

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Conference on Competition in Wholesale)
Power Markets) Docket No. AD07-7-000

Tuesday, February 27, 2007

**Statement of Joe Nipper
On Behalf of
The American Public Power Association**

Good afternoon Mr. Chairman and members of the Commission. My name is Joe Nipper and I am Senior Vice President for Government Relations at the American Public Power Association (APPA). APPA is the national service organization representing the interests of the more than 2,000 state and locally owned electric utilities across the nation. Collectively, these public power systems serve over 44 million Americans.

Introduction

We want to thank you for holding this series of conferences to examine the state of competition in the wholesale electricity markets and we appreciate the opportunity to appear today.

Consistent with our members' business model as community-owned, not-for-profit electric utilities, APPA has a long record of support for consumer protections. This includes support for federal legislation and policies to establish effective wholesale competition in electricity as a means of providing additional benefits to consumers and ensuring just and reasonable rates.

For example, APPA strongly supported provisions in the Energy Policy Act of 2005 that promote wholesale market competition, including: the broad ban on market manipulation; service obligation protection for load serving entities; the requirement for long-term

transmission rights; enhanced Commission authority to review mergers; and meaningful penalties for violations of the Federal Power Act. The Commission and staff have done a good job implementing the Act's numerous requirements and doing so on time. We want to particularly commend you for the final order on long-term transmission rights and we hope the guidelines set out in the order will be fully implemented in subsequent proceedings.

Description of APPA's Concerns

As you know, almost all of our members rely on the wholesale electricity markets for at least a portion of the power that they supply to retail customers, and many rely exclusively on wholesale purchases to serve their customers. Thus, public power systems are heavily impacted by changes in the structure and functioning of these markets.

Today's conference has covered many aspects of the wholesale markets important to public power systems. And I want to express my strong support for Mr. Thilly's comments this morning. APPA intends to file for the record a comprehensive statement expressing our views on a number of issues that have been raised today. Our filing will include the results of the first set of analyses conducted under APPA's Electric Market Reform Initiative. We started this initiative to assess the serious problems our members are facing in wholesale power markets in RTO regions. We hope the Commission and staff will review them carefully.

I am aware, though, that this panel has been asked to address wholesale power markets in regions that rely on bilateral contracts, so my remarks this afternoon will focus on that topic.

First, I want to support the comments made by Jan Schori and affirm that all of public power agrees with the concerns and issues she has raised. I want to particularly reiterate her point on respecting local, state and regional choices and rights in making any changes

to market structure or design. I am not aware of a single APPA member operating in either a bilateral or Day One market that has told APPA they think they would be better off in a Day Two RTO market.

With regard to the bilateral markets, we believe that, in general, they are working relatively well in most regions in achieving their key consumer interest goals: providing power at reasonable prices; maintaining reliability; and facilitating investments in new generation and transmission facilities. Moreover, as indicated previously, there is a very robust level of activity, trading, and investment occurring in most bilateral markets. Many public power systems are constructing new generation facilities, and some are constructing transmission facilities, to meet the accelerating demand for energy in these regions.

The two issues that have been of most concern to public power in recent years in the bilateral markets are: 1) lingering transmission discrimination, particularly in certain areas, and; 2) the need to improve regional transmission planning and coordination. We appreciate the Chairman's initiative to reform the Open Access Transmission Tariff to further address these issues and the Commission's recent issuance of Order 890. We are still reviewing the details of the order and consulting with our members. However, while we may have concerns with discrete aspects of the order, our overall initial reaction is very positive. As a result, the outlook for increased competitive pressures in the bilateral markets to assist the Commission in ensuring just and reasonable rates is encouraging.

We want to note again the multiple benefits gained through joint ownership of transmission and generation facilities. It is now widely recognized that the industry is going to have to make very substantial investments in new baseload generation and transmission facilities, even if we do all we can to promote and integrate demand resources and increased efficiency. Public power is ready to contribute capital to help construct the needed facilities so long as those investments will support our service

obligations to our customers. Thus, we urge the Commission to encourage and facilitate opportunities for joint ownership of generation and transmission facilities.

Lastly, the newest and fastest growing concern we have in bilateral markets are the adverse impacts caused by adjacent RTO-run Day Two markets. Ms. Schori discussed the problems associated with inadequate coordination and other issues, and we agree with her concerns and support her recommendations.

Another example of this emerging spillover into adjacent bilateral markets is the increasing problem our members in those regions are having in securing long-term power supply contracts at reasonable prices. Owners of generation capacity who have the opportunity to earn high margins in the RTO spot markets have little interest in long-term contracts in adjacent bilateral markets that do not produce similar returns. That generally means they want prices pegged to the anticipated future price in RTO-run spot markets which are often set by gas-fired units. The opportunity to take advantage of price volatility in the LMP-based markets is an additional disincentive to supplies to enter into long-term, fixed price contracts when those generators are positioned to move power to either RTO or bilateral markets. You might think that generators would want to avoid price volatility by entering into long-term contracts, as customers do, but our members are generally not seeing this.

Conclusion

In summary, the bilateral markets are working relatively well. Moreover, we believe that Order No. 890, if vigorously enforced, will address lingering transmission discrimination through measures such as collaborative regional transmission planning. In addition, we urge the Commission to promote and facilitate joint ownership of generation and transmission facilities as a way to spread the financial risk associated with the next round of infrastructure additions. And finally, we urge the Commission to work with all interested parties to explore ways to limit or eliminate the adverse impacts of the RTO-run markets on adjacent bilateral markets.

Thank you again for allowing me to be here today. I look forward to your questions.