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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

947TH COMMISSION MEETING

OPEN SESSION

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

Thursday, May 21, 2009

10:05 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JON WELLINGHOFF (Presiding)

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

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P R O C E E D I N G S

(10:05 a.m.)

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

Would you all please join me for the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN WELLINGHOFF: The first thing I have to start out with this morning, is something that is sad to me. We have another member of the family leaving.

Mark Robinson is leaving home after 32 years. I'll tell you that when I first met Mark, I recognized immediately that this was a critical and valuable asset to this Commission. I want to extend to you, Mark, my sincerest gratitude and admiration for all the work you've done here.

Mark has been Director of the Office of Energy Projects since 2001. Under his leadership, OEP has developed a record that has allowed the Commission to authorize 11,738 miles of pipe; 751 Bcf of storage capacity; and 37.7 Bcf per day of LNG sendout capability.

And these numbers are truly phenomenal, but Mark

1 cannot be defined by simple numbers. Mark is a model of
2 leadership, and, as a model, he exhibits initiative,
3 knowledge, self-confidence, tenacity, and integrity.

4 Because of his leadership, we have an Office of
5 Energy Projects that is a proud example of the best in
6 government services. We have an authorization process that
7 places a premium on early identification of issues,
8 collaboration, flexibility, and resolution.

9 With Mark's leadership, we're an agency that
10 promotes sound infrastructure development in a responsible
11 fashion.

12 Due to his leadership and his widely recognized
13 competence, the level of respect afforded this Agency by the
14 industry, by the federal and state agencies and Congress,
15 has been enhanced significantly.

16 Mark, thank you for this and for your service to
17 FERC. I'm honored and proud to recognize you with the FERC
18 Career Service Award.

19 Mark, come on up.

20 (Presentation made; applause.)

21 CHAIRMAN WELLINGHOFF: Thank you, Mark. Mark,
22 don't go away. I'm not done, actually. I have one more.
23 This is a special Chairman's Award. This is to Mark
24 Robinson, with great appreciation for your work on the FERC
25 DOI MOU on Hydrokinetic Systems on the OCS, and this is the

1 pen that I signed the MOU with, so we'll give this to Mark,
2 as well.

3 (Presentation made; applause.)

4 MR. ROBINSON: Thank you very much.

5 CHAIRMAN WELLINGHOFF: Thank you, Mark.

6 COMMISSIONER MOELLER: Mr. Chairman, I just
7 thought, since you mentioned that Mark is a critical asset,
8 I wondered if we could work with Mr. McClelland and
9 designate Mark as a critical part of the energy
10 infrastructure.

11 (Laughter.)

12 CHAIRMAN WELLINGHOFF: Suedeen?

13 COMMISSIONER KELLY: John has said it all. I
14 just want to add that I am very proud of you, and you should
15 be proud of yourself. You've left quite a legacy, not only
16 to FERC, but to the American people.

17 We have energy infrastructure that we need
18 because of you. Thank you, Mark.

19 Marc?

20 COMMISSIONER SPITZER: It's pretty obvious that
21 the Wizards need help. You're a basketball player for a
22 second career.

23 (Laughter.)

24 COMMISSIONER SPITZER: But it's tough putting
25 energy infrastructure in places where almost uniformly,

1 citizens object. That's not easy to do, and you have been
2 very patient in your dealings with the citizens of the
3 United States, which is befitting our Agency, and very
4 important.

5 You always kept your eye on the ball, which is
6 the bottom line of securing the resources necessary for our
7 country. We're appreciative of that.

8 MR. ROBINSON: Thank you all. Over 30 years ago,
9 I came here from West Virginia, thinking I would go home in
10 two years. I didn't know at the time, that this was going
11 to be my home.

12 It has been absolutely wonderful. I have enjoyed
13 every minute of it. I don't know what came into me, to
14 think that I should go do something else, but it's going to
15 be tough leaving home; I know that right now. Thank you all
16 so much.

17 CHAIRMAN WELLINGHOFF: Thank you, Mark. And Mark
18 isn't leaving us in the lurch; Mark has groomed somebody to
19 be his replacement. Jeff Wright is going to become the
20 Director of OEP. Jeff, where are you today?

21 (Applause.)

22 CHAIRMAN WELLINGHOFF: Those are big shoes to
23 fill, but I know that Jeff is up to the task. Jeff has had
24 30 years of experience in projects, and he's held a number
25 of senior management positions with OEP. He's currently the

1 Deputy, as you all know, of OEP, so we're really very glad
2 to have Mark be able to pass the baton on to Jeff.

3 And Berne Mosley is currently the Director of the
4 Division of Pipeline Certificates and will be Jeff's Deputy.
5 Berne has been with the Commission since 1983, and he's a
6 graduate of Auburn University.

7 I know, under their management, I'm confident
8 that OEP will remain a highly professional and respected
9 organization to carry on what Mark has done for us. Thank
10 you.

11 (Applause.)

12 CHAIRMAN WELLINGHOFF: So, since our April 16th
13 Open Meeting, we've issued 81 Notational Orders. And, with
14 that, Madam Secretary, could we turn to the Consent Agenda,
15 please?

16 SECRETARY BOSE: Good morning, Mr. Chairman; good
17 morning, Commissioners. Since the issuance of the Sunshine
18 Act Notice on May 14, 2009, Item E-12 has been struck from
19 this morning's agenda. Your consent agenda items for this
20 morning, are as follows:

21 Electric Items: E-1, E-2, E-3, E-4, E-5, E-6, E-
22 7, E-8, E-9, E-10, E-13, E-14, E-16, E-17, E-18, E-19, E-
23 20, E-21, E-22, E-24, E-25, E-26, E-27, E-28, E-30, and E-
24 32.

25 Gas Items: G-1, G-2, and G-3.

1 Hydro Items: H-1, H-2, and H-3.

2 Certificate Items: C-2, C-5, C-6, C-7, C-8, and
3 C-9.

4 Chairman Wellinghoff is not participating in
5 Consent Item E-27.

6 As required by law, Commissioner Spitzer is not
7 participating in Consent Items E-25 and E-26.

8 As to E-33, Commissioner Moeller is concurring,
9 with a separate statement.

10 We will now take a vote on this morning's Consent
11 Agenda Items, beginning with Commissioner Moeller.

12 COMMISSIONER MOELLER: I vote aye, noting my
13 concurrence in E-33.

14 SECRETARY BOSE: Commissioner Spitzer?

15 COMMISSIONER SPITZER: I vote aye, noting my
16 recusal in Items E-25 and E-26.

17 SECRETARY BOSE: Commissioner Kelly?

18 COMMISSIONER KELLY: Aye.

19 SECRETARY BOSE: And Chairman Wellinghoff?

20 CHAIRMAN WELLINGHOFF: With the exception of my
21 recusal in E-27, I vote aye.

22 SECRETARY BOSE: The Office of Enforcement, this
23 morning, Mr. Chairman, will be giving a presentation on the
24 Summer Energy Market Reliability Assessment of 2009. The
25 presenters are: Steven Reich, David Andrejczak, and Keith

1 Collins, all from the office of Enforcement.

2 MS. COURT: Excuse me, Madam Secretary. It's
3 also the Office of Electric Reliability.

4 SECRETARY BOSE: Thank you for that correction,
5 thank you.

6 MR. REICH: Mr. Chairman, Commissioners, good
7 morning. I'm Steve Reich, Acting Director of the Division
8 of Energy Market Oversight in the Office of Enforcement.

9 I'm here to present the 2009 Summer Energy Market
10 Reliability Assessment. With me from the Office of Electric
11 Reliability, is David Andrejczak, Acting Director of the
12 Division of Bulk Power System Analysis, to speak on
13 reliability issues.

14 Also with me, is Keith Collins, Branch Chief for
15 Electric Market Oversight in the Office of Enforcement.

16 This PowerPoint presentation will be posted on
17 the Oversight Section of ferc.gov, following this
18 presentation. Let me turn this over to Dave, to discuss the
19 reliability highlights for this summer, on a national level.

20 MR. ANDREJCAK: Thank you, Steve.

21 (Slides.)

22 MR. ANDREJCAK: If I could turn your attention to
23 the first slide, reflective of the economic downturn, the
24 2008 actual load was somewhat less than the 2008 forecast
25 load. With this downturn expected to continue, the 2009

1 forecast is lower than the 2007 and 2008 projections.

2 Since total capacity substantially exceeds both
3 the expected actual and forecast demand, all regions have
4 adequate reserves and expect to provide reliable service
5 throughout the 2009 Summer months.

6 One of the largest historical causes of outages,
7 is vegetation-related issues. The ERO's Summer Assessment
8 Report, shows that vegetation-related outages continue to
9 remain a concern.

10 Of note, there has been little or no improvement
11 in the SERC and WECC Regions, since mandatory standards were
12 enacted in 2007. Looking at wind resources for the Summer
13 of 2009, the expected average on-peak capacity for the 2009
14 Summer, is forecast to be 15.2 percent of nameplate
15 capacity, which represents an on-peak increase of 21.5
16 percent, or 1805 megawatts from the 2008 Summer assessment.

17 The NERC Summer Assessment Report projected that
18 Summer-installed nameplate wind capacity, will increase by
19 9,252 megawatts, or 45 percent from 2008 to 2009, for a
20 total nameplate projected capacity across the nation, of
21 29,945 megawatts.

22 As wind resources are less predictable and follow
23 the availability of wind, rather than demand, different
24 patterns in the use of transmission capacity can emerge.

25 With the addition of over 9,000 megawatts of

1 wind, the regions have projected an increase in transmission
2 congestion for the 2009 Summer, particularly during low
3 demand periods.

4 Some regions report the need to provide
5 additional ancillary services, such as operating reserves,
6 to address the challenges of managing the variability of
7 wind resources, and, albeit a change, the integration of
8 these substantial wind resources, is projected by NERC to be
9 manageable for the 2009 Summer.

10 Demand response, which will be utilized to reduce
11 peak load for the 2009 Summer, is projected to increase by
12 eight percent. This is more than a 2200 megawatt increase
13 from last Summer.

14 NPCC and FRCC project significant increases in
15 demand response, while ERCOT, MRO, SERC, SPP, and WECC
16 projections remain relatively flat.

17 I will now turn it back over to Steve, who will
18 present the market issues.

19 (Slides.)

20 MR. REICH: Thank you, Dave. Dave has spoken
21 about the outlook for electric supply and demand. I'm going
22 to discuss the prospects for energy markets this Summer.

23 Last year at this time, we saw market
24 participants paying high prices to secure supply for the
25 Summer. This year, the market has stepped back.

1 Forward prices indicated that people are able to
2 purchase Summer power today, at prices about half of what
3 they paid last year. In most regions, forward power prices
4 are now far below where they have been in recent years.

5 We haven't seen prices this low in New York and
6 PJM since 2004. The last time forward prices were this low
7 in the West, at SP-15, Mid-Columbia, and Palo Verde, was
8 2002.

9 Expectations for lower power prices this Summer,
10 are chiefly attributable to weaker market fundamentals
11 affecting loads and fuel prices.

12 Dave has already spoken about the loads. The
13 next slide discusses the drop in fuel prices.

14 Fossil fuel prices, across the board, are 50 to
15 80 percent lower than last year at this time. Like
16 electricity, gas prices have dropped to levels not seen in
17 years.

18 Recent bid-week prices averaged less than \$4 per
19 MmBtu at every pricing point in the country, although there
20 has been a slight reversal of this pricing trend recently.

21 Oil and coal prices have also declined from their
22 unprecedented 2008 highs, as inventories have grown. U.S.
23 crude oil stocks are 14 percent above last year's levels,
24 and, according to Stifel Nicolaus, an equity research firm,
25 coal stockpiles for electric generators, exceed last year's

1 levels by 17 percent.

2 With lower prices for gas, we have not seen much
3 of a decline in gas demand. While industrial demand has
4 fallen over the past several months, demand for gas for
5 electric power plants, has been increasing, as gas prices,
6 as indicated in this chart, have become increasingly
7 competitive, not only with oil, but also, on a regional
8 basis, with coal.

9 Gas supplies are abundant heading into this
10 Summer. Last week, the Energy Information Administration
11 reported storage levels of 2013 Bcf, 23 percent above the
12 five-year average, and only three percent below the all-time
13 high for this early in the injection season.

14 Inventories would have to increase at about 60
15 Bcf per week, to meet all-time highs at the beginning of the
16 heating season in November. Recently, we have seen
17 injections of about 100 Bcf per week.

18 Productive capability associated with last year's
19 unprecedented drilling, will still be at high levels. Many
20 companies have cut back on drilling and the rig count has
21 fallen by more than half since last year's peak, but many of
22 the new wells brought online last year, will still be
23 active.

24 Also, we are expecting a reemergence in LNG
25 imports. LNG imports are already twice as high as they were

1 at the same time last year. The global LNG market has
2 excess supply available, due to lower worldwide demand, full
3 overseas inventories, and the addition of new LNG
4 liquefaction capacity.

5 The U.S. market is one of the few places able to
6 absorb excess spot LNG, due to its size, maturity, and
7 flexibility.

8 In short, last year, utility gas supply managers
9 faced the dilemma of having to replenish a large percentage
10 of their storage capacity in the face of rising gas prices.

11 This year, both the capacity that needs to be
12 replenished and the cost of gas to replenish it, are down.
13 Robust inventories also mean less gas will be needed to flow
14 to storage during those days that downstream gas-fired
15 generators are running their hardest.

16 Always, the largest wild card going into the
17 Summer, is weather. There is some disparity in forecasts
18 regarding the outlook for the country east of the
19 Continental Divide. As shown in this slide, the National
20 Oceanic and Atmospheric Administration, sees a warm Summer
21 on the East Coast, but other forecasting services are
22 predicting normal temperatures.

23 On the other hand, there appears to be a general
24 consensus that it will likely be a warm Summer in the West.
25 Last year, a late snow melt increased the availability of

1 hydropower during the month when cooling load began ramping
2 up.

3 Snow melt patterns in the West, are closer to
4 normal this year, therefore, we would expect an incremental
5 increase in demand for gas-fired generation, early this
6 Summer.

7 This increase should be accommodated with the
8 high reserves of gas sitting in western storage. These
9 fields could easily be filled by July, except where storage
10 operators limit fill rates.

11 As always, hurricanes can change the market by
12 closing wells and disrupting the supply chains. Last year,
13 Hurricanes Gustav and Ike, were particularly disruptive,
14 interrupting approximately five percent of U.S. gas
15 supplies.

16 Although NOAA has not yet released its hurricane
17 season forecast, other meteorologists are saying that the
18 hurricane season will be slightly less active than normal.

19 The supply outlook is much more robust this year,
20 due to the diversification of gas production. Specifically,
21 the combination of new Rockies gas flowing eastward, coupled
22 with more unconventional gas flowing from East Texas and
23 Northern Louisiana, makes the U.S. much less susceptible to
24 devastating Gulf hurricane outages.

25 Moreover, Florida now has access to liquified

1 natural gas stored at Elba Island, via the Cypress Pipeline.

2 In 2005, 20 percent of total U.S. Gas production
3 was from federal waters in the Gulf, compared to about 13
4 percent last year.

5 Finally, I want to take a couple of minutes to
6 note a few market milestones which have recently occurred or
7 planned for this Summer, that Market Oversight will be
8 monitoring:

9 Market Oversight has been paying close attention
10 to California's transition to its MRTU markets. As part of
11 our increased monitoring efforts, including speaking to
12 market participants, there appears to be a general sense
13 that the day-ahead market is functioning smoothly, and that
14 the pricing signals it is producing, reflect system
15 conditions.

16 With the real-time market, however, there have
17 been significant intermittent price spikes in the San Diego
18 region that have caused concern and indicate technical
19 issues with the market, that need to be worked through.

20 The Cal ISO is working to resolve these issues,
21 and we have been in almost daily contact with the ISO and
22 the Market Monitor. Market Oversight will continue to
23 closely monitor the evolution of the market as we proceed
24 into the Summer months.

25 For the first time, PJM included energy

1 efficiency as a resource in its May forward capacity
2 auction. The Commission approved this change in March.

3 Last year's ISO New England capacity auction for
4 2010 and beyond, showed that energy efficiency could be
5 incorporated as a valuable resource, accounting for 30
6 percent of the demand resource capacity cleared.

7 Initial accounts from PJM's auction, indicate
8 that energy efficiency projects accounted for ten percent of
9 the demand resources cleared.

10 Outside the organized markets, late last month,
11 Southern Company initiated its energy auction system, which
12 the Commission approved last December. OEMR and OE Staff
13 attended the auction and met with the auction administrators
14 and the independent auction monitor.

15 We have observer status online to follow auction
16 results, and we continue to assess the progress of this new
17 market.

18 On the fuel side, the Rockies Express Pipeline is
19 expanding eastward, with planned online dates by this Summer
20 for interconnections in Illinois, Indiana, and Ohio.

21 The first phase of REX had a major impact on the
22 balance of gas supplies, the value of transportation, and,
23 therefore, the price of gas to consumers in the Rockies,
24 Midwest, Southwest, and California.

25 This next phase of REX will establish greater

1 connectivity between western and eastern markets, narrowing
2 transportation differentials from the Rockies to the
3 Appalachians, and displacing Gulf gas, affecting gas prices
4 at Henry Hub.

5 We have already seen some hints of market prices
6 adjusting to the new capacity coming online. The basis
7 between Rockies and Appalachia, has fallen by a third.

8 This concludes our presentation, and we'd be
9 happy to answer questions.

10 CHAIRMAN WELLINGHOFF: Thank you Steve and Keith
11 and David and the whole team for the presentation. It was
12 very informative and very useful.

13 I have one question that you may not have the
14 answer at the tip of your tongue. I was very interested in
15 your update at the end, on your last slide, especially
16 issues like PJM's incorporation of energy efficiency into
17 their auction.

18 Do you have any statistics on how much capacity
19 in that auction may have come from distributed generation?

20 MR. COLLINS: No, I don't believe we have any
21 exact numbers on the distributed generation, but we can
22 definitely follow up on that.

23 CHAIRMAN WELLINGHOFF: Okay, that would be good.
24 I'd like to see those numbers.

25 With that, I don't have any further questions.

1 Colleagues?

2 COMMISSIONER KELLY: I have a request for
3 clarification. On the California ISO MRTU monitoring, you
4 mentioned that there have been intermittent price spikes in
5 the San Diego region, that have caused concern and indicate
6 technical issues with MRTU.

7 I just wanted to clarify that that, as I
8 understand it, Steve, that is an issue having to do with the
9 algorithms being used, as opposed to some issue with the
10 suppliers or the generators or their offers.

11 MR. REICH: That is correct. Just to clarify a
12 bit, there are normal causes of the price spikes, that were
13 in effect in the San Diego region.

14 It's a load pocket. There were planned
15 transmission generator outages, there were some
16 transmission issues associated with the current -- with
17 fires in Southern California, so there were -- there was
18 occasion for price spikes to occur.

19 The magnitude of the price spikes, seemed to be
20 caused by algorithm issues with the models that they were
21 using.

22 COMMISSIONER KELLY: So we're not concerned about
23 the competitiveness of the market or anything going on with
24 the market? We're concerned with how that data is being
25 used or developed in the software.

1 MR. REICH: Yes. Yeah, we're more -- the issues
2 that we've seen, are issues associated with the running of
3 the market, as opposed to the behavior of market
4 participants.

5 COMMISSIONER KELLY: Great, thanks. I
6 appreciate that clarification.

7 I also had a question about demand response, and
8 I'm searching for the slide, but I think it was Slide 5,
9 Demand-Side Management.

10 You pointed out that NPCC and FRCC project
11 significant increases in demand response. Can you tell us
12 what the cause is for that? Is there a -- is it a market?

13 MR. ANDREJCAK: NPCC was definitely market
14 mechanisms. FRCC, I really wasn't clear on the specifics on
15 it. I'd have to go back and get back to you on that one.

16 COMMISSIONER KELLY: Okay, thank you.

17 And I have one other question. On Slide 7, you
18 talked about gas becoming increasingly competitive, on a
19 regional basis, with coal. Can you specify which regions
20 that competitiveness has occurred in?

21 MR. REICH: Certainly. I mean, where the
22 competitiveness is most pronounced, is the Southeast, where
23 natural gas prices and where, in fact, as Arnie Quinn
24 presented last month in the State of the Markets Report, we
25 saw gas combined-cycles displacing coal-fired plants in the

1 supply stack.

2 There is a little indication of that occurring in
3 PJM, but it seems to be primarily just on the margin, where
4 that's occurring.

5 COMMISSIONER KELLY: And is that because the coal
6 market in the Southeast, the price of coal, is a little
7 higher than it is, say, in the Midwest or the West, as
8 opposed to the gas prices being lower?

9 MR. REICH: Well, I mean, there's an issue with
10 the transportation costs of getting the coal from the
11 Central Appalachian coal down to the Southeast, versus the
12 transportation costs, but --

13 COMMISSIONER KELLY: But it's not the commodity
14 itself, as much as it is the cost of getting it there?

15 MR. COLLINS: It's a bit of a combination of the
16 two, but I think, really, what we're seeing, is the fact
17 that when you put those together, and the commodity price on
18 the gas, that has come down a lot, that the relationship has
19 -- increases the competitiveness of the combined-cycle
20 units, compared to the units running the Central
21 Appalachian coal.

22 Units that are running on PRB, tend to be still
23 quite competitive at this point.

24 COMMISSIONER KELLY: Thank you.

25 COMMISSIONER MOELLER: Two questions: The first,

1 regarding the Southern auction, do you have any observations
2 on how that's gone, or is it too early to tell?

3 MR. REICH: Yes.

4 (Laughter.)

5 MR. REICH: What we've seen, I guess, as of early
6 this week, is that the auction has cleared in four hours,
7 since the beginning in late April, in the hour-ahead market,
8 and it has not cleared any megawatts in the day-ahead
9 market.

10 We think that is an indication, as we were just
11 discussing -- because the coal units in the Southeast have
12 become somewhat more expensive than the gas units, and
13 because the way Southern operates its auction, its load is
14 served first by its most efficient low-cost plants.

15 We have higher-cost coal units or higher-cost
16 units competing against combined-cycle units that are being
17 offered to other participants in, you know, the general
18 electric market.

19 COMMISSIONER MOELLER: Okay, so you're more at
20 the next stage of summarizing.

21 MR. REICH: Essentially, the market economics
22 today, are consistent with the market results that are
23 coming out of the Southern auction.

24 COMMISSIONER MOELLER: Okay, thank you. The next
25 question has to do with gas supply and prices.

1 We probably, five to six weeks ago, maybe, saw
2 the low point. The lowest I saw, was a national average of
3 \$3.16.

4 In the meantime, that price has risen, and yet,
5 if I'm correct, the data I've seen, says that demand is
6 down, but supply -- supply is down, but demand is down more
7 than supply is down.

8 And so, presumably, what -- I guess, what are
9 your observations as to what could cause a price increase,
10 given those fundamentals?

11 MR. REICH: I guess I would put it this way; that
12 given the fundamentals -- and I think you do have them
13 correct -- there is -- it's difficult to explain why the
14 price has increased, especially in the near term, for next-
15 day gas, given where the fundamentals are.

16 There have been reports in the press regarding
17 the financial markets, and I'm sure that you've seen those,
18 too. On the fundamentals side, the physical fundamentals
19 side, we don't see a reason, we don't see anything driving
20 the price up.

21 CHAIRMAN WELLINGHOFF: Okay. This will be
22 continued, as well. Thank you, Jon. Marc?

23 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
24 I have two matters: First, Suedeen already raised the issue
25 of coal-to-gas substitution set forth on Slide 7, and it is

1 interesting that the red line has gotten awfully close to
2 the green, and that's almost an historic circumstance.

3 The issue of coal transportation varies by
4 entity. I know that some of the cooperatives had pretty
5 major increases in transportation, so, depending on the
6 options available, the gas issue is important.

7 From particularly potential future policy
8 considerations of gas-fired generation as a bridge fuel to
9 the future, the Office of Energy Projects has a lot to say
10 about that red line going down.

11 That leads, I guess, to the second issue, which
12 is the LNG that you discuss at page 9. There were some
13 recent contracts, most notably Gasprom and the owners of the
14 Costa Azul facility in Baja, and it looked like a pretty
15 good price being locked in, and I'm assuming that Gasprom,
16 the liquefaction facilities, are up, their fixed costs --
17 they have to run 24/7, they need a place to sell their
18 product, and they are price-takers.

19 And that has potential benefits to the western
20 U.S., with now a facility in Baja. Do we see any other
21 potential opportunities for bargain purchases, such as the
22 one with Costa Azul?

23 MR. REICH: I just want to be clear that I
24 understand your question. You're asking whether conditions
25 that exist, so that Gasprom sells low-cost gas --

1 COMMISSIONER SPITZER: Right.

2 MR. REICH: -- into Costa Azul.

3 COMMISSIONER SPITZER: And I understand that was
4 a 20-year contract.

5 MR. REICH: Yes.

6 COMMISSIONER SPITZER: Which is a fairly
7 substantial undertaking, and somewhat counterintuitive, but
8 good for the consumers.

9 MR. REICH: I mean, if the question is the
10 importation of more Russian gas to the United States, or
11 Qatar or other --

12 COMMISSIONER SPITZER: There obviously was some
13 pressure for Gasprom to enter into this contract, a 20-year
14 contract. They got around the facility. On the other hand,
15 there are probably some other entities that are holding
16 back, in anticipation of higher prices perhaps in Europe or
17 Asia.

18 Is this Gasprom a one off, or do you think we can
19 expect more that are similar?

20 MR. REICH: Well, I mean, I guess the best way I
21 can answer that, is, we haven't looked at that specific
22 issue, regarding long-term contracting to the West Coast.
23 Is that the --

24 COMMISSIONER SPITZER: Anywhere. We have more
25 facilities in the East.

1 MR. REICH: I mean, what we have been seeing in
2 the LNG markets, is more spot cargoes being available,
3 priced at spot prices. That is tending to be the general
4 trend in the market, although people still want long-term
5 contracts to support them.

6 MR. ROBINSON: You can't bring up LNG without
7 expecting a bell to go off, and I'll start salivating all
8 over the place.

9 (Laughter.)

10 MR. ROBINSON: I think the answer to your
11 question, is yes. The positioning of the U.S. with the re-
12 gas capacity that we'll have by 2010, and the increase in
13 liquefaction in Nigeria, Qatar, Algeria, and Russia, is
14 going to result, I think, in some of those liquefaction,
15 those state-owned liquefaction facilities looking for two
16 types of customers: One that will be their baseload, that
17 they can have a long-term relationship with; and, two, that
18 they can play the spot market with.

19 So I think there are more opportunities that are
20 coming, as this new liquefaction comes online, to allow for
21 more of those Russian-type contracts.

22 COMMISSIONER SPITZER: Yeah, I mean, the spot
23 market, I get, that they need a receipt point, but the long-
24 term contract, I was surprised by the length of the term of
25 the contract, and also the price.

1 MR. ROBINSON: But if you think of it in terms of
2 the costs associated with the liquefaction, which is about
3 ten times the cost of the re-gas capacity, nobody's going to
4 build a \$40 billion liquefaction facility and then say,
5 let's play spot market with it.

6 They will play part of that with that cost, but
7 they will also have to cover their investment, as well. So
8 I think that's where you're seeing the Russian contract and
9 you'll probably see others like that.

10 COMMISSIONER SPITZER: So we're glad we've got
11 that re-gas capacity here.

12 MR. ROBINSON: I think that it's not just re-gas
13 capacity, but the storage that we have and the ability to
14 move domestic gas with pipelines that we built out of the
15 shell plays, have put the United States in the position to
16 have the optionality on natural gas, to find the cheapest
17 natural gas anywhere in the world.

18 COMMISSIONER SPITZER: Thank you.

19 CHAIRMAN WELLINGHOFF: Thank you. Gentlemen,
20 thank you very much. Madam Secretary, our next
21 presentation?

22 SECRETARY BOSE: The next presentation and
23 discussion item, is E-33, and that is concerning Northeast
24 Utilities Service Company and NSTAR Electric Company, in
25 Docket Number EL09-20-000.

1 There will be a presentation by Walter McDaniel
2 from the Office of Energy Market Regulation. He is
3 accompanied by Pat Rooney from the Office of Energy Market
4 Regulation; and Jerilyn Stanley and Andrea Hilliard, from
5 the Office of the General Counsel.

6 (Slides.)

7 MR. McDANIEL: Good morning, Mr. Chairman and
8 Commissioners. I'm Walt McDaniel from the Office of Energy
9 Market Regulation, and with me at the table, are Pat Rooney
10 from OMER, Jerilyn Stanley and Andrea Hilliard from the
11 Office of General Counsel.

12 The Draft Order in E-33, grants the Petition for
13 Declaratory Order requested by Northeast Utilities Service
14 Company and NSTAR Electric Company, approving the structure
15 of a transaction which includes three core agreements, all
16 currently under negotiation.

17 These core agreements will undergird the
18 construction of a 1200 megawatt high-voltage, direct current
19 HVDC transmission line that will bring hydropower from
20 Canada, delivering it to the transmission system of ISO New
21 England.

22 The Commission's Order finds that the proposed
23 transaction will provide New England with access to clean,
24 renewable energy, thereby reducing reliance on fossil fuels,
25 and because the project will be participant-funded, that is,

1 paid for by HQUS, the cost of the project will not be passed
2 along to transmission ratepayers.

3 The core agreements currently under negotiation,
4 are: The Joint Development Agreement, the Long-Term
5 Bilateral Transmission Service Agreement, and the Power
6 Purchase agreement.

7 The Joint Development Agreement between HQ
8 TransEnergy and NU/NSTAR, will provide for the design and
9 construction of the HVDC transmission line, with a firm
10 available transfer capability of at least 1200 megawatts.

11 The Long-Term Bilateral Transmission Service
12 Agreement, provides that HQUS will acquire 1200 megawatts of
13 firm transmission rights over the U.S. portion of the new
14 transmission line, and pay NSTAR and NU for constructing,
15 operating, and maintaining the line.

16 The charges under the Transmission Service
17 Agreement, will be cost-based and include a reasonable
18 return for the Petitioners. The project will be paid for or
19 participant-funded by HQUS, which means the cost of the
20 transmission line will not be included in the rates for
21 transmission service under ISO New England's OATT.

22 The Draft Order requires that the Transmission
23 Service Agreement, when executed, will be filed with the
24 Commission to ensure that the rates, terms, and conditions,
25 are just and reasonable.

1 Finally, the Power Purchase Agreement will
2 provide the terms under which HQUS will sell 1200 megawatts
3 of firm power to NU/NSTAR and other interested entities, for
4 at least 20 years under HQUS's market-based rate tariff.

5 The Draft Order finds that the benefits of the
6 project include: Provide access to at least 1200 megawatts
7 of clean hydroelectric power to New England, thus reducing
8 dependence on fossil fuels, especially natural gas, in that
9 region.

10 Other benefits include: Increasing fuel
11 diversity, reducing greenhouse gas emissions by four to six
12 million tons of CO2 per year during the term of the
13 transaction, helping to meet regional environmental goals
14 and reducing retail electricity prices for New England
15 ratepayers.

16 The Draft Order addresses five open access issues
17 raised by commenters: First, the Draft Order states that
18 the rates, terms, and conditions of HQUS's Transmission
19 Service Agreement, will be thoroughly reviewed when it
20 files that Agreement with the Commission.

21 Second, the Draft Order finds that there is no
22 undue discrimination or preference, because the transmission
23 owners have an obligation to expand the transmission system,
24 including the new transmission line, if transmission service
25 is requested.

1 Third, the Draft Order finds that there are no
2 affiliate abuse concerns, because NU/NSTAR and HQUS are not
3 affiliated, and the transactions on the Canadian side of the
4 border, will comply with the Canadian OATT.

5 Fourth, the Draft Order finds no bundling
6 concerns, because the services and rates will be provided
7 under separate agreements, and the rates for transmission
8 service and power sales, will be separately stated.

9 Lastly, the Draft Order finds that this project
10 promotes competition, by allowing greater access to ISO New
11 England's markets.

12 In conclusion, this project provides a means for
13 building new transmission that moves low-cost renewable
14 power to load, where it is likely to displace more expensive
15 fossil fuel generation.

16 The project is paid for by HQUS and the cost of
17 the project will not be passed along to transmission
18 ratepayers.

19 This concludes Staff's presentation, and we'd be
20 happy to answer any of your questions.

21 CHAIRMAN WELLINGHOFF: Thank you, Walter, for
22 that presentation, and I thank all the members of the team
23 for your very hard work on this particular Order.

24 I think this Order exemplifies one of the focuses
25 of my being on this Commission, and that is to improve

1 markets and to do so by improving the diversity of supply in
2 a region that's desperate to diversify that supply, and to
3 do so with clean energy.

4 I think this is an excellent Order, and I think
5 we're making a great step forward here. With that, I'm very
6 pleased to support the Order.

7 COMMISSIONER MOELLER: I have a couple of
8 questions for the team. Walter, you mentioned a couple of
9 times that the cost of the project will not be passed along
10 to transmission ratepayers.

11 Someone is going to have to pay for it. Can you
12 elaborate?

13 MR. McDANIEL: Sure. The cost of the line will
14 ultimately be recovered by any customer that chooses to
15 purchase power under HQUS's market-based Power Purchase
16 Agreement.

17 HQUS and the Petitioners are working very closely
18 with the New England regulators, to make sure that these
19 Power Purchase Agreements represent a fair deal to New
20 England ratepayers.

21 I want to add that NSTAR and NU also add that
22 they have no -- their customers have retail choice.

23 The information we'll see with respect to these
24 Power Purchase Agreements, will be through the electronic
25 quarterly reports.

1 COMMISSIONER MOELLER: Okay. As to the size of
2 the line, there will be firm capacity rights for 1200
3 megawatts. Is that the maximum capacity of the line, or
4 would there be any capacity for other suppliers?

5 MR. McDANIEL: The ultimate size of the line,
6 will depend on two factors: The available transfer
7 capability, which is ultimately decided by ISO New England,
8 through its reliability review process, and the willingness
9 of a transmission customer to pay for that additional
10 capacity under the same terms and conditions that HQUS is
11 paying for the 1200 megawatts, in other words, pay for
12 them.

13 COMMISSIONER MOELLER: Okay.

14 MR. McDANIEL: That will determine the size.

15 COMMISSIONER MOELLER: I just have note, wryly,
16 that it is kind of interesting that hydropower from Quebec
17 is considered clean and renewable, but sometimes western
18 hydropower is not.

19 (Laughter.)

20 COMMISSIONER MOELLER: But that is my only
21 observation.

22 I'd like to make a few points. I think this is a
23 very unique case, and it calls for a unique response from
24 us, and clarifying what this request is and what it is not,
25 is necessary to provide the clear signals to potential

1 developers and users of transmission infrastructure in the
2 country.

3 Each project that comes to us on transmission,
4 must independently satisfy our requirements with respect to
5 nondiscriminatory, open access, market power mitigation, and
6 rate structure.

7 As this Order explains, this proposal is not a
8 merchant line, given that the transmission rates charged,
9 will be subject to cost-based regulation.

10 Additionally, this Order finds that the proposed
11 structure of the transaction, does not violate the open
12 access foundation of Order No. 888 and our subsequent
13 determinations in Order 890.

14 While some parties to this proceeding argue that
15 the proposed structure of the transmission project conflicts
16 with our open access and nondiscriminatory transmission
17 requirements, the parties have not clearly demonstrated how
18 the Petitioner's request interfere with our existing
19 requirements or Commission policy.

20 At present, the Petitioners only seek approval of
21 the structure of the transaction described in their filing,
22 and I find no compelling basis on which to deny their
23 request. Thank you, Mr. Chairman.

24 CHAIRMAN WELLINGHOFF: Thank you. Marc?

25 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

1 I also thank the team for their presentation and for their
2 hard work.

3 This is a very interesting case, this Order
4 Granting Applicant's Petition for Declaratory Order.

5 Today's Order approves the Northeast Utilities
6 and NSTAR proposal to develop a cost-based, participant-
7 funded transmission project that includes a Long-Term
8 Bilateral Transmission Service Agreement between the
9 Petitioners and HQ Energy Services.

10 Based on the facts of this case, I support the
11 outcome. I find the Petitioners' proposal to be just and
12 reasonable under the specific facts of this case, and I'll
13 briefly discuss four salient issues:

14 First, with regard to precedent, this is not a
15 merchant transmission project; it is a participant-funded
16 project. The Commission has consistently permitted
17 participant funding of transmission facilities, with prior
18 rates to use that facility.

19 With respect to rates, Petitioners will charge a
20 cost-based transmission rate. Petitioners will file with
21 this Commission, under Section 205, the Transmission Service
22 Agreement and Transmission Operating Agreement, including
23 supporting cost documents, to ensure that the proposed cost-
24 based rate is just and reasonable.

25 Moreover, Petitioners will file with the

1 appropriate state commissions, Power Purchase Agreements
2 related to the power carried over the proposed line.

3 With respect to planning, the project will be
4 vetted through the ISO New England stakeholder planning
5 process. Petitioners will be required to obtain siting
6 authority from state siting authorities.

7 With respect to control, ultimate control over
8 the operations of the transmission line, will be transferred
9 to ISO New England, the Independent System Operator.

10 I have considered Protesters' concerns regarding
11 anticompetitiveness and undue discrimination. I believe
12 this Order does not violate the open access principles
13 articulated in Orders 888 and 890, and is consistent with
14 Commission precedent and policy.

15 For these reasons, I support the Petition for
16 Declaratory Order.

17 CHAIRMAN WELLINGHOFF: Thank you, Marc.
18 Suedeen?

19 COMMISSIONER KELLY: Thank you. First, I just
20 have to give a little clarification to Phil's point about
21 the renewable power in the West.

22 (Laughter.)

23 COMMISSIONER KELLY: While in the Northwest,
24 hydropower may, indeed, be renewable, in the Southwest and
25 in the dry West, it's our experience that water is not

1 renewable.

2 (Laughter.)

3 COMMISSIONER KELLY: So, scarce and getting
4 scarcer.

5 (Laughter.)

6 COMMISSIONER KELLY: But back to the case at
7 hand, I think it's helpful to summarize that there are at
8 least three significant benefits from approving the
9 Application:

10 First, as Jon mentioned -- and I agree with you -
11 - importing hydropower into New England, will add
12 significantly to New England's diversity of supply. New
13 England is the region that is most dependent on natural gas
14 today, with 42 percent of their energy being generated by
15 natural gas, and 38 percent of their installed capacity
16 being natural gas-fired, so this Application offers needed
17 fuel diversity.

18 Second, it enables the import of significant
19 amounts of power, which, it is expected, will reduce LMPs in
20 New England, and contribute to price stability there.

21 Third, given the nature of the funding of this
22 proposed transmission system, New England's ratepayers will
23 see an expansion of the transmission system, without
24 affecting the transmission rates being offered under the
25 OATT by ISO New England.

1 The Petition is pretty straightforward, but it's
2 not altogether simple, and I think Marc alluded to the
3 issues involved here. I just wanted to highlight three
4 aspects of the proposed structure that were relevant to our
5 decision:

6 First, our approval is conditional on a
7 subsequent and independent finding that the rates, terms,
8 and conditions included in the executed Transmission Service
9 Agreement, are just and reasonable.

10 Secondly, nothing in our approval relieves NU and
11 NSTAR of their obligation under Order 888, to expand the
12 system upon request. Well, indeed, NU and NSTAR have
13 indicated their willingness to add an additional 20
14 megawatts to the line, if there is sufficient interest in
15 that and if it's feasible, from a reliability perspective.

16 Finally, ISO New England will be taking
17 functional control of the line and will evaluate it to
18 ensure that it has no adverse effect on either reliability
19 or operations.

20 And so I am content to approve this Application.

21 CHAIRMAN WELLINGHOFF: Thank you, Suedeen. Thank
22 you very much again for the presentation. Madam Secretary,
23 I think we're ready to take a vote.

24 SECRETARY BOSE: The vote begins with
25 Commissioner Moeller.

1 COMMISSIONER MOELLER: Aye, with a separate
2 concurrence.

3 SECRETARY BOSE: Commissioner Spitzer?

4 COMMISSIONER SPITZER: Aye.

5 SECRETARY BOSE: Commissioner Kelly?

6 COMMISSIONER KELLY: Aye.

7 SECRETARY BOSE: Chairman Wellinghoff?

8 CHAIRMAN WELLINGHOFF: Aye. Thank you again.
9 Phil?

10 COMMISSIONER MOELLER: Mr. Chairman, I wish to
11 announce something that is public. On June 1st, with the
12 help of Mark Robinson's crew and Jeff Wright taking over,
13 we're going to put on kind of a workshop on pipeline siting,
14 a case study that kind of explores how we approach pipeline
15 siting.

16 Potentially, it could be relevant to those
17 policymakers who are considering giving us more authority on
18 the electric transmission side of the equation. That's the
19 afternoon of Monday, June 1st, and as part of that, I think
20 it might be a nice legacy, given that I think that's Mark's
21 final day or final couple of days to highlight, as
22 Commissioner Spitzer mentioned, the success that this
23 Commission, prior Commissions, and the Staff have had in
24 implementing policies that allow for the natural gas
25 infrastructure in this country, that have benefitted

1 consumers now and in decades to come.

2 CHAIRMAN WELLINGHOFF: I think that workshop will
3 be a great informational opportunity, and thanks for
4 organizing that. I appreciate that very much.

5 Does anyone else have anything?

6 (No response.)

7 CHAIRMAN WELLINGHOFF: If not, this meeting is
8 adjourned.

9 (Whereupon, at 11:00 a.m., the Open Meeting was
10 adjourned.)

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