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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

955TH COMMISSION MEETING
OPEN SESSION

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

Thursday, February 18, 2010
10:05 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JON WELLINGHOFF (Presiding)

4 COMMISSIONER JOHN R. NORRIS

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

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

2 (10:05 a.m.)

3 CHAIRMAN WELLINGHOFF: Good morning. This is the
4 time and place that has been noticed for the open meeting of
5 the Federal Energy Regulatory Commission to consider the
6 matters that have been duly posted in accordance with the
7 Government in the Sunshine Act. Please join me in the
8 Pledge of Allegiance.

9 I pledge allegiance to the Flag of the United
10 States of America and to the Republic for which it stands,
11 one Nation, under God, indivisible, with liberty and justice
12 for all.

13 Since January 21st, that Open Meeting, we have
14 actually issued 47 notationals. So despite the snow, we
15 have actually been working.

16 Commissioner Norris, do you have a few
17 announcements about your staff?

18 COMMISSIONER NORRIS: I do. Thank you,
19 Mr. Chairman.

20 Since you all saw me for the first time only
21 briefly here back in January, since then I have been able to
22 build up my staff and I want to introduce them to all of you
23 so you know who is working me and who to contact.

24 So the first one is Aileen Roder. Aileen comes
25 to me from--she has been a FERC attorney for some time and

1 most recently was a legal advisor to Suedeen Kelly. She is
2 behind me here (indicating).

3 Shawn Bennett is an economist from the Office of
4 Energy Policy Innovation, and prior to that was with the
5 Office of Energy Market Regulation. He is my economist on
6 staff, behind me here (indicating).

7 And Jeff Dennis many of you know because he was a
8 FERC attorney before and spent the last two years as the
9 Director of Federal Regulatory Affairs for the Edison
10 Electric Institute. So I stole him back and brought him
11 back to FERC. Jeff is sitting behind me over here
12 (indicating).

13 And not with us in this room because she is
14 upstairs watching the office is Kerri Schnase-Berge. Kerri
15 is my confidential assistant. She comes to me from Senator
16 Ben Nelson's office where she worked on energy and
17 agriculture, trade, and other issues; and prior to that was
18 the scheduling director and special assistant to the
19 University of Colorado President for five years. So Kerri
20 is upstairs.

21 And then my receptionist is out here
22 (indicating), Betsy Rosenblatt. Betsy comes to us--I have
23 tasked her with expanding the role of receptionist. She is
24 a recent engineering graduate from the School of Engineering
25 from the University of Pennsylvania, and also a fellow

1 Iowan, so be good to Betsy.

2 (Laughter.)

3 COMMISSIONER NORRIS: Thank you, Mr. Chairman.

4 CHAIRMAN WELLINGHOFF: Thank you, John.

5 Well before we do get to the agenda, I want to
6 acknowledge the hard working staff at the Commission. I
7 mentioned the snow, but last week it did cause not only
8 delays but actually, as most of you know, shut down the
9 Federal Government for four days. But, however, the work of
10 the Commission continued.

11 Our Regional Offices were open for business and
12 running smoothly. And I want to acknowledge our
13 Headquarters Security Staff who came in every day to ensure
14 that the building was secure. I understand that, due to icy
15 conditions and snow on the roads and reduced Metro schedule,
16 that some of these men and women actually had to walk long
17 distances into work, and I want to thank them for their
18 dedication to the security of the Commission.

19 I also am very grateful to the staff of the
20 Commission's Office of the Secretary. The Government in the
21 Sunshine Act requires us to issue a notice of the matters to
22 be considered by the Commission at any open meeting seven
23 days before the meeting date.

24 Last week, the date fell on a day when the
25 Commission was closed because of the snow. However, our

1 Commission Secretary, Kim Bose, and her Deputy Secretary
2 Nathaniel Davis, convened a conference call with Diana
3 Royster and Cynthia Travers-Hill to ensure that the Sunshine
4 Act notice would be issued in a timely manner.

5 Nat and Cyndy then came into the Commission
6 Headquarters on Thursday, when it was closed, to prepare and
7 issue that notice. I cannot thank them enough for their
8 dedication and service to the Commission.

9 Finally, I would like to note that the business
10 of the Commission continued even while the Headquarters was
11 closed. Our staff was busy working on the orders for the
12 agenda and for notational orders during the storm.

13 From Friday, February 5th, when the government
14 was closed for a half a day to Friday, February 12th, 12
15 orders were issued by notational voting and 6 tolling orders
16 were issued.

17 To accomplish this, our staff drafted orders,
18 answered questions from the Commissioners, and revised
19 drafts. In addition, the Office of the Secretary was here
20 to issue the orders once voted out by the Commission.

21 I also want to thank Diane Bernier, of our Office
22 of External Affairs, for making sure that the public was
23 notified that the Headquarters was closed and of the
24 notationals that we issued by posting those notices on the
25 FERC web page.

1 I am continually impressed by the commitment of
2 FERC staff to the work that we do, and I am thankful to
3 serve as the Chairman of the Commission for such a
4 hardworking group of people. Thank you all, we appreciate
5 it.

6 Madam Secretary, if we could go to the Consent
7 Agenda.

8 SECRETARY BOSE: Good morning, Mr. Chairman, good
9 morning, Commissioners. Since the issuance of the Sunshine
10 Act Notice on February 11th, 2010, Items E-1, E-3, and H-2
11 have been struck from this morning's agenda.

12 The Consent Agenda for this morning is as
13 follows:

14 Electric Items: E-2, E-13, E-14, E-17, E-20, E-
15 21, and E-22.

16 Gas Items: G-1, G-2, G-3, G-4, and G-5.

17 Hydro Items: H-1 and H-3.

18 Certificate Item is C-1.

19 We will now take a vote on this morning's
20 Consent Agenda. The vote begins with Commissioner Norris.

21 COMMISSIONER NORRIS: I vote aye.

22 SECRETARY BOSE: Commissioner Moeller?

23 COMMISSIONER MOELLER: Aye.

24 SECRETARY BOSE: Commissioner Spitzer.

25 COMMISSIONER SPITZER: Vote aye.

1 SECRETARY BOSE: And Chairman Wellinghoff.

2 CHAIRMAN WELLINGHOFF: I vote aye.

3 Let's go to our presentation, then.

4 SECRETARY BOSE: The presentation and discussion
5 item for this morning is Item E-18. This is concerning
6 Google Energy LLC. The presentation will be by Pamela
7 Harvey. She is accompanied by Valerie Gill, as well as
8 Jamie Chabinsky from the Office of the General Counsel.
9 Valerie Gill is from the Office of Energy Market Regulation,
10 and Pamela Harvey is from the Office of Energy Market
11 Regulation.

12 MS. HARVEY: Good morning, Mr. Chairman. Good
13 morning, Commissioners.

14 My name is Pamela Harvey. Sitting with me at the
15 table are Jamie Chabinsky and Valerie Gill.

16 The E-18 Draft Order before you today grants
17 market-based rate authorization to Google Energy LLC.
18 Google Energy is a wholly owned subsidiary of Google, Inc.,
19 a technology company focused on web-based services.

20 Google Energy filed an application for market-
21 based rate authority and accompanying tariff providing for
22 the sale of energy, capacity, and ancillary services at
23 market-based rates.

24 Google Energy states that it was formed to
25 identify and develop opportunities to contain and manage the

1 cost of energy for Google, Incorporated. Google Energy
2 states that it intends to act as a power marketer:
3 purchasing electricity and reselling it to wholesale
4 customers.

5 In its application, Google Energy represents that
6 neither it nor its affiliates own or control wholesale
7 electric generation or transmission facilities, nor do they
8 have a franchised service area for the sale of electricity
9 to captive customers.

10 Google Energy also represents that neither it nor
11 any of its affiliates own or control inputs to electric
12 power production that could be used to restrict market entry
13 by competing power suppliers.

14 The Draft Order determines that Google Energy
15 satisfies the standards for market-based rate authority.

16 Like other market-based rate sellers, Google
17 Energy will be required to file with the Commission Electric
18 Quarterly Reports containing:

19 One, a summary of the contractual terms and
20 conditions in every effective service agreement for market-
21 based power sales; and

22 Two, transaction information for effective short-
23 term, and long-term market-based power sales during the most
24 recent calendar quarter.

25 Additionally, as is the case with other market-

1 based rate sellers, Google Energy will be required to report
2 to the Commission any change in status that would reflect a
3 departure from the conditions the Commission relied on in
4 granting market-based rate authority.

5 This concludes my presentation and we would be
6 happy to answer any questions you may have. Thank you.

7 CHAIRMAN WELLINGHOFF: Thank you, Pamela, for
8 that presentation, and thank the team for their work on this
9 Order. I appreciate it very much.

10 Do my colleagues have any questions or comments
11 on the presentation? Commissioner Moeller?

12 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
13 I called this item for discussion because I thought it would
14 be kind of interesting, and we have had a lot of press
15 reports, a lot of media interest in this item. So you kind
16 of alluded to it, but what exactly does this allow Google to
17 do, and what does it now allow them to do?

18 MS. CHABINSKY: Basically what the Order is
19 boiling down to is, by giving them market-based rate
20 authorization we are saying the Commission would be giving
21 them the authority to sell energy capacity and ancillary
22 services at market-based rates.

23 COMMISSIONER MOELLER: It doesn't put them into
24 the retail distribution business, or any such activities
25 like that?

1 MS. CHABINSKY: Nothing in this Order is touch
2 retail concerns.

3 COMMISSIONER MOELLER: Can you--other entities
4 come to us with similar requests, which I think hopefully
5 should help calm some fears that might be out there. Can
6 you give us some examples of other entities that come to us
7 wanting this kind of authority?

8 MS. HARVEY: There are a large number of
9 industrial companies with similar applications. Some would
10 be Safeway, the grocery store. Kimberly-Clark Corporation,
11 which is in the business of consumer products. Also, Merck
12 and Company, the pharmaceutical company is another example
13 that most people would recognize.

14 COMMISSIONER MOELLER: And finally, you have
15 again alluded to it, but what are the protections that the
16 Commission has to make sure that the authority we grant has
17 safeguards around it?

18 MS. CHABINSKY: I can expand on that a little
19 bit.

20 COMMISSIONER MOELLER: Okay.

21 MS. CHABINSKY: Basically, when granting market-
22 based rate authority the Commission has certain tests that
23 they are considering, and these tests are to safeguard
24 against market power.

25 One example is the horizontal market power test.

1 Here we are looking at whether the applicant or any of its
2 affiliates own or control wholesale electric generation.

3 Additionally, there's the vertical market power
4 test. Here what the Commission is looking at is any
5 potentials for transmission. We're looking to see if any
6 affiliates, or the actual applicant, owned transmission
7 facilities.

8 There's a requirement that an OATT be on file, if
9 there are transmission facilities. There's the
10 consideration basically looking at whether or not there is
11 the potential for the seller to erect barriers to entry into
12 the market.

13 Here there's a few different things that would be
14 looked at, but one example would be intrastate natural gas
15 transportation, an ownership or control over it.

16 There's whether or not they have sites for
17 generation capacity. There's other things--one other
18 example would be sources--coal-supply sources. What I do
19 want to mention, and Pam did focus on this in her
20 presentation, was those are some of the up-front measures
21 that would be looked at. But in addition to that, market-
22 based rate sellers have the continuing obligation to report
23 back to the Commission certain things. And I'll give you a
24 couple of examples.

25 One example is the requirement to make the

1 Electric Quarterly filings. Another requirement is Change
2 In Status filings. So if any of the circumstances or
3 conditions change, anything that the Commission has relied
4 on in granting market-based rate authorization, if there are
5 changes then Google Energy would need to come back and
6 notify the Commission.

7 COMMISSIONER MOELLER: That was a good, thorough
8 explanation. Hopefully that will calm any waters that are
9 out there that are somewhat troubled.

10 But again, Mr. Chairman, thank you for allowing
11 me to call this item. I thought it was interesting. We are
12 transforming into a new energy era slowly, and the fact that
13 a Google is interested in market-based rates is a
14 characteristic of that. But I thought it was a good
15 presentation from the staff. Thank you.

16 CHAIRMAN WELLINGHOFF: Thank you for calling it.
17 Are we ready to vote on this item? Madam
18 Secretary.

19 SECRETARY BOSE: The vote begins with
20 Commissioner Norris.

21 COMMISSIONER NORRIS: I vote aye.

22 SECRETARY BOSE: Commissioner Moeller.

23 COMMISSIONER MOELLER: Aye.

24 SECRETARY BOSE: Commissioner Spitzer.

25 COMMISSIONER SPITZER: Vote aye.

1 SECRETARY BOSE: And Chairman Wellinghoff.

2 CHAIRMAN WELLINGHOFF: I vote aye.

3 Is there anything else to come before the
4 Commission?

5 (No response.)

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

8 (Whereupon, at 10:18 a.m., Thursday, February 18,
9 2010, the 955th open meeting of the Federal Energy
10 Regulatory Commission was adjourned.)

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