tendencies in the West, in particular, and, combined
23 effects of concerns about risk and the fact that the market
24 got smaller. It appears to have shrunken during that
25 period, to the extent we can understand that.

1 Coming out of that, there's been fairly steady
2 growth. Again, I think it would be better to have people
3 with expertise, answer that question, as opposed to me.

4 MR. STEIS: My name is Dexter Steis with NGI. We
5 publish newsletters and compete directly with Platts for
6 price discovery in the natural gas market.

7 I can tell you that Mr. Harvey is correct in
8 saying that the low point was in late 2002. At that point,
9 we only received -- for the November bid, we had 3.9 Bcf a
10 day for reportable monthly transactions, we were able to use
11 in our survey. For September 2006, that number was 25 Bcf a
12 day, spanning 4,000 reportable transactions.

13 We've seen dramatic improvement under FERC's
14 Policy Statement of 2003, and the improvement has been not
15 only in the number of companies that are reporting, but also
16 the volumes of deals that those companies are doing and
17 reporting to us as reportable transactions.

18 Looking at the FERC docket, the companies have
19 responded as to whether or not they are reporting, it's
20 clear that the index publishers are receiving nine of the
21 top ten producers/marketers, and they are receiving
22 approximately 75 percent of the top 20 companies trading
23 natural gas.

24 This gives us an incredible amount of data, and
25 to score that point, we publish about 90 locations for the

1 bid week survey. Platts publishes a similar number.

2 Of those 90 locations, nearly half of those for
3 September 2006, were Tier I locations, which means that we
4 received more than 100,000 MmBtus a day of fixed-price
5 negotiated transactions.

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1 COMMISSIONER KELLY: How does that compare to
2 three 2002 reporting?

3 MR. STEIS: I only have good statistics from 2002
4 reporting.

5 COMMISSIONER KELLY: Give me a ball park then.

6 MR. STEIS: I would say that it's about the same,
7 even a little bit higher than pre-2002.

8 MR. FOSTER: Platts numbers are pretty comparable
9 to NGI's. Let me just add that when the Commission last
10 addressed the price discover issue in November 2004, it had
11 on the table before it several options, including mandatory
12 reporting, which staff had said in a May 2004 report posed
13 material significant issues. The Commission chose not to
14 adopt mandatory reporting and said at the time that it was
15 encouraged by the increase in the volumes in the surveys and
16 by the general trends.

17 Since that time in the past two years or so,
18 volumes in our monthly survey have, I believe, roughly
19 doubled. Don't hold me to that. We will file you that
20 number. But the point is that even within the last couple
21 of years the numbers have continued to go up. The trend
22 clearly is upward in the amount of data that we are
23 collecting in our surveys.

24 CHAIRMAN KELLIHER: Steve Harvey, I'd like to ask
25 Ms. Lewis-Raymond one follow-up question.

1 Can you give us a little more context? This is a
2 change in policy basically in AGA from the past. As you've
3 explained it, can you give us more context as why now? What
4 was the consideration?

5 MS. LEWIS-RAYMOND: It is a change in policy, but
6 probably not as much of a change. If you're sort of inside
7 AGA and the earlier deliberations as it would appear to the
8 outside world. In 2002, 2003 we went through this exercise.
9 In the past it was agreed by the AGA membership that we
10 would support voluntary reporting and see what happened and
11 see, if, indeed, the public confidence, our regulator's
12 confidence, our customer's confidence increased. I think
13 the Commission itself recognized that in the 2002 policy
14 statement. The goal of that policy statement was to
15 strengthen confidence in those markets. The Commission did
16 adopt the voluntary program, but very clearly said that
17 we're going to continue monitoring developments in this area
18 to see if greater participation did increase and confidence
19 increased. And if it did not, they would look at it.

20 I think the shift in policy is simply we are
21 still getting the questions about confidence in the prices
22 from customers and from regulators. And to us, that means
23 we need to address that and the only way to address it --
24 and the Commission can now do it and they could not a few
25 years ago, arguably -- is to go ahead and mandate the price

1 reporting.

2 Now I did hear one thing that might be very
3 interesting to explore, which is that, if there are deals
4 being conducted in the industry that some segments of the
5 industry believes is a fixed price deal that is not being
6 captured in the way the reporting is done now, let's talk
7 about that. That is something that we could work on
8 changing also and then that could create greater robustness
9 in the index prices and the prices that are forming the
10 indexes.

11 CHAIRMAN KELLIHER: Yes.

12 MR. ANDERSON: My name is Bob Anderson, Executive
13 Director of the Committee of Chief Risk Officers. We are a
14 non-profit association of risk professionals, management
15 professionals. What we do is work on publishing white
16 papers covering all sorts of issues that energy companies
17 and energy consumers face largely related to risk and the
18 health of energy companies and the health of the markets in
19 which they compete. This issue has been something, as these
20 guys all know, that we've been addressing for quite a while.

21 In 2004, we pulled together a committee of
22 publishers and energy companies to study exactly what you
23 were just asking about, which was what was the state of
24 transparency and reporting in the industry at that time, in
25 2004, two years ago. What we decided, it's pretty clear

1 that things have improved. As these gentlemen indicated,
2 these publishers, in fact, reporting had gone up and that
3 things were not as bad as we were worried about at that
4 time.

5 By the same token, at the end of that I think
6 what the committee realized -- our members are utilities,
7 oil companies, the whole gamut -- was that while things have
8 improved they're only stable for a short time. What we need
9 to do is think about where we can go in the future that
10 would represent the next level. One of the things that
11 caused me to step up here and speak up is I think much of
12 what we're talking about is that reporting FERC-mandated
13 transactions, as much as it increases, doesn't represent
14 transparency. The fact is you're kind of looking through a
15 small lens at the marketplace. We're seeing a corner of
16 what's happening.

17 The good news is for a lot of forces that drive
18 CCRO-member companies to want real transparency, meaningful
19 transparency beyond the threat of the mandated report, some
20 of those forces had to do with accounting rules, have to do
21 with better risk management for themselves. But as a result
22 of these forces, we've done a lot of work on trying to look
23 into a way that we can change our industry methodology and a
24 way that price discovery occurs and a way that we build
25 transparency. One of the key things is what everybody has

1 been commenting on. There's more than just one kind of
2 transaction that we all need to report. In fact, meaningful
3 transparency means the lens opens up and we can see all
4 that's going on in the marketplace for the benefit of
5 everybody, for the benefit of the agency, for the benefit of
6 energy companies, everybody involved in the industry.

7 Towards that end, one of the things we've done
8 is we've spun off a non-profit organization called the
9 Energy Data Hub. The Energy Data Hub is not a publisher.
10 It won't generate indexes. It's purely there for the
11 service of providing a single repository for all types of
12 transactions. This is just showing the reportable
13 transactions. It's also forward transactions, structured
14 deals that include gas and power. The idea is this is sort
15 of what we're discussing here. It's the whole kitchen sink.

16 The mission then of this non-profit organization
17 is to pull those things together the best most intelligent
18 way possible to select the information, the transparency
19 that we've created through as many vehicles as possible.
20 Because it is not a publisher, it simply serves up this
21 aggregated information that it gathers to as many
22 redistributors and as many types as we might chose so energy
23 companies access this information through current providers,
24 the new providers that may come along, in essence, the new
25 providers that may come along. In essence, the Data Hub is

1 a catalyst for change going forward to effect meaningful
2 transparency. We see it as a pretty exciting opportunity
3 going forward. We've been trying to pull this thing
4 together over the last two years. Believe me, putting
5 together or starting a new non-profit, I've discovered, is
6 very difficult financially. We finally reached that point
7 and we're actually starting to build this thing this month.
8 We're excited towards the future, but I think the reason I
9 needed to speak up was that there are forces that will push
10 towards what some of you are asking for, a real change in
11 transparency and an increase of information flow, but
12 perhaps a mandated reporting of one sliver of the market,
13 but rather some sort of encouragement or some sort of extra
14 push that the FERC might be able to provide toward voluntary
15 participation in something like this that helps everybody.

16 COMMISSIONER KELLY: Bob, how would you get
17 people to report to this price-discovery mechanism?

18 MR. ANDERSON: In two years of discussing this
19 thing, the advantage we've had in the CCRO is we have 30
20 companies of various types involved. Some of them here at
21 the table. They were able to participate in sort of a
22 closed demo to see how do you get people to participate, how
23 do you get them to volunteer their info? I think what
24 happens is when that information is something that is
25 commercially useful to them so they're not doing this as a

1 result of some sort of punishment or they're not doing this
2 out of fear of a threat, they're doing this for their own
3 interest in terms of much better, much more robust
4 validation of forward prices. For example, perhaps for the
5 purpose of much better risk management for their own issues,
6 much broader locations, many more transaction types they may
7 be able to get into, it becomes in the interest of the
8 company itself, in a commercial sense. Even the front
9 offices become advocates. We don't even use reporting any
10 more. It's more submitting information into this Data Hub.

11 The other thing is they need to have the
12 confidence that when they provide this information to this
13 hub that it's safe. It's protected from all competitive
14 concerns that many folks would have. That's why we've had
15 to structure this thing as a non-profit. It's independent.
16 It's free from influence from any potential buyers. It
17 doesn't belong to any particular stakeholder in the
18 industry. That seem to have really opened the door up.

19 COMMISSIONER KELLY: Is there a reciprocal
20 arrangement if you're a member you have an obligation to
21 submit data and you don't get the data back unless you are a
22 member?

23 MR. ANDERSON: Very close. You're on the right
24 track there. Keep in mind the Data Hub isn't part of the
25 CCRO. It's a spin off from it. So it's not like a member

1 organization. The plan is this. Companies can participate
2 in the Data Hub and when you become a participant you gain
3 access to a very detailed level of information. Something
4 which everybody wants to have. Along the lines of your
5 thinking, the big challenge -- the really big companies --
6 investment banks, hedge funds and large energy companies --
7 pay a great deal of money for this, but might not want to
8 participate. They just want to look in the room.

9 What we decided to do is that you have to be a
10 participant yourself. You need to provide the information
11 as well in order to see this information. So yes, there's
12 an incentive because of the appetite to get into that
13 information and see and gain these insights it draws them
14 into participating and ultimately providing their
15 information and reporting.

16 CHAIRMAN KELLIHER: Mr. Foster, MR. Steis, do you
17 want to react to the data proposal or comment on it?

18 MR. FOSTER: Platts, along with others, was
19 invited probably about a year ago to be a participant in the
20 Data Hub. We opted not to. We have a number of concerns
21 about the way its set up, at least the way it was described
22 to us. There are issues of independence. While it may be a
23 spin off of the CCRO, the way the board structure was set
24 up, it was effectively controlled by the CCRO members.

25 We have questions about the cost. We have the

1 data that we would receive. As we understand it, the data
2 we would receive from the Data Hub would not include any
3 company names. We would not know what company submitted
4 that data to the Data Hub and we feel that's just a critical
5 piece of information in verification. So we debated and
6 opted not to go that route.

7 CHAIRMAN KELLIHER: Mr. Steis, any comments?

8 MR. STEIS: As usual, I'm following Larry. As
9 usual, he's left me not very much to say.

10 (Laughter.)

11 MR. STEIS: Cost and control are two points that
12 Mr. Foster made and he's right on, especially for NGI being
13 a small publisher the cost was too great. Also, I think it
14 needs to be mentioned that what the Energy Data Hub is
15 looking to do would not necessarily replace what the
16 publishers do. We currently are publishing information for
17 next-day gas and for mid-week or next-month gas. What the
18 Energy Data Hub, I think, is looking to do is collect
19 information on forward curves, which I think has some value
20 to the industry.

21 CHAIRMAN KELLIHER: I just wanted to make sure my
22 colleagues know they can jump in whenever they like, et
23 cetera. And Steve, feel free to jump in.

24 Do any panelist want to react to anything that's
25 been said so far?

1 Alex?

2 MR. STRAWN: I just have one comment. It's
3 really about the veracity of the data in some type of
4 central hub that people have been talking about here today.
5 This really kind of underscores what I was saying earlier
6 about the uncertainty.

7 One of the things I like about the multiple
8 voluntary reporting system -- and I'm not speaking alone.
9 I'm speaking on behalf of our members. The thing that we
10 like is that when you have competition, in our opinion,
11 competition drives clarity. Because as long as there are
12 multiple entities collecting, deriving, scanning,
13 interpreting the data, there's a balancing effect. If
14 there's some inconsistency in the data that's being
15 collected and reviewed, when you have a central hub and
16 you're deriving the data from that hub without full
17 disclosure of the hub, again you drive this element of
18 uncertainty into the data that's being derived and then
19 reported. So this competitive nature of the people at the
20 other end of this table, although they may not like it every
21 day, in terms of their own business models, it certainly
22 helps us understand the data that's being reported is being
23 scrubbed to the best of the competitive market's ability.

24 COMMISSIONER KELLY: Alex, how do your members --
25 and Paul, how do your members -- engage in price discovery.

1 MR. CICIO: Specifically, for the physical
2 market, most of my companies get price discovery through a
3 multiplicity of methods. It's not just physicals that they
4 look at. Physicals, actually is just one small component.
5 They use the futures. They use the indexes and data off of
6 direct fixed contracts. So there's no one single answer to
7 that question. It's all of the above.

8 COMMISSIONER KELLY: Do they use commercially-
9 available products or do they have their own price
10 discovery, proprietary price discovery methods?

11 MR. CICIO: Both.

12 MR. STRAWN: I would answer in the same way. I
13 can't really add much to that. That's why I keep coming
14 back to the single point and I'm going to keep beating the
15 drum until everybody hears me, and that is that we use a
16 multiple array of products and services in order to reach
17 our own price discovery. When you start talking about a
18 single entity of any type, regardless of its origin, you
19 start to bring less confidence and more uncertainty to what
20 we do every day.

21 COMMISSIONER KELLY: The same question for Jan.
22 How do your members engage in price discovery.

23 MR. FYOCK: Pretty much they can afford it
24 through the publishers. Of course, my members are very
25 small. Some cannot afford it on their own and they go

1 through joint action agencies as members where one
2 particular entity buys for a number of customers and they
3 get that information through that process. I guess we're
4 finding that here today. No information is free and the
5 ultimate consumer is paying the price. Some of the
6 consumers here at the table, the industrials, et cetera,
7 have the opportunity to pass those costs on. A lot of my
8 members, the ultimate consumer, as Commission Spitzer, I
9 think, pointed out, get the ultimate cost down to the bottom
10 line and sees that cost and pays for it eventually.

11 MS. LEWIS-RAYMOND: For AGA members, they rely on
12 all the different pricing tools on the market much as the
13 industrials do. NYMEX, all of the various information out
14 there, both free and for-price services. But the contracts
15 for the supply that distribution companies enter into are
16 tied to the indices in some way. Price discovery versus
17 actual contracting practices.

18 COMMISSIONER KELLY: So do you have a percentage
19 of which ones have fixed-priced contracts and which ones
20 rely on the indices?

21 MS. LEWIS-RAYMOND: I'm thinking I don't have
22 that with me today. I'm trying to see if AGA has any public
23 information on that. They might have one publication. We
24 could try and get that information to you.

25 COMMISSIONER KELLY: Paul?

1 MR. CICIO: I'd like to support the conversation.
2 I'd like to go back to one of the central issues here and
3 that is how much volume of the physical market, as a percent
4 of the total, is being reported. What I thought I heard in
5 the report over here to the right is that a relatively small
6 portion of the total volume is being reported on the
7 indices. That is central to the concerns of my members.
8 That there are still too few companies participating under
9 voluntary and as we are leaning toward supporting mandatory
10 to get to a higher percent of the marketplace.

11 CHAIRMAN KELLIHER: Commissioner Wellinghoff?

12 COMMISSIONER WELLINGHOFF: Just so I can get the
13 number, Steve, the provisions you gave us in Table II show
14 the top 20 U.S. companies that reported and the volumes for
15 the first quarter of 2006. If I did my math right, I get 50
16 percent of those top 20 are not reporting. Is that
17 representative of how much is not reporting?

18 MR. HARVEY: That's probably pretty close.

19 COMMISSIONER WELLINGHOFF: So about 50 percent.
20 And these top 20 represent how much of the total volume
21 that's being sold. Do you know?

22 MR. HARVEY: I should indicate, Dexter, we're
23 using -- in this particular document, we're using your list
24 of the top 20 gas trades.

25 MR. STEIS: What percentage of the top 20 --

1 excuse me?

2 MR. HARVEY: This is the top 20 that we're
3 looking at that we've identified.

4 COMMISSIONER WELLINGHOFF: What percentage of the
5 total volume is the top 20?

6 MR. STEIS: Is it the top 10 also?

7 MR. HARVEY: The top 10 is in there as well.

8 MR. STEIS: What percentage of the top 10 did the
9 reporting?

10 COMMISSIONER WELLINGHOFF: It looks like from the
11 top 10, by volume, it would be less than 50 percent. The
12 top 20, with the total volumes I have here, the math I did
13 shows only 50 percent.

14 MR. FOSTER: Neither Dexter nor I have seen this
15 table, I don't think and I'm not sure where it came from.
16 The numbers might be Dexter's but the listing of who reports
17 and who doesn't report is simply wrong.

18 CHAIRMAN KELLIHER: One of you said early how
19 many of the top 20 are reporting. I thought Dexter said a
20 high percent of the top 20 were reporting.

21 MR. STEIS: I can report of this list we're
22 getting a very, very high percentage of the top 10.

23 COMMISSIONER WELLINGHOFF: Can you correct the
24 list then and tell me which ones. The ones in bold are the
25 ones that I understand were reporting.

1 MR. FOSTER: We can take a whack at it off the
2 top of our heads, but it might be more useful if we just
3 submit it for the record.

4 COMMISSIONER WELLINGHOFF: Sure.

5 Is there some way to get a number on the total
6 volume of gas? I don't know how much is reported.

7 MR. HARVEY: No, there's not a way because we
8 don't have information comprehensively on all the lines that
9 are being traded. They can be traded multiple times during
10 the process as well. We don't have a broad systematic
11 reporting of those volumes to the Commission.

12 COMMISSIONER WELLINGHOFF: What is the volume?

13 MR. HARVEY: It's difficult to come up even with
14 a ball park. We do have material we gave you an estimate of
15 the use of indices that we published on May 5, 2004, in our
16 report. It's in your tab 8, which was put out in the public
17 report by staff on how the indices were functioning. If you
18 look on slide 2 under your tab 8, what you'll see is
19 variable ranges based off of our survey of industry
20 participants. It was not a scientific survey because we
21 don't even know the universe of people who transact in this
22 area. But for natural gas somewhere between 50 and 75
23 percent of the volumes of those reported to us were using
24 natural gas price indices in their pricing. So it's a
25 substantial proportion. It certainly indicates a

1 substantial proportion of the folks are using price indices
2 which means they're not contributing to the forming of price
3 indices or some piece of the remainder. So it's a very
4 dissatisfying answer to your question, Commission. But the
5 fact of the matter is we don't have a comprehensive picture
6 of those transactions across the natural gas industry.

7 COMMISSIONER WELLINGHOFF: Thank you.

8 CHAIRMAN KELLIHER: Marc, do you want to ask your
9 question or should we allow these gentlemen -- do you have
10 something on this?

11 MR. FOSTER: I just wanted to add that two years
12 ago, as has been referenced, the industry and the publishers
13 worked together and the Price Reporting Action Committee
14 that group did try to interpolate the number of what
15 percentage of the market are the indices capturing. Again,
16 off the top of my head my recollection is it was in the 60
17 to 70 percent of the market range. Again, we can provide
18 that for the record.

19 MR. HARVEY: That number, just to be correct, if
20 I recall, was the percentage of those transactions that were
21 reported. Those transactions that would be eligible for
22 creating an index that were reported. I think that's what
23 that percentage was. It wasn't a percentage of the overall
24 amount of trading.

25 MR. ANDERSON: That was the organization that we

1 hosted two years ago. The finding was as these guys have a
2 sense of is that reporting is improving. It improved a
3 great deal from the very bad days, but by the same token,
4 we're going around and around this circle a whole bunch on
5 how big is the market. The fact is in energy there's a lot
6 of different kinds of markets. That's important. That's
7 how companies can manage risks and that's the way that the
8 energy industry has to work. But that's why, as I
9 mentioned, the appropriate design for this, by the way, it's
10 not a competitor for these guys. We don't do any of the
11 things that they do aside from aggregating data. It's just
12 going to provide that to everybody.

13 It's going to create competition for them.
14 You'll actually have a lot more competition and providers of
15 information that we have today. But what we decided was to
16 open the thing up, as I mentioned -- the kitchen sink --
17 because index transactions and fixed-price transactions are
18 obviously very closely tied.

19 So we don't really know for sure how large the
20 volume of fixed-price transactions that are driving the
21 index value. We don't know the balance between those two
22 volumes. We know they're both very important. We all know
23 we don't want either one to disappear, then the markets
24 wouldn't work very well. That's why we feel that having
25 completely different mechanism for delivering the

1 information in the sum total of the market and making it
2 available to a broader set of providers, many of them
3 sitting here, is key to answering to question you guys are
4 wrestling with right now.

5 CHAIRMAN KELLIHER: Commissioner Spitzer?

6 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
7 I've been wrestling for the last 25 minutes with the
8 apparent anonymous position of AGA on voluntary reporting,
9 which is now not being done voluntarily. My colleagues will
10 indulge me with this analogy. It's the child who won't eat
11 the peas going to the parents and saying, please, require me
12 to eat the peas. But that doesn't result in the peas being
13 consumed.

14 Mr. Strawn pointed out that fixed-price contracts
15 are off the table for confidentiality or business reasons.
16 The peas end up behind the plate.

17 (Laughter.)

18 COMMISSIONER SPITZER: I would ask Ms. Lewis-
19 Raymond to explain are there alternatives to see that the
20 peas are, in fact, consumed short of this mandatory
21 provision that may have unintended consequences? What could
22 be done further towards the voluntary process?

23 MR. CICIO: Through the voluntary process, we're
24 not sure that you'll get there. Only through a mandatory
25 process will you create, in essence, a level playing field

1 whereby everyone above a certain quantity of size of trades
2 does report and everybody in that category would report. We
3 would have consistent data. It's the voluntary that is
4 keeping companies from reporting because of concerns,
5 including legal concerns, and the compliance costs. But
6 with mandatory, that will all fall in place.

7 COMMISSIONER SPITZER: The mandatory aspect
8 doesn't negate those compliance costs. As Mr. Strawn
9 pointed out, it's almost if you're driven to the index, you
10 actually have discounted it.

11 MR. CICIO: We would not agree. We're not
12 confident that it would drive the deals to the indexes. We
13 believe the contracts will stay.

14 CHAIRMAN KELLIHER: Mr. Strawn?

15 MR. STRAWN: We're going in a little bit of a
16 circle here. Mr. Spitzer, you've really pointed out a lot
17 of the inconsistencies here from some of the people on the
18 panel, but the point I want to drive home beyond this is the
19 one thing that I'm certain about as an industrial user --
20 and I'm also representing a lot of our own end users -- I am
21 really a consumer voice here. The people that work in our
22 companies also consume natural gas in their homes. Contrary
23 to what Les said just a second ago, we don't have an
24 automatic ability, as do some of the people on this panel,
25 to pass cost onto our consumers because are in a competitive

1 marketplace.

2 When you start talking about uncertainty, and
3 again adding to potential costs, you're going in the
4 opposite direction. You're going to start to make people
5 feel less confident about their ability to produce the
6 products and services they do today because you're adding a
7 cost component. So in addition to all of the variety of
8 factors that we've talked about that potentially could drive
9 people toward index pricing, the cost component more than
10 anything else and also the uncertainty of what that cost
11 component looks like. We don't even know what it would be,
12 the additional reporting. Again, not every company is the
13 size of many of the members that comprise our group. There
14 are many smaller companies. Now you're adding a burden that
15 they really don't understand. And again, I'll use this word
16 until the cows come home "uncertainty." They don't know
17 what the cost is. So if they don't know what the cost is,
18 isn't it just easier to go to an index deal and use other
19 measures? Isn't it just easier? For sure, it's less
20 costly. Cost drives a lot of the decisions, unfortunately,
21 and unfortunately, I don't have the unilateral ability, nor
22 do any of our members, to pass that cost on. Thank you.

23 MS. LEWIS-RAYMOND: May I answer the question?

24 CHAIRMAN KELLIHER: Yes.

25 MS. LEWIS-RAYMOND: I should say it's not just

1 the LDCs that aren't reporting on a voluntary basis that
2 would be brought to the table under a mandatory system.
3 It's the entire market. That would be greater than some
4 Commission-defined de minimis at present the way the statute
5 is written. It would be all of the upstream producers,
6 marketers, traders and not just the LDCs. And by the way, I
7 loved your pea analogy very much. I live that analogy just
8 about every night.

9 (Laughter.)

10 MS. LEWIS-RAYMOND: I just want to emphasize that
11 we're not only looking to bring all the LDCs that aren't
12 reporting to the table through a mandatory process, but the
13 entire industry. I would also say, to answer your very
14 specific question, what could be done perhaps on a voluntary
15 basis, what more could be done? I am very interested,
16 personally anyway and I might be stepping away here from the
17 AGA membership, but maybe I did hear a little piece today
18 that there are some deals that are considered fixed-price
19 deals by the industry that are not being captured in the
20 indices. If that is true, maybe we can take a look at that.
21 I also just have to sort of state the obvious. If you
22 mandate fixed-price reporting, it have obviated the need for
23 the entire discussion between Commissioner Wellinghoff and
24 Steve and Dexter and Larry because we would know that we
25 have all fixed-price deals. Thank you.

1 CHAIRMAN KELLIHER: I have a statement in the
2 form of a question and actually some actual questions.

3 I think, as Mr. Conway said earlier, we really
4 should start off being clear on what's the problem we're
5 considering facing here. To me that's instructive. We have
6 very broad discretionary authority under the Energy Policy
7 Act. Transparency is in the public interest in looking at
8 temporary markets, fair competition. We start off with that
9 big question, 34 outreach meetings and I have to say I'm
10 very surprised that we're exactly where we were two years
11 ago. We're talking just about the index. We're talking
12 just about mandatory reporting. It didn't start off there,
13 but that's where we've been.

14 I would have thought that other things might have
15 come up, but it doesn't seem information access the problem.
16 It seems we're getting down to exactly where we were two
17 years. What's the confidence in the indices? And I have to
18 say I'm surprised after a year, but I'm not disappointed
19 necessarily, just surprised. But the discussion really is
20 all about the indices, mandatory reporting, voluntary
21 reporting, what's the level of confidence, should there be a
22 mandatory hub?

23 I think Ms. Rappazzo was going to really raise
24 something a little bit similar other than the indices and
25 that was supply data. What can we do to get more supply

1 data. You emphasized the reliance on the EIA weekly report
2 and I think hinted -- I don't think you said directly that.
3 I'm taking your hint as that we should go -- you said real
4 time reporting -- real time reporting of storage changes,
5 production data?

6 MS. RAPPAZZO: We're talking more about
7 production data. What's going on in the infrastructure by
8 real time the storage report I'm considering real time even
9 though I know it's reporting from the prior week, but I'm
10 talking about something that's available in more closely a
11 real timeframe than production data currently is now. I
12 don't think we have the answers as to how we can do this,
13 but we think that it's something that needs to be explored.
14 I don't even know if it's something FERC could do on its
15 own. But we think that FERC working with other relevant
16 federal agencies -- because we do think it does have to be
17 at the federal level because otherwise you get the ad hoc
18 different state processes and so we think it's something
19 that FERC definitely needs to be involved in because we
20 think it does have a critical impact. From our perspective,
21 it does have a critical impact and we're very concerned
22 about the consequences to the end use consumer.

23 CHAIRMAN KELLIHER: Thank you.

24 With respect to production data, as a proxy for
25 production data, I'm not sure we actually have used

1 something other than that as a proxy for production data.
2 Do we actually have weekly production data.

3 MR. HARVEY: If I could, Mr. Chairman. If we
4 could make a little bit of space up here at the table for
5 Porter Bennett, I think it would be useful to hear from Mr.
6 Bennett.

7 MR. BENNETT: I kind of expected this.

8 MR. HARVEY: I'm sorry, also Sean O'Leary.

9 MR. BENNETT: The reason we're up here Bentek is
10 my company, Bentek Energy. We sprayed the interstate
11 pipeline EBBs. We collect the operational capacity reports
12 for about a hundred regulated storage and interstate
13 pipelines. That data is combined with a number of other
14 databases that we've developed in our own research, which
15 allows us to identify what each point is. There's about
16 20,000 points embedded in that data. Actually, it's closer
17 to 21 now. We identify each point by whether it's an LDC,
18 whether it's a storage facility, whether it's a processing
19 plant, whether it's an inlet, an outlet on the processing
20 plant, whether it's a gather system -- whatever it is.

21 We use that data to track supply, demand, storage
22 on a daily basis so that it's based on the nominations on
23 the pipelines. We've built a number of statistical models
24 that allow us to extrapolate and look at, say, production in
25 the Green River Basin. You can see about 90 percent of

1 production out of the Green River Basin through our data and
2 so every day we come up with an estimate of what the
3 production is on the Green River, the Anadorko -- a number
4 of basins.

5 CHAIRMAN KELLIHER: Every day?

6 MR. BENNETT: It's the daily database. It comes
7 out. We capture right now the I2 and evening cycles. I
8 don't know if you know what we mean by that, but we capture
9 the I2 and evening cycles sometime before the first of the
10 year. By the end of January, we have all four cycles
11 embedded in it. You'll see four cuts as of the time period
12 from this morning until tomorrow night.

13 CHAIRMAN KELLIHER: And that data you sell?

14 MR. BENNETT: We sell that data. Our clients are
15 most of the major marketing companies, hedge companies,
16 producers. FERC is, in fact, a client.

17 CHAIRMAN KELLIHER: So there is production data
18 that's available. Is that considered reliable by people?

19 MS. LEWIS-RAYMOND: Production of pipeline flow
20 data.

21 CHAIRMAN KELLIHER: A pipeline flow is a proxy
22 for production.

23 MR. CONWAY: We're a subscriber to the service.
24 I don't know that I would say we know if it's reliable, but
25 we're certainly distributing the maps every day. We've got

1 it online and we're going to learn over time how valuable it
2 is to us. Just like we see value in Platts and the
3 subscriptions that we have.

4 CHAIRMAN KELLIHER: Mr. O'Leary?

5 MR. O'LEARY: Thanks for having us, by the way.
6 I'm Sean O'Leary. One of the founders and CEO of Genscape.

7 First of all, Ms. Rappazzo, thank you for making
8 the comment that it's more than prices in the market. We
9 believe that very strongly and we think one of the beautiful
10 things about any market phenomenon is that when there's a
11 need someone will rise up to fulfill that. So as the FERC
12 and the industry continue to debate and discuss the
13 opportunities for mandating certain things, companies like
14 ICE, Bentek and Genscape have stepped up to fill a lot of
15 the voids. We are actually in the process now of rolling
16 out a network of monitors that directly determines how much
17 gas is flowing over the pipelines. Remotely, we've done
18 that for the last six or seven years. FERC has been a
19 customer for many years.

20 On the power side we have well over a hundred
21 clients in the United States that cover all different
22 gamuts, but we believe that the information will be through
23 our system through scraping, as Bentek does, very valuable
24 and very inexpensive ultimately for the market as opposed to
25 some central system that will be mandated that they'd all

1 have to agree on. That they'd all have to pay for.

2 I'm very excited to hear that the AGA membership
3 is so interested in transparency at this point because we're
4 going to be involved with those companies as we begin go
5 build our network and build that product and system.

6 CHAIRMAN KELLIHER: Mr. Bennett?

7 MR. BENNETT: The important thing that data like
8 we provide -- and some of the other members here as well --
9 is that it gives you a way of evaluating why prices are
10 going up and down. One of the issues that was talked about
11 before is what's the problem? It seems that one of the
12 problems people have is they don't understand, particularly
13 in the context of EIA available data, for example. Why
14 prices go to \$15 after a hurricane and then go back down?
15 Our data, I think, is a good way of beginning to get a
16 handle on those dynamics from the market and what's driving
17 prices one place or another.

18 CHAIRMAN KELLIHER: Thank you.

19 COMMISSIONER WELLINGHOFF: Mr. Bennett, if I
20 subscribe to your service, can I then determine on a daily
21 basis how much is in storage?

22 MR. BENNETT: Yes. We have a report that
23 estimates storage on a daily basis. We do it in a series of
24 reports. On a daily basis, we track about 60, either
25 pipeline storage numbers, which is good for the whole

1 pipeline, or individual storage facilities. We show some
2 pipelines -- we report it as inventory change. Some report
3 it as withdrawals and receipts. We track that data for
4 those facilities on a daily basis. It covers roughly 50
5 percent of the total storage market.

6 In some areas, the West, for example, it's about
7 90 percent. In the East, it's about 70 and in the producing
8 area, it's about 45. The difference between the producing
9 area is the intrastate market that don't report nominations
10 through a system like what FERC requires on the interstate.

11 CHAIRMAN KELLIHER: That's something we wanted to
12 look at two years ago. In September/October of '04, we
13 looked at it, the required daily reporting and part of the
14 proposal was based in part on the theory that the greatest
15 volatility in gas prices was associated with that. When we
16 had that technical conference, that was strongly contested
17 that actually the greatest volatility is on Tuesday, not
18 Thursday or Friday. So there's not a linkage between
19 volatility and storage reporting and I think everyone at the
20 conference opposed it except for the industrials or PBG. I
21 know APGA supported it, I believe. But I think everyone
22 else opposed it and actually argued that it would increase
23 volatility of gas prices.

24 Did you all support that, Paul?

25 MR. STRAWN: If I may, we had a variety of

1 opinions on it and that was why you were kind of going back
2 and forth. Some of our members thought it would probably
3 lessen the volatility. I mean there were equal positions
4 because there's always going to be some volatility and some
5 type of reaction on any number on any day. There are also
6 reactions to world events, so we just weren't certain. If
7 you add four more reporting points in addition to the events
8 that happened, that that, in turn, would add more
9 volatility. But other people said maybe you diminish the
10 important of the single port of reporting at the same time.
11 We were divided.

12 CHAIRMAN KELLIHER: I want to ask Paul a
13 question. The current level of voluntary reporting, do you
14 believe that it's better than it was in 2003? Are you
15 saying the improvement falls short?

16 MR. CICIO: We don't have any hard data. We have
17 to rely upon statements from the organizations to our right
18 and rely upon their assessment and the FERC survey that you
19 all did.

20 CHAIRMAN KELLIHER: One of the index developers,
21 one of the publishers said that 9 of the 10 top traders are
22 reporting voluntarily. I don't know what the number is for
23 the top 20, but that's a pretty high -- at least the top 10
24 -- that's pretty high.

25 MR. CICIO: That sounds like an impressive

1 number.

2 CHAIRMAN KELLIHER: Do you not believe it?

3 MR. CICIO: If they say so, I believe it.

4 (Laughter.)

5 MR. CICIO: If you say, I really believe it.

6 (Laughter.)

7 MR. CICIO: We want to have confidence that the
8 price is trustworthy. It's not enough for us to just hear
9 that 9 out 10 reported. We want to know what is the volume
10 that is being reported as a percent of the total volume that
11 is being consumed. I'm still hearing the same answer. That
12 it is a relatively small portion of the total marketplace.
13 It is price, in and of itself, is not important unless you
14 absolutely have confidence that there's sufficient volume
15 and number of transactions behind that price number and
16 we're sitting here -- while my companies are unanimously
17 saying that they continue to talk to their marketers and
18 they're not reporting and they have consistently said we
19 have concerns about the trustworthiness of the price because
20 of that lack of numbers reporting and the concern that
21 there's not sufficient volume as a percent of the total.

22 CHAIRMAN KELLIHER: Are there concerns inspired
23 by volatility? When they see volatility then, is there a
24 relationship between price volatility and the level of
25 confidence in voluntary reporting or there's not an

1 association?

2 MR. CICIO: Not an association.

3 CHAIRMAN KELLIHER: Mr. Conway?

4 MR. CONWAY: Real short. There's a question of
5 how much is being reported. Is it enough? Is it very
6 little? My view is I think NGSAs view is that 20 to 25 Bcf
7 a day of reporting of fixed-price reportable transactions is
8 a lot and it's a big part of the market. So I would
9 frankly dispute the comment that there's not enough.

10 CHAIRMAN KELLIHER: I had a question about the
11 hub or the EIS, Electronic Information System. Ms. Lewis
12 and Mr. Fyock both addressed and others have mentioned it.
13 At least the way I read the legislation, it says "The
14 Commission may establish an electronic information system if
15 it determines that at existing price quotations are not
16 adequately providing price discovery." But then we are also
17 directed "We shall rely on publishers and services to the
18 maximum extent possible." It almost seems as if we have to,
19 first of all, rely to the maximum extent possible on the
20 publishers basically to strengthen that in some way,
21 perhaps, and only if that didn't work and we made a
22 determination that that effort failed, could we explore EIS?
23 I guess we could theoretically right now make a
24 determination that they're not adequately providing price
25 discovery, but that seems inconsistent with the "shall" line

1 that we have to rely on publishers to the maximum extent
2 possible. So I'm just not sure that we could do it right
3 off the bat. I think Ms. Lewis was suggesting that we
4 explore mandatory reporting first and only then later on,
5 perhaps, consider an EIS.

6 MS. LEWIS-RAYMOND: I think mandatory reporting
7 is absolutely first. Right. Even at the same time, we
8 could explore an EIS, but I agree that the statutory
9 threshold is high and you'd have to make the requisite
10 finding obviously. I think we got to the idea of exploring
11 an electronic information system because we were walking
12 through the details of how mandatory reporting would work
13 and how it would be most efficient and so it just sort of
14 begged the question maybe in an attempt to explore. But
15 clearly the statutory language is there and is there for a
16 reason.

17 CHAIRMAN KELLIHER: Commissioner Kelly?

18 COMMISSIONER KELLY: Let's assume, for purposes
19 of discussion, that your concerns are correct. That the
20 indices are not trustworthy and -- yes, Jane.

21 MS. LEWIS-RAYMOND: I don't want to leave the
22 impression that the indices are not trustworthy. I was
23 going to jump in earlier and say that AGA members would say
24 they have been improving. Our problem is not in our
25 perceptions about the indices. Our problem is public

1 perception about natural gas prices. Perception is realty
2 in the world with local distribution companies with their
3 commissions and their customers. If we have a mandated
4 fixed-price reporting system, we can at least take away that
5 argument that -- you know, that specter of is there enough
6 there? Have we done the best we can? We really are not
7 saying they are not trustworthy. Please do not interpret us
8 as saying that. But we are just really dealing with public
9 perception. That's our reality.

10 COMMISSIONER KELLY: Paul, you said they're not
11 trustworthy.

12 (Laughter.)

13 MR. CICIO: Specifically, we are concerned that
14 they are not trustworthy and it's because, for example, my
15 earlier comment about the volume and the number of
16 transactions. We're finding them to be relatively thin.

17 COMMISSIONER KELLY: I'll let you say something
18 in just a minute.

19 Let's say FERC doesn't do anything about
20 mandatory reporting increasing. What will you do? How will
21 you engage in price discovery or how will you price your
22 contracts? What will you look for? Will it be an index or
23 will you use the Genscape or Bentek model as a proxy for
24 production or what will you do? What's your alternative?

25 MR. CICIO: Given no change, we will continue to

1 use the indices.

2 COMMISSIONER KELLY: Is that because there's not
3 a better method?

4 MR. CICIO: There's a role for indices. Like I
5 had said earlier, consumers use a mix of futures, OTC,
6 physicals, indices, indexes and we'll just continue in that
7 same mode with no change.

8 MR. FYOCK: APGA members would do the same, given
9 the parameters of what public they're involved with. They
10 would have no other alternative but to continue forward and
11 try to seek the best information available.

12 Also, to address Chairman Kelliher's point, APGA
13 said about going to the central data hub, we think that you
14 get to it. It's not mandatory. We understand the mandate.
15 We know there would be a move toward that and it would be
16 gradual. We don't want to step out right to that either.
17 We want to try to resolve this the best way we can. And
18 again, we share a lot of Paul's concerns about the breadth
19 of the information from our members in looking at the
20 volumes that are there and we look forward to the
21 publication bringing forward they volumes that they say are
22 out there and showing us all that is available. Maybe that
23 will appease the members and also everybody else in this
24 room at that time.

25 Jane?

1 MS. LEWIS-RAYMOND: Obviously, we'll continue
2 with business as usual and we'll continue to struggle with
3 the public perception and the lack of what seems to be
4 consumer confidence in natural gas prices.

5 MR. STRAWN: I'm a little bit confused. If the
6 concern is over the public perception, I would think that we
7 have the first indication really in the last month that the
8 public perception is changing and they're gaining some
9 confidence because for the first time they're noticing in
10 both oil and gas markets for the very first time prices go
11 up and they also go down and right now they're going down
12 for a change. So they're starting to understand the
13 relationships of what goes on in the market. And for the
14 first time they appear to be gaining confidence on an
15 antidotal basis that markets can move in both directions and
16 maybe even benefit them and their pocketbooks.

17 I'm really confused about why the concern here is
18 the perception of the public when the trending for
19 information gathering, information understanding and the
20 perception of the general understanding of how markets work
21 is actually gaining clarity not losing clarity for the first
22 time in a while.

23 CHAIRMAN KELLIHER: Commissioner Moeller?

24 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
25 The reason we're here and talking about this, obviously, is

1 not an academic exercise. It's because it has real world
2 consequences for consumers. We clearly had a problem
3 several years ago. If anyone would disagree with that,
4 please let me know. But part of our job here, at least the
5 way I see it, is to anticipate policies or to implement
6 policies that prevent similar problems from occurring in the
7 future. So it's more of a statement maybe in the form of a
8 question.

9 The publishers argue that they have a more
10 comprehensive data set now, but is that enough to prevent a
11 future occurrence of the problems we had in the past?

12 MR. PROKOP: My name is Michael Prokop with
13 Amerex Broker, LLC. To address that question, actually is
14 exactly what we want to contribute to the talk today.
15 There's been quite a bit of discussion of fixed-price
16 markets and their volumes going up and down over time, what
17 the effect would be, whether it's made mandatory or not, I
18 would submit, in talking to my customers on a daily basis,
19 they would tell me that just relying on fixed-priced deals
20 in physical markets as a risk management tool is very narrow
21 and very short-sighted. The advent of all the different
22 products that are out there -- physical bases markets which
23 takes physical deals along with the corresponding deals on
24 the other side correspond to moving prices and better risk
25 management and the other financial bases markets and things

1 like that can also be taken into account.

2 On the th index creation, I do applaud Platts and
3 NGI. Some time ago they did start taking physical bases
4 deals into account, but I would say that there's still a
5 cornucopia of more data out there than is available. That
6 could go could into daily construction of these indices.

7 COMMISSIONER KELLY: Chris, maybe Larry and
8 Dexter, if mandatory reporting requirements would result in
9 less reporting, what would it take to get more voluntary
10 reporting?

11 MR. CONWAY: We're already voluntary reporting.

12 COMMISSIONER KELLY: I don't ask you with your
13 Conoco hat on, but with rather with your association hat.

14 MR. CONWAY: Even as an association, we've got a
15 high percent. Three of our members do not report. They're
16 not in the marketing and trading business so much as they're
17 selling their gas of the first liquid flow point into their
18 systems. Their risk management approach doesn't drive them
19 to do more and I think each company has its own unique set
20 of circumstances. I'm going to extrapolate beyond that,
21 that would impact the way they think about should they
22 report or not. What's the value to them and I think what
23 we've seen with NGS membership is many of us are in the
24 downstream markets, very actively. We find it certainly in
25 our best interest to see this market well and reporting is

1 important to us. And so we seek voluntary and we move that
2 way and I hope that other constituents in the value chain
3 would find good reasons to report voluntarily to see those
4 benefits.

5 COMMISSIONER KELLY: That's what I'm asking you.
6 What is it that will encourage them to do more voluntary
7 reporting?

8 MR. CONWAY: I wish I knew.

9 COMMISSIONER KELLY: Why do you do yours?

10 MR. CONWAY: As I said, we report because, one,
11 we think it's important to the marketplace to report and be
12 active in those markets that are reportable because of our
13 business model. You asked earlier about price discovery.
14 How do we discover price? We put bids and ask the market.
15 We get in the market and buy and sell. So I would say our
16 main driver is we want to see this market well and
17 efficient. We want to see liquidity. We want to see the
18 bid asked spread as narrow as possible so we can talk about
19 cost that passes through, both to the producer and consumer.
20 Much of it comes from how wide is that bid ask spread. We
21 want to see more liquidity. We want to contribute to
22 narrowing that any way we can. That's what drives us to
23 voluntary reporting.

24 COMMISSIONER KELLY: Why doesn't that drive the
25 ones that don't report?

1 MR. CONWAY: I'm not sure I can speak for them.

2 CHAIRMAN KELLIHER: Mr. Steis, do you have a
3 comment on this?

4 MR. STEIS: With all due respect to Mr. Cicio and
5 Ms. Lewis-Raymond, voluntary reporting is working. As an
6 example of that, I got a call yesterday from a price survey
7 respondent who had dropped out of the survey for a period
8 and was calling me yesterday to find out what they needed to
9 do to begin reporting in the future. This is a top 20
10 trader as indicated on the list that Mr. Harvey distributed.
11 But to answer the question directly from Commissioner Kelly,
12 possibly one thing the Commission might consider doing to
13 encourage reporting is to -- I'm going to get shot for this
14 -- but conduct another survey. This time don't survey the
15 people who are reporting already voluntarily. But survey
16 the ones who are not reporting to find out why they're not
17 reporting and see what concerns they may have. The ones
18 that are not reporting are benefitting from the free-rider
19 effect. They're using the indices, but they're not
20 contributing to the indices.

21 I believe they're a small portion of the overall
22 reportable transactions that are available in the
23 marketplace, but they are out there. And yes, if those
24 folks did report, Larry's and my indices would be better. I
25 could tell you at a future technical conference that I

1 believe I'm receiving 95 percent of the reportable
2 transactions whereas now I think probably I'm closer to 70
3 or 75 percent of the reportable transactions that are being
4 done in the marketplace.

5 CHAIRMAN KELLIHER: Mr. Foster?

6 MR. FOSTER: I agree with Dexter's comments,
7 particularly I endorse his comment on the free-rider effect.
8 There, indeed, are companies that do not contribute to price
9 formation, but make very intensive use of those prices.
10 Commissioner Kelly, what can be done about it? Dexter has
11 suggested the idea of a survey of those who don't report. I
12 think the Commission needs to make sure that it doesn't
13 unintentionally misalign incentives and disincentives.

14 The Commission is now auditing companies that do
15 report and that's fine. That's part of the policy statement
16 is that you comply with the standards in the policy
17 statement. That those companies that don't report, in a
18 sense, have no reason to start reporting because then they
19 might be audited. That is a definite concern. Ms. Lewis-
20 Raymond talks about liability and compliance and those
21 certainly are genuine issues. We don't want to downplay
22 them. Platts has a compliance partly because we have to
23 follow the policy statement standards on our end, but I
24 think step one is to make sure that the Commission is
25 properly aligning the incentives and disincentives -- the

1 carrots and the sticks -- and you may need to use some
2 sticks to get companies to report voluntarily.

3 CHAIRMAN KELLIHER: I think both of those
4 suggestions are worth discussing.

5 Anyone else have any questions? I have one last
6 question and then Steve and the staff. Can I ask my
7 question first, Bob?

8 (Laughter.)

9 CHAIRMAN KELLIHER: It's a little bit off the
10 index issue. I guess I'm attracted to the off index
11 questions, but this one is on the electricity side. We
12 require electronic quarterly reporting on wholesale sellers.
13 I'm just curious whether we should do something similar on
14 the gas side.

15 MR. FOSTER: I think Platts would see that as one
16 avenue to answering the great unanswerable question of how
17 big is this market. At least theoretically, it might be
18 less burdensome than mandatory price reporting to have, say,
19 a quarterly, after-the-fact type report. You conceivably
20 could structure it in a way that the companies that
21 currently do report prices can, in essence, use that
22 information to fulfill the GQR requirements so they're not
23 undergoing an additional burden. But the companies that
24 aren't reporting now, in fact, would have to step up and in
25 some fashion report their reportable deals to somebody.

1 We know it's probably not a popular idea among
2 the companies that would have to do it, but we think it is
3 one solution to answer this question of how big is the
4 market and much is being captured.

5 CHAIRMAN KELLIHER: Any other comments? We're
6 running out of time, so I'm going to have the presumption,
7 if you don't respond, I guess it will mean something. But
8 I'm going to assume, if you don't disagree with the notion
9 that it's something we consider, then you're saying that is
10 something we consider the notion of an electronic quarterly
11 report on gas transactions.

12 Does anyone oppose the idea? I see silence. You
13 seem a little restive there. Are you sure, Don?

14 MR. SANTA: No comment.

15 (Laughter.)

16 CHAIRMAN KELLIHER: No comment means assent.

17 MR. SANTA: I assent to it.

18 (Laughter.)

19 CHAIRMAN KELLIHER: Does staff have any? Rob,
20 you can ask your question now and if staff has any good
21 questions -- they don't have to be brilliant, just good.

22 (Laughter.)

23 MR. CUPINA: Just to get maybe a little more
24 perspective on the amount of the market and the volume,
25 isn't the daily demand about 60 to 65 Bcf and one of you

1 said something earlier, since 2002 reporting has gone up to
2 about 25 Bcf a day.

3 MR. FOSTER: In both the Platts monthly and daily
4 gas surveys, the volumes are running 25 to 30 Bcf a day.

5 MR. CUPINA: Why isn't 25 to 30 out of 60 to 65 a
6 valid way of quantifying how much of the market is being
7 reported?

8 MR. FOSTER: It's one measure. You have to
9 understand a single package of gas may get traded multiple
10 times so that the tradable market is probably larger than
11 the 65 Bcf a day end use market. But as a rough measure, we
12 think that is valid.

13 CHAIRMAN KELLIHER: John?

14 COMMISSIONER WELLINGHOFF: I'm sorry, Mr.
15 Chairman. I'm confused now. I heard about 70 percent
16 reporting and from what I'm hearing it's going to be less
17 than 30 percent.

18 MR. STEIS: My numbers are based on the
19 reportable transactions, so the companies in the marketplace
20 will do on any given day will do index deals. They'll do
21 futures deals. They'll do swaps. They'll do OTC deals.
22 Then they'll do fixed-price deals. The fixed-price deals
23 are the only deals publishers, such as Platts and NGI can
24 take because those are sort of the pure deals that don't
25 have another derivative attached to them. We take those

1 pure deals and we turn around and put out the index, and
2 some of those derivative deals actually get settled based on
3 the prices we published. And I guess the question the
4 \$64,000 question that everyone tries to get to is, because
5 we know that gas is traded multiple times from well head to
6 burner tip, we're trying to get to what is the total amount
7 of reportable transactions.

8 Earlier, when I said 75 percent, 70 percent,
9 that's an estimate that's based on my own sort of figuring
10 and also that of the Market Price Reporting Action
11 Committee, Inc. that gave the 70 percent figure two years
12 ago. It's improved since then. That's the figure of
13 reportable transactions, fixed-priced transactions for both
14 next-day gas and bid week.

15 COMMISSIONER WELLINGHOFF: Thank you.

16 CHAIRMAN KELLIHER: Any other questions?

17 Steve?

18 MR. HARVEY: I have two. I'll explain the second
19 one first, and then ask the first one. The second one we do
20 have some other people that we did not necessarily hear
21 from, from the panel. So after I ask my next to last
22 question, I would like if anyone wants to spend a minute or
23 two that has a point they feel that needs to be made I would
24 like to give them the opportunity to do that. So if you
25 guys could ready yourselves in front of the microphones,

1 that will be fine. If we don't see movement, we won't worry
2 about that.

3 My question is to Ms. Rappazzo really, In
4 response to your concerns about information, we heard from
5 two companies who collect information that's publicly
6 available or that's available and publicly developed on
7 their own and sell that information. The cost of that
8 information does that put it within your reach. If not, how
9 do we think about the trade-offs between encouraging people
10 to develop the intellectual property implicit in what it is
11 they're doing and organizing information versus the needs of
12 the market overall to have access to some of that
13 information.

14 MS. RAPPAZZO: Let me take a stab at that. We
15 are aware of the information that was being put together
16 that AGA has provided access to that for some of the states
17 that are interested. With that being said, I'm going to say
18 it's not the states. It's not me. It's not my commission
19 or anything like that that's out there doing the trades and
20 buying the gas. It's really the market having the
21 information more than it is us having the information. I
22 think that these products certainly they're a good thing
23 from that perspective. I don't know if it completely solves
24 the issue, though, because I think the statement that you
25 made about being publicly available is not really the case.

1 They are available by subscription. So I don't know if
2 that's adequate. I think that's something that needs to be
3 looked at more. And the fact that they are not really
4 publicly available and it's not something that -- I guess
5 that gets to the Chairman's question about you ask the
6 people who use it is it reliable? Is it something that is
7 of value to you. That's a question that maybe gets to that
8 issue of auditable.

9 I think there's still questions out there as to
10 whether they're a good step in the right direction. I don't
11 know if it answers the question, but I think it's dialogue
12 that we still need to have to find out is there something
13 more that needs to be done. Is there something that needs
14 to be done at the regulatory level? I mean that gets into
15 the whole issue that we've been talking about on price index
16 information, too. Is it voluntary? Is it mandatory? This
17 is information that's out there, but it's not necessarily
18 out there available to everyone. Is there a need for the
19 market to have it or at least some pieces of it, some high
20 level pieces of it available out there to the whole market?

21 We don't have the answers to those questions.

22 MR. HARVEY: Unless there are further follow-ups,
23 I go to anyone either here at the table or in the first row
24 who would like to make a final remark before we close this
25 panel.

1 MR. BENNETT: I'd like to make a comment. What
2 Ms. Rappazzo spoke about there's two dimensions to it.
3 Things that the federal government can do and there are also
4 things that the state governments can do. One of the holes,
5 for examples, as we look at supply and demand analysis, is
6 the intrastate pipeline functions. They're not forced to
7 report through the FERC process and in fact, I don't believe
8 any of the states, except California, require much of that
9 information at all to come from their utilities and/or
10 intrastate pipelines. That would be one thing that could be
11 done that would improve the quality of supply and demand
12 analysis and data availability that would probably make that
13 much more reliable as a way to evaluate volatility.

14 MR. O'LEARY: I'd just like to make a few points.
15 In our company, fairly small, fairly aggressive firm, we
16 believe pretty strongly in two key points. The first is
17 better information, more transparent information will reduce
18 volatility and increase liquidity. That's a given for
19 nearly any market we've ever seen in the history of the
20 world and which ultimately will benefit the end consumer.

21 Second is better fundamental information will
22 reduce what we would consider to be unexplained price
23 outliers. As a former energy trader, I can tell you that
24 the price issue is important, but it's one piece of a much
25 larger puzzle. We've kind of played around a bit with the

1 idea of more fundamental being made available in market.
2 What I'm happy to report is that because of changes in
3 technology over the last decade or so there are firms out
4 there that are doing more to bring that information to bear
5 as the industry struggles with what should be available. So
6 stuff that was specifically too expensive, impossible to
7 obtain, et cetera, is now being available specifically in
8 gas power.

9 So as you think about the opportunities or the
10 costs and benefits associated with greater price
11 transparency and more information, fundamental information,
12 both from the Commission and the industry, please understand
13 they are available to the Commission. Please understand
14 that there are commission out there that have it.

15 Ms. Rappazzo, my goal is to have an hourly or
16 some twice daily sort of reporting and we'll do that because
17 we're working on it now. So just please be aware of that.
18 Thank you.

19 CHAIRMAN KELLIHER: Commissioner Kelly or Larry?
20 Something brief.

21 MR. FOSTER: Just follow up on Sean, price
22 discovery that Platts and ING and all of us do can tell you
23 the who, the what, the when and the where of market
24 conditions. It doesn't tell you the why and I think Sean
25 just said the fundamental market supply/demand data does

1 help answer that question. We believe very strongly that
2 the focus of this meeting today could have been and maybe
3 should have been more discussion about fundamental market
4 data than about mandatory price reporting.

5 As I hear what Jane says about AGA's problem, it
6 sounds to me like a PR problem. LDC's, which are the
7 closest to consumers, can't very well explain why prices are
8 what they are. I'm not sure whether debating whether our
9 surveys capture 60 percent or 80 percent of reportable deals
10 is going to help her make that explanation.

11 If AGA and others in the marketplace, the New
12 York PSC have more available to them about underlying
13 conditions in these markets. I think it's going to help
14 them formulate those explanations.

15 CHAIRMAN KELLIHER: Thank you. Commissioner
16 Kelly?

17 COMMISSIONER KELLY: I was just going to make a
18 statement that I thought we all had consensus on, but now
19 that Larry has said it that may not be correct. I'll try it
20 anyway.

21 First, I wanted to thank AGA for coming today and
22 for putting on the table their request. I know it was a
23 courageous decision and Jane, you were an excellent
24 messenger. I think that by putting that on the table it
25 certainly sparked a lot of discussion. It seems to me also

1 that there is no disagreement with the point you made very
2 well. That's that the gas market not only has to be working
3 well, but that consumers in America have to have confidence
4 that it's working well and there is a lack of confidence out
5 there for whatever reason.

6 What you have said and what Paul has said and Les
7 has said is that one of the things that would increase
8 confidence in the market is, if all reportable fixed deals
9 that are reportable were reported, no one seems to disagree
10 with that. The question is how do you make that happen? It
11 seems that there's certainly disagreement about whether it's
12 appropriate to mandate it, but there doesn't seem to be any
13 disagreement that the Commission should look for other ways
14 to make it "voluntary" or incentives to have more voluntary
15 reporting. So I'd just like your reaction to that as a
16 summing of what I take away. Am I correct or have I
17 simplified it?

18 CHAIRMAN KELLIHER: Your question is posed to
19 Jane?

20 COMMISSIONER KELLY: Everyone.

21 (No response.)

22 CHAIRMAN KELLIHER: Great. I guess we'll end. I
23 apologize to my colleagues that we've run this morning, but
24 it's been an interesting session. I thank everyone for
25 participating. The conference will recess and the electric

1 panel will begin at 1 o'clock.

2 (Lunch recess.)

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1 Supply Association; Gloria Halstead, Director of Federal
2 Agency Relations for the National Electric Institute; Howard
3 Spinner, Director of the Division of Economics and Finance
4 of the Virginia State Corporation Commission and Jeffrey L.
5 Walker, Senior Vice President and Chief Risk Officer of Aces
6 Power Marketing speaking on behalf of the National Rural
7 Electric Cooperative Association.

8 During the enactment of the Question & Answer
9 session -- and there's a little bit more room up here during
10 the Question & Answer session -- if people need to park,
11 that would be great. We will possible also hear -- look up
12 and down the road to see if I'm right -- Michael Prokop,
13 Executive Vice President of Amerex Brokers; Bob Anderson,
14 Executive Director of the Committee of Chief Risk Officers
15 and President of the Energy Data Hub; Sean O'Leary, Chief
16 Executive Officer of Genscape; Chuck Vice, President and
17 Chief Operating Officer of the Intercontinental Exchange.

18 We will hear once again from Larry Foster of
19 Platts; Ron McNamara, Vice President of Marketing Management
20 and Chief Economist for the Midwest Independent System
21 Operator; Robert Levin, Senior Vice President of Research
22 and Development of the New York Mercantile Exchange; Andrew
23 Ott, Vice President of Market Services of the PJM
24 Interconnection, also representing the ISO/RTO Council and
25 that will be it. Thank you.

1 Mr. Shelk?

2 MR. SHELK: Thank you for the opportunity to
3 participate on what we agree is a very important conference.
4 EPSA members rely on and contribute to published information
5 on electricity prices. In addition, they're also customers
6 of the transmission system and users of natural gas price
7 indices, other matters addressed by the EPAct transparency
8 provisions.

9 EPSA has long supported the Commission's efforts
10 to facilitate price transparency through voluntary
11 reporting. FERC improved price indices in the 2003 policy
12 statement and the market manipulation rules earlier this
13 year with enforcement backed up by the substantially
14 increased civil penalty authority of last year's law. These
15 and other efforts are, indeed, working.

16 Accordingly, EPSA offers the following four
17 observations. First, market liquidity has steadily
18 increased in recent years providing more voluminous price
19 data. Second, the quality of price indices based on this
20 information has also greatly improved. Third, the
21 Commission's actions and the industry's responses could make
22 further auction on price transparency unnecessarily.
23 Fourth, the best way to improve transmission transparency is
24 to continue development of competitive wholesale markets.
25 Organized markets by definition, produce much more

1 transparency. There are opportunities to do so outside of
2 organized markets through the 888 reform process about which
3 you convened yesterday, such as the real time redispach
4 proposal from a broad coalition.

5 Congress gave this Commission new, but carefully
6 crafted statutory authority on transparency and wisely made
7 that authority discretionary. By contrast, as you are
8 painfully aware, Congress was not at all shy about mandating
9 that other actions be taken by a date certain. This
10 discretion reflects congressional recognition of the
11 Commission's successful efforts to improve transparency.

12 As noted this morning, new authority, as you
13 know, requires the Commission to rely on existing publishers
14 and pursue its own system only if existing sources are not
15 meeting the needs spelled out in the statute. Most
16 significantly, in general, GAO reported last December that
17 the Commission's action had improved the availability and
18 accuracy of price information.

19 GAO pointed out that Commission actively uses
20 this information to monitor wholesale markets. GAO also
21 reported that stakeholders who rely on price indices are
22 generally satisfied with greater confidence in the market
23 participants. More participants are voluntarily reporting
24 information and those doing so are reporting on more
25 transactions and publishers are releasing transaction

1 volumes and number of participants to put indices in
2 context. This success demonstrates that overall, overly
3 prescriptive actions such as mandatory reporting are not
4 necessary.

5 In summary, we agree price transparency is a
6 vital component of competitive market, so we support the
7 Commission's actions to improve transparency and believe the
8 GAO report confirms those actions have been successful and
9 the current system is working well. We applaud you for
10 holding the conference and look forward to questions at the
11 appropriate time.

12 MR. HARVEY: Thank you.

13 Ms. Halstead?

14 MS. HALSTEAD: Good afternoon, Chairman Kelliher,
15 Commissioners Kelly, Moeller, Spitzer and Wellinghoff.

16 First, I'd like to thank you for the opportunity
17 to speak on behalf of member companies of the Edison
18 Electric Institute, EEI. EEI shares and supports the
19 Commission's and Congress' views on the importance of
20 pricing transparency in the electricity market. Section
21 1281 of EPAAct Congress added Section 220(e) FPA to direct
22 this Commission to facilitate price transparency in markets
23 for the sale and transmission of electric energy in
24 interstate commerce having to regard for the public interest
25 the integrity of those markets, the fair competition and the

1 protection of consumers.

2 Section 220(a)(4) said, "In carrying out this
3 section, the Commission shall consider the degree of price
4 transparency provided by the existing price publishers and
5 providers of trade processing services and shall rely on
6 such publishers and services to them to the maximum extent
7 possible."

8 This Commission has already taken a number of
9 steps to assure participants that reporting index prices are
10 accurate with the issuance of the policy statement on
11 natural gas and electric price indices. FERC has provided
12 guidance about its views on appropriate reporting practices
13 and has thereby reduced the uncertainty of adverse
14 Commission action for good faith reporting. As a result,
15 the Commission has encouraged to more industry participants
16 to contribute to the formation of price indices. Also, the
17 Commission collects significant data with respect to pricing
18 in the electricity market through the required reporting of
19 transactions in the electric quarterly reports the EQRs, by
20 public utilities and power marketers.

21 In EQRs, utilities and power marketers must
22 summarize the contractual terms and conditions in their
23 agreements for all jurisdictional services and transaction
24 information for short-term market based power sales and
25 cost-based power sales during the most recent calendar

1 quarter. To ensure the timely filing of the EQRs, this
2 Commission has adopted the practice of revoking market-based
3 rates for those utilities that fail to file EQRs on a timely
4 basis.

5 Also, in addition, in organized electricity
6 markets, RTOs and ISOs provide transparency by publishing
7 the results of auction markets by posting spot market and
8 day-ahead prices at pre-established intervals. The RTOs
9 also provide additional information concerning the electric
10 system capacity markets and financial transmission rights
11 that provide further transparency concerning the RTO/ISO-
12 administered markets.

13 In addition this pricing data provided through
14 FERC filings and ITO/ISO posting, pricing information on
15 electric markets is provided at various market hubs where
16 trading locations through the NYMEX and ICE, which FERC is
17 able to monitor. Bloomberg, Platts, Dow Jones and S&L
18 provide addition price transparency through their reporting
19 of price indices that reflect regional market prices at a
20 variety of hubs or locations around the country. Through
21 these and other forums, all market participants have access
22 to a wide variety of market price information. The statute
23 requires the Commission to rely on these sources to the
24 maximum extent possible.

25 In conclusion, EEI member companies believe that

1 this Commission has taken the action necessary to facilitate
2 price transparency in markets for the sale and transmission
3 of electric energy in interstate commerce and that those
4 actions, while the fee information from electricity market
5 venues and index publishers allow the member companies to
6 transact in the marketplace, the Commission has fulfilled
7 its mandate under EPAAct and does not need to take additional
8 steps to ensure transparency in the electricity market.
9 Therefore, we would like to commend the Commission for this
10 effort. Thank you.

11 MR. HARVEY: Thank you.

12 Mr. Spinner?

13 MR. SPINNER: Good afternoon.

14 Please note that the views expressed here today
15 are my own. They do not necessarily reflect the views of
16 the Virginia State Corporation Commission or its staff.

17 Under the Virginia Electric Utility Restructuring
18 Act, the Virginia State Corporation Commission is charged
19 with the task of monitoring regional wholesale and retail
20 competitive electric markets in or near Virginia to
21 determine whether competition effectively assures that
22 market outcomes are consistent with the public interest.
23 The staff of the SCC has sometime had substantial difficulty
24 obtaining key data and information from PJM. As such, the
25 SCC has recently reported to the Virginia General Assembly

1 and governor that it cannot represent with confidence that
2 PJM-administered wholesale electric markets are, in fact,
3 competitive or transparent. Unlike the situation in natural
4 gas markets where price discovery appears to be
5 controversial, price discovery in organized electric
6 markets, and for that purpose is not the problem. I can
7 observe current and historical energy prices. However these
8 prices, while posted and available for all to observe, do
9 not necessarily lead to market transparency because the
10 complex processes that determine these prices are not
11 transparent. What I'm getting at here is that there's a
12 distinction between price transparency and market
13 transparency.

14 Let me briefly state why I believe organized
15 electricity markets are not transparent. For example, we
16 don't know if the single clearing price auction, as
17 practiced in organized markets, is competitive. We don't
18 have detailed information about offers to sell. We don't
19 know how prices are set by mitigation processes during hours
20 when the market is insufficiently competitive at certain
21 nodes. We don't have detailed information about generator
22 unit costs during those times. Information that is
23 available is often difficult to obtain, analyze and
24 understand.

25 As a result, we don't know if the total

1 compensation paid to generators is just and reasonable as
2 required by the Federal Power Act. Questions like this
3 persist about the performance of commodity competition in
4 wholesale electric markets. Many seek independent
5 verification regarding the claimed performance of these
6 markets in the absence of the data necessary for independent
7 verification of PJM market monitoring unit claims that PJM-
8 administered markets are competitive and transparent. We
9 are left with PJM assurances that wholesale market outcomes
10 serve the public interest.

11 The organization of PJM states has serious
12 concerns about the independence of the PJM market monitoring
13 unit based solely on PJM's organizational structure, which
14 as the PJM MMU reporting jointly to PJM management and the
15 PJM board. In the spring of the OPCI board voted to accept
16 a working group report that called for more PJM MMU
17 independence from PJM management. OPCI has also vigorously
18 participated in PJM's recent tariff application currently
19 before this Commission where PJM seeks certain changes in
20 its market monitoring plan.

21 In that proceeding OPCI advocated greater
22 independence for the PJM market monitoring unit. The
23 dissemination of more information will move us toward more
24 transparent markets. That information will allow for
25 independent analysis of market outcomes that will hopefully

1 enhance stakeholder confidence in those outcomes.

2 Moreover, given the complexity of RTO markets and
3 the lack of independence of the market monitor, at least in
4 PJM and the vast amount of data involved, some argue that it
5 is almost impossible for FERC to provide adequate oversight.
6 Independence analysis should help FERC with its oversight
7 function.

8 Thank you.

9 MR. HARVEY: Thank you.

10 Mr. Walker?

11 MR. COCHRANE: Can I mention something first?
12 I'd like to mention the proceeding he was just talking about
13 is pending on rehearing before this Commission. So we
14 shouldn't be discussing the merits in this forum, but I
15 guess we'll probably need to put the transcript into that
16 closet.

17 MR. WALKER: Good afternoon. I represent
18 Consumer Owned Power Supply Cooperatives who use ACES power
19 marketing as a risk management agent to participate in the
20 wholesale energy market, (1) heads their long-term load-
21 serving energy obligations; (2) heads the natural gas they
22 consume to run some of their electric generating units and
23 (3) to balance their supply portfolios with short-term load
24 demands.

25 We tend to look at price transparency in two time

1 dimensions -- real time price transparency and after-the-
2 fact price transparency. The real time price transparency
3 discovery sources provided important transparency, primarily
4 to our front-office trading function, including the voice
5 brokers, bilateral counter-party negotiations, ICE and in
6 some locations NYMEX. Combination of real time and after-
7 the-fact price discovery sources are also provided the very
8 granular locations by ISOs and ITOs and by NYMEX in some
9 primary locations. The index publishers are effective at
10 their mission of providing after-the-price indices and
11 assessments for day-ahead standard power products at primary
12 market locations. So given this, what information would
13 provide greater transparency in the wholesale power markets
14 for the after-the-fact index forming transparency venue and
15 identification of the volume and number of transactions that
16 make up each price index published? It is helpful to gauge
17 the level of confidence that could be placed there. Some
18 publishers do provide this. Some publishers don't provide
19 this.

20 Also, the publishing indices only represent a
21 subset of the fixed priced transactions executed in the
22 bilateral wholesale market since there are many other
23 products executed in different tenors, locations and non-
24 standard product prices that are executed every day in the
25 wholesale power market. So even though the index

1 publications provide a needed and useful purpose, there are
2 still many significant blind spots in the after-the-fact
3 price discovery in the wholesale power market. For example,
4 these blind spots includes prices, volumes and transaction
5 quantities of the following types of transactions: forward
6 transactions, especially those executed several years into
7 the future, non-firm unit contingent and system firm power
8 transactions, power transactions executed at non-primary
9 delivery locations, inter-day block power transactions that
10 are not uniform, 16-hour on-day peak duration, inter-day
11 block transactions that are the uniform off-peak block
12 duration of hours, hourly power transactions, over-the-
13 counter financial bilateral power transactions, option
14 transactions and power, and finally structured products such
15 as load-following contracts, load-shaped contracts and heat-
16 rate capacity options.

17 Is the industry attempting on its own to address
18 these price discovery blind spots? Yes, the energy data
19 represented by Bob Anderson is a new innovative start-up
20 solution that will attempt to address many of these blind
21 spots. In fact, not only will it attempt to address these
22 blind spots, but we believe it can provide for even more
23 robust transaction data to the index publishers.

24 Does FERC need to take any direct action to
25 support this new, innovative price transparency venue? No,

1 the Energy Data Hub intends to be an independent, not-for-
2 profit start-up company. Can FERC provide an independent
3 support to the Energy Data Hub? Yes, the Energy Data Hub
4 will be seeking a no action statement from the Department of
5 Justice to address any anti-trust concerns before it
6 proceeds. It would be helpful to the extent that FERC could
7 provide an indirect assist with DOJ that the Energy Data Hub
8 initiative will seek to improve competition by improving
9 wholesale power market price transparency as oppose to
10 hinder competition.

11 That concludes my remarks. Thank you.

12 MR. HARVEY: Thank you.

13 Should we ask if any of the data providers are
14 interested in responding or making a statement at this
15 point?

16 Come on up.

17 MR. OTT: Good afternoon. I'm Andy Ott, Vice
18 President of Markets at PJM. I appreciate the opportunity
19 to be here this afternoon to discuss these issues. I just
20 wanted to respond briefly to Mr. Spinner's concerns.

21 Again, PJM is obviously very concerned about
22 providing transparent information. We do it in large
23 volumes every day and I think some of the issues that Mr.
24 Spinner is pointing out are really related to regular
25 reporting obligations within the State of Virginia.

1 Certainly, there are certain cost-based information that he
2 is seeking that may, in fact, best be done through a
3 regulatory process. The key issue here is PJM does have
4 protocols for state commissions to receive data. If a state
5 commission signs certain confidentiality agreements and we
6 provide data to them under that confidentiality agreement,
7 including some of these very detailed pieces of data so the
8 state can execute their authority or their responsibility.
9 Unfortunately, Virginia has not signed the confidentiality
10 agreements for certain jurisdictional reasons. So there is
11 an issue there.

12 However, PJM is engaged in looking at data
13 availability requiring some industry experts to look into
14 the issue of reserves. Something we can do beyond what we
15 do today as far as making information more publicly
16 available on a shorter term basis and that will be
17 discussed. We're working with the OPCI group on that issue.

18 Aside from that, though, I think the real issue
19 of price transparency, I think, is as you heard this
20 morning. There's more to it than just publishing the price.
21 There's price rationalization, all the additional supporting
22 information that is available through the RTOs. As you
23 heard in gas this morning, it's available through certain
24 vendors. It's absolutely critical for allowing people to
25 rationalize price, have confidence in the price. That can't

1 be overstated, the importance of that. I refrained from
2 discussing that this morning, but that's something today I'd
3 really like to talk about, really price information
4 transparency rather than necessarily regulatory issues which
5 I see are different issues.

6 CHAIRMAN KELLIHER: Anyone else from the second
7 line want to make a comment?

8 (No response.)

9 CHAIRMAN KELLIHER: Do any of the panelist want
10 to react to what any of your fellow panelist said?

11 (No response.)

12 CHAIRMAN KELLIHER: Great. Let's ask our
13 authority in electricity. The electricity and gas
14 provisions pretty much mirror each other, but I just want to
15 ask about the electricity provision. There's one provision
16 that's a little different. I just wanted to ask you about
17 it, particularly John and also Gloria.

18 The electricity provision says, "The Commission
19 shall -- those rules shall -- well, it says, "The Commission
20 has discretion to issue rules that provide for the
21 dissemination of information as to the availability of
22 transmission service, not just wholesale electric power, but
23 also transmission service." I think both your positions
24 were that you don't see the need for us to exercises the
25 authority that we're given here. I just want to make sure

1 you're saying that even though we have authority, both with
2 respect to wholesale power as well as transmission service -
3 -

4 MR. SHELK: The distinction we would draw is
5 between the two. As you've pointed out, the lead-in
6 provision talks about facilitating transparency, not only in
7 the sale of electric energy, but also transmissions. The
8 way I would read that is the Commission's been directed by
9 Congress to look at both. Now there are more specific
10 provisions that deal with the price information because
11 you're required to defer to the existing publishers. But as
12 I said in the opening statement, we think there is
13 definitely room to look at transparency in the transmission
14 context, which you are obviously doing with the Order 888
15 proceeding.

16 I listened to most, but not all, of yesterday's
17 very helpful panels and there are a number of areas,
18 obviously, where transparency is, indeed, a core principle
19 with what you finally achieve with that rulemaking, from a
20 legal standpoint, I think you correctly conclude that this
21 new authority would buttress what you're trying to do. In
22 the 888 context, because there's been all of the volatility
23 over the last several years, the Commission is to be
24 commended with a lot of ad hoc groups I think people take
25 very seriously. They need to avoid what happened four and

1 five years ago from markets and market participants and the
2 GAO report, which is relatively recent, goes back to
3 corroborate the findings of the Commission staff and the
4 surveys market participants that, indeed, what you did in
5 2003 and otherwise, in fact, had the intended impact as I
6 believe I heard on the gas side this morning. If there's
7 been an increase in transactions, there's more confidence.
8 And as the GAO concluded, they're generally satisfied.

9 Different participants have issues in different
10 areas, but as a general proposition, the confidence level is
11 up and I was certainly encouraged by this morning's
12 discussion about what the folks on the second line, as you
13 referred to it, are capable of doing to meet the need of the
14 market for more information. And there's a lot out there.
15 I got on the PJM website and the ISO website. Being a
16 lawyer and not an engineer, there's certainly a lot of data
17 out there and certainly in transmission there's room for
18 improvement and this authority allows you to do that
19 particularly in non-regulatory areas.

20 CHAIRMAN KELLIHER: Gloria, do you think that we
21 do not need to take additional steps in either area?

22 MS. HALSTEAD: I agree that you have the
23 authority as far as both price transparency and transmission
24 are concerned, but I think Order 888 gives you adequate
25 transparency as far as the transmission.

1 CHAIRMAN KELLIHER: One question related to the
2 quarterly reports. There's a dotted line relationship
3 between this authority and that, but is there any need to
4 make revisions to the electronic quarterly reports or do we
5 need to rely on this authority to do so? Do you think the
6 state of the electronic quarterly report is adequate or do
7 you think there ought to be some changes?

8 MS. HALSTEAD: Well, I did note a couple of
9 changes as far as the non-jurisdictional entities are
10 concerned. The major ones I have listed there, for example,
11 WAPA, PGA, LAWP. We should capture information from them as
12 well. We'd get a more complete picture and that would be
13 helpful.

14 MR. SHELK: As I understand the 2005 State of the
15 Market Report, there's a good section in there, a public
16 initiative on this question, and knowing there are areas
17 that are not collected now native load, I was interested
18 immediately that you require something from private entities
19 and other federal agencies that they're not required to do.
20 They have essentially the same activity. We hadn't taken a
21 formal position, but just looking at it in preparation for
22 today, the Commission identified those as areas that could
23 be looked into in terms of the EQRs.

24 CHAIRMAN KELLIHER: Colleagues?

25 COMMISSIONER WELLINGHOFF: I have a couple of

1 questions, thank you, Mr. Chairman, for Mr. Spinner vis-a-
2 vis the comments of Mr. Ott.

3 I understand there may be some things that may be
4 available to the Virginia commission that you require a
5 signed confidentiality order to get. But absent that, is
6 there anything that you are aware of that information is
7 just not available that you would like to see with respect
8 to prices in wholesale electrical energy or transmission
9 service? Anything that you know is not available from PJM
10 that you'd like to see?

11 MR. SPINNER: I'm not sure I understand the
12 question, how you caveated the beginning of it. PJM has a
13 lot of data that they closely hold. That would be the
14 starting point for what I think independent analyst need to
15 draw their own conclusions about how well these wholesale
16 electric markets in these organized market regions are
17 working. But setting that aside --

18 COMMISSIONER WELLINGHOFF: Let me back up. Is it
19 correct that it's your understanding that Virginia could
20 obtain this data, but they haven't signed the
21 confidentiality agreement yet?

22 MR. SPINNER: Again, you don't want to get into
23 like a "he said/she said." Our side of it is that we asked
24 for a lot of data that we believe is or should be non-
25 confidential. We have -- you know, state commissions, as I

1 think you know, you were a former regulator, I think.

2 COMMISSIONER WELLINGHOFF: Staff counsel.

3 MR. SPINNER: Generally, it's fair to say we're
4 resource constrained as is this commission. All government
5 these days is resource constrained compared to some of the
6 missions that they have before them. So before I brought
7 the question about whether or not Virginia should enter into
8 this confidentiality agreement to our general counsel for
9 the legal analysis that I knew that they would undertake
10 because of the complexity of the issues and what it might
11 entail as far as further transfer of jurisdiction from the
12 state to the federal jurisdiction arena, I asked PJM -- I
13 sent them a letter and said, if we sign, can we get this
14 data? What I'm talking about is the generator offer data
15 encoded, meaning you could identify who these generators
16 were. So I said before we consider signing, if we do sign,
17 can we get this? For I'm sure good reasons, PJM answered we
18 can't tell you because you don't have an official request
19 before us. They cited some of the restrictions on their
20 ability to restate it that are put in place subject to their
21 FERC tariff.

22 COMMISSIONER WELLINGHOFF: You're saying they
23 couldn't tell you generically whether or not they could give
24 you data if you signed the confidentiality agreement?

25 MR. SPINNER: Yes, that is correct, as I

1 described my request to them. So therefore we haven't
2 decided at the commission whether we would or would not
3 sign.

4 Now in addition to that, based on knowledge and
5 belief, there were three states that had signed and again,
6 Andy Ott might want to dispute this, I don't know. But at
7 one time I had polled each state and asked them if they'd
8 gotten any information subject to this agreement and they've
9 said no. That has been within the last year. So I don't
10 know that there are huge flows of information that are
11 taking place under that current FERC-approved agreement. So
12 I don't know if that's necessarily the answer, but up to
13 this point in time the Virginia Commission has not signed
14 the agreement because there's some feeling that we may be
15 entitled to this information under state authority.

16 And obviously, some could say, well, why don't we
17 try and get it under state authority? Litigation is not
18 necessarily the way to go with these things. It can be very
19 expensive.

20 COMMISSIONER WELLINGHOFF: I understand the
21 jurisdictional dispute issue. Did I hear you say then you
22 reported to the Virginia legislature that the Commission's
23 opinion that PJM is not competitive?

24 MR. SPINNER: No. That we could not certify that
25 it was competitive.

1 COMMISSIONER WELLINGHOFF: Because you didn't
2 have the data?

3 MR. SPINNER: Yes.

4 MR. SHELK: Would it be appropriate to comment on
5 this at this point? I think it's an essential question
6 because it really goes to the question of obviously the
7 federal/state jurisdictional issues that we all wrestle with
8 and have to live with and we have divided jurisdiction.
9 Under this Commission's leadership in the past several
10 years, the Commission has bent over backwards to be fair to
11 the states. You've done joint boards on a number of issues.
12 You did both formally and informally deal with the states
13 all the time. What's fascinating about this is that we've
14 had correspondence with the Virginia Commission I'd be glad
15 to share with you.

16 I'm a resident of Virginia. It's interesting to
17 me. They're looking for generator data on cost, which is
18 essentially data from our members at the outset said it's
19 for the purpose of judging whether or not regional wholesale
20 market works. That raises a fundamental question as to
21 whose jurisdiction this is and what is purpose that the data
22 will be put to. And if anything, we all know this
23 Commission was given the authority by the Congress to deal
24 with wholesale markets and every member of the Virginia
25 delegation except one in 1992 voted for the EPAct that

1 essentially created this industry and gave the Commission
2 this jurisdiction. So now, if you have somebody who would
3 want the data on costs and other information, that's very
4 confidential and unit-specific and then want to use it for
5 what purpose, to test wholesale markets, which under the
6 reading that you have are market-based unless you've got a
7 reason to have cost-based rates.

8 The thing that was disturbing about the report,
9 and I encourage you to read it, is the assertion in there by
10 one of the consultant who wrote part of the report that this
11 Commission has not adequately monitored markets or dealt
12 with this issue, which I find fundamentally not to be the
13 cased based on the activity of the Commission and its staff
14 to date. It's an interesting question and one that needs to
15 be resolved, but I would encourage people to look at that
16 report because we disagree fundamentally with the conclusion
17 and I can say this as a consumer in Virginia that it's
18 somehow bad for Virginia to be in PJM. The savings in the
19 short amount of time that they've been PJM have already been
20 documented. So I find it curious that this matter keeps
21 coming up in the manner in which it is.

22 COMMISSIONER WELLINGHOFF: Mr. Shelk, the Rose
23 Report, is that the one you're referring to?

24 MR. SHELK: Correct.

25 MR. SPINNER: For clarity, every year, by

1 statute, the State Corporation Commission submits a status
2 report to the General Assembly and governor and the report
3 usually consists of three parts. It has consisted of three
4 parts in each of the five or six years we've submitted the
5 report. Part One is produced by Ken Rose and talks about
6 the current state of wholesale markets, regionally, retail
7 markets around the country.

8 Section 2 just concerns itself with what's going
9 on in Virginia. Section 3 is stakeholder suggestions for
10 making competition work in Virginia and also includes
11 sections on the State Corporation Commission's assessment
12 about what's going on. So it's three parts.

13 The first part is produced by Ken Rose.

14 COMMISSIONER WELLINGHOFF: I have Part 1. Could
15 you get me Part 2?

16 MR. SPINNER: Certainly.

17 MR. HARVEY: Mr. Ott, I just wanted to highlight
18 again -- I think fundamentally, the issue of information to
19 encourage transparency for market participants I think is a
20 separate issue from information required, jurisdiction set
21 aside, by the regulator to perform what their mandate is.
22 In other words, the concept that we would somehow -- the
23 market transparency sense, for instance, post-cost-based
24 generator offer data by generator two days after the fact
25 and the market needs that in addition to market-based rates

1 seems to me somewhat -- I don't see where that would follow.
2 Why the market would need to see that. That would seem to
3 do a lot of harm to a competitive market to see that type of
4 information come out on a near-term basis, but certainly
5 information transparency in competitive market there are
6 obviously large sections of that that may partly address Mr.
7 Spinner's concerns about other types of generators operating
8 on a more frequent basis, maybe market-based data.

9 Certainly, cost versus price on a general sense,
10 I would think, is something that's not necessarily just
11 information transparency and that aside, I also believe
12 there's the issue of having a wholesale market over the top
13 of, for example, the RICO situation in Virginia. It wasn't
14 what caused the issue. In other words, Virginia had
15 deregulation. Generation got deregulated, therefore, they
16 aren't directly regulating generation. That happened prior
17 to any wholesale market. That was really a separable issue
18 there. I think it's really a state jurisdictional issue.

19 Certainly, if PJM got a letter from the folks in
20 the state and said give our data to the State Corporation
21 Commission, we would certainly do that. But obviously, it
22 had certain requirements. We're regulated by yourselves, et
23 cetera.

24 One other thing, the availability of transparent
25 dispatch information in the RTO environment to be able to

1 rationalize what the price is doing, there's a high degree
2 of information out there. As others have said, we can
3 rationalize the prices in stark contrast here. Where there
4 aren't organized markets, you have price indices, but nobody
5 knows -- there's no dispatch information under it where
6 people can actually make sense of those prices. In that
7 area of discontinuity, is something we can talk about as an
8 industry, but that's a real transparency issue.

9 CHAIRMAN KELLIHER: Mr. Spinner?

10 MR. SPINNER: Just generally speaking, it can be
11 argued that there's been a lack -- that some stakeholders
12 have had a lack of confidence in some of these market
13 outcomes in PJM recently and how those outcomes then
14 affected the default service auctions in many retail
15 jurisdictions and the significant rate increases that have
16 been faced by customers in Maryland and Delaware, even on
17 the eastern shore of Virginia where we have 22,000 Delmarva
18 customers.

19 I would characterize there's a lack of confidence
20 in these market outcomes. If more information was
21 disseminated and that was analyzed by independent analysts,
22 hopefully, we'd get to a place where there would be more
23 confidence in these outcomes. There's a trade-off between
24 making that information available and potentially damaging
25 the market processes. That's what Mr. Ott is afraid of. If

1 you make too much data available to generators, market
2 participants can use that for gaming and we'll be worse off
3 than when we started. I think there's a continual balance
4 that has to be struck. It's a policy choice that has to be
5 made and I don't know the appropriate forum for making that.
6 But that's something I think we need to have more
7 information and to try to improve that confidence. But I am
8 sensitive to damaging markets due to too much information.
9 Specifically, in the past, I've asked for cost data, but
10 I've asked for the aggregate market as a whole, not for any
11 particular unit for costs. If I had a wish list, since
12 we're running not too late, I would like all of the offer
13 data that generators offer into the single price auction and
14 I would like that encoded, the ability to look at what unit,
15 what market participant, what generation company, where it
16 is, what fuel so I could look and see how those bids related
17 to what costs might be. In addition, in areas where there
18 are constraints such that there's mitigation going on,
19 meaning that you now just have -- there's regulation, but
20 the regulator is the market monitor in those areas. I think
21 it might be appropriate to have some generator cost
22 information divulged as well.

23 Just as a general proposition, one way to
24 mitigate potential impacts on the markets, via gaming
25 through use of this information, would be to continue the

1 practice of lagging the availability, maybe not six months
2 but certainly not instantaneously, somewhere in between.

3 MR. SHELK: If I could respond briefly to a
4 couple of things, on the point about the release of
5 information, Congress was very concerned about that, as you
6 know. The statute specifically said, for reasons that Mr.
7 Ott indicated, you could have potential collusion and other
8 anti-competitive behavior stemming from the untimely release
9 of the very kind of information that he's referring to.

10 The point about market confidence, what struck me
11 about the Rose Report and it's cover letter we sent to the
12 Commission is it's internal inconsistency and the
13 unfortunate message that it sends to consumers. Part of the
14 report, frankly, is very excellent. It does talk about the
15 fact that the reason why rates are up -- we heard this week
16 gas prices are coming down -- what the report talks about,
17 what we all know to be true, fuel prices are up, the input
18 costs out to be up. That's obviously not exclusively why
19 rates have gone up. But later in the report, any evidence,
20 any suggestion of one iota of proof makes broadside
21 allegations that the service to PJM and other market
22 participants to the market monitor, frankly, and to this
23 Commission, saying, while there might be market manipulation
24 taking place, so when they write to the legislature and the
25 governor, it talks about why prices have been going up

1 because of fuel costs. They reference the part where he
2 makes these allegations again.

3 We've sent in the letters - it's been almost a
4 month now -- to Dr. Rose and his co-author. At least as of
5 today, we have not received a response. I meant it when I
6 said it. If anybody has any proof of market manipulation,
7 they should be calling this Commission and other appropriate
8 authorities promptly in reporting that information.
9 Otherwise, at a time when this is politically sensitive with
10 people understandably concerned about rates, to go around
11 making baseless allegations that's what undermines market
12 confidence, not the lack of data from somebody who's going
13 to use it for legal purposes by making these broadsides in
14 public and sending it on official letterhead to the governor
15 and it's all over the newspapers. I saw it several media
16 interviews. We're constantly having it thrown at. An
17 independent academic writes this supposedly independent
18 report. Isn't that true? In and of itself, that's the kind
19 of reporting that we've seen and we're going to see soon and
20 I think that does more to undermine the consumer confidence,
21 frankly, than anything else about having access to data.
22 It's data that, if you lag it six months or six weeks, it's
23 data that will be used to undermine what Congress was
24 concerned about -- data coming out too quickly that's going
25 to be used for collusion and other anti-competitive behavior

1 and that isn't going to serve consumers at the end of the
2 day.

3 So I'm glad we're having this discussion because,
4 as you might tell from my remarks, I read that report cover
5 to cover. I read the Rose Report three times and that's why
6 I'm here to respond to the details because I think it
7 warranted the level detail in the response that we gave
8 them.

9 CHAIRMAN KELLIHER: Do you have a written
10 critique of the Rose Report which is now in the record?

11 MR. SHELK: As Mr. Spinner said, it's Part 1, and
12 he can correct me if I get this wrong, of a their three-part
13 annual report. It purports to address wholesale markets.
14 Like I said, it's one of those books where you read the
15 first half and it's like this is great stuff and it says
16 flat out gas prices are up. It explains everything. But
17 the short answer is Part 1 of their report is what was sent
18 to the legislature and the governor.

19 CHAIRMAN KELLIHER: Mr. Ott?

20 MR. OTT: I tried to avoid the independence issue
21 being sensitive. The fact is there is an independent entity
22 doing our analysis of competitiveness of PJM's markets
23 called the market monitor.

24 CHAIRMAN KELLIHER: I just want to correct Mr.
25 Spinner. The market monitor is not a regulator. You

1 referred to the market monitor as the regulator. They're
2 not. We are the regulator.

3 MR. OTT: The point is PJM is an independent
4 authority. We are interested in the outcome of the market.
5 As you saw, we call it as we see it. If there's an issue,
6 we bring it to the attention of the Commission. The PJM
7 market monitor produces extensive analyses on the market,
8 produces a state of the market report, and the conclusions
9 of the market report are his own. Obviously, I don't anyone
10 is questioning the independence of PJM, the organization, so
11 I would take issue with Mr. Spinner saying that we need an
12 independent entity doing an analysis of the competitiveness
13 of the market. We have one.

14 CHAIRMAN KELLIHER: I just want to respond to
15 something Mr. Spinner said, too. You referred to Maryland
16 as somehow the experience in Maryland showing, speaking to
17 wholesale competition in the state. Wholesale competition
18 somehow suggesting some lack of confidence in wholesale
19 competition. That it should show a lack of confidence in
20 wholesale competition. Maryland is a singularly bad
21 example. What happened in Maryland, to me, is utterly
22 predictable. When you take a regulated retail rate, cut it
23 and freeze it for seven years, the end result, I think, is
24 likely to be rate shock unless you're confident that fuel
25 prices, underlying fuel prices will remain constant or

1 decline.

2 I think what happened in Maryland with a 72
3 percent rate increase actually says nothing at all about
4 wholesale competition or PJM, but it says something about
5 the wisdom of state laws that freeze retail rates for seven
6 years. If there hadn't been a retail rate freeze and cut,
7 retail rates would have been increasing, presumably to
8 reflect rising fuel costs. I think it's unfortunate to let
9 the political reaction in Maryland, the action by the
10 legislature resulted in a -- it wasn't the regulators who
11 made the decision. It was the legislature.

12 Maryland, the concept of a 72 percent rate,
13 which, to me, says nothing at all about wholesale
14 competition. It says something about a long rate freeze and
15 what happens at the end of a long rate freeze.

16 MR. SPINNER: There's a couple of things I could
17 say. There's a discussion in Part 3 of the Commission's
18 report. There are a couple of things I can say in response.
19 Seventy-two percent is a function of what the rates were and
20 what they're proposed to go to. That's just the
21 mathematics. So part of that is those who are saying that
22 the 72 percent increase is appropriate and should be
23 expected are saying, well, the beginning level is
24 artificially low and the new level is appropriately high.

25 Whether or not the beginning level is

1 artificially low, is an empirical question I just don't know
2 the answer to. In Virginia, where we've had a base rate
3 freeze or there hasn't been some increases for fuel, but for
4 base rates, there are many who believe that in the absence
5 of that freeze base rates would have fallen because of
6 increased technology depreciation of plants, some other
7 Virginia-particular things. So I would say the level of the
8 freeze, the level of the frozen rates is an empirical
9 question. Whether they're adequate or deficient and where
10 rates are going to, is it appropriately high? Well, that's
11 a function of the default service auction that was
12 undertaken in Maryland and that result is highly dependent
13 on the LNP or the single price auction results.

14 That's what I'm trying to probe by getting
15 information, to see if those results in the single price
16 auction are appropriate or are they subject to a well-
17 functioning competitive process or not. I'm not disagreeing
18 with you. I'm just saying I think it just deserves further
19 study.

20 MR. SHELK: I think the interesting thing that
21 happens is there's no known comparison. I think this is a
22 healthy debate to have. There's no comparison to one single
23 alternative. In the case of Maryland and other states,
24 there are multiple bidders. The first thing that came to me
25 is that electricity, when we put out in our letters in

1 Virginia, the State of Virginia buys -- I think it's 25,000
2 or \$50,000 worth of anything -- computers, office equipment
3 -- they have to go out to competitive bid. That's also the
4 stated policy in the other states I've looked at. It
5 curious to me that somehow doing that with electricity is a
6 foreign idea.

7
8 When reporters say to me, there was this auction
9 in Maryland. Isn't that terrible? I said, what's the
10 alternative? The alternative is not to have an auction at
11 all and have one entity with no choice, no bidding. Of
12 course, somebody with a better deal can't come in and offer
13 it.

14 We could have this debate for hours, but I think
15 it's important to round out the record. As was said, what
16 happened in Maryland was a function of putting the freeze in
17 effect. That's separate from the wholesale markets.

18 CHAIRMAN KELLIHER: We've only got one more hour
19 to debate.

20 (Laughter.)

21 MR. SPINNER: May I just respond by saying that
22 there is something I could say, but I just won't say it.

23 CHAIRMAN KELLIHER: Let me turn to the staff and
24 see if they have questions.

25 MR. HARVEY: I have a few questions. I have a

1 somewhat different direction and invite folks to come up in
2 the front row.

3 We found a couple of years ago when we looked at
4 electricity markets versus gas markets with regard to index
5 prices that indices played a much less significant role in
6 the electric industry than they did in the gas industry. I
7 guess one question is, is that still true? Was that true?
8 Is it still true and has anything changed materially in the
9 last few years with regard to the use of indices in certain
10 areas?

11 MR. FOSTER: Larry Foster from Platts. I can't
12 speak too much to the second question, Steve, of how indices
13 is used because the index developers are not the best source
14 of information on how they're used. But to answer the more
15 general question about distinctions between gas and
16 electricity indexes, yes, I think the general principles
17 that you stated still apply. The published indexes that we
18 and others put out, I think, do play a lesser role in the
19 electricity industry. In part, that's a structural issue.
20 In an ISO-type market where you have Day Two markets putting
21 out real time and day-ahead pricing, it's about as
22 transparent as you can get. There really isn't too much
23 more that the publishers can bring to the table, other than
24 to report on the bilateral market that does exist in
25 parallel with the ISO market. So we can report that it is

1 frankly relatively thin trading these days, certainly by
2 comparison with anything you'd see in natural gas. There
3 are pockets of the country where published indexes do still
4 provide a pretty significant service, I think. In the West,
5 to ERCOT, to some extent, where there are not organized
6 markets and where the bilateral market does provide a much
7 more significant price discovery function. I think what
8 we've seen in our index information over the last couple of
9 years is more of a segmentation where reporting in the
10 organized markets is down. Reporting, on the other hand, in
11 the regions that don't have organized markets is up. The
12 volume of data and trading actually is up. So the
13 dichotomy, I suppose, if anything, has grown over the last
14 couple of years within the electric markets.

15 CHAIRMAN KELLIHER: Does anyone see it
16 differently in terms of the use of indices?

17 Mr. Vice?

18 MR. VICE: I guess I agree with what Larry said
19 in that we produce data as well as we allow swaps within the
20 platform so in a way we consume that information and we
21 clear the settlement swaps while the swaps that settle on
22 ISO-generated LMPs no question they're most liquid, most
23 open interest. They're really nice markets. In the areas
24 of the country where there are ISOs, I guess for the most
25 part California -- Larry described them as pockets -- we do

1 have the bilateral data indices that we publish in ICE each
2 day. In the West, given the prices there, we also use those
3 ICE indices, we offer that product for trading on the ICE
4 platform and we clear that. Those are quite popular.
5 There's a lot of liquidity and volume as well. So that's a
6 cash-settled product that goes out in time over some number
7 of years and is an instrument the marketplace can use to
8 hedge our costs.

9 MR. PROKOP: Adding one more thing to the mix,
10 just a few weeks ago, two of the largest over-the-counter
11 ERCOT brokers sent through, produced the over-the-counter
12 ERCOT index that were covering the six major locations
13 within ERCOT currently. It is currently available on the
14 S&L MG website with the next day's posting and the previous
15 day's posting. So it's free of charge.

16 MR. HARVEY: I'm not hearing good things about
17 development and sort of a different geographic distribution
18 related in many ways to availability of ISO data. But in
19 general, in most places not the same degree of importance to
20 the functioning of the industry as gas indices would be to
21 the gas industry. Is that fair or unfair?

22 MR. FOSTER: I think you look at the country as a
23 whole, that's a fair statement. Just by the nature of the
24 industry, electricity is very regional. Natural gas is not.
25 So in electricity, to get to your statement there, you're

1 kind of taking the highs and lows and coming out with an
2 average. With gas it's more typical all across the country.

3 MR. HARVEY: Any thoughts from our initial
4 panelists on that? I could go to another question unless
5 someone wants to jump in.

6 The other thing we talked a little bit about this
7 morning was the availability of term price information. I
8 guess we've got several people who can speak to that in
9 different ways in electricity. I guess the question I would
10 ask Mr. Walker, maybe in particular, also Mr. Shelk, is, is
11 there enough term price information to allow you to do
12 longer term thinking investment, other kinds of issues
13 coming from these markets. When we look at the RTOs and
14 ISOs, it's not designed to do that necessarily in the day
15 ahead and real time markets and the index markets don't
16 really do that. Is that information out there? Is it
17 available? Is it in pretty good shape or not?

18 MR. WALKER: I would say it depends on your
19 definition of long-term, but I'll take your definition of
20 long-term to say beyond three years. I would say the
21 information out there is quite thin in terms of the long-
22 term markets for power. It's hard to come by. Typically,
23 what we do in our shop is we do as much price discovery as
24 we can. We get a lot of information from the brokers -- ICE
25 and others -- to the extent we can out about three of four

1 years. Beyond that, for purposes of valuing deals, we
2 primarily have to rely on internal models for anything
3 beyond that. There are fundamental models that look at the
4 supply/demand balance going out in time. They look at
5 transmission. They look at fuels. They look at a lot of
6 the fundamental drivers in the market to determine what we
7 expect would be a fair price for a product in the timeframe
8 beyond three or four years.

9 MR. SHELK: To be fair, the survey did find that
10 to be the case among survey respondents and pointed out sort
11 of the obvious, but critical point. If the innovation in
12 the market isn't there, the market themselves aren't there,
13 it won't be easy to come up with long-term data until
14 there's long-term markets. That, of course, is a whole
15 other subject. But I think the data from the GAO report
16 confirmed what you've heard.

17 COMMISSIONER WELLINGHOFF: Steve, could I follow
18 up on that? In that regard, can anybody tell me whether or
19 not they believe there is a real competitive long-term
20 market out there, either in PJM or any other area of the
21 country?

22 MR. OTT: I think there's a general lack, in the
23 PJM region and elsewhere of long-term, forward liquidating.
24 In general, I think probably about 18 months out, you can,
25 yes, go beyond that in the definition of long-term, three

1 years or better. It just doesn't seem to be there I don't
2 think anywhere.

3 COMMISSIONER WELLINGHOFF: Thank you very much.

4 MR. PROKOP: I might add there are some
5 transactions getting done. One of the things that
6 electricity is up against right now is in a situation --
7 it's a lot better in natural gas right now -- whether you
8 depended on reporting actual deal availability to report
9 remains to be abated. But there's much more price
10 flexibility out West. We see markets daily and report those
11 to particular price reports out through 2015. Most of the
12 eastern and midwestern areas not so much, maybe 2010.
13 Again, we produce daily reports. We certainly have a large
14 database of transactional information, which Jeff touched on
15 in the Energy Data Hub earlier. We're great supporters of
16 that and fully expect to make use of the transactional
17 information available through the Energy Data Hub.

18 MR. HARVEY: I can keep going. I guess the next
19 question I would ask is the Commission does have an
20 electronic quarterly report for electricity transactions.
21 That is designed, in many ways, specific to provide some
22 transparency into market activities and market-based rate
23 activities.

24 From anyone on the panel, is that doing a good
25 job? Is it doing a bad job? Are there things we could

1 change that would improve it? Is it helpful or is it, in
2 fact, not helpful at all?

3 MR. SPINNER: Well, I can say something that
4 doesn't put me in the best light, but I can do that. We're
5 just starting to look at that data, just an initial perusal
6 of it looked like there's a lot there to handle. That's
7 something we're going to be looking into in the coming days
8 and months. I think it's something we should have been
9 looking at prior to now, but I'm doing the best I can do.
10 Sorry.

11 MR. FOSTER: Platts have been looking at that
12 data for probably three or four years now. We do publish
13 quarterly rankings and other types of information based on
14 that data. The most recent being in the current week's
15 issue for the second quarter of 2006. Our general
16 experience, which we have shared with staff over time, is
17 the data is useful. It could be more useful. There are
18 some attributes that aren't there. For instance, being able
19 to clearly see the base of transactions. It would be much
20 easier to make sense of the data, as Mr. Spinner said, there
21 is a lot of stuff there to try and make sense of. But we do
22 that. We can use it to try and provide analysis of, for
23 instance, market share at a given trading point to provide
24 the kind of insight into markets that we can't do on the gas
25 side because there's no parallel equivalent on the gas side.

1 CHAIRMAN KELLIHER: Commissioner Moeller had a
2 question.

3 COMMISSIONER MOELLER: We've heard enough
4 references to the energy data. I'd like to come up and talk
5 a little more about the reference hub. Since it was a topic
6 of discussion in the Commission's 2003 policy statement, you
7 decided to move forward with it and you can elaborate a
8 little bit more on it. When you developed it, where were
9 you going and potential limitations?

10 MR. ANDERSON: Thank you. Clearly, listening to
11 the debate on power and all, the insight of the Energy Data
12 Hub is pretty much that it represents, again, like with gas,
13 a major initiative in the industry to try to tackle this
14 transparency problem in the best way, the most broad and
15 comprehensive way possible. What we've been doing in both
16 power and gas has been working with many of the participants
17 you've heard of and heard from and others to try to lay out
18 what is the ideal data set, the most ideal way to deliver
19 this information and how do we make sure that we don't have
20 these kinds of discussions in the future.

21 I think another thing that it represents is the
22 industry's attempt, as you know, how you can get companies
23 to release their information. The report, as you were
24 saying earlier, we found four or five mechanisms that
25 provide positive incentives for companies to report in their

1 own interests. Those kinds of things, I think, should be
2 seen as very encouraging for both gas and power markets.

3 What's unique about power I think is the
4 reference to the lesser use of indexes and so on compared to
5 gas. The market is not in the same state of its evolution
6 yet that gas is in either. The objective of the Data Hub,
7 when we were building it, is to make sure that it's a
8 platform for all in the power market to be able to develop
9 in the directions that they naturally would so that it can
10 be the most economical and most effective marketplace in the
11 future.

12 Really the beauty or what makes the Data Hub so
13 different and so exciting to bring to the table is that it's
14 really a catalyst for the future to solve many of the
15 problems that you're debating right now.

16 Are there any specifics, for example, that I
17 could give you about it that would help you appreciate that
18 it's not? I spoke to Congress in January of last year about
19 it. I spoke about it two years ago and I've been listening
20 to Steve Harvey talk about it for a good three years now.
21 There is a difference between where we are today versus
22 where we were before. We do have participating companies in
23 the development process. We do have broad support from a
24 number of distributors. I think there's a whole new view
25 now. The fact is it's going to happen. The best news for

1 me is it's not happening because of this proceeding or price
2 reporting issues. It's happening because the industry
3 itself, both gas and power, want it to happen so they can
4 all enjoy the benefits and economics of much more
5 transparent, healthy markets.

6 MR. HARVEY: Can I ask one follow up for Bob on
7 that? As you all have formed this, you've, I'm sure, been
8 focusing on the formation and the value of people that are
9 coming back -- to the people who are participants. That's
10 makes sense since you're getting started. Is there any plan
11 or intention to take some level of information and make that
12 publicly or more broadly available, certainly, the context
13 of the question earlier? Have you thought about that or is
14 that not really part of the plan?

15 MR. ANDERSON: It's absolutely part of it, along
16 with the concept of incentivizing as you were talking about
17 companies to report. In order to gain access to detailed
18 information the plan is to allow more general information,
19 which is still vastly more than it is today. To make that
20 generally available straight through the redistributors,
21 just about everyone you could name. They would be able to
22 deliver this information, either for free or at whatever
23 price they may choose. The one thing we haven't gone as far
24 as figuring out is if there's anything we should make
25 available to the general public. We're talking about

1 wholesale information. Certainly, at a detailed level it
2 isn't necessarily real clear, but there may be a role for us
3 to facilitate reports that you wish to generate within FERC,
4 other organizations that serve the jurisdictions and what
5 now for reason I might not appreciate right now, but there's
6 no intention at this point to stop information from getting
7 as far down the value chain as we can take it, although it
8 may be only the participants that can get to the very
9 detailed transaction information.

10 CHAIRMAN KELLIHER: Any other staff questions?

11 MR. HARVEY: We have two more in other areas.

12 The first one I might ask specifically for Mr.
13 O'Leary to speak with us at some point. We talked a little
14 while this morning on gas with regard to information
15 availability for flows, for movement of energy. I guess the
16 broader question -- I asked for Mr. O'Leary because of the
17 business of his company, but the broader question is are
18 there similar issues in electricity? Are there needs for
19 more information? Is there adequate information in terms of
20 flow of electricity or operations of plants? If not, what
21 kinds of needs are there that are out there that might be
22 meet?

23 MR. O'LEARY: It's interesting when you think
24 about the needs of power. We think in our house related to
25 what's out there for gas, because there's so much more

1 available for power already, we don't want to say the focus
2 should be on any more information for power because we are a
3 smaller company and resources are somewhat constrained.
4 What we find in the markets for power is that our customers
5 absolutely would love more data. There's no doubt about
6 that. What's interesting is, now that we've built a system
7 of a certain size, as we go back to them and say, great it
8 cost us money to have more facilities or whatever, your
9 price is going up. They typically say, well, why don't go a
10 little slower. You guys have really good coverage as of
11 right now. So we do.

12 We continue to add facilities to our network and
13 from the market's perspective that seems to be just fine,
14 but there's such a big disparity between what's available on
15 a commercial basis right now for power versus natural gas.

16 MR. HARVEY: So it doesn't sound like it's a
17 particularly burning issue. Is that consistent with
18 everyone else?

19 (No response.)

20 MR. HARVEY: Then my last question. Given the
21 important of fuel prices to the ultimate electricity prices
22 -- this is a sort of cross-panel question -- how comfortable
23 are you all with regard to the transparency of information
24 obviously of gas in that process and does that allow you to
25 do your business in an effective way or do you have issues

1 that you'd like to get on the table with regard to that?

2 MR. SHELK: We have members on both the gas and
3 electric side. One of these discussions sounded to me like
4 -- some of our conversations, as I remember, there's
5 sufficient transparency on the gas side. I think as you're
6 seeing more trading -- I see numbers all the time. It seems
7 clear there's plenty of information out there on the fuel
8 cost side of things. I'll defer to others who may have more
9 specifics, but the conclusion I've drawn from my members is
10 that there's plenty of data out there on fuel costs as we've
11 seen in the recent debates.

12 MR. WALKER: I would agree with that. Most of
13 the sources obviously have a cost, but I think there is
14 information out there that can be had for a price and pretty
15 readily available. Obviously, coal being a very regional
16 commodity has to focus at that level. I think the resources
17 that are providing data for that market are doing a pretty
18 good job right now.

19 CHAIRMAN KELLIHER: Colleagues, any other
20 questions?

21 (No response.)

22 CHAIRMAN KELLIHER: I think we've exhausted our
23 questions. I think we will bring this panel to an end
24 earlier than we anticipated.

25 I just want to thank all the panelists for

1 helping with this, and now we have to grapple with the
2 threshold question of: can we choose to exercise this
3 authority, and if so in what manner? This has been very
4 helpful. Thank you very much.

5 (Whereupon, at 2:15 p.m., the above-entitled
6 matter was concluded.)

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