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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

919TH COMMISSION MEETING
OPEN MEETING

Hearing Room 2C
Federal Energy Regulatory
Commission
888 First Street, N.E.
Washington, D.C.

Thursday, May 17, 2007
10:05 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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21 ALSO PRESENT:

22 DAVID L. HOFFMAN, Reporter

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P R O C E E D I N G

(10:05 a.m.)

CHAIRMAN KELLIHER: This open meeting of the Federal Energy Regulatory Commission will come to order to consider the matters that have been duly posted in accordance with the Government in the Sunshine Act for this time and place.

Please join us in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN KELLIHER: I'd like to start off with an award for one of Commission staff, one of our senior staff members, namely, Mark Robinson. I want to say that it's a pleasure to give Mark the Chairman's Gold Medal for Leadership, because I frankly think there's no better leader at the Commission than Mark Robinson, and no one is more deserving of this award than Mark.

OEP is a very smoothly running machine, and I think it really was reflected last year when we got the Joint Petition for Rulemaking from INGAA and NGSAA, and on page 2 of their Petition it said, "Once an application is made at the Commission, we see no real opportunity for significant improvements in the Commission's process for dealing with applications."

And that is really quite a statement. You don't

1 hear that often from regulated industries, that they don't
2 see any possibility for improvement in administrative
3 processes.

4 Now, Mark -- and I think that really speaks to
5 Mark's leadership and the changes that he's made in the
6 Office. Mark joined the Commission in 1978 and has been
7 Director of the Office since June of 2001, and I just want
8 to say that personnel change I never contemplated when I
9 became Chairman, was changing the leadership at the Office
10 of Energy Projects.

11 Now, during Mark's tenure at the Commission, he
12 has moved from offering -- the Commission, itself, under
13 Mark's leadership, has moved from offering only the
14 traditional approach towards certification and licensing, to
15 a very different regulatory environment, which places a
16 premium on flexibility and collaboration, in that he has
17 been a prime mover in the process improvements that the
18 Commission has made, both on gas projects and hydro
19 projects.

20 The emphasis of the OEP, at least from my point
21 of view, the emphasis of OEP is on efficiency; it's not on
22 speed, it's on efficiency, and I think there's a big
23 difference between the two.

24 Efficiency places a greater emphasis on early
25 identification and resolution of issues, and that's really

1 the central focus, at least as I see it, from OEP, again,
2 under Mark's leadership.

3 Now, during more than 20 years of working with
4 Energy Projects, Mark has been a consistent of sound
5 development in a responsible fashion, and Mark is an aquatic
6 ecologist by training, and he has helped educate our
7 Canadian colleagues on Atlantic salmon. Is there really
8 such a thing as Atlantic salmon.

9 His education really disappointed the Canadians,
10 I have to say. But Mark has become an expert on the gas
11 side of the house in recent years.

12 Now, under Mark's leadership, OEP has built the
13 technical records to enable the Commission to authorize 13
14 new LNG terminals and four expansions. Four of these
15 terminals and two expansions are now under construction,
16 which nearly triples the country's onshore terminal capacity
17 and positions us to compete, hopefully successfully, for LNG
18 supplies in the worldwide LNG market.

19 Organizationally, Mark has increased and upgraded
20 the LNG engineering staff, and established the LNG
21 Compliance Branch to monitor the safe construction and
22 operation of the newly-authorized and expanded terminals.
23 And even that kind of change, I think, is significant.

24 That shows that the Commission's focus on LNG is
25 not -- our focus is not just reviewing applications for new

1 terminals or expansions, it's on assuring that they're
2 constructed properly and operated safely, and there is a
3 Branch that is established for that one purpose, and I think
4 that's significant.

5 Now, Mark is also guiding OEP's efforts to
6 integrate the national interest electric transmission citing
7 functions of EAct, into the Commission's portfolio, and the
8 Staff has worked very closely with OGC to produce the
9 filing, the rule that is subject to rehearing today.

10 I also want to point out that with the retirement
11 of Dan Larcamp, Mark, I believe, is the new Don of the West
12 Virginia mafia here at the Commission.

13 (Laughter.)

14 CHAIRMAN KELLIHER: I just want to commend that
15 Mark's energy, responsiveness, fresh thinking, and ability
16 to communicate clearly, are great professional attributes,
17 and he has been a terrific leader for the Commission, and
18 I'm very happy to give him this award for leadership.

19 I'd just like to turn to my colleagues to see if
20 they have any comments they'd like to make. You can
21 disagree; you don't have to agree.

22 (Laughter.)

23 CHAIRMAN KELLIHER: I'm still going to give him
24 an award, I just want you to know.

25 (Laughter.)

1 CHAIRMAN KELLIHER: Jon?

2 COMMISSIONER WELLINGHOFF: Thank you, Mr.
3 Chairman. I would like to say how much I have been
4 impressed with Mark, with your capabilities and your
5 dedication. It's been incredible to me, how much your staff
6 holds you in high regard.

7 In fact, I had an opportunity to visit the
8 Portland office recently, and found out in how much high
9 regard you are held there, because I walked in the office
10 and was told that they hadn't seen a Commissioner in 13
11 years, but there was a picture of Mark Robinson on the wall.

12 (Laughter.)

13 COMMISSIONER WELLINGHOFF: So -- it's not true.

14 (Laughter.)

15 COMMISSIONER WELLINGHOFF: But your staff does
16 hold you in very high regard, as I do. Thank you, Mark, for
17 your service.

18 CHAIRMAN KELLIHER: Great.

19 COMMISSIONER KELLY: I've enjoyed working with
20 Mark since I joined the Commission, and I was thinking for a
21 few minutes about what I would say today, and William
22 Thackery has written that an author or a speaker, one of the
23 most important things they can do, is cast a new light and a
24 new perspective on something or someone familiar and
25 beloved.

1 So Mark is both familiar and beloved. I was
2 talking to my staff about what can I -- what kind of story
3 can I tell about Mark, that would cast a new light and a new
4 perspective, and they said, well, actually there are a lot
5 of stories, but you probably shouldn't tell them in public.

6 (Laughter.)

7 COMMISSIONER KELLY: But I believe you are truly
8 deserving of this award, and one reason is because the best
9 and the most effective leaders are people who listen.

10 You're very decisive, you're very strong, but you
11 listen, and my experience with you one-on-one and also
12 watching you deal with the public, is that you listen, and
13 you truly do listen, and you take concerns into account when
14 you give advice and make decisions.

15 And, frankly, that's very rare, and you're very
16 accomplished. Also, one last point: William Ury, who wrote
17 Getting to Yes, has recently published a new book, and it's
18 called the Positive No, and it's about the art of delivering
19 a "no" in a positive way.

20 I've been struggling through this book, and
21 trying to learn how to do that, but you know how to do it.

22 (Laughter.)

23 COMMISSIONER KELLY: Thank you for telling me no,
24 in very positive ways. Thanks.

25 CHAIRMAN KELLIHER: Phil?

1 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
2 When I think about what we do as a Commission, one of our
3 challenges, of course, is promoting energy infrastructure,
4 and I think that in a balanced way, Mark exemplifies that.
5 He's a defender of the nation's infrastructure, and I know
6 we've had a couple of examples, probably, recently, where
7 maybe, say, a television program has inappropriately put a
8 risk on certain infrastructure, and Mark has been there to
9 give us the facts and make sure that we defend the fact
10 that's part of what makes this nation's economy roll.

11 And I appreciate his hard work and his openness
12 and the fact that he's out there. I mean, when I heard
13 about how many trips he's taken to this one particular dam
14 in the Pacific Northwest, I was particularly impressed, so,
15 thank you,

16 CHAIRMAN KELLIHER: Marc?

17 COMMISSIONER SPITZER: My first open meeting, I
18 made some remarks regarding putting steel in the ground and
19 getting stuff built, and Mark came up and he was so excited.

20 (Laughter.)

21 COMMISSIONER SPITZER: The enthusiasm was
22 palpable in that charming West Virginia accent.

23 (Laughter.)

24 COMMISSIONER SPITZER: And in terms of the
25 efficiency, responsiveness, and, as Commissioner Kelly

1 pointed out, listening, there is a major confab in Phoenix
2 when I was Chairman of the Arizona Commission on Storage,
3 and the locals were very impressed by the presentation from
4 the Federal Government, and people still talk about that.

5 I think there was an overflow crowd, and it was -
6 - it showed a commitment to infrastructure, and, at the same
7 time, a balancing of competing interests and safety, and
8 these issues are very contentious. They're the most
9 difficult and contentious issues that we have as a body,
10 with a lot of discourse with the public.

11 Courage is defined as grace under pressure, and
12 that's what our Division has in their dealings with the
13 public in these matters, and we're very impressed and very
14 proud. Congratulations on this award.

15 CHAIRMAN KELLIHER: Thank you. Mark, why don't
16 you come up and receive your award.

17 (Applause.)

18 CHAIRMAN KELLIHER: Before we turn to the consent
19 agenda, I'd just like to point out that since the April 19th
20 opening meeting, the Commission has issued 85 Notational
21 Orders, and I thank my colleagues and our advisors and the
22 staff for their hard work in between the meetings. It makes
23 these open meetings that much easier.

24 And Madam Secretary, let's turn to the Consent
25 Agenda.

1 SECRETARY BOSE: Good morning, Mr. Chairman; good
2 morning, Commissioners. Since the issuance of the Sunshine
3 Act Notice on May 10th, E-40 was struck from this morning's
4 agenda.

5 Your Consent Agenda for this morning, is as
6 follows: Electric Items - E-4, E-8, E-9, E-10, E-11, E-13,
7 E-14, E-15, E-16, E-17, E-18, E-23, E-24, E-25, E-26, E-27,
8 E-28, E-29, E-31, E-32, E-33, E-34, E-35, E-36, E-37, and E-
9 41.

10 The Gas Items: G-1.

11 Hydro Items: H-1, H-2, H-3, H-4, and H-5.

12 The Certificate Items: C-1, C-2, C-3, C-4, and
13 C-5.

14 As required by law, Commissioner Moeller is not
15 participating in E-1; Commissioner Spitzer will not be
16 participating in Consent Items E-25 and E-28.

17 As to E-26, Commissioner Moeller is concurring,
18 in part, with a separate statement.

19 As to E-26 and H-1 on the Consent Agenda,
20 Commissioner Kelly is concurring, with a separate statement.

21 As to E-27 and C-4 on the Consent Agenda,
22 Commissioner Kelly is dissenting, in part, with a separate
23 statement.

24 As to E-27, Commissioner Wellinghoff is
25 dissenting, in part, with a separate statement.

1 Now we will take a vote on this morning's Consent
2 Agenda Items, beginning with Commissioner Wellinghoff.

3 COMMISSIONER WELLINGHOFF: I vote aye, with the
4 exception of partial dissent on E-27.

5 SECRETARY BOSE: Commissioner Moeller?

6 COMMISSIONER MOELLER: Vote aye, referencing my
7 separate statement of concurrence on E-26.

8 SECRETARY BOSE: Commissioner Spitzer?

9 COMMISSIONER SPITZER: I vote aye, with the
10 exception of Items E-25 and E-28, with regard to the
11 recusal.

12 CHAIRMAN KELLIHER: E-28 or E-26? Did you say E-
13 25?

14 SECRETARY BOSE: I said E-25 and E-28.

15 CHAIRMAN KELLIHER: Okay, thank you. Sorry.

16 SECRETARY BOSE: Commissioner Kelly?

17 COMMISSIONER KELLY: Aye, noting my concurrences
18 in E-26 and H-1, and my dissents, in part, in E-27 and C-4.

19 SECRETARY BOSE: Chairman Kelliher?

20 CHAIRMAN KELLIHER: Aye. Madam Secretary, why
21 don't we turn to the Discussion Agenda?

22 SECRETARY BOSE: Thank you. The first item for
23 discussion this morning, is A-3. This is concerning the
24 2007 Summer Energy Market Assessment. A presentation will
25 be given by Steve Harvey, Dean White, and John Sillin from

1 the Office of Enforcement.

2 (Slides.)

3 MR. HARVEY: Good morning, Mr. Chairman and
4 Commissioners. Today, I am pleased to present the Summer
5 Energy Market Assessment for 2007.

6 Many people worked on the Assessment, and I am
7 pleased to have with me here at the table today, Dean White,
8 who leads our Electricity Group within the Energy Market
9 Analysis Branch, and John Sillin, who recently joined us
10 from the Maryland Commission staff as Chief of the Market
11 Monitor Relations Branch.

12 Last Summer was extraordinary, the nation's
13 second warmest, as recorded by the National Oceanic and
14 Atmospheric Administration, or NOAA, second only to the Dust
15 Bowl Summer of 1936.

16 NOAA reported that average temperatures in the
17 United States from June through August of 2006, were almost
18 two and a half degrees Fahrenheit above the 20th Century
19 average.

20 More than 50 local all-time high temperature
21 records were set in late July and early August. September
22 brought relief, with cooler than normal temperatures, but
23 only after the nation established new load records across
24 the country in every regional transmission organization, as
25 well as in many other areas.

1 Nevertheless, in 2006 most wholesale electricity
2 prices declined, due to lower natural gas prices during the
3 Summer, and abundant Northwest hydroelectric generation.

4 There were no real failures of the interstate
5 power grid in 2006, although three million Americans lost
6 power last Summer, due to failures of local distribution
7 systems, including outages in the St. Louis area and in New
8 York City.

9 The Summer of 2006, consequently, is not a
10 typical comparison point for our look forward to the Summer
11 of 2007. Though many significant variables remain the same,
12 the outlook is different.

13 First, wholesale prices for electricity are
14 likely to be higher this Summer in all regions of the United
15 States, regardless of regional market structure. The main
16 reason is higher expected prices for natural gas.

17 Natural gas currently functions as the most
18 significant price-setting fuel in U.S. electric generation.

19 Second, generation additions over the past year,
20 have not been as robust as in past years, leaving many
21 regions with tight supply-and-demand balances.

22 However, some regional transmission and natural
23 gas transportation investments, appear to have increased the
24 flexibility to meet load in areas including Southern
25 California, New England, and Florida.

1 I'd like to explore these two core ideas in a
2 little detail today. To explain why prices are likely to be
3 higher for wholesale electricity in the United States this
4 Summer, I will review current levels of electric forward
5 prices; the natural gas, oil, coal and emissions markets;
6 the current prospects for hydroelectric generation in the
7 Northwest; forecast demand, expectations for weather; and
8 assessments of available demand response.

9 Forward electricity prices are a straightforward
10 signal of anticipated price pressures this Summer. The math
11 illustrates recent key Summer 2007 forward electricity and
12 natural gas prices.

13 In all, markets are signalling double-digit
14 electricity price increases this Summer, over last, with
15 natural gas as a clear driver.

16 Forward electric prices for Summer 2007, are
17 higher than those we actually saw in electricity spot
18 markets last Summer. Using recent assessments from Platt's
19 Megawatt Daily, we see a range of forward increases from
20 almost 20 to more than 30 percent.

21 I should note that these price assessments are
22 not the result of transactions in particular venues, but are
23 Platt's independent assessments of physical electric power
24 trading, based on actual transactions, bids, and offers.

25 They are a helpful signal of expectations. The

1 Summer 2007 futures prices from NYMEX, for natural gas at
2 Henry Hub, Louisiana, are up 21 percent over last summer's
3 actual average prices traded on the Intercontinental
4 Exchange.

5 These NYMEX and Ice prices are not assessments,
6 but prices actually produced on those two trading systems.

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1 Let's examine the drivers of current natural gas
2 prices for just a moment.

3 (Slide.)

4 One reason to expect high summer natural gas
5 prices is the increasing demand for use in electric
6 generation. As we can see in this graph, based on EIA data,
7 annual gas-fired generation grew substantially over the past
8 decade, almost 75 percent from 2006. At the same time
9 natural gas has grown as a share of electric generation as
10 well. In 1996 only a little more than 13 percent of annual
11 electric generation was from gas. Last year it reached
12 almost 20 percent.

13 Natural gas drives electric prices even more
14 strongly than these numbers suggest. In many regions
15 natural gas is the pivotal fuel, especially in the summer.
16 As we generate more we burn more natural gas. Consequently
17 electric prices tend to be set at the levels that reflect
18 gas use, and prices even in regions where natural gas is a
19 relatively small share of generation capacity.

20 Summer is traditionally when natural gas is
21 injected into storage to prepare for peak winter space
22 heating needs. Growth in gas-fired generation represents
23 additional demand that must compete with storage injection
24 requirements for natural gas supplies, tending to increase
25 prices.

1 Storage inventories ended the exceptionally warm
2 winter of 2005-2006 at near record level, reducing summer
3 demand for storage last summer and producing lower spot
4 natural gas prices. While storage inventories remain high
5 currently, they are lower than last year because of the cold
6 weather the country experienced late in the heating season,
7 especially in the east.

8 (Slide.)

9 High oil prices are contributing to current
10 natural gas prices as well. A certain amount of natural gas
11 can substitute for oil products, particularly residual fuel
12 oil when gas prices fall below the competing oil price. As
13 a result residual fuel oil prices have historically served
14 as a sort of floor for natural gas prices. Last year they
15 did not.

16 As we can see in this graph of wholesale energy
17 prices into New York City, for most of the summer of 2006
18 natural gas prices remained below oil prices. I've
19 highlighted this period in the yellow box.

20 This is the longest period with relatively lower
21 gas prices for some time. As a result demand for natural
22 gas in the United States increased over typical levels due
23 to switching, on the order of half a billion to a billion
24 cubic feet a day, observed mainly in New York and in
25 Florida. Currently oil and gas prices are in closer

1 balance. Note the area in the brown box. We never see them
2 diverge too far and we simply don't know how they will
3 compare this year. Nevertheless, strong current oil prices
4 tend to keep natural gas prices and electric prices high as
5 well.

6 (Slide.)

7 Some other important fuel prices are actually
8 down. Eastern and western coal prices have dropped by about
9 a fifth since last year at this time on much stronger
10 inventories. As we can see in this graph of coal for
11 electric generation, coal inventories strengthened last
12 year. Observe the trend with the green line.

13 Concerns remain about the adequacy of coal
14 deliveries and railroad investment. However, coal does not
15 now predominate as a price-setting fuel in many U.S.
16 markets. Increased investment in coal-fired generation
17 could conceivably change this dynamic some day.

18 (Slide.)

19 In a related set of markets the prices of
20 emissions credits fell dramatically in 2006 and remain
21 fairly low for both SO₂ and NO_x. 2006 ended with emissions
22 below cap levels and consequently excess credits for these
23 emissions. Lower hydroelectric supplies this year may
24 increase demand for emissions credits. But for now prices
25 remain low.

1 (Slide.)

2 In the west the effects of snow pack, river flows
3 and reservoirs on hydroelectric generation are a perennially
4 important driver of electric market performance. Last year
5 hydroelectric generation based on above-average U.S.
6 participation helped manage summer peaks in the west, both
7 directly and by permitting extensive work on generation
8 units that resulted in lower outage rates during the summer.

9 This year the Pacific Northwest has received
10 below normal levels of precipitation and precipitation in
11 California has fallen substantially short of normal levels.
12 In addition warm weather has resulted in early snowmelt.
13 The consequences of an early melt is more generation in the
14 spring but less water to refill rivers and generate later in
15 the summer.

16 (Slide.)

17 Electric markets last summer faced
18 extraordinarily high peak demands with records set in many
19 regions in late July and August because of abnormally
20 extensive heat and in some cases humidity. On average,
21 however, load in the summer was also somewhat higher, and
22 total generation for all of 2006 was largely unchanged.

23 Load forecasters used generalized assumptions
24 about weather, growth, and other factors. Predicting
25 abnormal events that create record peaks is difficult.

1 In this map we can see that assuming peak
2 temperatures look more like average than last year's
3 extremes. Peak loads in many places in 2007 will be lower
4 than in 2006. These areas include California, Ontario, New
5 England, the PJM area of the Mid-Atlantic, and even New
6 York.

7 In other areas peak load is expected to grow,
8 including in the Southern Company in the southeast, the
9 upper Midwest, Texas, and the lower Midwest covered by SPP.

10 (Slide.)

11 But can we know more? Maybe not. But let's see
12 what the forecasters are telling us about the summer.

13 NOAA's most recent forecast weather map for June
14 through August issued in mid-April is of widespread heat in
15 the west and along the Gulf and East Coasts. Above average
16 heat would likely result in higher peaks than those I
17 reviewed in the last slide.

18 Interestingly, last year's mid-May forecast of
19 summer 2006 heat looks a lot like the current forecast for
20 summer 2007. So we've added last year's forecast as an
21 inset into this year's map.

22 Though it predicted above-normal temperatures,
23 NOAA's predicted pattern for last summer did not really
24 match the geographic distribution of last summer's
25 extraordinary heat. These are the dangers of forecasting,

1 and that's why I'm happy to leave the forecasting to the
2 professionals at EIA and NOAA.

3 (Slide.)

4 Before briefly considering regional issues I'd
5 like to spend a moment on demand response. Last summer
6 demand response was used extensively to manage peak loads on
7 many systems in the United States. The volumetric effect on
8 load was small, estimated from virtually nothing in certain
9 areas to a little more than four percent of load at the
10 peak. Still, even small reductions of load at peaks can
11 disproportionately reduce stress on an electric delivery
12 system.

13 A little reduction can also reduce prices at the
14 peak. Demand response programs in the United States tend
15 not to be well coordinated with market activity. But their
16 contribution to managing electric systems under peak
17 conditions is significant even without that integration.

18 The market monitor for the Midwest ISO in
19 particular has recommended that demand response should not
20 be allowed to affect prices when it is invoked to manage
21 reliability. Looking for ways to have a stronger price
22 basis for demand response could encourage its effectiveness.
23 For example, the demand response program administered by
24 Georgia Power that signals participants with real-time
25 prices has reduced load in Georgia by more than five percent

1 of load during extraordinarily hot weather earlier in the
2 decade.

3 (Slide.)

4 Next we'll review the balance of supply and
5 demand and other market issues in four general regions: The
6 western United States, including the California ISO, the
7 Northwest and Southwest; the Northeast United States,
8 including ISO New England, the New York ISO, and PJM; the
9 Southeast United States and the Midwest and Texas,
10 considering the Midwest ISO, SPP and ERCOT.

11 (Slide.)

12 Overall Southern California still has the most
13 constrained balance between electric consumption and supply
14 in the United States. Generation additions are not really
15 keeping up with expected peak load growth. With tighter
16 hydroelectric supplies Southern California will be
17 increasingly dependent on natural gas; hydroelectric
18 generation should still be available for peaks.

19 Transmission improvements are likely to help
20 Southern California. This year design transmission capacity
21 has been upgraded by 500 megawatts from Palo Verde by
22 changing capacitors and transformers and installing other
23 new equipment.

24 Prices are likely to remain a concern. Last year
25 we monitored transactions above the \$400 per megawatt hour

1 western soft cap due to scarcity at the peak. Given the
2 likelihood of higher priced natural gas in the west this
3 year extreme weather could easily raise prices to the peak
4 level again in summer 2007. In fact, California ISO
5 imbalance markets briefly reached their \$400 limit last week
6 on hot weather.

7 I should note that California ISO imbalance
8 market prices in 2006 generally did not rise with other spot
9 prices during periods of peak loads. The failure to clear
10 against related markets is due to the particular structure
11 of ISO imbalance prices and the much more significant role
12 of term contracts in California.

13 (Slide.)

14 Last year we expressed some concerns about the
15 Northeast, particularly New England and New York. As it
16 turned out, extraordinarily good generator availability
17 helped meet New England's extreme peaks last summer. It's
18 hard to assume such a high level of availability in the
19 future.

20 This summer New England remains very tight,
21 heavily dependent on imports to meet peaks. Still, within
22 the tightest locations in New England recent transmission
23 additions will help. A 345 kV loop added into southwest
24 Connecticut should allow additional transmission to meet
25 needs. Additional transmission lines into Boston increased

1 capacity by 1000 megawatts.

2 Similarly, by July first new Neptune line will
3 increase capacity from eastern PJM into New York's tightest
4 zone, Long Island, by 660 megawatts. The result in Long
5 Island should be lower prices and another possible source of
6 supply at peaks.

7 Eastern PJM continues to see congestion. Their
8 resources appear adequate for 2007. Concern about
9 congestion, including the prospect of serious reliability
10 violations in the future led, for example, PJM's
11 Transmission Expansion Advisory Committee recently to
12 recommend two major transmission projects that will go into
13 service by June 2012.

14 Market monitors for these RTOs have long
15 identified a lack of correspondence between market signals
16 and electricity movements among the regions. We don't
17 expect that to change. For example, while additional
18 electricity delivered to Long Island through Neptune
19 theoretically might be available to Connecticut through
20 reverse flow of the cross-Sound cable, such a transmission
21 would require actions outside past practice to allow or
22 encourage market participants to respond to market signals.

23 (Slide.)

24 In the southeast generation still appears
25 adequate despite a drought that will reduce the availability

1 of hydroelectric generation throughout the summer. For
2 example, the Southern Company's hydro power resources have
3 reduced by 70 percent. Hydro makes up less than ten percent
4 of the Southern Company's generating capacity.

5 For Florida, which depends on natural gas for
6 almost half of its generation needs, the newly operating
7 Cypress Pipeline has already added about 220 million feet
8 per day of natural gas capacity from the Elba Island
9 liquefied natural gas facility. The second phase of Cypress
10 is planned to add another 116 million cubic feet per day of
11 capacity before the summer of 2008.

12 By 2010 the Cypress Pipeline is expected to have
13 the capacity to transport up to 500 million cubic feet of
14 natural gas to Florida every day. Cypress adds some
15 diversity to Florida's natural gas supplies that had
16 historically come from the Gulf of Mexico. The additional
17 supply may matter.

18 During the summer of 2006 Florida's wholesale
19 price of natural gas was the highest in the United States.

20 (Slide.)

21 After a careful re-evaluation of its generating
22 resources the Midwest ISO has reduced its estimated
23 installed capacity this year by about 11 gigawatts to a
24 total of about 128 gigawatts. Generation additions are
25 about the expected load growth, and the ISO's capacity

1 reserve margin this summer is expected to be about 15
2 percent, which should be sufficient.

3 Michigan utilities recently reported that they
4 will be dependent on imports to meet peaks but have
5 contracted for them already.

6 In general SPP supply appears adequate for the
7 summer. Recent and rapid load growth in Northwest Arkansas
8 has been met with 320 megawatts of new generation and
9 transmission investment and upgrades.

10 This will be SPP's first summer with an energy
11 imbalance market. On May first the start-up offer cap for
12 that market rose to \$1000 per megawatt hour. We've seen
13 interval prices recently as high as \$700 per megawatt hour
14 due to local line outages, though tightening ERCOT's
15 capacity appears adequate. On March first ERCOT's energy-
16 only market offer cap rose to \$1500 per megawatt hour,
17 making its cap the highest in the United States.

18 (Slide.)

19 To summarize, wholesale prices for electricity
20 are likely to be higher across the United States this summer
21 due largely to higher expected natural gas prices. National
22 generation additions have not been adequate to keep up with
23 load growth. Still in many areas electric transmission and
24 natural gas transportation investments appear to have added
25 a little flexibility to meet load in regions that have faced

1 some stress in the past, including Southern California, New
2 England, and Florida.

3 Thank you. I'm happy to take any questions.

4 CHAIRMAN KELLIHER: Thank you, Steve.

5 Jon.

6 COMMISSIONER WELLINGHOFF: Steve, as I understand
7 it, the forecast on 11, was this done by EIA? On page 11.

8 MR. HARVEY: Oh, the peaks of the summer. These
9 were done by the various regional organizations.

10 COMMISSIONER WELLINGHOFF: This was based on
11 weather normalized data that didn't take into account the
12 NOAA forecast on page 12?

13 MR. HARVEY: That's correct.

14 COMMISSIONER WELLINGHOFF: So if the NOAA
15 forecast is correct and I understand your presentation, we
16 could be in trouble in Southern California and New England
17 this summer.

18 MR. HARVEY: I think that's correct. And I think
19 that the regional assessments that have been produced by the
20 Cal ISO and folks looking at Southern California and in the
21 New England case both acknowledge that.

22 COMMISSIONER WELLINGHOFF: I guess the first line
23 of defense, then, is demand response.

24 MR. HARVEY: I think that's right.

25 COMMISSIONER WELLINGHOFF: With respect to the

1 demand response information you provided, I noticed there's
2 no information from ERCOT. Is that because they're not
3 doing any there, or they just don't provide the information?

4 MR. HARVEY; Dean.

5 MR. WIGHT: I believe they didn't directly
6 measure their demand response last summer. We weren't able
7 to provide that information, although my understanding in
8 discussions with them is that they expect to have about a
9 1200 megawatt demand response in addition to what they call
10 emergency interruptible, which could be another 500 to 1000
11 megawatts.

12 COMMISSIONER WELLINGHOFF: Thank you.

13 CHAIRMAN KELLIHER: Let me just make a few
14 comments.

15 First of all, I want to thank you for the
16 presentation. It's very interesting and it's timely to get
17 this kind of market review in advance of the summer.

18 One thing I wanted to react to is the same slide
19 that Jon pointed to -- actually, it's the same slide. The
20 summer 2000 forward prices slide was interesting, and the
21 point that you made earlier on, that high natural gas prices
22 will result in higher wholesale power prices not just in the
23 organized markets but outside the organized markets, the
24 bilateral markets. That's a perception that -- there seems
25 to be a contract perception in some quarters that somehow

1 that if we increase the natural gas prices it will only
2 affect wholesale prices in the organized markets. The slide
3 shows the exact opposite.

4 If you look at the summer 2007 forward prices in
5 the Pacific Northwest they're saying it will be up 23
6 percent notwithstanding abundant hydro power. It's actually
7 higher than the projection in some of the organized markets.

8 I think you made a pretty persuasive case that
9 the increase in natural gas prices affects wholesale prices
10 in all regions notwithstanding market structure. I think
11 that's interesting to know.

12 I just wanted to ask about Southern California,
13 calling on Jon's comments. I think last year you said that
14 Southern California relies on imports for a bout a third of
15 its power supply. Is that still the case, and do we expect
16 that to continue for a period of time? Is their solution
17 going to be more of a transmission solution going forward
18 than a generation solution?

19 MR. HARVEY: I think in any substantial way,
20 that's correct. They're tending to rely more on
21 transmission. Certainly over the last year or two they
22 focused more on transmission links to a certain degree on
23 demand response.

24 CHAIRMAN KELLIHER: One last point on coal.

25 Last year we did have -- it was June of last year

1 we had our technical conference on coal. Some of the
2 concerns about reliability of coal transportation, your
3 slide indicates that inventories are much stronger now. To
4 me that doesn't mean that there's not a problem. It means
5 the problem could be just over the horizon.

6 It could be current inventories right now are
7 adequate. We're looking again at pretty significant coal
8 generation additions in some parts of the country, and I
9 think there's concerns about whether the railroad investment
10 is adequate to account for that increase in coal generating
11 capacity. It could be that we're one major rail line
12 failure away from having the same situation that we looked
13 at last year.

14 I think it's something we really need to keep an
15 eye on and keep on watching because I don't think the fact
16 that inventories right now are adequate means that there is
17 no problem with coal transportation and that that is
18 something that we don't have to show any concern for any
19 more.

20 Thank you for that report on coal stocks.

21 Colleagues, any comments or questions?

22 COMMISSIONER KELLY: Steve, I'd like to ask you a
23 little bit about the LNG situation. I notice that you
24 didn't really talk in any depth about the LNG and expected
25 imports.

1 Are you prepared to answer questions?

2 MR. HARVEY: Sure.

3 COMMISSIONER KELLY: You talked about the
4 additional capacity from Elba Island into Florida. That's
5 on the transmission side. What do you expect on the supply
6 side? What kind of LNG imports, particularly into Elba
7 Island, do you anticipate during the summer?

8 MR. HARVEY: We've seen basically the price
9 conditions internationally coming out of last winter have
10 shown that in Europe in particular inventories are quite
11 strong for natural gas and prices have been much, much lower
12 than they've been in the United States. As we noted a
13 couple of years ago sort of early on, we would see tanker
14 movements adjusting based on those relative prices.

15 Given the amount of time that our prices have
16 been much higher than European prices in particular, and
17 really higher than most international prices -- with
18 probably the exception of India, which also has very high
19 prices currently -- we've seen a lot of LNG coming into the
20 United States. In fact, about a week ago based on pipeline
21 scheduling data, which is what we kind of use to monitor day
22 to day flows of gas, we identified what we think may be the
23 one-day peak in LNG deliveries when virtually all of the
24 established LNG terminals were sending out a fair amount.

25 And in fact, the Gateway project in Florida, the

1 offshore project was also delivering for the first time in
2 quite some time. I think it was on the order of four and a
3 half billion cubic feet a day for that particular day.

4 We expect I believe May to be a record delivery
5 for LNG unless those price relationships change. And I'm
6 not sure what it would take in Europe to make the
7 fundamental change right now. We expect the summer to have
8 a great deal of LNG coming into the United States.

9 COMMISSIONER KELLY: Great.

10 It was my understanding that this summer it was
11 likely that our prices were favorable enough to attract
12 investment of the LNG imports. So that's your assessment as
13 well?

14 MR. HARVEY: Yes. From our perspective it seems
15 a bit counterintuitive. Why would we be filling up LNG
16 terminals in the summer when we think of it as the off-
17 season for natural gas, not necessarily filling up in the
18 winter? It really appears to be very directly related to
19 those price differentials.

20 Europe, for example, under stress will call away
21 some of that supply in the winter whereas in the summer with
22 our much larger ability to store natural gas it seems to be
23 diverted this way. We've seen this pattern repeat itself
24 over time, even though it's a little bit strange from a
25 domestic perspective, if you don't look at the international

1 perspective.

2 COMMISSIONER KELLY: Do you expect the import of
3 LNG to have a significant impact on delivered price?

4 MR. HARVEY: I believe we made a calculation the
5 other day, a sort of record delivery. And we kind of looked
6 at the overall system. If I remember the numbers correctly
7 -- and I may not exactly but I'll take a shot -- I think it
8 was something on the order of seven percent of the natural
9 gas entering the pipeline system on that day was LNG at its
10 very highest level.

11 It looks to me more right now like LNG really is
12 sort of a marginal supply for us. It doesn't so much drive
13 price as it sort of responds, just because it isn't quite
14 big enough to have that kind of influence. Over time that
15 could change. Over time, obviously, if we increased our
16 imports of LNG that might change.

17 We also have begun talking in terms of Europe.
18 With developments of LNG in the west or in Mexico we've
19 begun to look and think about how gas flows by change and
20 how pricing structures may change in the west. It's still
21 fairly early to get a strong sense of that. I'll say we're
22 a lot less familiar with Pacific LNG markets, which don't
23 seem to have developed quite as much of this spot swing
24 capability as the Atlantic ones have yet.

25 COMMISSIONER KELLY: Thanks.

1 How about the Northeast? What's the status of
2 the Maritimes and Northeast pipeline delivery system to
3 bring LNG into New England from Canada?

4 MR. HARVEY: That I don't know off the top of my
5 head.

6 COMMISSIONER KELLY: Mark might know the answer
7 to that one.

8 MR. ROBINSON: The Commission has authorized the
9 expansion to accommodate the Canaport project, which is
10 under construction between now and 2010 I think everything
11 Steve has talked about is going to be radically altered,
12 both on the east coast and west coast by liquefaction
13 additions in Qatar in particular and Riyadh additions both
14 on our east coast and the Pacific Basin and the Atlantic
15 Basin.

16 But it is a time of uncertainty in terms of
17 what's going to happen with LNG other than as Steve
18 mentioned. We had a peak delivery of seven percent of the
19 nation's natural gas demand by LNG just this last month.
20 That comes from 0.2 percent just in 2001.

21 COMMISSIONER KELLY: An amazing increase.

22 MR. ROBINSON: The growth has been almost
23 exponential. I know you'll see that through at least around
24 the 2012 time period just in terms of what's under
25 construction right now.

1 COMMISSIONER KELLY: When you said in Qatar,
2 there's a train coming on line on liquefaction. Is that
3 under contract to Rebsol? Is it just for the Canaport
4 facility?

5 MR. ROBINSON: The one Qatarian train that I'm
6 aware of is designated for a project in Texas.

7 CHAIRMAN KELLIHER: I think we have to suspend
8 this meeting.

9 (Pause.)

10 CHAIRMAN KELLIHER: Why don't we take a break
11 here until, say, 11:10. Hopefully we can resume at that
12 point. We do not have to evacuate the building unless we're
13 instructed further. But why don't we resume at 11:10.

14 (Recess.)

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1 CHAIRMAN KELLIHER: We're going to resume. Were
2 you still asking questions, Suedeen? I don't mean still.

3 (Laughter.)

4 CHAIRMAN KELLIHER: You were asking questions.
5 Let's pick up where you left off.

6 COMMISSIONER KELLY: That was a positive no.

7 (Laughter.)

8 MR. ROBINSON: I'll answer the question that you
9 asked. We had time to go back to staff and find out what it
10 was.

11 (Laughter.)

12 COMMISSIONER KELLY: Do you want to repeat the
13 question?

14 MR. ROBINSON: Basically, where was gas coming
15 from for Canaport, I believe. The answer is Rexall has
16 contracts already with Algeria and Trinidad and Tobago to
17 bring gas from those two locations. Where it actually ends
18 up was what Steve was talking about in terms of where the
19 price is, where they get the best deal. They're also
20 working on additional gas supply areas, areas that currently
21 do not have liquefaction, but do have gas reserves. They're
22 trying to develop more liquefaction there..

23 COMMISSIONER KELLY: Is Suez increasing their
24 capacity in New England at all?

25 MR. ROBINSON: They just received approval for

1 the project to buoy facilities. Regasification tankers
2 would come in and offload, so yes. They're also increasing
3 their supply resource.

4 COMMISSIONER KELLY: I recall not last summer,
5 but the summer before when generation was quite constrained
6 by the inadequate supplies of natural gas in New England.
7 So it looks like improvement is on its way in the
8 deliverability of natural gas into New England.

9 MR. ROBINSON: It's on its way, but in both
10 instances probably the Canaport is the nearest term. That
11 would be 2008/2009, in that time frame, the offshore
12 facility -- probably a little later than that, more like
13 2009/2010. So we have a couple of more winters, which is
14 really where the highest concern comes in for gas supply, at
15 least from our perspective it is, to get through.

16 COMMISSIONER KELLY: Thank you.

17 Then I had a question on coal. On page 8, you
18 point out that coal prices are down and as I understand it
19 the delivered price of coal-fueled electricity is cheaper
20 than natural gas, by and large. So as you say here,
21 increased investment in coal-fired generation could
22 conceivably change this dynamic some day and be the price-
23 setting fuel, which seems to promise a lower price.

24 But my understanding is that we are not getting
25 coal-generating built in the country even though maybe

1 looking at it as a snapshot it might be the economically
2 favorable source of generation for a couple of reasons.
3 One, the uncertainty over whether we're going to have a
4 carbon policy and coal, certainly not being carbon neutral,
5 how that is going to impact the future cost of coal-fired
6 electricity out of a plant that's going to be around for 40
7 or more years and the other the unacceptability of coal-fired
8 generation to a lot of people, for example, people in New
9 England, as a source of energy.

10 MR. HARVEY: We've begun looking at a couple of
11 dynamics. I think, if a great deal of coal building comes
12 in, certainly there's a lot of interest. It shifts day-to-
13 day, but there clearly is a lot of interest in it. We've
14 begun to see a lot of different technologies being explored
15 to try to deal with the emissions associated with it.

16 We've also started spending some time working
17 with the folks at EPA trying to understand the dynamics of
18 any particular carbon-trading mechanism or carbon tax kind
19 of mechanism. I suspect those kinds of policies or markets
20 that develop out of those kind of policies would have a
21 pretty significant effect overall on the price of coal-fired
22 generation, the cost of coal-fired generation going into the
23 future. There's a good chance that the way those costs line
24 up may look very different in any future where coal is added
25 because of the sensitivity to those environmental issues

1 than maybe it looks like today and we're trying to begin to
2 understand that.

3 Because there is a lot of interest in it, we are
4 seeing a lot of different technologies being explored. None
5 of them, on the face of it, look economically sensible but
6 how could they at this point in the process?

7 COMMISSIONER KELLY: That's relevant to some
8 reports that I've seen recently of members of the electric
9 industry asking Congress to invest research dollars into
10 trying to improve the emissions and sequestration
11 technology.

12 One last thing. I just wanted to welcome John
13 Sillin here. I have known John for a number of years now.
14 I had the pleasure of meeting him several years ago in
15 Chicago when he was working at the Maryland PUC. I'm
16 pleased, especially since we just lost one of our members of
17 the Commission staff to the Maryland PUC, to have you join
18 us. Thanks for being here. You have a long, distinguished
19 career in the industry and in regulation. I'm really
20 pleased that you agreed to come and share that with us.
21 Thanks.

22 CHAIRMAN KELLIHER: Commissioner Moeller?

23 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

24 I first want to endorse the comments you made
25 about natural gas prices, putting pressure on prices

1 regardless of the market structure. It was a good
2 observation and one I hope people will recognize.

3 Secondly, the concern that you mentioned that I
4 share is that the infrastructure in delivering coal in this
5 country remains a little bit vulnerable to a supply
6 disruption that can impact reliability and certainly prices.
7 I guess I'll endorse the implied comments of Commissioner
8 Wellinghoff that demand response is something that we're
9 going to need to rely on more and more, particularly during
10 summer peaks. Although, the rest of the time it's
11 appropriate as well. But to try and get us through all this
12 transitional period where we hopefully get the
13 infrastructure in the grounds to catch up with the demand
14 that's out there.

15 Also, a comment on hydropower generally. Steve,
16 you pointed out that the Northwest is dry this year and it's
17 commonly known that the Northwest is heavily dependent on
18 hydropower, but less known that you referenced, in fact,
19 California as well. A very significant portion of their
20 generation relates to hydropower and typically western
21 weather patterns affect the entire coast, which plays into
22 the need for us to develop a national grid where regions can
23 share power more and more so that if one area is short it
24 can take advantage of the resources in another area.

25 When I was sworn in, in late July, pretty close

1 to the same time that Commissioners Spitzer and Commissioner
2 Wellinghoff were, it was an exciting. That heatwave was
3 moving across the country. I guess for the three of you I'm
4 interested in what are the issues that might keep you up at
5 night as we go into the summer? My fear is that we have
6 this kind of stealth demand out there that's growing as the
7 economy continues to grow. People have talked about it.
8 Certain appliances that people are adding, both in the
9 residential and commercial sector, that are not easily
10 identifiable but whether it's cheap air conditioners or high
11 usage television sets that displace lower usage ones it just
12 seems to be out there. I'm curious for the three of you to
13 comment on maybe your worry factors over the next summer.

14 MR. HARVEY: Deany, do you want to start or do
15 you want me to?

16 MR. WRIGHT: I think you indicated that load
17 forecasting and weather are always big uncertainties.
18 Weather is always our largest uncertainty. Steve wisely
19 stayed away from trying to forecast the weather, but I think
20 that's something that we always are worried about and we
21 watch the weather very closely every day for monitoring the
22 markets.

23 Secondly, I think our infrastructure incidents
24 that we can't account for, for example, the loss of a large
25 unit at a critical time or a wildfire that affects a

1 transmission line. It's hard to anticipate those things and
2 I don't want to speak for reliability engineers, but I know
3 those are the kinds of things they worry about, too.

4 As far as stealth load goes, you don't know, by
5 definition, until it shows up. That's also something that
6 makes me uneasy going into the summer, but we'll be watching
7 load, megawatt by megawatt, every day.

8 MR. HARVEY: One of the things that I know the
9 New England market monitor talked about in his state of the
10 market report earlier this week to staff and the Commission
11 here was the concern that we've seen over time that the load
12 is becoming peak-ier. I think that's very consistent with
13 the underlying drivers of growth you've talked about. A lot
14 of it's housing. A lot of it's space heat, given our
15 housing design, given the way we're rebuilding in different
16 places. The most extreme version of this, again, is
17 southern California where it tends to be big boxes in the
18 desert. You see much more of a peak element to that.

19 I know he expressed a lot of concern that if that
20 continues to develop, it's very hard to manage the
21 infrastructure around that. So I think it really boils very
22 much as sort of Dean expressed it that the big variable, the
23 underlying variable in terms of the overall price level does
24 look like it's gas. The variable from day-to-day, as we
25 make it through the summer and see how things go day-to-day,

1 will be the weather and whether that growth at the peak
2 continues to surmount distance to the growth on average and
3 whether we can manage that in an effective way. John?

4 MR. SILLIN: I guess the only observations that I
5 would have is that I think Steve has spoken quite eloquently
6 this morning about it in the presentation. If there's a
7 significant theme running through this, it's I think that
8 the margin for error, if you know what I mean, in the
9 system, in the electrical system isn't as robust as it was
10 let's say 5 or 10 years ago.

11 When there's a smaller margin for error, the
12 likelihood of something happening, obviously, an adverse
13 event happening, obviously, increases, I think on a going-
14 forward basis, these markets. These RTO markets are still
15 relatively new, 5, 6, 7 years, 10 years at the most and we
16 don't have a lot of history as to whether these markets will
17 really incent to the kind of investment that we're looking
18 for. I just think that will be -- my thought would be that
19 we just need to follow that and track that and monitor that
20 very carefully. Whether these markets are really working in
21 the sense that they're sending out the proper economic
22 investment incentives. I think they are. I think they
23 will, but I just think it's something that we all need to
24 carefully monitor.

25 COMMISSIONER MOELLER: Thank you.

1 CHAIRMAN KELLIHER: Mark?

2 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

3 Just a follow up on a couple of points. First, I
4 was acutely aware of the effect of natural gas prices on
5 electricity generation from the many rate cases that arose
6 in Arizona in 2004/2005 in the wake of the rising gas
7 prices, so it's a phenomenon that's been very well known and
8 is consistent and as has been point out cuts across markets.

9 In terms of what keeps me up at night, it's where
10 we're going to get baseload generation. There's been
11 discussion about a number of policy questions and
12 uncertainty with regard to pricing for coal, gas supply and
13 the like. But the blocking and tackling of the business is
14 the baseload generation and it's unclear. The only thing
15 that's clear is the lack of consensus, which is a problem
16 for the industry and ultimately for the customers.

17 There are issues that we do have authority on.
18 One is demand. Commissioner Moeller addressed the stealth
19 demand. I only have one child, but he's got three ipods.

20 (Laughter.)

21 COMMISSIONER SPITZER: That he uses
22 simultaneously.

23 (Laughter.)

24 COMMISSIONER SPITZER: Is that reflective -- I
25 don't know how he does it, but there you are. He shares

1 with his friends, you know. We teach him to share in our
2 house. It's inexorable demand with the gadgetry that we've
3 got and it's a generational issue. But that generation of
4 gadgets and gadgetry is catching up.

5 For my part, demand response is a critical
6 element of this. I've downloaded some of the songs. I
7 substituted his Rap for Shostokovich and I do it off-peak.

8 (Laughter.)

9 CHAIRMAN KELLIHER: I hope you didn't put the
10 Internationale on that.

11 COMMISSIONER SPITZER: No, I did not.

12 The area of natural gas is the main driver. I've
13 observed this at both the state and federal level. I'm not
14 by any means hostile to LNG. I'm supportive of another
15 choice. I'm a believer, though, that we need to diversify
16 and not put all the eggs in one basket, so to speak.

17 It's interesting where in May we've got about 7
18 percent of supply arising from LNG or attributed to LNG.
19 That number has historically been about 3 or 4 percent.

20 MR. HARVEY: Seven percent was the highest day as
21 far as we can tell.

22 COMMISSIONER SPITZER: Traditionally, it's been
23 around 3 percent or so.

24 MR. ROBINSON: There's not a big history.

25 (Laughter.)

1 MR. ROBINSON: Literally, in 2001, it was about
2 0.2 percent of the nation's supply. Historically, we've
3 gotten our imports from Canada, running 16 percent or so to
4 jump back up to about 16 percent this year down around more
5 like 13. There's an expectation that the Canadian supply
6 will continue to diminish in terms of imports to the U.S.
7 LNG is picking up that slack and also picking up the slack
8 in U.S. production in terms of meeting increasing demand.

9 COMMISSIONER SPITZER: The reason that figure was
10 stuck in my memory was, in the wake of the hurricanes, we
11 had a number of presentations of our retail customers
12 explaining the need for the rate issues for the gas LDCs as
13 well as for the electric and their PPAs. The point was made
14 even that a lot of the shut-in gas on the Gulf Coast I think
15 the snapshot figure for LNG at that time was 3, 4 percent.

16 So notwithstanding the importance from a marginal
17 point of view, in the aggregate, we're still relying on the
18 pipes and we're still relying on bringing natural gas supply
19 to load centers from areas -- Texas and West, the Rockies
20 where we have production. I think we should be very proud
21 of the activity we've achieved in siting pipelines. I was
22 recently at a dedication of a project in Louisiana, which is
23 bringing Barnett shale, which is a technological innovation
24 with a price level at 450. It becomes economically
25 feasible. So a new incremental supply that didn't exist

1 before. It's one thing to identify the resource. It's
2 quite another to transport to market and that is being done
3 and that is now active additional capacity for the
4 southeastern U.S. to connect into Florida, to connect into
5 the upper Midwest in these constrained areas. That is
6 absolutely vital if we're to address the reliability as well
7 as price issues.

8 Even if LNG increases as a proportion as gas
9 supply, the network of pipelines is essential and frankly we
10 ought to pat ourselves on the back for undertaking prompt
11 siting of pipelines that have great benefits to the
12 ratepayers.

13 CHAIRMAN KELLIHER: Thank you.

14 Any other comments?

15 (No response.)

16 CHAIRMAN KELLIHER: I also want to pick up
17 Suedeen's comments and I want to welcome John. I've known
18 John for many years. I'm trying to figure out actually how
19 long. Was it the '80s or early '90s? But it's been a long
20 time. I want to welcome you to the Commission as well.

21 Any other comments?

22 (No response.)

23 CHAIRMAN KELLIHER: Thank you very much for the
24 briefing. Let's continue with the discussion agenda.

25 SECRETARY BOSE: The next item for discussion

1 this morning is E-1 and E-5 concerning the Midwest ISO and
2 PJM interconnection LLC, respectively. We'll have a
3 presentation by Udi Helman from the Office of Energy Markets
4 and Reliability. He is accompanied by Morris Margolis and
5 Jeff Hitchings from the Office of Energy Market Reliability
6 and Melissa Nimit from the Office of General Counsel.

7 MR. HELMAN: Good morning, Mr. Chairman and
8 Commissioners. We'll discuss two draft orders related to
9 compliance with the final rule on long-term firm
10 transmission rights in organized electricity markets.

11 As you recall, that rule established seven
12 guidelines for the creation of long-term rights. Among
13 other things, the guidelines addressed the specification of
14 the rights, who is eligible to receive them and in what
15 priority, how the rights are allocated, their term and
16 renewal conditions, full funding of their rights once
17 allocated, how the reasonable needs of load-serving entities
18 should be met, reassignment of the rights and how the rights
19 are factored into transmission planning and expansion.

20 The draft orders before us involve the rehearing
21 of the PJM compliance filing, which was accepted, subject to
22 modification, last November, rated PJM settlement and the
23 compliance filing of the Midwest ISO, which we are also
24 accepting, subject to modification.

25 The PJM draft order addresses requests for

1 rehearing as well as settlement and compliance filings that
2 resulted from Commission direction in the November order.
3 First, the draft order denies several requests for
4 rehearing. However, in so doing, it addresses the issue of
5 whether load-serving entities external to PJM are able to
6 obtain long-term rights from PJM.

7 The draft order notes that while the PJM proposal
8 does not prohibit external load-serving entities from being
9 allocated long-term rights, it suggests that PJM and its
10 stakeholder develop market rules to address future
11 eligibility requirements. The draft order also accepts
12 compliance filing by PJM that ensures that long-term rights
13 are fully funded by allocating uplift to FTR holders.
14 Parties stated that all uplift funding alternatives were not
15 fully evaluated by stakeholders due to the time constraints
16 and having the market rule become effective on June 1. In
17 this regard, the draft order recognizes that PJM will
18 revisit this issue with stakeholders and direct the PJM file
19 a status report in November.

20 Finally, the draft order accepts a settlement
21 among PJM members that satisfies the Commission's decision
22 in the November order that the allocation of long-term
23 rights must meet the reasonable needs of a load-serving
24 entity defined in PJM as zonal baseload.

25 Turning to MISO, prior to the final rule, MISO

1 had begun a process to revise its transmission rights
2 designed to conform more closely to that of PJM so as to
3 support the development of a joint and common market. In
4 this compliance filing, MISO adopts several aspects of the
5 PJM design for both short- and long-term rights. Most
6 notably, changing from its prior rules in which it directly
7 allocated FTRs to a design like PJM in which it will
8 directly allocate points-to-point auction revenue rights,
9 which can then either be directly converted to FTRs or used
10 to collect auction revenues.

11 Similarly, to PJM, MISO will allocate long-term
12 auction revenue rights which have a fixed quantity and can
13 be renewed every year for 10 years. Load-serving entities
14 are eligible for such rights up to their baseload. All
15 remaining auction revenue rights are allocated on the short-
16 term basis of one year or less. Unlike PJM, MISO also has a
17 process by which some load-serving entities are required to
18 hold so-called "counterflow" auction revenue rights so that
19 other load-serving entities can receive sufficient baseload
20 auction revenue rights.

21 This process was put in place at the start of the
22 MISO market in 2005 and was intended as a five-year
23 safeguard until 2010, but is being carried over into the
24 long-term rights design, which would potentially take it
25 forward for another eight years. We have asked MISO to

1 explore with stakeholder alternatives to continuing this
2 measure by 2010 and report back to the Commission within six
3 months of the date of the order.

4 Finally, while MISO guarantees the financial
5 integrity of the long-term auction revenue rights, it did
6 not propose to fully fund any FTRs that such auction revenue
7 rights were used to obtain. We have explained in the draft
8 order that the final rule does require MISO to fully fund
9 such FTRs and have required that they do so and return to
10 stakeholders to devise a method for uplifting any revenues
11 needed for fully funding.

12 That concludes our presentation. We'll be happy
13 to answer any questions.

14 CHAIRMAN KELLIHER: Thank you. I want to thank
15 you for that presentation and I want to thank staff for
16 their work on these orders. This is actually a very
17 complicated area. I think the orders are well reasoned and
18 well written. Thank you.

19 The previous discussion we had today was about
20 adequacy of electricity supply and are we adding enough
21 generation. There are a lot of wholesale customers that
22 want to make long-term arrangements for electricity supply,
23 either self-build or entering long-term contracts. They
24 have reasonable concerns about risk and exposure to
25 transmission congestion. I think our final rule was focused

1 on that concern and we, through the final rule, sought to
2 reduce the risk of exposure and facilitate those long-term
3 arrangements and I think that's the right approach.

4 These orders we find are consistent with the
5 final rule and I support the orders. Colleagues?
6 Commissioner Kelly?

7 COMMISSIONER KELLY: I believe that the actions
8 that we take today mark a major accomplishment in the
9 evolution of organized electricity markets in this country.
10 What we are doing is approving the compliance filings of PJM
11 and MISO with Order 681. Order 681, which we issued not
12 long ago pursuant to the Energy Policy Act, requires RTOs
13 and ISOs to make long-term transmission rights available.

14 What we're doing here is meeting the need of
15 load-serving entities who do business in organized markets
16 to have some type of price certainty for the transmission
17 component of their future cost structure when they invest
18 large amounts of money and supply arrangements in areas
19 where there are not organized markets where power continues
20 to be traded under bilateral contracts. This transmission
21 price certainty can be and has been had by entering into a
22 transmission contract for a physical transmission right with
23 a set term and rates.

24 Our organized markets, however, were originally
25 designed to address several important issues at once. They

1 were designed to address the need to provide a fair platform
2 for all sellers and buyers to be able to compete, to provide
3 service as well as possible costs. They were designed to
4 meet the need to have prices reflect the physical
5 limitations of the grid so that the grid can be used more
6 efficiently and fairly and they were designed to meet the
7 need to provide price signals for the rational siting and
8 expansion of transmission generation and other facilities
9 requires to serve customers.

10 Unfortunately, serving so many worthy purposes at
11 once can mean that other worthy purposes don't initially
12 receive as much attention as they may deserve. The need for
13 long-term transmission rights is clearly one of those
14 additional worthy purposes. Our Order 681 was meant to
15 address that issue. These compliance filings meet the
16 requirements of Order 681 and MISO and PJM. I'm pleased to
17 vote for both of them and to see the markets in those areas
18 move forward.

19 CHAIRMAN KELLIHER: Colleagues? Commissioner
20 Spitzer.

21 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

22 EPAct 2005 contained many directives to the
23 Commission. One that's notable but often overlooked is
24 Federal Power Act, Section 217(B)(4), which ensures the
25 access of load-serving entities to long-term transmission

1 rights or equivalent tradable or financial rights for long-
2 term power supply arrangements. The Commission acted within
3 one year, the deadline prescribed by Congress, and issued
4 Order No. 681.

5 In that Order, the Commission required each
6 transmission organization that is a public utility with one
7 or more organized electricity markets to comply with the
8 amended Federal Power Act. The Commission permitted each
9 transmission organization to propose designs for long-term
10 transmission rights that reflect local circumstances and
11 accommodate regional market designs while achieving the
12 congressional intent.

13 The two orders before us harmonize federal policy
14 regarding long-term transmission rights with the distinct
15 characteristics of PJM and MISO. The orders consider and
16 balance regional distinctions within the overarching context
17 of the Federal Power Act. I am pleased to support these
18 orders. They will provide increase certainty as to the
19 congestion costs of long-term firm transmission service and
20 organized electricity markets.

21 I believe these orders will assist load-serving
22 entities and other market participants in making incremental
23 investments in infrastructure and to achieve long-term power
24 supply arrangements. I'd also like to thank the staff.
25 These orders are highly technical in nature. This is a good

1 work product and I'd also like to thank one of the parties.

2 Roy Thilly can and met with me back in August of
3 last year and gave me a very balanced, historical context
4 for the statute that I appreciated and often it's important
5 to understand the historical underpinnings of federal
6 legislation and that was very helpful in having me achieve
7 an understanding of a technical complex area in a region far
8 different from my own state and that was helpful. I think
9 we made progress in a very laudable objective that Congress
10 offered to specifically articulate and faithfully
11 implementing the intent of Congress is an important
12 objective of the Commission and we've done so in a
13 technically correct way. I'm pleased to support these
14 orders.

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1 CHAIRMAN KELLIHER: Commissioner Moeller?

2 COMMISSIONER MOELLER: I'll spare everyone a
3 statement, but I'll endorse the comments of my colleagues
4 previously, but I have a comment and a couple of questions,
5 as well.

6 In E-4, which is an Order we just voted on, the
7 consent calendar is related, because we denied the rehearing
8 request of a couple of municipalities -- Front Royal,
9 Virginia and Chambersburg, Pennsylvania.

10 They had argued for a greater allocation of ARRs.
11 We found they were properly allocated under the PJM tariff,
12 but, much to their dismay, because they will be prorated
13 quite extensively.

14 I guess I wanted to evoke some sympathy for them,
15 because, although the rules were followed, this will result
16 in some rate increases, and, hopefully, going forward, there
17 will be some alternatives.

18 Actually, I think, in the Order, we do provide
19 some relief, potentially, by giving them a one-time, option
20 to change the energy settlement area from nodal to zonal.

21 Can the team explain how this will work and how
22 they can potentially, hopefully, benefit from this?

23 MR. MARGOLIS: The settlement that we address in
24 the PJM Order, permits the municipalities that we're talking
25 about, that were prorated for the current year, a one-time

1 opportunity to change from the nodal to a zonal settlement.

2 Currently, they take energy on a nodal basis,
3 where they are located. By taking settlement of energy on
4 the zonal basis, they will be allocated the aggregate of the
5 allocating power zone, which will include many lower-priced
6 nodes, so it will give them lower energy prices in that
7 regard, and it should also be a little bit more favorable,
8 if they need to be prorated with ARRs again in the future.

9 So it should compensate them somewhat against the
10 costs of the limited numbers of ARRs that are available.

11 COMMISSIONER MOELLER: Well, I appreciate the
12 creative approach to try and at least provide this one-time
13 option for these municipalities to lower the impact of this
14 on their consumers.

15 I have a second question, Mr. Chairman. The Long
16 Island Power Authority had also requested rehearing, as you
17 know, arguing that the PJM proposal unfairly prevented load-
18 serving entities with load located outside of PJM, from
19 obtaining preferential long-term transmission rights.

20 I understand why we denied LIPA's request, but
21 can you explain, if utilities like LIPA, will be eligible
22 for long-term rights, at some point in the future?

23 MR. MARGOLIS: We looked at Order 681-A and there
24 is no prohibition against the external LSCs, external to
25 PJM, from obtaining long-term rights within PJM, and we

1 asked PJM and the stakeholders to look at market rules, to
2 develop market rules where at some point in the future, an
3 external LSC may be able to qualify to obtain preferential
4 allocation of rights.

5 COMMISSIONER MOELLER: Thank you. I just want to
6 point out also that I am recused from E-1, so my comments
7 were specific to E-5. Thank you.

8 CHAIRMAN KELLIHER: Thank you. Jon?

9 COMMISSIONER WELLINGHOFF: Mr. Chairman, yes,
10 just a short comment, also. I also support both of these
11 orders and appreciate all of the work that Staff did on
12 them.

13 They are very complex and very important, as
14 well, with respect to long-term transmission rights and
15 taking our responsibility under EAct and rule under Order
16 681, now into actual implementation with respect to these
17 two regional transmission organizations.

18 But my comment goes to the fact that I know that
19 we do need to recognize, and I think we are in these rules,
20 you know, the differences of regions and harmonize those as
21 best we can, but I'm pleased to see that MISO, in E-1, is
22 adopting some aspects of the PJM design, and I would hope
23 that this Commission would continue to encourage the RTOs to
24 look at best practices and try to utilize those across the
25 RTO regions, because I think that way, consumers can get

1 much more efficient operation in markets.

2 CHAIRMAN KELLIHER: Thank you. Any other
3 comments?

4 (No response.)

5 CHAIRMAN KELLIHER: Let's vote.

6 SECRETARY BOSE: We will take a vote on each item
7 separately, beginning with E-1. Commissioner Wellinghoff
8 votes first.

9 COMMISSIONER WELLINGHOFF: Aye.

10 SECRETARY BOSE: Commissioner Moeller?

11 COMMISSIONER MOELLER: Recused.

12 SECRETARY BOSE: Commissioner Spitzer?

13 COMMISSIONER SPITZER: Aye.

14 SECRETARY BOSE: Commissioner Kelly?

15 COMMISSIONER KELLY: Aye.

16 SECRETARY BOSE: Chairman Kelliher?

17 CHAIRMAN KELLIHER: Aye.

18 SECRETARY BOSE: We'll now take a vote on E-5,
19 beginning with Commissioner Wellinghoff.

20 COMMISSIONER WELLINGHOFF: Aye.

21 SECRETARY BOSE: Commissioner Moeller?

22 COMMISSIONER MOELLER: Aye.

23 SECRETARY BOSE: Commissioner Spitzer?

24 COMMISSIONER SPITZER: Aye.

25 SECRETARY BOSE: Commissioner Kelly?

1 COMMISSIONER KELLY: Aye.

2 SECRETARY BOSE: Chairman Kelliher?

3 CHAIRMAN KELLIHER: Aye. Thank you.

4 SECRETARY BOSE: The last item for discussion
5 this morning, is E-12. That's concerning Duke Energy. A
6 presentation will be given by Patricia Ziminski from the
7 Office of the General Counsel. She is accompanied by Marka
8 Shaw from the Office of Energy Markets and Reliability;
9 Samuel Higgenbottom, Larry Greenfield from the Office of the
10 General Counsel; and Ed Murrell from the Office of Energy
11 Markets and Reliability.

12 MS. ZIMINSKI: Mr. Chairman and Commissioners,
13 good morning. My name is Patricia Ziminski, and I'm from
14 the Office of the General Counsel.

15 With me this morning is Larry Greenfield and S.
16 L. Higgenbottom of the Office of General Counsel, and Ed
17 Murrell and Marka Shaw from the Office of Energy Markets and
18 Reliability. Susan Pollonais, Robert Helrich-Dawson, Sedina
19 Eric, and Paul Singh, from the Office of Energy Markets and
20 Reliability, also were on the team that prepared E-12.

21 Item E-12 addresses the first application filed
22 pursuant to Order Number 688, which implemented recently-
23 enacted Section 210(m) of PURPA. Section 210(m) provides
24 for termination of the obligation that an electric utility
25 enter into new power purchase contracts to purchase electric

1 energy from QFs, if the Commission finds that the QFs have
2 nondiscriminatory access to markets specified in Section
3 210(m)(1).

4 Duke Energy Shared Services, Inc. or Duke
5 Midwest, filed the application at issue in this case on
6 behalf of its franchise utility affiliates, Duke Energy
7 Ohio, Inc.; Duke Energy Indiana, Inc.; and Duke Energy
8 Kentucky, Inc.

9 These Duke Midwest franchise electric utilities
10 rely upon the rebuttable presumptions established in Section
11 291.309(e) of the Commission's Regulations, that, as members
12 of the Midwest ISO, they provide QFs larger than 20
13 megawatts net capacity, with nondiscriminatory access to
14 markets that satisfy the criteria for relief from the
15 mandatory purchase requirements.

16 In addition, none of the potentially affected QFs
17 identified by Duke Midwest, protested the filing. The Draft
18 Order grants the application.

19 American Forest and Paper Association filed a
20 late Motion to Intervene, along with the Protest. The Draft
21 Order denies the intervention.

22 This concludes our presentation, and we'll be
23 happy to respond to any questions. Thank you.

24 CHAIRMAN KELLIHER: Thank you. Thank you for
25 that presentation.

1 I just wanted to ask one question. I think it's
2 obvious from your presentation, but I just want to clarify
3 that Duke did not file on behalf of the Duke companies
4 outside of MISO; it was only the Duke MISO companies,
5 correct?

6 MS. ZIMINSKI: Correct.

7 CHAIRMAN KELLIHER: And do we have other filings?
8 Have there been other filings under the Final Rule that are
9 pending? I'm just curious, what the incidence has been?

10 MR. HIGGENBOTTOM: There's one other filing from
11 AEP for some companies in PJM.

12 CHAIRMAN KELLIHER: Okay, great. Thank you very
13 much. I have no other questions. Colleagues?
14 Commissioner Wellinghoff?

15 COMMISSIONER WELLINGHOFF: Thank you. A followup
16 on that AEP filing, Sam? Do you know the extent of that
17 filing, or are they just asking for the exemption for QFs
18 over 20 megawatts in that filing?

19 MR. HIGGENBOTTOM: That's right. It's for QFs
20 over 20 megawatts. They list 11 potentially affected QFs,
21 and the comment date hasn't run yet, so we don't know what
22 kind of comments we're getting.

23 COMMISSIONER WELLINGHOFF: I think it's
24 important, Mr. Chairman, to note that, you know, our Final
25 Rule did establish a rebuttable presumption for those QFs

1 under 20 megawatts, that they don't have access to
2 nondiscriminatory wholesale markets. And Duke, of course,
3 didn't attempt to overcome that presumption in that case, so
4 today's Order does not affect that obligation of Duke for
5 any QF under 20 megawatts.

6 CHAIRMAN KELLIHER: Thank you. Colleagues?
7 Commissioner Moeller?

8 COMMISSIONER MOELLER: I've paid a lot of
9 attention to this one, because it's the first one really out
10 of the gate. I see the smiles amongst the team, probably
11 answering a lot of our questions, but I guess the first
12 question I have, is what happens, if a QF is inadvertently
13 left off the list?

14 MR. GREENFIELD: Let me take a shot at answering
15 that.

16 CHAIRMAN KELLIHER: Is your mike on, Larry?

17 MR. GREENFIELD: Yes, and I'll leave it a little
18 bit closer. We think that scenario is very unlikely. We
19 think it's unlikely, principally for two reasons: One, that
20 QFs will typically have an ongoing business relationship
21 with the utility they're interconnected with, and even QFs
22 that are in the process of construction or development, are
23 likely and probably very likely to have an ongoing
24 relationship with the utility, given just the physics and
25 mechanics of operation.

1 In addition, we issue Federal Register Notice of
2 all of these, and QFs, typically, are fairly attentive to
3 what we put out that affects them. So I think that between
4 those two things, I would say it is pretty unlikely that
5 there would be anybody who would be left off that list.

6 We recognize that there is, of course, the
7 outside possibility of clerical error or the like, that you
8 could have somebody left off that list. In that scenario, I
9 think the process we have in place, actually has a way for
10 one of those QFs in a situation like this of over 20
11 megawatts, to have the obligation reinstated.

12 In one of our regulations -- I believe it's
13 292.311, I believe, there is a process already laid out for
14 somebody who wants to have the obligation, the mandatory
15 purchase obligation, reinstated.

16 In addition, the Commission always has the
17 ability to correct errors, so to speak, so that if you did
18 have a scenario where somebody happened to have been left
19 off -- and, again, we think that's highly unlikely, but if
20 you did have that scenario, and they came to us, the
21 Commission could examine that circumstance and determine if
22 there was a different process, an additional process, that
23 it wanted to put in place to address that particular QF,
24 that particular situation, and, in a sense correct the error
25 and deal with the error.

1 So we think there are a couple of ways the
2 Commission can go; one already set up, and then should the
3 unlikely scenario happen, the Commission could the look at
4 that and decide, do we want to do something different or
5 something in addition?

6 COMMISSIONER MOELLER: Thank you. I recognize
7 that, for the most part, these are going to be relatively
8 sophisticated entities, but the general public doesn't sit
9 around every night and read the Federal Register, at least I
10 don't.

11 Can I follow up on one of the things you said?
12 Let's say that the premise behind here is market access, so
13 someone -- can you give me an example of someone, a QF whose
14 mandatory purchase obligation is eliminated, but then they
15 find out or at least they would contend that they are not
16 getting nondiscriminatory access; can you give me an example
17 of what that might be, and, I think you alluded to it, but
18 what their remedies might be?

19 MR. GREENFIELD: Of course, the Commission hasn't
20 addressed that scenario yet, so I don't have any good, hard
21 precedent to point to in this sentence, so here's an
22 incidence where this has happened.

23 So, of course, that precedent will develop over
24 time, and we'll get good, very detailed precedent, I dare
25 say, over time.

1 The regulation of the Final Rule that we've been
2 alluding to, actually talks a little bit about that, and it
3 says that in the initial instance where a utility wants to
4 take advantage of the rebuttable presumption and a QF
5 objects, a QF does protest, the QF has at least a couple of
6 things that it can identify.

7 The regulations -- the rulemaking, I should say --
8 - talks about there could be circumstances where operational
9 issues mean that the QF does not really have
10 nondiscriminatory access to markets, or it could be
11 transmission congestion that would keep the QF from
12 nondiscriminatory access to markets.

13 While the Commission didn't address, in so many
14 words, what would happen in the reinstatement or the error
15 scenario, I would suspect that the Commission, at least as a
16 starting point, would probably want to look at the same kind
17 of criteria of was there nondiscriminatory access, and, in
18 particular, would there be operational characteristics of
19 the QF or the utility or transmission congestion that would
20 keep that QF from having access to those markets?

21 But, again, the Commission hasn't addressed it,
22 and, I dare say, as individual facts come up, individual
23 cases come up, we'll probably be exploring that at greater
24 length and developing some precedent.

25 But, as I say, I think there is at least some

1 indication in the rulemaking as to how the Commission might
2 begin to start looking at it, the same way that we would
3 look at it in the event of protest or petition to
4 essentially waive or terminate the purchase obligation.

5 COMMISSIONER MOELLER: Okay, thanks, Larry.

6 CHAIRMAN KELLIHER: Great, thanks. Commissioner
7 Kelly?

8 COMMISSIONER KELLY: Thank you, Staff. You did
9 an excellent job. I know there are a lot of new issues to
10 consider.

11 As I understand it, in the deliberation of this
12 case, you had a lot of questions that were not answered by
13 the filings. I was wondering if you would recommend to us
14 that we consider amending our regulations to provide or
15 require more information?

16 MR. GREENFIELD: At the moment, the requests for
17 rehearing of the Final Rule, are pending, and that's one of
18 the issues that we have been kicking around on staff, in
19 light of our experience so far; what kind of changes, if
20 any, we might recommend. I'm a little reluctant to say
21 anything right at the moment, because, frankly, we're still
22 kicking around some ideas on staff.

23 But that would be something that has been a
24 matter of some discussion at the Staff level.

25 COMMISSIONER KELLY: I think it would have been

1 helpful to have had more information about the QFs and how
2 they are potentially affected, in our deliberations, but I
3 feel comfortable with the job that you've done here.

4 I feel comfortable with the approving this Order.
5 In this case, none of the potentially affected QFs
6 identified in Duke Midwest's application, filed comments or
7 attempted to rebut the presumption that QFs larger than 20
8 megawatts in Duke Midwest's utility's affiliated service
9 territory, lack nondiscriminatory access to the Midwest ISO
10 markets.

11 Now, from the filings, we don't know why that's
12 the case, but I suspect this means that Duke Midwest and the
13 QFs that they have historically done business with, have
14 amicably resolved their relationships, going forward, either
15 through contract or participation -- future ease of
16 participation of the QFs in the market.

17 And I find that very encouraging, and I would
18 like to encourage other utilities to attempt to resolve
19 issues going forward, amicably, with their QFs, by contract.

20 And I say that because many QFs provide valuable
21 and certainly efficient electric service. Indeed, that's
22 why Congress provided for QFs in the first place, as they
23 often decrease the cost of doing business in our industrial
24 sector.

25 So I am concerned that we not inadvertently lose

1 the contributions that QFs make, both to the electricity
2 market, and to small and large businesses.

3 I support the Order's grant of the application in
4 this case. Thank you.

5 CHAIRMAN KELLIHER: Commissioner Spitzer?

6 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
7 Out in the hinterlands, there was a misapprehension that
8 FERC would appeal, but that's not the case? PURPA is of
9 great historical significance, because it was the first
10 declaration by the Congress of an intent with respect to
11 non-utility generation for environmental and other purposes,
12 as well.

13 I think the Orders today reflect the success of
14 the organized markets in achieving their objectives, and
15 that's not a diminution of the value, either historic or
16 policy, towards PURPA, but simply that the statute has been
17 overcome by successes in the organized markets, and that's a
18 positive step forward.

19 CHAIRMAN KELLIHER: Thank you. Well, why don't
20 we vote?

21 SECRETARY BOSE: The vote begins with
22 Commissioner Wellinghoff.

23 COMMISSIONER WELLINGHOFF: I vote aye.

24 SECRETARY BOSE: Commissioner Moeller?

25 COMMISSIONER MOELLER: Aye.

1 SECRETARY BOSE: Commissioner Spitzer?

2 COMMISSIONER SPITZER: Aye.

3 SECRETARY BOSE: Commissioner Kelly?

4 COMMISSIONER KELLY: Aye.

5 SECRETARY BOSE: Chairman Kelliher?

6 CHAIRMAN KELLIHER: Aye. With that, our business
7 is concluded, and I want to thank the Staff and thank my
8 colleagues, and that's a wrap. Thanks.

9 (Whereupon, at 12:00 noon, the meeting was
10 concluded.)

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