

# Federal Energy Regulatory Commission

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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

- - - - -x  
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

923RD COMMISSION MEETING  
OPEN SESSION

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

Thursday, September 20, 2007  
10:09 a.m.

923rd Commission Meeting  
September 20, 2007

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER (Presiding)

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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

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

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

8 (Pledge of Allegiance)

9 CHAIRMAN KELIHER: I have a few announcements  
10 before we get to the business part of the meeting. Why  
11 don't we start with some staff changes, announcing some  
12 staff changes, and I'll start with my personal office, and  
13 then to my colleagues. We've had a change in my personal  
14 office; David Dardis, David O. Dardis left last month, and  
15 shortly afterwards, he and his wife Jen had a baby -- Dylan  
16 Oliver Dardis. So the Oliver continues in the Dardis  
17 family, as a middle name. But David accepted a very  
18 important job on the outside, and he left. His service was  
19 excellent, and I was really sorry to see him leave, both for  
20 his professional qualities as well as his personal  
21 friendship. So I hope to see more of him after a year has  
22 passed.

23 (Laughter)

24 And David was replaced by Maria Farinella.

25 Maria, would you stand up?

1 (Standing) (Applause)

2 CHAIRMAN KELIHER: Maria joined my staff a month  
3 ago, and I've been very impressed with her, both with her  
4 knowledge, her skill, and her efficiency; and she had  
5 service on the outside, she worked at Dickstein, Shapiro for  
6 many years, so she understands the perspective of the  
7 outside community, but she's also served at Commission staff  
8 since last April.

9 And coincidentally, Maria is a graduate of the  
10 Washington College of Law, so she joins Cindy, Jon and I in  
11 the Washington College of Law faction as ground, so we're  
12 rivaling the West Virginia mafia here --

13 (Laughter)

14 But I did say, Mario Driscoll pointed out that  
15 there's now a Nevada faction. So I have to say that if the  
16 Washington College of Law goes up against the Nevada mafia,  
17 I'm a little bit afraid --

18 (Laughter)

19 -- of prospects. The Nevada mafia sounds a  
20 little scarier.

21 So that's a change in my personal office, and let  
22 me turn to Suedeem and then Phil.

23 Suedeem?

24 COMMISSIONER KELLY: And I've also had a change  
25 in my personal office. Sadly, my advisor of many years,

1 from the day I came, Raahim Amerkhail has left my office.  
2 That's the bad news. The good news is that he is starting  
3 up the New Energy Innovation Sector, which Joe is going to  
4 talk about later today at FERC; so we still have him here,  
5 and he will still be working with our offices.

6 Rahim alerted me to a fellow who has also been at  
7 FERC, Kevin Hiler, and I'm very pleased to introduce Kevin,  
8 who has agreed to come join my staff.

9 Kevin, if you wouldn't mind standing up?

10 (Standing) (Applause)

11 COMMISSIONER KELLY: With Kevin's presence on my  
12 staff, I also round out the geographic diversity on my  
13 staff; I now have a Midwesterner. Kevin is from Wisconsin,  
14 and has been actually a great scholar. He has his  
15 undergraduate degree from Marquette University. He also has  
16 a master of arts from Tufts in international relations,  
17 where he focused on international energy policy and  
18 international business; and he also has an MBA from the  
19 Robert H. Smith School of Business at the University of  
20 Maryland.

21 He has worked at the Chicago Board of Trade, for  
22 an independent trader there; he's also worked for the Energy  
23 Intelligence Group -- I don't really know what that was, but  
24 --

25 (Laughter)

1           -- it sounded really good, it looks good on the  
2 resume. And a number of you have probably known him from  
3 his work the last few years at FERC. He's worked in the  
4 Office of Energy Markets and Rates and Reliability, and  
5 he's been in the East Group. So I'm really pleased that  
6 Kevin has joined my staff.

7           CHAIRMAN KELIHER: Thank you.

8           Phil?

9           COMMISSIONER MOELLER: Thank you, Joe.

10           Michelle Brown has joined my staff; she's a  
11 native Washingtonian and she's been at several law firms,  
12 and many of you will see her when you come to visit. We're  
13 very happy to have her.

14           Please welcome Michelle.

15           (Standing) (Applause)

16           CHAIRMAN KELIHER: I think there's been stability  
17 in the Wellinghoff and Spitzers offices, so that's good.  
18 Stability is a good thing.

19           %           Now let's turn to a number of awards. I'm very  
20 proud to announce that we are going to grant some awards  
21 today to a number of the Office of Energy Project staff;  
22 namely Rob Cupina, Ann Miles, and Rich Hoffman.

23           And OEP is really -- let me start by the  
24 efficiency of OEP and about the thoroughness and  
25 completeness of the project reviews. And Mark and I just

1 came back from a meeting in San Diego, a meeting with a lot  
2 of foreign regulators, and they were looking at LNG project  
3 approval. And they really were looking to FERC as the gold  
4 standard in how to review the quality and timeliness and  
5 efficiency of LNG project reviews. So OEP's reputation  
6 extends beyond our oceans.

7 And I personally think efficiency is a virtue on  
8 a personal level; and I think by that standard, OEP is a  
9 very virtuous organization --

10 (Laughter)

11 And it's not, I have to say, I commended Mark  
12 before, but I have to say it's not just due to Mark's  
13 leadership. Mark is the leader of the organization, as well  
14 as has very strong leadership underneath him. And I think  
15 if you look at Rob, Ann and Rich, they are model public  
16 servants, and they really display the best qualities of  
17 public servants; and I'm proud to give each of them the  
18 Exemplar of the Public Service Award.

19 Let me just briefly mention their background and  
20 then turn to my colleagues for any comments they might make,  
21 all three together; and then we can give them awards one at  
22 a time.

23 But Rob, of course, serves as the principal  
24 Deputy Director of OEP. His career began at FERC before it  
25 was FERC; it was know as the Federal Power Commission. It

1 wasn't the water power commission, but the Power Commission.

2           So he began with Fed Power Commission in 1973, he  
3 majored in petroleum engineering at Penn State and got a  
4 Bachelor's in Technology Management from UND and University  
5 of Maryland, and a Master's in Public Administration from  
6 George Mason. And Rob has worked in gas producer and  
7 pipeline regulation for 16 years, and served as the deputy  
8 director of the Office of Pipeline Regulation for ten years.

9           Rich Hoffman, he serves as the Director of the  
10 Division of Gas, Environment and Engineering, and they're  
11 responsible for coordinating and managing the environmental  
12 review of all interstate natural gas pipelines and LNG  
13 facility, import/export proposals, onshore and in state  
14 waters, and also in cryogenic design and safety review of  
15 these terminals.

16           Rich's career began also with the Federal Power  
17 Commission in 1973, and he's a graduate -- he received a  
18 bachelor's and master's in Civil Engineering from Newark  
19 College of Engineering in New Jersey.

20           Ann serves as the Director of Hydropower  
21 Licensing, and that office of course is responsible for  
22 reviewing applications to construct and operate or relicense  
23 non-federal hydropower projects throughout the United  
24 States. Ranging from the Niagara project, which I suppose  
25 is our biggest one, which is equal to -- the output is equal

1 to two nuclear plants down to some project, a vanity project  
2 in Napa Valley that lights ten light bulbs. I want to meet  
3 that licensee at some point --

4 (Laughter)

5 -- ask him, Why do you have a FERC license? Why  
6 do you want those light bulbs lit by that hydropower  
7 license?

8 Ann also began her career with FERC when it bore  
9 its former name, Federal Power Commission; and she began as  
10 an outdoor recreation planner. And she received a Master's  
11 in Resource Management from the University of Maryland, and  
12 a bachelor's degree in French from Mary Baldwin College.

13 Marc, you're a French speaker or an Italian  
14 speaker -- but if you're a French speaker, you could commend  
15 Ann in French.

16 COMMISSIONER SPITZER: {French}

17 CHAIRMAN KELIHER: Okay. But anyway, I think all  
18 three of are superb public servants, and I'm very proud to  
19 give you the Exemplar Award, and you've certainly earned it.

20 Colleagues, comments? In English or --

21 (Laughter)

22 COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
23 As somebody who was trying to emphasize the need for more  
24 infrastructure in this country during my tenure, I am always  
25 impressed with the Office of Energy Projects in their

1 review, as you said, their efficiency, and these three  
2 individuals are appropriate exemplary employees; and I think  
3 you made a wise decision to honor them as such.

4 CHAIRMAN KELIHER: Thank you.

5 Colleagues? Jon.

6 COMMISSIONER WELLINGHOFF: I would just say that  
7 these three individuals exemplify why I love this Agency so  
8 much. They are dedicated employees, and they're smart,  
9 knowledgeable, they can always provide you with what you  
10 need to know with respect to their particular subject areas.

11 And I would add, on a personal note, Rob spurs me  
12 on because he's always there in the gym every morning.

13 (Laughter)

14 And I know that I've got to be there when he's  
15 there. But thank you for awarding these three individuals,  
16 Mr. Chairman.

17 CHAIRMAN KELIHER: Thanks, Jon.

18 Commissioner Kelly?

19 COMMISSIONER KELLY: Just to add to the  
20 accolades, something that maybe a lot of you don't know is  
21 that these three individuals really go out of their way to  
22 do more than is just required of them; and they are always  
23 on call for the Commissioners, and the Commissioners call  
24 them, at all times of the day and night. And I want to tell  
25 you how much I appreciate your dedication to the work that

1 you do and to the work that we do.

2           And they've always been willing to take on  
3 special projects. All three of them have helped me in  
4 various presentations that I need to give, and last-minute  
5 requests for data, and they've always kept me informed of  
6 things that are happening, the breaking news, if you will.  
7 That's above and beyond the call of duty, but it reflects  
8 the understanding that you have of the need for us and the  
9 public to know what's going on, and that you are dedicated  
10 to providing that knowledge.

11           And Ann, I was just in New Mexico, and I know you  
12 served on a task force for the Transboundary Resource  
13 Center, which is headquartered in New Mexico, and they have  
14 nothing but praise for your work and contributions on that  
15 effort, which is again above and beyond the call of duty in  
16 your normal job.

17           So thank you all very much for choosing to spend  
18 your time at FERC.

19           CHAIRMAN KELIHER: Thank you.

20           Messieur?

21           COMMISSIONER SPITZER: {French} And I will say  
22 {French} to all three, not merely our French speakers, for a  
23 job well done.

24           If you look at the history of your tenure here,  
25 the circumstances have changed very much and been much more

1 difficult. The focus on environmental issues has  
2 appropriately decreased, as well as the challenges with the  
3 public in explaining the need for infrastructure; and from  
4 time to time these matters simply become I think  
5 increasingly stressful on government in interfacing with the  
6 public. And that interface with the public is increasingly  
7 an important part of the job; I think that's changed over  
8 time, and the fact that you've met that challenge is very  
9 laudible.

10 And then in terms of my personal office, the  
11 briefings that I received have been very helpful, and Rob,  
12 Rich and Ann -- I particularly want to point that shortly  
13 after my arrival here, I was asked to write an article on my  
14 priorities related to hydroelectric matters. And given that  
15 I came from Arizona --

16 (Laughter)

17 -- this was a challenge. And Ann's help on those  
18 issues was really extraordinary, and enabled me to appear to  
19 the outside world to be competent and well versed on  
20 hydroelectric matters. A very challenging result, and it  
21 was due to the efforts of the staff here at the FERC.

22 I join my colleagues and say "bienfait."

23 CHAIRMAN KELIHER: Excellent.

24 So why don't we ask you to come up one by one,  
25 and why don't we start with Rob. Rob?

1 (Applause) (Presentation of award.)

2 CHAIRMAN KELIHER: And Rich, I'd like you to come  
3 up.

4 (Applause) (Presentation of award.)

5 CHAIRMAN KELIHER: And now Ann. Congratulations.

6 (Applause) (Presentation of award.)

7 % CHAIRMAN KELIHER: One more announcement about  
8 two major reorganizations within the Commission, internal  
9 reorganizations, and then we can turn to our business  
10 agenda.

11 Let me start with the Office of Electric  
12 Reliability. Today I am announcing the establishment of a  
13 new major Commission program office, the Office of Electric  
14 Reliability, effective October 1, 2007. The Division of  
15 Reliability in the Office of Energy Markets and Reliability  
16 will become its own program office.

17 And this action reflects the growing importance  
18 of the reliability mission here at the Commission.  
19 Currently the Commission has five principal missions; we are  
20 charged with guarding the consumer, and we do that through  
21 our economic regulation; we are charged with promoting a  
22 strong energy infrastructure; we are charged with enforcing  
23 our Commission requirements, protecting public safety,  
24 particularly at LNG projects and hydropower projects, and  
25 also assuring the reliability of bulk power system. So that

1 is the newest mission, and one of the most important.

2           There are distinctions among these missions, and  
3 this reorganization reflects the differences between  
4 reliability mission and traditional economic regulation,  
5 which is otherwise the province of the Office of Energy  
6 Markets and Reliability. And the establishment of this new  
7 office will allow the Commission to better discharge this  
8 vital new reliability mission.

9           We've made tremendous progress in reliability  
10 over the past two years; we've issued rules on a pending  
11 order liability program and certified electric reliability  
12 organization; we've conducted a critical assessment of  
13 proposed reliability standards, approved standards that we  
14 determined would assure liability, and acted to assure that  
15 standards are improved over time.

16           We approved allocation agreements to provide for  
17 regional enforcement of approved reliability standards, and  
18 we're working closely with regional entities to strengthen  
19 enforcement. We accelerated the schedule for establishment  
20 of mandatory reliability standards, setting an ambitious  
21 target of having mandatory standards in place by the summer  
22 of 2007. We met that target, and the summer of 2007 was the  
23 first summer where the interstate power grid was governed by  
24 mandatory, enforceable reliability standards.

25           The Director of the new Office of Electric

1 Reliability will be Joe McLelland, the current head of the  
2 Reliability Division. Joe is a dedicated public servant.  
3 He has built the Reliability Division from the ground up,  
4 and led our efforts on reliability since Congress gave us  
5 this new mission two years ago. And Joe is doing something  
6 incredibly important for the nation, and he has discharged  
7 his responsibilities admirably, and I want to honor Joe for  
8 his past service and express my complete confidence in him.

9 Now I also understand that today is Joe's  
10 birthday -- and I forgot to bring him a gift, but I hope  
11 that on being given the head of a major new Commission  
12 program office will suffice.

13 (Laughter)

14 Now I understand Joe's family is here today. I  
15 met them this morning; I was pleased to meet them this  
16 morning. I'd just like to recognize them, and if they could  
17 please stand. Joe's wife Cindy, and his three sons; Joe,  
18 Danny, and Tommy.

19 (Standing) (Applause)

20 CHAIRMAN KELIHER: When I met them, they were  
21 watching construction of the building next door, and I  
22 couldn't promise them the Commission would be as exciting as  
23 the construction of that building, but I tried to impress  
24 upon them how important their dad's worth is.

25 The new principal director of the Office of

1 Electric Reliability will be Mike McLaughlin, from the  
2 Office of Energy Markets and Reliability. I want to  
3 congratulate Mike and express my trust and confidence in him  
4 as well.

5 Also I want to thank Mark Hegerle for his good  
6 service in the Reliability Division. He will continue to  
7 play an important role in the new organization.

8 I also want to recognize another dedicated public  
9 servant today, namely Shelton Cannon, the Director of the  
10 Office of Energy Markets and Reliability. Shelton and his  
11 Deputy Director, Jamie Simler, deserve a great deal of  
12 credit for the progress we've made on reliability over the  
13 past two years. The idea of separating the Reliability  
14 Division from EMR and establishing it as a new program  
15 office was actually proposed to me first by Shelton. And  
16 Shelton recognized the growing importance of the Reliability  
17 mission, the need for additional staff and resources, as  
18 well as the differences between the Reliability mission and  
19 other missions entrusted to EMR.

20 And to me, it really struck me that the idea came  
21 from you, because there's a perception in some quarters that  
22 empire building is instinctive to government bureaucrats --

23 (Laughter)

24 -- and that's not the case with Shelton. Here  
25 Shelton is proposing to cede part of his EMR empire and to

1 set the Reliability Division free, because he sees that it's  
2 in the best interest of the Commission and the nation.

3 I know that Shelton still has a substantial  
4 empire, EMR; and --

5 (Laughter)

6 -- I try to introduce historical analogies, no  
7 matter how awkward, whenever possible, so I'm going to try  
8 here. I think you're basically in the same position as  
9 George III in 1783 after the Treaty of Paris, except for the  
10 part about losing a war.

11 (Laughter)

12 I just want to point out that at that time,  
13 Britain no longer had the American colonies, but they still  
14 had a substantial empire, and actually the greatest days of  
15 the British Empire were still ahead of them. So I have  
16 equal confidence in EMR's prospects.

17 (Laughter)

18 I also want to credit a former public servant,  
19 namely, former chairman Pat Wood. We never could have  
20 accomplished what we have on Reliability over the past few  
21 years if the Reliability Division had not been established  
22 after the 2003 blackout. And thanks to Pat, we did not  
23 start flatfooted. In August 2000 we were able to hit the  
24 ground running.

25 Now as a final note, a related change; the name

1 of EMR will be changed from the Office of Energy Markets and  
2 Reliability to the Office of Energy Market Regulation -- get  
3 that 'R' word back in there.

4 Now the new name, to my mind, more accurately  
5 describes the mission of EMR; the Commission relies on both  
6 competition and regulation to police power and gas markets,  
7 and EMR is the principal Commission office entrusted with  
8 development of market rules and regulation.

9 I will also make another announcement that has  
10 been referenced; namely, the formation of a new Energy  
11 Innovation Sector group within EMR that will be dedicated to  
12 five areas of interest, of increased interest to the  
13 Commission. Namely, demand response and energy efficiency,  
14 distributed generation, renewable energy, climate change,  
15 and advanced technology.

16 Now these areas have become increasingly  
17 important in a range of Commission proceedings over time;  
18 and then our policies have reflected that, as witnessed by  
19 the California ISO order issued last spring regarding  
20 location-constrained resources as well as the demand  
21 response and energy efficiency proposals and the competition  
22 ANOPR last June.

23 Now this new group will have structure and  
24 greater discipline to how the Commission approaches these  
25 issue areas, and the EIS group will work closely at the

1 relation of policy and rulemaking in EMR, and help shape the  
2 Commission's regulatory policy.

3 I just want to credit my colleagues; this idea  
4 came from Commissioner Wellinghoff and Commissioner Kelly;  
5 Jon first approached me with this idea a few months ago, and  
6 Commissioner Kelly also encouraged us to take this step, and  
7 work on it together; and I consulted with my colleagues Phil  
8 Moeller and Marc Spitzer. So I credit my colleagues with a  
9 good idea, and point out that we implemented it together.

10 So with that, I have no more reorganizations to  
11 announce, and I will turn to my colleagues for any comment  
12 on either or both of the reorganizations.

13 Jon?

14 COMMISSIONER WELLINGHOFF: Just a short comment.  
15 I actually have a written statement on the energy innovation  
16 sector, but I'm not going to read it; talking about, though,  
17 the Reliability Division; I think this is appropriate given  
18 our heightened responsibility under the 2005 EPAct for  
19 reliability. I think this is probably one of the most  
20 important new responsibilities given to this Commission, and  
21 I couldn't think of a better person to head it than Joe  
22 McLelland.

23 I've had some great working experiences with Joe,  
24 and I interfaced on the DoD Defense Science Board's Energy  
25 Policy working group that I was a member of, and Joe did

1 some tremendous work there with that group, and also some  
2 other issues regarding Reliability. So I'm looking forward  
3 to continuing to work with Joe and that new division.

4 With respect to the energy innovation sector, I  
5 would like to thank all of my colleagues; and I think that  
6 we've all done this year, with respect to incorporated in a  
7 demand response and energy efficiency into a number of  
8 orders, and I really appreciate the collegiality in that  
9 respect, and the working together in that regard. I think  
10 definitely Shelton's office's best days are still ahead with  
11 this new energy innovation sector being part of the office,  
12 and I look forward to working with him and the people in  
13 that sector. Thank you.

14 CHAIRMAN KELIHER: Yes.

15 COMMISSIONER KELLY: Joe, I'd like to thank you  
16 for taking leadership in these areas. You talked about  
17 government bureaucrats as sometimes becoming bureaucratic,  
18 and this Agency isn't, and under your leadership it has not  
19 been. And you have always been on the front lines of the  
20 issues that are occurring, and it's your realization that  
21 Reliability is of course rising in importance, and that the  
22 other policy issues are rising in importance within the  
23 states and even in Congress.

24 Thank you for thanking us, but really it's  
25 because of your leadership and your understanding that these

1 issues are important, and you doing the job of actually  
2 reorganizing the agency to tackle them in the best and most  
3 efficient way. So thank you.

4           And I'd like to Jon's commendations of Joe, and  
5 I'm very pleased that you brought your family, because I  
6 know that you travel long distances; many hours back and  
7 forth to work here without your family. I'm glad your  
8 family was able to make this trip, and I want to let your  
9 family know that your loss is our gain. Actually, we  
10 couldn't do this job without him. He's been a true leader  
11 and he's brought expertise that did not exist at FERC before  
12 he came.

13           Thank you for your dedication. And if I might  
14 also add that as the EIS office hires, I mentioned that  
15 Rahim is one of the first staffers. Rahim, I know you're  
16 here, so if you would stand up -- and next to Rahim is Mary  
17 Morton, who has also joined the office, and we retrieved her  
18 back from the Department of Energy, much to Kevin Bolivar's  
19 distress, and so thank you both for being willing to work in  
20 this new and exciting effort.

21           CHAIRMAN KELIHER: Thank you.

22           Phil?

23           COMMISSIONER MOELLER: Joe, thanks for your  
24 efforts in the reorganization. Specific to Reliability, it  
25 is kind of remarkable, 40 years after the first Northeast

1 blackout we finally have mandatory enforcement of  
2 reliability standards; and as someone who worked on the  
3 legislation in the Senate nine years ago, it's happy to see  
4 it really come to fruition in this, and it is obviously  
5 important, increasingly important, and I'm sure glad that  
6 Joe is handling our efforts.

7 CHAIRMAN KELIHER: Marc?

8 COMMISSIONER SPITZER: Following up on the change  
9 in circumstances since the Seventies, and projects,  
10 similarly you've had changes in not only circumstances but  
11 the public's expectation of the energy system; and it's a  
12 tribute to the Chairman, to this Agency and the government  
13 that we have adapted to those changed circumstances and  
14 changed expectations. And that the reorganization is I  
15 think reflective of all of those changes, and it's a dynamic  
16 process; and I'm very pleased that we're ahead of the curve  
17 rather than behind. And that's notable.

18 Just a few comments. Mr. McLelland provides  
19 great leadership in terms of engineering, and it's a new  
20 responsibility. A lot of the traditional responsibility has  
21 been financial. Very academic and important exercises in  
22 accounting and economics, but the reliability is an entirely  
23 new endeavor, and it's one that we've been able to grasp,  
24 thanks to Joe.

25 It also provides a very valuable interface with

1 the retail regulators. It's the expectation of the public  
2 that we have reliable service, and we're having a common  
3 ground with our retail regulators, as well as the retail  
4 customers.

5 And I'm assuming that we've got a day off from  
6 school --

7 (Laughter)

8 -- and my mom taught for 40 years in the  
9 Pennsylvania public schools, and I think she's authorized to  
10 give you guys a credit for today's absence, so you can look  
11 me up for that afterwards.

12 But Joe, congratulations, and also in the new  
13 Office of Innovations, I congratulate you as well.

14 CHAIRMAN KELIHER: Let me ask just Joe and his  
15 family to stand up, and we can give you a round of applause,  
16 because I suspect, without the support of your family, you  
17 would not have accomplished half of what you have for the  
18 past two years.

19 So if you'll stand.

20 (Standing) (Applause)

21 CHAIRMAN KELIHER: Thank you very much.

22 MR. CANNON: Mr. Chairman, with your indulgence,  
23 just a quick thank you personally.

24 I've had the great pleasure of working with Joe  
25 McLelland now for the last four years, and I can say from my

1 heart that there's no way that the Reliability program of  
2 this Agency would be even near where it is today with his  
3 incredible leadership and dedication on just -- I am  
4 staggering by the number of hours and the personal sacrifice  
5 you've made and your family's made to do what you've done.

6 So again, my personal thanks, and I look forward  
7 to working with you in the future.

8 CHAIRMAN KELIHER: Now, why don't we turn to  
9 business. Before we turn to the consent agenda, let me  
10 point out how many notational orders the Commission has  
11 issued since our July open meeting, and since the July 19th  
12 open meeting, the Commission has issued 160 notational  
13 orders, which is quite a level of production.

14 So again I thank my colleagues, I think the  
15 Commission staff, and I thank the advisers for all the good  
16 work between the open meetings.

17 And with that, Madam Secretary, let's turn to the  
18 Consent Agenda.

19 THE SECRETARY: Good morning, Mr. Chairman. Good  
20 morning, Commissioners. Since the issuance of the Sunshine  
21 Act Notice on September 13, 2007, E-5 and E-20 have been  
22 struck from this morning's agenda.

23 Your consent agenda for this morning is as  
24 follows:

25 Electric items, E-1, E-2, E-4, E-6, E-7, E-8, E-

1 9, E-10, E-11, E-12, E-13, E-15, E-17, E-18 and E-19.

2 Gas items, G-1 and G-3.

3 Hydro items, H-1, H-2, H-3, H-4 and H-5.

4 Certificate items, C-1, C-2 and C-3.

5 As required by law, Commissioner Moeller is not  
6 participating in Consent Item E-19.

7 And Commissioner Spitzer is not participating in  
8 Consent Item E-6.

9 CHAIRMAN KELIHER: Is that correct?

10 COMMISSIONER SPITZER: No, it's my choice.

11 THE SECRETARY: Okay, thank you.

12 Also, as to E-9, Commissioner Kelly is concurring  
13 with a separate statement.

14 And Commissioner Wellinghoff is concurring with a  
15 statement as well.

16 As to G-2, Commissioner Wellinghoff is concurring  
17 with a separate statement.

18 We will now take a vote on the Consent Agenda  
19 items, beginning with Commissioner Wellinghoff.

20 COMMISSIONER WELLINGHOFF: With the concurrences  
21 noted on E-9 and G-2, I vote aye.

22 THE SECRETARY: Commissioner Spitzer?

23 COMMISSIONER SPITZER: I vote aye, with the  
24 exception of the recusal item on E-6.

25 THE SECRETARY: Commissioner Kelly?

1                   COMMISSIONER KELLY: Aye, noting my concurrence  
2 on E-9.

3                   THE SECRETARY: Chairman Keliher?

4                   CHAIRMAN KELIHER: Aye.

5                   THE SECRETARY: And Commissioner Moeller.

6                   COMMISSIONER MOELLER: Aye, with the exception of  
7 E-19 where I'm not participating.

8                   THE SECRETARY: Thank you.

9                   First we will have a presentation, Chairman  
10 Keliher, from Richard P. Sergel. He's the President and  
11 Chief Executive Officer of the North American Electric  
12 Reliability Corporation.

13                   He will be providing the Commission with an  
14 update on current NERC activities.

15                   %           MR. SERGEL: Good morning and thank you for the  
16 opportunity to report to the Commission today on the  
17 performance of the bulk power system this summer, and also  
18 on the first three months under mandatory reliability  
19 standards.

20                   This is the first time I've had the opportunity  
21 to report on these topics as the Electric Reliability  
22 Organization, so this is something, somewhat of a landmark,  
23 a moment for us as well, as it is on reliability for the  
24 Commission with its reorganization.

25                   Overall, system operators did an excellent job

1 managing the system and keeping supply and demand in balance  
2 this past summer. However, this summer 18 Level 3 energy  
3 emergency alerts were issued by reliability coordinators  
4 across the country. And just a reminder, in a Level 3  
5 energy emergency alert, all available resources are in use,  
6 the load management procedures are in effect, and firm load  
7 interruption is either imminent or in progress. We didn't  
8 get to that, fortunately, because the load management worked  
9 in almost every instance, but nevertheless, a very serious  
10 situation.

11 So in short, we are operating the system at or  
12 near its physical limit more often than in the past. Now  
13 most of the time we were pushed to the edge by weather, and  
14 I'm going to just take you through that. The summer kicked  
15 off early, May 24th when the Midwest Independent System  
16 Operator declared conservative operations due to  
17 temperatures in the mid-Nineties in the Northern Plains  
18 States, and it just went on from there.

19 So over the summer, system operators were  
20 challenged by high temperatures and humidity, forest fires  
21 in Idaho and Utah, violent lightning storms especially in  
22 Illinois, New York, Texas and Virginia. On Tuesday, we had  
23 a system event in the Dakotas, Minnesota, Manitoba and  
24 Saskatchewan that was triggered by violent weather.

25 Heat and humidity affected operations in PJM and

1 the Southeast, and New England during the summer, and  
2 weather required several days of customer conservation  
3 appeals in California. I spoke with Yakout Mansour, the CEO  
4 of the CALISO, and he detailed for me how they managed  
5 through five very hot days at the end of the summer. At the  
6 end of the summer, when hydro resources are less available  
7 than they would be earlier due to water. And they were  
8 successful in large measure because they trained 500 system  
9 operators to deal with precisely the conditions that they  
10 faced; they were successful with helping customers through  
11 voluntary conservation measures, and superb availability for  
12 non-hydro generators.

13 I do want to talk about two non-weather related  
14 events. We often think of the weather as always being the  
15 trigger, but it isn't. The first was on Saturday, August  
16 the 4th. We had a 765 kV transmission line that tripped,  
17 that initiated a sequence of events that led to almost 4,000  
18 megawatts of power lost in the system. The Eastern  
19 interconnection frequent dropped from 60 to 59.9, and  
20 recovered in five minutes.

21 The second incident occurred on Saturday, August  
22 25th, when a step-up transformer failed, resulting in the  
23 loss of seven generating units, 870 megawatts off-line, five  
24 220 kV lines were also interrupted.

25 Now if you notice, I said for both of these, they

1 occurred on Saturdays. And if they had happened during peak  
2 load, summer critical conditions, the implications would  
3 have been more serious. As it happened, Saturday saved us,  
4 and no customers were interrupted, and both situations were  
5 handled effectively and resolved within minutes.

6           There was some good news going into the summer;  
7 the tight situation was offset by more than a billion  
8 dollars of investment in transmission in the Southeast.  
9 There were two new transmission lines into Boston, were  
10 built; a transmission line began serving Southwestern  
11 Connecticut; and Texas reduced transmission congestion,  
12 allowing it to reduce the number of less efficient  
13 generating units that must run in tight reliability  
14 situations, from 7 to 1.

15           But with that, I think it's important to note  
16 that we are in a situation where we are increasingly tight  
17 on the system, and Section 215, Mandatory and Enforceable  
18 Reliability Standards, cannot in and of themselves deliver  
19 adequacy. But they can and must define and cultivate  
20 operational excellence.

21           The first three months under mandatory standards  
22 have already confirmed the wisdom of this. NERC is now  
23 processing approximately 3,700 violations that were self-  
24 reported to us prior to June 18th. And another 400  
25 violations, the vast majority self-reported, since the

1 standards became enforceable on the 18th.

2           Now, all 4100 of these violations require  
3 mitigation plans; that's our first priority. And in  
4 addition, for the 400 on or after June the 18th, the  
5 regions, with NERC concurrence, will need to make penalty  
6 recommendations. The vast majority of these alleged  
7 violations are self reports on administrative requirements,  
8 principally documentation, from organizations new to the  
9 standards. For example, equipment testing was completed in  
10 a timely manner, but the documentation of the test was  
11 insufficient.

12           So this is the good news part of the story,  
13 because the self reports indicate that users, owners and  
14 operators of the bulk power system are taking the mandatory  
15 standard seriously, and above all are making necessary  
16 improvements as we speak. And second, new players means we  
17 are for the first time covering all the users, owners and  
18 operators who materially impact the bulk power system.

19           And finally, the administrative nature of the  
20 vast majority of these violations suggests that we have  
21 compliance with the more important real-time operational  
22 requirements in our standards. And together with the  
23 regions, we've set a goal of completing our work on this  
24 very large group of self reports on these lower priority  
25 violations by the end of the year.

1           Unfortunately, we also have a few hundred  
2 violations that require priority treatment. And I'll note  
3 up front that they were still primarily self-reported, there  
4 is no evidence of bad faith; they are just more important,  
5 they are not administrative. And the most important of  
6 these are some violations of the vegetation management  
7 standards.

8           The most recent report to our Trustee Compliance  
9 Committee included seven reports of transmission line  
10 outages from vegetation within or adjacent to the right-of-  
11 way, and we're working diligently on priority concerns with  
12 a target to have mitigation plans in place for those by  
13 November the 1st.

14           Let me just sum it up with four key lessons and  
15 take-aways from this 2000 summer experience: We need more  
16 investment in generation, transmission, and demand side  
17 measures in many areas of North America to ensure that our  
18 bulk power system remains reliable, adequate and secure.  
19 This is nothing new, but these needs become more critical  
20 with the passage of time.

21           Portions of our bulk power system are being  
22 operated at or near their limits; more of the time, which  
23 increases the possibility of problems if unplanned events  
24 were to occur simultaneously. And a number of violations of  
25 the Reliability standards have occurred since 18th of June,

1 but only a few of them qualify for high priority attention,  
2 and those that do are getting it from both us and from the  
3 staff here.

4 And finally, some things that affect reliability  
5 of the bulk power system are preventable, and others are  
6 not. Mandatory and enforceable reliability standards are  
7 absolutely necessary in allowing us to prevent the ones we  
8 can so that we can deal effectively with the ones that we  
9 cannot.

10 And I thank you, and if there are any questions,  
11 Mr. Chairman and Commissioners, I'll be happy to answer  
12 them.

13 CHAIRMAN KELIHER: I have two comments but not  
14 questions. The first one is, I wanted to point out, I'm  
15 sure everyone's aware of, that the Division of Electric  
16 Reliability and the Office of Enforcement went around the  
17 country this summer, met with every single region,  
18 reliability entity, to work with them or to make sure that  
19 we have adequate regional enforcement. We're dealing with a  
20 pretty unique equation and a new reliability regime where  
21 the first line of defense, first line of enforcement will be  
22 the regional level, if these regional entities that are  
23 doing enforcement, only one of them has experience in  
24 enforcement.

25 So the Commission is working very closely, not

1 just with the ERO but with the regional entities to make  
2 sure that we have a sound enforcement reading at the  
3 regional level. And I think the Commission staff were very  
4 impressed with what they saw in the regions. So I think the  
5 FERC, the ERO and regional entities all really have their  
6 focus on strengthening enforcement and having a sound  
7 reliability regime.

8           And then the second comment was that, this is  
9 something we talked about in the past; I know you're working  
10 on it. We need to be able to tier Reliability violations  
11 into categories of importance. I probably harp on the  
12 nuclear model sometimes, the frustration of people; the NRC  
13 reaching nationally, formally tier categories; there's Tier  
14 1,2,3 violations, and you allocate your enforcement  
15 resources accordingly, and penalties are higher where the  
16 violation itself is more serious.

17           We need to move in that direction, and I know ERO  
18 realizes that as well. But there's a great deal of concern  
19 that very minor violations are going to receive maximum  
20 penalties, and the sooner we get to a situation where  
21 violations are, where it's fairly straightforward and  
22 apparent where the violations are more serious or more  
23 likely to result in maximum penalties, the better off we'll  
24 be and we'll have a higher level of compliance and a higher  
25 level of regulatory certainty.

1           So again, just a comment.

2           Colleagues? Questions, comments?

3           COMMISSIONER MOELLER: Just quickly.

4           Rick, I think you mentioned it, but we really had  
5 a cool summer, certainly relative to last summer, the summer  
6 of '06; and I imagine life would have been a lot more  
7 interesting if we had some heat waves that hit us like July  
8 of '06.

9           MR. SERGEL: The two summers are different in  
10 that last year there was no diversity to the bad weather; it  
11 occurred over large portions of the bulk power system at the  
12 same time. And the regions then cannot share with one  
13 another, and they're at their stress points together, and  
14 when they come out of that, then when they go to try to get  
15 the maintenance done that they've deferred, et cetera,  
16 everyone kind of is in a situation which the risk factors  
17 continue for longer periods of time.

18           So without a doubt, there was a difference; I  
19 think the California event occurred where the last two days  
20 of that heat wave turned out to be the weekend, so they were  
21 actually Saturday -- either Saturday and Sunday and maybe  
22 even into Labor Day itself.

23           So yes, I think that it probably again varies on  
24 where you were; that the Southeast had quite a warm summer  
25 and had a drought that they had to manage through.

1 California lost the thousand megawatts because the weather  
2 was at the end of the summer. So in some fashion there were  
3 some difficult things about this summer as well, but not  
4 like the year before.

5 COMMISSIONER KELLY: Rick, given the position  
6 that you hold, sort of have the overall bird's-eye view on  
7 reliability of the electric system in the United States, not  
8 to put you on the spot; but if you could prioritize the jobs  
9 that we as regulators face and that the industry faces in  
10 trying to ensure reliability of our electric grid, what  
11 would be the top tasks that we and the country should be  
12 focusing on?

13 MR. SERGEL: There are two that immediately come  
14 to mind. The first has to do with the mandatory standards,  
15 and that is that we need to get ourselves to the place where  
16 we have 100 percent compliance with the standards every day,  
17 because there is no room in our system for adding to the  
18 challenges that operators have. We are too close to the  
19 edge all the time for them to have to deal with a tree in  
20 the right-of-way taking a transmission line out, for  
21 example. That's just unacceptable.

22 That's the number one priority, and I feel  
23 confident that we have in place the right people and systems  
24 to get that job done over the next year, both at the  
25 regions, at NERC, here at the Commission, and with the

1 users, owners and operators.

2           The second is biased by what I think can get  
3 done. So we certainly need a generating resources,  
4 typically we default to gas there, and the difficult ones  
5 like coal, clean coal would take longer. Transmission  
6 lines, we can talk about whether it's siting or pricing or  
7 what other factors, but very long lead times and very  
8 difficult to do. We need to do this.

9           But my second priority is the demand side, where  
10 I believe we've spent too long talking about it and studying  
11 it. System operators need the ability to control more load;  
12 they need to be able to do a more sophisticated job of  
13 controlling it, and it needs to move beyond its voluntary  
14 pricing sort of thought process into what is needed to  
15 operate a sophisticated power system that is under  
16 continuous stress, with limited resources. So that would be  
17 my second priority.

18           COMMISSIONER KELLY: Thanks, Rick. That's very  
19 helpful; and I guess we like to hear that since we're  
20 starting out on an effort to do more on demand response,  
21 too. Not that I anticipated your saying that; I appreciate  
22 your perspective.

23           CHAIRMAN KELIHER: Thank you.

24           Marc? You don't have to say anything, but --

25           (Laughter)

1           COMMISSIONER SPITZER: We turned the corner when  
2 you alluded to upgrades, and the Congress and public has  
3 recognized there has been insufficient infrastructure.

4           Are we at the corner, or have we turned the  
5 corner? In your subjective view.

6           MR. SERGEL: Well, I think I just need to be  
7 clear. I think with respect to the need for infrastructure,  
8 we are around the corner and down the block on it being  
9 needed; we need more infrastructure. In particular, we're  
10 too dependent on gas, but we need more generation. We need  
11 renewable resources like wind, and we have to integrate that  
12 by building the transmission that's necessary both to  
13 integrate renewable resources and to keep that the grid  
14 strong.

15           So we're a long way down that road of needing new  
16 infrastructure. I think our task is to have that be, to be  
17 around the corner and having everyone understand that, and  
18 we're not there yet.

19           COMMISSIONER SPITZER: We're not.

20           MR. SERGEL: No, we're not.

21           CHAIRMAN KELIHER: Rick, I want to thank you very  
22 much for coming today. Can I ask you to remain seated just  
23 for a moment. I was remiss in my announcing staff changes;  
24 I failed to make two announcements, so I should make them  
25 now, and let's withhold disruption for a moment.

1 First of all, we have a new Deputy Chief Judge,  
2 that's Bobbie McCartney, and she's very discretely in the  
3 back, maintaining the appropriate independence --

4 (Laughter)

5 I want to congratulate Bobbie.

6 (Applause)

7 CHAIRMAN KELIHER: And we also have a new acting  
8 Deputy Secretary, Nathaniel Davis.

9 Nathaniel?

10 (Applause)

11 CHAIRMAN KELIHER: So Rick, thank you very much.

12 Madam Secretary, do you want to continue with the  
13 discussions and presentations?

14 THE SECRETARY: Thank you.

15 The first item for discussion this morning is  
16 Allegheny Electric, its E-3, Allegheny Electric Cooperative,  
17 Incorporated versus PJM, and the Organization of PJM States,  
18 Incorporated versus PJM. There will be a presentation by  
19 Kathryn Kuhlen from the Office of Enforcement. She's  
20 accompanied by Mustafa Ostrander and Laura Vallance from the  
21 Office of Enforcement.

22 % MS. KUHLEN: Good morning, Mr. Chairman,  
23 Commissioners. My name is Kathryn Kuhlen, and with me are  
24 Laura Vallance and Mustafa Ostrander from the Office of  
25 Enforcement; and also on the team are Deborah Ott and Morris

1 Margolis from the Office of Energy Markets and Reliability;  
2 or now, Energy Market Regulation.

3 This case concerns two complaints that were filed  
4 against PJM Interconnection in April of this year, alleging  
5 tariff violations by PJM and interference with its market  
6 monitor. Close to 30 parties have since intervened.

7 The Commission issued an order in May, granting  
8 fast track processing and issuing data requests to PJM and  
9 its Market Monitor, Dr. Joseph Bowring.

10 In response, the Commission received over 2,700  
11 pages of documents. In August, PJM submitted a unilateral  
12 offer of settlement, which was not accepted by the parties.  
13 However, the majority of the parties expressed a willingness  
14 to negotiate the terms of PJM's offer.

15 Based on an examination of the data responses,  
16 the draft order finds that PJM has not committed tariff  
17 violations. However, it also finds that the tension that  
18 has existed between PJM and its market monitor could  
19 compromise the market monitor's ability to perform his  
20 tariff-defined functions.

21 The order makes a preliminary determination that,  
22 under the particular circumstances of PJM's situation, it is  
23 unjust and unreasonable for the market monitor to continue  
24 to report to both PJM management and its board, and that  
25 instead he should report solely to the board, or to an

1 independent committee of the board.

2           The draft order sends to settlement the remaining  
3 issues in the case, in order to give the parties the  
4 opportunity to reach consensus. The order gives the parties  
5 14 days to choose a facilitator from among the Commission's  
6 traditional settlement options. Alternatively, given the  
7 unique nature of this proceeding, they may select the  
8 Commission's General Counsel, John Moot. If they cannot  
9 agree, the Commission will select a facilitator.

10           The order provides that the facilitator is to  
11 report back to the Commission on the progress of the  
12 negotiations, with the final report due in 90 days.

13           CHAIRMAN KELIHER: Thank you very much. Let me  
14 make some comments, then hear from my colleagues.

15           Today the Commission is acting to assure adequate  
16 independence in market monitoring the PJM Interconnection,  
17 and also acting to safeguard the integrity of PJM market  
18 operation. As staff indicated, we require a change in the  
19 reporting arrangements of market monitors, so the market  
20 monitor will report solely to the PJM Board of Managers, or  
21 to an independent committee of the Board.

22           Now this action is taken in response to  
23 complaints filed last April by a group of states,  
24 municipalities and cooperatives, and also by the  
25 Organization of PJM States.

1           Both complainants urged that the Commission act  
2 quickly to resolve this matter. In the case of OPSI, OPSI's  
3 initial complaint said, quote: In order to avoid de facto  
4 destruction of PJM MMU, by PJM and loss of the market  
5 monitoring function with respect to PJM wholesale markets  
6 over an extended period of time, the complainants asked the  
7 Commission expeditiously to resolve this complaint and avoid  
8 irreparable harm to, and loss of confidence in PJM wholesale  
9 markets.

10           The joint complainants also argued, quote: This  
11 complaint is ideal for fast track processing, the  
12 circumstances that prompted the filing of this complaint and  
13 the evidentiary basis for this complaint indicate that the  
14 safeguards in place with PJM markets are being rapidly  
15 eroded, and if left uncorrected, will soon reach a state  
16 where the Commission's ability to assure just and reasonable  
17 prices in PJM markets will be compromised.

18           We agree with the complainants that there is a  
19 need for the Commission to act, and there is some urgency in  
20 this matter; and so that is to me the main reason why we're  
21 acting in this manner today.

22           Now the complainants made two basic arguments;  
23 they argued that there was interference with the operation  
24 of PJM MMU, and that that interference constituted tariff  
25 violations; but they also argue that the tariff itself is

1 unjust or unreasonable, for failure to assure adequate  
2 independence by the MMU.

3           Now we disagree with the first argument, but we  
4 agree with the second. We do make a preliminary finding  
5 that the PJM tariff is unjust and unreasonable. And we  
6 largely adopt the principal remedy requested by  
7 complainants; namely, take the steps to assure the  
8 independence of the MMU.

9           Now our order provides for a process to  
10 facilitate settlement. That was also important to the  
11 parties. There's a host of issues that would need to be  
12 addressed in order to assure adequate independence by the  
13 MMU, whether it be an internal or external MMU. We could  
14 have decided those matters today, but we did not; we  
15 refrained from doing so because we decided to rely on a  
16 settlement process to decide the implementation of the new  
17 reporting arrangement of the MMU.

18           Now the main reason we denied the tariff  
19 allegations is frankly because that's the only course  
20 supported by the record. But we do agree that there's a  
21 problem, and we agree that the problem requires Commission  
22 action, and we do take action today; and I think our action  
23 will assure independence of market monitoring of PJM, and it  
24 also will preserve and safeguard confidence in the operation  
25 of PJM Markets.

1           So I certainly support the order.

2           Commissioner Kelly?

3           COMMISSIONER KELLY: Thank you, Joe. I agree  
4 with your comments. I'd like to elaborate a little more on  
5 them.

6           The complaints filed by the Organization of PJM  
7 States and the D.C. Office of the People's Council, on  
8 behalf of many other consumer councils and electric  
9 cooperatives within PJM, as well as an industrial consumer  
10 organization are very significant. And they're very  
11 significant because they raise issues that go to the heart  
12 of an effective and competitive market. And that is the  
13 independence of the MMU.

14           It's imperative that we have confidence in our  
15 institutions and in the rules that govern the market.  
16 Therefore I, and I know the rest of my colleagues have  
17 considered, with great deliberation, the issues raised in  
18 those complaints.

19           Our order concludes that there is not evidence of  
20 a tariff violation, but that doesn't mean, as Joe explained,  
21 that there isn't a significant problem at PJM. In fact, the  
22 evidence establishes that there has been a significant  
23 problem. The working environment at PJM has been making it  
24 quite difficult for the MMU to perform his job, although the  
25 evidence shows that he did maintain his independence and did

1 do his job.

2           There's been a very strained relationship, at  
3 least between the then-existing PJM management and Dr.  
4 Bowring. And there has been an unusual degree of  
5 supervision over the market monitor by the then-existing PJM  
6 management, which has affected the ability of the MMU to do  
7 its job.

8           And that's the particulars behind why we take  
9 this interim step of finding the current reporting  
10 requirement in the tariff to be unjust and unreasonable, and  
11 providing here that the MMU report from now on directly to  
12 PJM's Board of Managers, or to an independent committee of  
13 the Board.

14           I think it's also at this time important to note  
15 that the serious concerns raised by the complainants have  
16 been heard by the PJM Board. In fact, the PJM Board has  
17 become engaged in the concerns, and have taken steps to  
18 remedy the situation.

19           I'm pleased that the Board has responded with  
20 their offer of settlement, and that they responded very  
21 positively.

22           I'd like to thank all the parties for the actions  
23 that they have taken throughout this proceeding. Although  
24 the filing of the two complaints last April was the catalyst  
25 for today's order, what really set into motion the chain of

1 events that brings us here today was the action of Dr.  
2 Bowring, PJM's market monitor.

3 As today's order notes, Dr. Bowring first  
4 publicly raised concerns about the working situation in the  
5 Market Monitoring Unit at the Commission's April 5th  
6 technical conference on market monitoring policies.

7 I thank Dr. Bowring for voicing his concerns. It  
8 cannot have been easy for him to raise issues that he  
9 certainly knew would cause consternation, including  
10 consternation among his colleagues and within PJM  
11 management. It took courage for him to take a stand, and I  
12 commend not only him but all the parties in this case for  
13 the commendable actions they have all taken subsequently,  
14 including OPSI and the joint complainants, as they call  
15 themselves, efforts to protect their consumers, as well as  
16 PJM's significant first attempt to try and address the  
17 complaints with its offer of settlement.

18 A light has been shined on the issues, and they  
19 merit close attention and I believe some regulatory reform.  
20 Most notably, the need for more specific tariff provisions  
21 that more clearly define the roles and functions within PJM  
22 and its Market Monitoring Unit, and that ultimately promote  
23 a stronger working relationship between PJM Board and the  
24 market monitor which will, I believe, engender confidence in  
25 market operations.

1 All of the parties have indicated in their  
2 filings with us a willingness to try and negotiate a  
3 resolution of their remaining differences over PJM's offer  
4 of settlement. I am taking them at their word, and I am  
5 confident that the parties will make every effort to find  
6 common ground and reach an agreement that they all can live  
7 with.

8 Today's order sets forth a process that offers an  
9 excellent opportunity for doing so. First, by giving the  
10 parties several options for jointly choosing a facilitator,  
11 and second, by providing a time frame and a reporting  
12 process that will hopefully lead to a quick resolution of  
13 the issues. And I ask the parties to take full advantage of  
14 this opportunity.

15 And with that said, I'm pleased to vote out this  
16 order.

17 CHAIRMAN KELIHER: Colleagues?

18 COMMISSIONER WELLINGHOFF: Thank you, Mr.  
19 Chairman.

20 I would adopt and support your remarks, and  
21 Commissioner Kelly's remarks as well in this regard. I'd  
22 only make two short points.

23 Certainly market monitors are a vital first line  
24 of defense for consumers against manipulation in the  
25 wholesale electric market, so it's vital that we address

1 them in this case. We're addressing the issue more broadly  
2 and strengthening market monitors in our rulemaking, but of  
3 course that proceeding is many months away.

4 So here we're really talking about ultimately a  
5 loss of confidence in PJM, and how we can restore that. And  
6 the questions have been raised about the independence of  
7 PJM's market monitor.

8 But I think here at FERC we can't reestablish  
9 confidence in PJM for its customers; I think its customers  
10 have to do it for themselves. I think that's why today what  
11 we're doing, we expect an order that establishes the time  
12 frame for settlement by the parties is the proper and  
13 appropriate way to do that, so the parties -- PJM and the  
14 customers can come together and they'll establish that  
15 confidence with a settlement that they can all agree on. I  
16 hope it's done quickly, and of course we do have a provision  
17 in the order that if it's not done we will direct our  
18 decision, but it's ultimately best to be done by the  
19 customers.

20 CHAIRMAN KELIHER: Thank you. I agree  
21 completely.

22 Commissioner Moeller.

23 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

24 I, too, strongly support the effort of the  
25 parties to get together, settle their differences; it's a

1 lot better for them to do it than for us to impose it on  
2 them. They do have a lot of work to do; first in the next  
3 couple weeks and then in the three months following, and we  
4 hope that everyone will be dedicated to that. Because  
5 ultimately it has jeopardized a little bit of the confidence  
6 in this market, and that's not good; this is an important  
7 market to millions of people in the United States, and we  
8 want to restore that confidence, and that can happen through  
9 the settlement process.

10 Finally, I want to commend the team -- I know  
11 they had to do a lot of work on this settlement. Thanks for  
12 your effort.

13 CHAIRMAN KELIHER: Commissioner Spitzer.

14 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

15 The circumstances of this proceeding required  
16 prompt action from the Commission, and I think the  
17 Commission fulfilled its mandate. However, there are limits  
18 to the judicial process; there are findings of fact,  
19 conclusions of law, and those are embodied in the order  
20 before us. But the details of the administrative processes  
21 under which the market monitor operates and interfaces with  
22 PJM management are uniquely suited to a consensual process  
23 rather than a judicial process; and it's my hope that this  
24 bifurcation in the order gives the parties the chance to  
25 embrace the consensual process, which I think ultimately

1 given the nature of the remaining disputed items, is  
2 preferential; and echo the views of my colleagues, that we  
3 would prefer to see the parties avail themselves of that  
4 opportunity to resolve those matters.

5 CHAIRMAN KELIHER: I just want to point out that  
6 I hope that the parties here have heard the unanimous view  
7 of the Commission that we urge the parties to commit  
8 themselves to the settlement process and to reach consensus  
9 as quickly as possible. And that's unambiguous.

10 And with that, why don't we vote?

11 THE SECRETARY: Vote begins with Commissioner  
12 Wellinghoff.

13 COMMISSIONER WELLINGHOFF: Vote aye.

14 THE SECRETARY: Commissioner Moeller?

15 COMMISSIONER MOELLER: Aye.

16 THE SECRETARY: Commission Spitzer.

17 COMMISSIONER SPITZER: Aye.

18 THE SECRETARY: Commissioner Kelly?

19 COMMISSIONER KELLY: Aye.

20 THE SECRETARY: And Chairman Keliher.

21 CHAIRMAN KELIHER: Aye.

22 THE SECRETARY: The next Item for discussion this  
23 morning is G-2, concerning revision to forms, statements and  
24 reporting requirements in natural gas pipelines in Docket  
25 No. RM07-9-000.

1           There will be presentation by Jane Stelck from  
2 the Office of Enforcement. She is accompanied by Kerry  
3 Noone and Robert Sheldon from the Office of Energy Markets  
4 Regulation. And Kenneth Sosnick from the Office of  
5 Administrative Litigation.

6           %           MS. STELCK: Good morning, Mr. Chairman,  
7 Commissioners. My name is Jane Stelck and I'm an attorney  
8 in the Office of Enforcement. With me at the table this  
9 morning are Kerry Noone and Robert Sheldon from the Office  
10 of Energy Markets and Regulation; and Kenneth Sosnick from  
11 the Office of Administrative Litigation.

12           I'd like to say at the outset, many staff people  
13 have contributed their thoughts and time to this order, not  
14 just OE staff but also staff from OEMR and OAL.

15           G-2 is a draft Notice of Proposed Rulemaking that  
16 proposed to amend the financial forms for interstate natural  
17 gas companies; Forms 2, 2-A and 3-Q.

18           In January of this year, the Commission issued a  
19 Notice of Inquiry, seeking comments on the need for changes  
20 to the financial reporting requirements for the gas,  
21 electric, and oil pipeline industries. The revisions  
22 proposed in this draft NOPR are taken from those comments  
23 and in this case relate only to natural gas companies.

24           We believe that the proposed changes will enhance  
25 the form's usefulness by updating the information reported

1 to reflect current market and cost information. In today's  
2 regulatory environment, where natural gas pipelines are no  
3 longer required to file a triennial rate restatement and  
4 where the number of NGA section 4 rate cases has declined,  
5 the draft NOPR proposes to expand the information reported  
6 to ensure that this Commission and the public have  
7 sufficient information to assess the justness and  
8 reasonableness of pipeline rates.

9 The draft NOPR's intent is to strike a fair  
10 balance between information requested by the forms users and  
11 any additional burden that may be placed on the pipeline  
12 filers.

13 The proposed revisions would require pipelines to  
14 report certain revenue data that is not now included in the  
15 form; in particular, revenues derived from shipper-supplied  
16 gas, to identify costs associated with incremental  
17 facilities, and to provide additional information regarding  
18 affiliate transactions and negotiated and discounted rates.

19 The draft NOPR proposed a 45-day comment period  
20 and an effective date of January 1, 2008.

21 That's my presentation. I'll be happy to answer  
22 any questions.

23 CHAIRMAN KELIHER: Thank you very much for that  
24 presentation. I thank the staff for the work on this order,  
25 and I belatedly thank the staff for work on that PJM MMU

1 order, as well. And apologize -- they may have the room  
2 already.

3 No. Thank you, I'm glad you're still here. I'll  
4 try to start with a thank you.

5 Let me make some very short comments on this.

6 To me, the principal purpose and the principal  
7 object of this NOPR is to strengthen the ability of  
8 shippers, customers and state commissions to file Section 5  
9 complaints alleging that gas pipeline rates have become  
10 unjust and unreasonable.

11 I think that's -- to me, that's the inspiration  
12 of the rulemaking. We saw the contrary argument advanced in  
13 a number of complaints that Form 2 is an insufficient basis  
14 for a Section 5 complaint. To me, we couldn't allow that  
15 argument to stand. I think the changes also will generally  
16 make the Form 2 information more useful, and it will update  
17 the form's new information.

18 I think the proposals we set forth today should  
19 dispel any concern about the adequacy of Form 2 information  
20 as the foundation for a Section 5 complaint. I think the  
21 proposed rule fulfills our duty to guard shippers and  
22 strikes the proper balance, assuring shippers have the  
23 information they need, but also guarding against any undue  
24 burden on pipelines.

25 So I'm an enthusiast for the Form 2 NOPR.

1                   Colleagues? Jon.

2                   COMMISSIONER WELLINGHOFF: Just a quick comment,  
3 Mr. Chairman. I'm actually voting in favor of this with a  
4 concurrence. I think the key here is that the NOPR is to  
5 reflect current market and cost information, we're finding  
6 changes in the industry.

7                   One thing we found, for example, is that there  
8 are many pipelines who are now going to electric  
9 compression, from gas compression in the system. So we're  
10 adding in the NOPR the information of how many kilowatt  
11 hours are used at the compression stations.

12                   In my concurrence, I asked a number of questions  
13 with respect to issues of energy efficiency that I think we  
14 should potentially include in the NOPR as well so that we  
15 can determine how efficient these pipelines are in their  
16 operations; but with that, I support the NOPR.

17                   CHAIRMAN KELIHER: Colleagues?

18                   Commission Moeller.

19                   COMMISSIONER MOELLER: Thank you, Mr. Chairman.

20                   To me, this is kind of a good government  
21 approach. We need more information, arguably, from the  
22 comments we received so that we find out the just and  
23 reasonableness of pipeline rates. And I also want to point  
24 out, even though it wasn't called for discussion, the fact  
25 that G-1 is also a Notice of Inquiry on the fuel retention

1 practices. They do kind of go hand-in-hand. I hope people  
2 will see them as such, as our way of improving the  
3 information that people can use on this general subject.

4 CHAIRMAN KELIHER: Thank you.

5 Commissioner Kelly -- oh, Commissioner Spitzer.  
6 Let's change the usual order here.

7 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

8 You know, a lot of folks eyes glaze over when you  
9 hear about forms, and I guess it's sad that I spent a lot of  
10 my adult life as a tax lawyer dealing with forms of various  
11 types, far more arcane and difficult than these.

12 I still remember a huge dispute over whether an  
13 item reported by a taxpayer on a form, as a reporting  
14 position taken, was either more likely than not or had a  
15 substantial likelihood of prevailing. And this dispute  
16 caused a very mild mannered CPA to throw a salt shaker.

17 (Laughter)

18 And the Chairman repeated what was stated in the  
19 presentation about the balancing of competing interests.  
20 And it is imperative that the public have the opportunity  
21 and the wide array of consumer goods to judge whether these  
22 rates are just and reasonable.

23 At the same time we are mindful of the burdens on  
24 the industry, and that the information gathered in the forms  
25 be narrow and focused on that topic, because I have seen

1 over the years the imposition by government, informs matters  
2 that are not related to the purpose imposing this burden;  
3 and it ends up actually defeating the purpose of the form in  
4 the first instance. I've seen that over the years, and I'm  
5 confident that we will have a result that will focus on the  
6 just and reasonableness of rates that frankly has been  
7 opaque and ambiguous, and to the frustration of consumers.

8 CHAIRMAN KELIHER: Commission Kelly.

9 COMMISSIONER KELLY: Thank you, Joe.

10 In most cases, the financial information in these  
11 forms represents the only source of financial data presented  
12 in a format and detail suitable for the Commission to  
13 exercise our duties and responsibilities under the Federal  
14 Power Act, the Natural Gas Act, as well as the Interstate  
15 Commerce Acts.

16 These proposed changes will provide more readily  
17 accessible and detailed information on jurisdictional  
18 pipelines' costs and revenues and help the Commission as  
19 well as users of these forms to assess more accurately a  
20 pipeline's current rates and whether those rates are just  
21 and reasonable.

22 The information that's contained in these forms  
23 has become increasingly important as the number of pipeline  
24 rate case filings has diminished over the years. So that in  
25 some cases, pipeline costs and revenues have not been

1 reviewed for many years.

2 Our records, for example, indicate that as many  
3 as 15 major and 20 non-major gas pipelines have not filed a  
4 rate case under Section 4 of the Natural Gas Act in more  
5 than a decade. I'm not saying that that's a bad thing, but  
6 it does point out that information has not been publicly  
7 available in sufficient detail.

8 In two recent complaint proceedings brought by  
9 customers alleging that pipeline rates were no longer just  
10 and reasonable, the pipeline's rates had not been reviewed  
11 in 11 years and 17 years, respectively.

12 I'd just like to comment on two of the specific  
13 changes being proposed in the NOPR, because it has to do  
14 with affiliate transactions and concerns raised by Congress  
15 in EAct about affiliate transactions.

16 Forms 2 and 2-A include the requirement to  
17 disclose detailed information about affiliate transactions.  
18 Without this affiliate information, it's impossible to  
19 determine the type and extent of transactions entered into  
20 between pipelines and their affiliates.

21 The NOPR would require pipelines to report  
22 affiliated transactions and a description of the good or  
23 service transacted, and with which affiliated company. I  
24 believe that this information will help the Commission to  
25 carry out its responsibilities under EAct to protect

1 against inappropriate cross-subsidization.

2 Another change would require the pipelines to  
3 provide information about each specific facility and the  
4 individual rate treatments for services provided by the  
5 facility. It would also require the volumes and revenues  
6 applied to services provided by the same facilities but  
7 using different rates, whether negotiated, discounted, or  
8 recourse rates.

9 These form changes will also protect customers  
10 against cross-subsidization and ensure that the rate for  
11 recourse service remains JNR.

12 I commend the Chairman for spearheading this  
13 effort to review the forms filed at the Commission by  
14 jurisdictional entities. This is not a sexy issue. As a  
15 law professor, whenever I drafted an exam or gave an  
16 assignment, I knew that if I was going to get the most  
17 attention to it that I wanted, I needed to include  
18 preferably: money, sex, warm fuzzy animals, and violence.

19 I know this isn't sexy. I didn't know until  
20 Commissioner Spitzer's comments that forms, however, do  
21 impact on the violence quotient.

22 (Laughter)

23 Thank you, Joe, for taking this issue on.

24 CHAIRMAN KELIHER: Thanks.

25 I want to repeat that I'm an enthusiast on Form

1 2.

2 Our fundamental duty is to, in the area of  
3 economic regulation, is to guard the consumer. We need this  
4 data to discharge our responsibility. So I think without  
5 your good efforts in this and other areas, we would not be  
6 able to protect the consumer. So I thank you for your work,  
7 and I think we can now vote.

8 THE SECRETARY: The vote begins with Commissioner  
9 Wellinghoff.

10 COMMISSIONER WELLINGHOFF: With my concurrence  
11 noted, I vote aye.

12 THE SECRETARY: Commissioner Moeller?

13 COMMISSIONER MOELLER: Aye.

14 THE SECRETARY: Commissioner Spitzer.

15 COMMISSIONER SPITZER: Aye.

16 THE SECRETARY: Commissioner Kelly?

17 COMMISSIONER KELLY: Aye.

18 THE SECRETARY: Chairman Keliher.

19 CHAIRMAN KELIHER: Aye.

20 THE SECRETARY: The last item for discussion; we  
21 have two. C-4, concerning Southern LNG, Incorporated, and  
22 Elba Express Company, LLC in Docket No. CP07-470-00 et al.;  
23 and C-5, concerning Calhoun LNG, LLP, and Point Comfort  
24 Pipeline Company, LLP, in Docket No. CP05-91-000, et al.

25 There will be a presentation by Howard Wheeler

1 and Jeff Wright from the Office of Energy Projects. They're  
2 accompanied by John Peconom and Laurence Sauter from the  
3 Office of Energy Projects, and Joel Arneson from the Office  
4 of the General Counsel.

5 CHAIRMAN KELIHER: If you will refrain for one  
6 moment, I just want to announce my final staff change.

7 (Laughter)

8 I think it's the final one. Niles and others  
9 have been handing me notes, and since Jeff Wright is here, I  
10 will take up and announce that Jeff Wright is the Deputy  
11 Director of Office of Energy Projects, effective September  
12 2nd. And I just want to congratulate you. It's something  
13 you've earned many times over, so congratulations.

14 MR. WRIGHT: Thank you.

15 (Applause)

16 CHAIRMAN KELIHER: Howard.

17 % MR. WHEELER: Good morning, Mr. Chairman and  
18 Commissioners.

19 This morning I have a brief overview of Item C-4  
20 and C-5, and two LNG proposals, and then Jeff will follow  
21 with a summary of the current LNG situation in the United  
22 States.

23 I would like to acknowledge the efforts of many  
24 others in OEP OPMR, OGC that contributed to these draft  
25 orders.

1           Can we have the first slide.

2           This map shows the general location of these  
3 projects. The draft order in Item C-4, shown on the right  
4 side of the map, would authorize the expansion of the  
5 existing Elba Island LNG terminal near Savannah, Georgia,  
6 which is operated by Southern LNG. The draft order would  
7 also authorize Elba Express Company, a subsidiary of  
8 Southern Natural, to construct and operate 189 miles of new  
9 42- and 36-inch diameter pipeline from a point near the Elba  
10 Island terminal to interconnections with Southern Natural in  
11 Georgia, and Transcontinental Gas Pipeline Corporation in  
12 Georgia and South Carolina.

13           The draft order in Item C-5, shown on the left,  
14 would authorize Calhoun LNG's request to construct and  
15 operate a new LNG import terminal at the Port of Port Lavaca  
16 and Port Comfort in Calhoun County, Texas.

17           The draft order would also authorize Point  
18 Comfort Pipeline Company's request to construct and operate  
19 about 27 miles of 36-inch diameter send-out pipeline, ex  
20 tending from the LNG terminal to a point approximately three  
21 miles southwest of Edna, Texas.

22           Combined, these projects represent an increase in  
23 LNG regasification capacity of nearly two billion cubic feet  
24 per day, or Bcf per day.

25           The proposed expansion of the Elba Island

1 facility, known as the Elba III project, is comprised of  
2 three main components: Expansion of the Elba LNG terminal  
3 by Southern LNG; a new greenfield pipeline named the Elba  
4 Express; and transfers of pipeline capacity between Southern  
5 Natural and Elba Express.

6           Southern LNG would expand the deliverability of  
7 the LNG terminal by an additional .9 Bcf per day in two  
8 phases. In the first phase, Southern LNG proposes to  
9 construct a 200,000 cubic meter storage tank and increase  
10 regasification capacity by .4 Bcf per day, with an in-  
11 service date of 2010. In addition, it proposes to modify  
12 its existing unloading docks to accommodate larger LNG ships  
13 and to facilitate the simultaneous unloading of two ships.

14           In the second phase, Southern LNG proposes to  
15 construct another 200,000 cubic meter storage tank and  
16 increase its regasification capacity by about .5 Bcf per day  
17 with an in-service date of December 2012.

18           Elba Express, the Southern Natural subsidiary,  
19 proposes to construct 189 miles of pipeline from Port  
20 Wentworth, Georgia to interconnections with Southern Natural  
21 at Wrens, Georgia and Transcontinental in Hart County,  
22 Georgia and Anderson County, South Carolina, with a  
23 transportation capacity of 1 Bcf per day. This would  
24 coincide with the first phase of the Elba terminal  
25 expansion.

1           In the second phase, Elba Express proposes to  
2     construct 10,000 horsepower of compression to provide an  
3     additional 230,000 cubic feet per day of capacity, for a  
4     total of 1.175 Bcf per day to the interconnections with  
5     Southern Natural and Transcontinental.

6           In addition, the draft order authorizes Southern  
7     Natural to transfer an undivided ownership interest to Elba  
8     Express of up to 1.75 Bcf per day of capacity, and acquire  
9     an ownership interest of .5 Bcf per day in the Elba Express  
10    pipeline that extends from Port Wentworth to Rincon,  
11    Georgia.

12           The draft order in Item C-5 authorizes Calhoun  
13    LNG to construct a new LNG terminal at the port of Port  
14    Lavaca and Port Comfort in Calhoun County, Texas, and  
15    authorizes Point Comfort Pipeline to construct a new 27-mile  
16    long pipeline from the tailgate of the terminal northward to  
17    a point approximately three miles southwest of Edna, Texas,  
18    in Jackson County.

19           The terminal and pipeline would have a capacity  
20    to deliver one billion cubic feet of regasified LNG per day.  
21    The marine terminal would be constructed on dredged  
22    material, owned by the Calhoun County Navigation District,  
23    and would be designed to accommodate 120 LNG vessels per  
24    year.

25           Point Comfort's 27-mile long pipeline will

1 interconnect with two local industries, four intrastate  
2 companies, five interstate pipelines, and will be collocated  
3 with other utility rights-of-way for approximately 90  
4 percent of its length.

5 The draft order requires Calhoun and Point  
6 Comfort to construct and place the facilities in service  
7 within five years of the date of the order.

8 I would note that in the Calhoun proposal, which  
9 was filed in March of 2005 is the last project to be  
10 authorized that has not gone through the Commission's pre-  
11 filing process.

12 As with all LNG proposals, safety and reliability  
13 were a major focus of the analyses.

14 The Elba III draft order contains 30 engineering,  
15 safety and reliability-related conditions. The Calhoun  
16 draft order, which approves a new site, contains 62  
17 engineering, safety and reliability conditions.

18 For instance, Southern LNG and Calhoun would not  
19 be cleared to begin site preparation work until their hazard  
20 detection and control plans as well as their emergency  
21 response and cost-sharing plans had been approved.

22 Further, the staff will also undertake a robust  
23 inspection program that would continue throughout the life  
24 of the projects.

25 Engineering and environmental inspections will

1 take place at each LNG project at least every eight weeks  
2 during construction.

3 After construction is complete, a commissioning  
4 inspection will be conducted to ensure that all conditions  
5 are met. If so, operation of the terminals would be  
6 approved.

7 After the facilities are placed in service, FERC  
8 staff would continue to conduct annual inspections for the  
9 life of the projects.

10 That concludes my portion of the presentation.  
11 Now Jeff will review the status of LNG in the United States.

12 MR. WRIGHT: Good morning, Chairman and  
13 Commissioners.

14 As Howard said, I would like to give you a quick  
15 update on the status of LNG in the U.S. Now this initial  
16 slide gives you a quick look at the five existing  
17 regasification terminals; in Everett, Massachusetts, Cove  
18 Point, Maryland, Elba Island, Georgia, Lake Charles,  
19 Louisiana, and offshore Louisiana.

20 Now here we see the rapid growth in LNG imports  
21 into the U.S. In 1996, the U.S. imported 40.3 billion cubic  
22 feet of LNG at just two terminals, Lake Charles and Everett  
23 -- an average of just over a tenth of a Bcf per day,  
24 representing less than two tenths of a percent of the U.S.  
25 gas supply that year.

1           There was moderate growth until about 2002 when  
2 the import level more than doubled in 2003. Then LNG  
3 imports moderated again until this year. By the end of  
4 September, LNG imports are expected to exceed last year's  
5 total by 22 percent, and the Energy Information  
6 Administration of DOE estimates that the U.S. will import  
7 another 143 billion cubic feet of LNG before the end of this  
8 year; a record-setting total of 855 billion cubic feet, a 47  
9 percent increase over 2006.

10           This amounts to a daily average of 2.3 billion  
11 cubic feet, or almost 4 percent of U.S. gas supply. This  
12 growth is expected to continue in 2008 as EIA projects a 20  
13 percent increase in LNG imports over 2007, to just over 1  
14 trillion cubic feet, or 2.8 Bcf per day; four and a half  
15 percent of the U.S. gas supply.

16           Now this year, over 550 billion cubic feet of LNG  
17 was delivered from March through August. This translates to  
18 an average import level of 3 Bcf per day. On some days, LNG  
19 imports approached 4 billion cubic feet.

20           The surge of LNG imports can be attributed to at  
21 least two factors: the higher gas price levels in the U.S.  
22 vis-a-vis the rest of the world over this time; and the  
23 U.S.'s enormous storage capacity. In essence, the U.S. can  
24 take advantage of world price differentials, even when the  
25 gas is not immediately needed, by placing it in underground

1 storage.

2           The previous slide showed the growth in LNG as a  
3 component of the U.S. gas supply, but will this trend  
4 continue? The answer is that it must in order to meet  
5 future demand. This chart shows the expected contribution  
6 of domestic production represented by Lower 48 production  
7 and Alaskan production, net pipeline imports and LNG  
8 imports.

9           Domestic production is only expected to increase  
10 at an annual rate of .4 percent from 2007 to 2025. Net  
11 pipeline imports, which include imports from Canada, will  
12 fall at an annual rate of 4.35 percent over the same time  
13 period. And finally, LNG imports are expected to grow at an  
14 annual rate of 10.2 percent, comprising 17 percent of U.S.  
15 gas supply by 2025.

16           This need for LNG in the U.S. could actually  
17 increase if the expected volumes from Alaska to the Lower 48  
18 do not materialize in the expected time frame.

19           This slide depicts the rise in regasification  
20 capacity in the Lower 48 states since the beginning of the  
21 decade to the present, and the projected increases in regas  
22 capacity through the end of the decade. We've seen  
23 expansions at the existing LNG terminals in Everett, Cove  
24 Point, Elba Island, and Lake Charles. In addition, a new  
25 deepwater LNG terminal, 116 miles from the Louisiana coast,

1 known as Gulf Gateway, commenced service in March of 2005.

2 Over this time period, operating regasification  
3 capacity has increased from a little over 1.5 billion cubic  
4 feet per day to almost 6 billion cubic feet per day, a four-  
5 fold increase in capacity.

6 Substantial increases in regasification capacity  
7 are on tap for the remainder of the decade. Currently there  
8 are four new LNG regasification terminals under  
9 construction; Freeport LNG in Freeport, Texas; Sabine Pass  
10 LNG in Sabine, Louisiana; Cameron LNG in Hackberry  
11 Louisiana; and Golden Pass LNG in Sabine, Texas. In  
12 addition, expansions of the Sabine Pass LNG terminal and at  
13 the existing Cove Point terminal in Maryland are under  
14 construction.

15 These new and expanded terminals will add 6.7  
16 billion cubic feet per day of regasification capacity in  
17 2008, and an additional 3.4 billion cubic feet per day in  
18 2009. All told, this is an increase of 10.1 billion cubic  
19 feet per day of capacity in the next two years; so by the  
20 end of the decade, the U.S. will see its LNG regasification  
21 capacity increase by ten times the amount that was available  
22 in the year 2000.

23 At the same time, liquefaction capacity increases  
24 in the Atlantic Basin will almost triple, to just over 10  
25 billion cubic feet per day. While U.S. regasification

1 capacity is expanding faster than liquefaction capacity,  
2 this should enable the U.S. to take further advantage of  
3 situations when a price differential favors exporters  
4 bringing LNG to the U.S.

5 And I would also note that liquefaction capacity  
6 is rapidly expanding in the Middle East, especially in  
7 Qatar. And while the Middle East isn't considered part of  
8 the Atlantic Basin, these LNG supplies will help to satisfy  
9 Atlantic Basin demand.

10 That concludes our presentation, and we will be  
11 happy to answer any questions you may have.

12 CHAIRMAN KELIHER: I really just have a comment  
13 on your second to last slide, "LNG Vital to U.S. Gas  
14 Supply."

15 There used to be a perception that LNG would  
16 somehow be a bridge to Alaska gas, then Alaska gas was going  
17 to be the principal incremental source of gas supply in the  
18 future; but this slide really demonstrates that's not the  
19 case, that LNG is the fastest-growing source of U.S. natural  
20 gas supply, and it will continue to be, even when -- I'll  
21 say when, not if, Alaska gas is developed.

22 And how large that green wedge is will have a  
23 huge factor in the price, not just of natural gas in the  
24 United States, but electricity. So you want to see a fairly  
25 large green wedge develop in the future. And it is

1 interesting to see the decline of Canadian imports, not just  
2 as a percentage of the U.S. supply, but in overall numbers,  
3 in raw numbers.

4 So I want to thank you for the presentation, it  
5 was very helpful.

6 Jon?

7 COMMISSIONER WELLINGHOFF: A quick question or  
8 two for either Howard or Jeff.

9 You note in your presentation that these LNG  
10 proposals, your major focus is reliability. Well, that  
11 should be; it's an important area to focus on. But do you  
12 also look at to any degree the efficiencies of these systems  
13 and facilities as they're built, how they may be made more  
14 efficient?

15 MR. WHEELER: Well, perhaps I could defer to some  
16 of the LNG-engineers that are seated behind us.

17 COMMISSIONER WELLINGHOFF: Sure. And  
18 specifically, such things as the gasifiers, are they going  
19 to be made more efficient? And also, for example, I noted  
20 in the Port Comfort pipeline that is interconnecting the two  
21 industries, interstate pipelines 5 -- for intrastate  
22 pipelines 5 interstate pipelines, I'm sure they're all  
23 different pressures. So you have the opportunity of  
24 pressure let-down like the District Gas in Boston, as I'm  
25 sure you're aware, uses pressure let-down effectively to

1 recompress the gas on the vessel.

2 I'm wondering if any of these facilities are  
3 looking at those kinds of efficiency improvements.

4 MR. WRIGHT: At these two they do not have  
5 provisions for taking the pressure that they're supplying to  
6 the LNG and letting it down to kind of back feed the  
7 process.

8 At Calhoun, there are a number of  
9 interconnections. Some of those go to the LNG systems, and  
10 they have a fairly complicated natural gas liquids  
11 extraction system that -- where a lot of the focus that we  
12 looked on was on in terms of helping to improve that system.

13 And at Elba, I think their take-away pipes, they  
14 don't have as many interconnects for the pipeline pressure  
15 let-down.

16 COMMISSIONER WELLINGHOFF: Is there anything  
17 being done in the industry overall to improve the efficiency  
18 of these facilities?

19 MR. WRIGHT: Well, the --

20 MR. ROBINSON: I think some of the things they're  
21 looking at is, one, they're looking at different ways to  
22 regasify it or looking at using ambient air, which of course  
23 makes about a 3 percent difference in fuel demand for the  
24 regasification. That's being under construction in Lake  
25 Charles I think right now, or it's authorized?

1 MR. WRIGHT: Yes, they're starting construction -  
2 -

3 MR. ROBINSON: They're starting construction of  
4 that there.

5 I think it's innate within the industry to look  
6 for efficiency wherever they can, because it translates  
7 directly to their cost. And we support that, we make  
8 recommendations to that when we can see it. Also the use of  
9 ocean water, whenever possible for cooling, for  
10 regasification as well. That is about a 2 percent saving,  
11 pumping -- with ocean water you have to accommodate; but  
12 there's also savings there.

13 We do look at that in an overall sense, and if we  
14 see an opportunity to encourage efficiency in these projects  
15 or technologies that would do that that would work in a  
16 better fashion, we'll certainly do just that.

17 COMMISSIONER WELLINGHOFF: And I hope we can  
18 recognize that in some way and help spread that information  
19 to other developers so that the best practices can be used  
20 throughout the industry to improve efficiency overall.

21 MR. WHEELER: Absolutely.

22 CHAIRMAN KELIHER: Colleagues. Comments,  
23 questions?

24 COMMISSIONER KELLY: Well, I think that as you  
25 mentioned, Joe, and as staff mentioned, the bottom line is

1 that it's important to have in place the infrastructure that  
2 our country needs, to continue to meet our demand for  
3 natural gas. And that infrastructure is going to  
4 increasingly be LNG regas facilities.

5 So I'm pleased to be able to vote for these  
6 orders, that helps us move along in that direction.

7 COMMISSIONER SPITZER: Mr. Chairman,  
8 infrastructure is obviously our number one challenge in this  
9 country, a mission and personal goal of mine; and natural  
10 gas is preeminent among those challenges, and LNG is a very  
11 important component of a number of overall strategies to  
12 deal with natural gas supply. And today approval of these  
13 projects is a very significant step. An increase in the LNG  
14 regasification capacity of nearly 2 billion cubic feet a  
15 day.

16 I'd want to also point out that in approving  
17 these projects, we considered and imposed mitigation  
18 measures, because the public has legitimate concerns  
19 regarding LNG projects, and neither project can begin site  
20 preparation work until hazardous detection and control  
21 plans, as well as emergency response and cost sharing plans  
22 have been approved. And you need to ensure that the public  
23 has confidence in the safety of these, and that only  
24 highlight our efforts to provide a natural gas supply.

25 CHAIRMAN KELIHER: Thank you.

1 Commissioner Moeller.

2 COMMISSIONER MOELLER: Happy to support the  
3 certificates for these two projects, and congratulate the  
4 applicants. The investors team that Mark has that reviewed  
5 these extensively, and appreciated the emphasis on the  
6 safety as well.

7 But the fact is, we're going to need more of  
8 these. I think that was outward. I'm someone who believes  
9 that we need diversity of fuel supply that's increasing in  
10 this country, and yet the reality is that we are relying  
11 more and more on natural gas.

12 You may have heard recently about what happened  
13 in Florida. A couple of coal plants, big coal plants were  
14 proposed. Now, Florida is geographically constrained,  
15 reserve margins are tightening there, they have a high  
16 residential load so that means it's peaking, probably  
17 disproportionately. Renewables, until we get the new  
18 hydrotechnologies off the coast of Florida are somewhat  
19 limited, but we'll be talking about that on October 2nd.

20 But Florida has challenges; these coal plants  
21 were proposed, and in at least one case I've been told that  
22 retrofit of an existing plant and then doubling the capacity  
23 would have actually led to fewer air emissions than the  
24 status quo. And yet because coal is considered out of favor  
25 and probably some other reasons, neither of those plants

1 were approved.

2           So what does that mean? That means we're going  
3 to rely more and more on gas as our fuel of choice for  
4 producing electricity in this country, until we get some  
5 certainty -- regulation.

6           So we need gas in every way possible, from a new  
7 pipe from Alaska or domestic sources on shore, or domestic  
8 sources off shore, any more the Canadians can send us. But  
9 LNG is an unavoidable option for us; and I hope the public  
10 realizes that.

11           CHAIRMAN KELIHER: We'll vote on the orders  
12 together, jointly.

13           THE SECRETARY: Yes, sir.

14           CHAIRMAN KELIHER: Let's vote.

15           THE SECRETARY: The vote, Commissioner  
16 Wellinghoff.

17           COMMISSIONER WELLINGHOFF: I vote aye.

18           THE SECRETARY: Commissioner Moeller.

19           COMMISSIONER MOELLER: Aye.

20           THE SECRETARY: Commissioner Spitzer.

21           COMMISSIONER SPITZER: Aye.

22           THE SECRETARY: Commissioner Kelly.

23           COMMISSIONER KELLY: Aye.

24           THE SECRETARY: And Chairman Keliher.

25           CHAIRMAN KELIHER: Aye.

1                   And no other staff announcements, to my knowledge

2           --

3                   (Laughter)

4                   -- this meeting is adjourned.

5                   (Whereupon, at 11:46 a.m., the Open Commission  
6 Meeting adjourned.)

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