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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 :
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957TH COMMISSION MEETING
OPEN SESSION

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

Thursday, April 15, 2010
10:00 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 OPEN COMMISSION MEETING

2 (10:04 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 matters
6 that have been duly posted in accordance with the Government
7 in the Sunshine Act. Please join me for the Pledge of
8 Allegiance.

9 (Pledge of Allegiance recited.)

10 CHAIRMAN WELLINGHOFF: Well since our March 18th
11 Open Meeting we have issued 70 notational orders.

12 Before we go into the Consent Agenda,
13 Commissioner Moeller has an announcement.

14 COMMISSIONER MOELLER: Thank you very much,
15 Mr. Chairman.

16 Today I would like to recognize a few special
17 guests in the audience from the Independent Power Producers
18 Association of India. If they could stand, please.

19 (Guests stand.)

20 COMMISSIONER MOELLER: We welcome you. They have
21 come all the way from New Delhi to learn more about our
22 regulatory process. I welcome them. And I would like to
23 announce the fact that my office--in fact, it has been
24 basically a second full-time job for Jason Stanick--is
25 co-organizing a one-day Indo-U.S. Workshop with their

1 Association. It will be held two weeks from today on April
2 29th. It will provide us with an opportunity to exchange
3 ideas and our regulatory experience.

4 The idea largely is that the world's largest
5 democracy is moving toward more competitive energy markets.
6 Perhaps they can learn lessons from our experience over the
7 last few decades. We have right now a delegation of over 60
8 visitors and high-ranking officials from India to join us,
9 and I want to thank the three of you as colleagues for
10 agreeing to participate, as well as a wide range of
11 speakers. And I encourage everyone to attend, if you have
12 any interest. It will be here in the Commission meeting
13 room on April 29th. It's open to the public, and there will
14 be more information found on FERC's public calendar.

15 But again, we welcome you and we look forward to
16 seeing you again in a couple of weeks.

17 (Applause.)

18 CHAIRMAN WELLINGHOFF: Well thank you for coming
19 to the Commission. And, Commissioner Moeller, thank you for
20 organizing that event. I look forward to it. I think it
21 will be a very interesting and worthwhile event for us all.

22 Madam Secretary, if we could move to the Consent
23 Agenda, please.

24 SECRETARY BOSE: Good morning, Mr. Chairman, and
25 good morning, Commissioners.

1 Since the issuance of the Sunshine Act notice on
2 April 8th, Item E-15 has been struck from this morning's
3 agenda.

4 Your Consent Agenda is as follows:

5 Electric Items: E-2, E-3, E-4, E-7, E-8, E-9,
6 E-10, E-11, E-12, E-14, and E-18.

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

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

9 Certificate Items: C-1.

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

12 COMMISSIONER NORRIS: Aye.

13 SECRETARY BOSE: Commissioner Moeller.

14 COMMISSIONER MOELLER: Aye.

15 SECRETARY BOSE: Commissioner Spitzer.

16 COMMISSIONER SPITZER: Vote aye.

17 SECRETARY BOSE: And Chairman Wellinghoff.

18 CHAIRMAN WELLINGHOFF: Vote aye.

19 Madam Secretary.

20 SECRETARY BOSE: The first item for presentation
21 and discussion this morning will be on Item A-3 concerning a
22 report on the state of the markets for 2009. The
23 presentation will be given by Steven Reich from the Office
24 of Enforcement. He is accompanied by Keith Collins and
25 Chris Peterson also from the Office of Enforcement. There

1 will be a Power Point presentation on this morning's
2 presentation.

3 (Slide.)

4 Mr. Reich. Good morning, Mr. Chairman,
5 Commissioners:

6 Each year the Division of Energy Market Oversight
7 in the Office of Enforcement presents a State of the Market
8 Report reviewing how the significant events of the past year
9 better inform our understanding of the current and future
10 energy markets.

11 Sitting with me at the table are Chris Peterson,
12 head of the Fuels Branch; and Keith Collins, head of the
13 Electric Branch. This presentation represents the concerted
14 ongoing efforts of the Division and other Commission staff,
15 but I would like to single out Zeke Hunnicutt, Tim Shear,
16 Spencer Cummings, Carol White, and Astra Graff for their
17 efforts in preparing the presentation.

18 (Slide.)

19 Energy markets underwent considerable change in
20 2009. The deep global recession was reflected in reduced
21 demand, lower prices, and slowed investment.

22 During the year, long-standing price
23 relationships between fossil fuels changed affecting
24 decisions made for their use. A new gas paradigm emerged
25 into clearer focus. This paradigm may change the way we

1 look at future energy choices.

2 California ISO initiated its new nodal market on
3 March 31st, and the cost of electric congestion decreased
4 across the country.

5 (Slide.)

6 In 2008, a global commodity bubble pulled energy
7 prices to unprecedented levels, peaking just before the 4th
8 of July. When capital began flowing out of commodity
9 markets, prices began falling and continued doing so as
10 economies around the world plunged into recession.

11 In contrast, 2009 natural gas prices started
12 relatively low and moved lower. Mild weather, the effects
13 of the recession, record storage inventories filling record
14 storage capacity, and supply abundance pushed prices to
15 levels not seen since 2002. Late in the year, with the
16 advent of winter, gas prices moved back up to their early-
17 2009 levels.

18 Interestingly, gas demand was relatively steady
19 between 2008 and 2009 as a 5.5 percent increase in demand
20 for gas for electric generation offset declines in the
21 residential, commercial, and the industrial sectors.

22 (Slide.)

23 Prices were not just lower at the Henry Hub.
24 Across the U.S., average gas prices were down more than 50
25 percent from 2008 to 2009. These wholesale price changes

1 were largely driven, on a year-to-year basis, by the drop in
2 commodity costs. New pipelines added during the course of
3 the year did affect price relationships among regions for
4 portions of the year. I will discuss those effects later.

5 (Slide.)

6 The recession left its mark on the electric
7 market. Demand for electricity dropped by 4.2 percent in
8 2009. This was the greatest decline in a single year in at
9 least 60 years and, with 2008, the only time electricity
10 demand has fallen in consecutive years since 1949.

11 Falling power demand is rare. There have been 11
12 recessions since 1949. Power demand fell only during 3 of
13 them. The drop in demand was largely due to a sharp decline
14 in the industrial sector, which was hit hard by the
15 recession.

16 As in many of the previous recessions, there was
17 a discernable reduction in industrial demand. Industrial
18 customers used less power than in any year since 1988.
19 Unlike many earlier recessions, however, residential and
20 commercial demand also fell, about 1 percent together.

21 Demand was also reduced by mild summer weather
22 for most of the country. Yet, even on the most extreme
23 days, electricity demand failed to approach historic levels.
24 The primary exception to this characterization was in ERCOT
25 where demand records were broken on two days in July in

1 spite of a large decline in Texas industrial demand. The
2 ERCOT system performed reliably on those days and no
3 interruptible resources were dispatched.

4 With the recession and mild weather dampening
5 demand, it is difficult to isolate the effect of energy
6 efficiency and demand response programs.

7 These programs are beginning to have a presence
8 in many RTOs. Some allow demand response resources to be
9 bid into the capacity market. In PJM, ISO-New England, and
10 the New York ISO the amount of demand resources cleared
11 through the capacity markets grew to 12 gigawatts.

12 Five states--Iowa, Delaware, Indiana, Arizona, and
13 Massachusetts--added Energy Efficiency Resource Standards in
14 2009, bringing the total number of states with EERSes to 23.
15 Two of these new states--Arizona and Delaware--include peak
16 reduction targets from demand response programs, joining
17 nine other states with similar provisions.

18 Standards are pending in four states--New Jersey,
19 Florida, Utah, and Wisconsin. The count of EERS states does
20 not include West Virginia and Virginia which have nonbinding
21 energy efficiency goals.

22 (Slide.)

23 With lower electricity demand and lower fuel
24 costs, electricity prices fell by half. In the New York ISO
25 and ISO-New England, the average wholesale electricity price

1 in 2009 was the lowest since the markets began in their
2 current form--New York ISO in 1999; ISO-New England in 2003.

3 The majority of the drop in prices is
4 attributable to the drastic declines in fuel prices. In
5 addition to lower natural gas prices, spot coal prices
6 declined by over 40 percent in the East, and number 2 fuel
7 oil was down 42 percent in New York. In wholesale electric
8 markets, lower fuel costs translated to lower prices.

9 But even absent the steep drop in fuel costs, the
10 effects of the recession would likely have lowered electric
11 prices. For example, Monitoring Analytics reported in its
12 2009 PJM State of the Markets Report that fuel-adjusted
13 prices fell 10 percent from 2008 as a result of lower
14 demand.

15 (Slide.)

16 As fuel prices fell during 2009, the traditional
17 price relationships among the leading fossil fuels became
18 more malleable. Fuel oil prices separated from gas prices,
19 moving at one time to more than 7 times as much on a Btu
20 basis. The spread narrowed for the winter but has now
21 returned to last fall's levels.

22 We noted in last year's report that lower gas
23 prices were pushing coal plants up the dispatch stack in
24 parts of the country. This change meant that natural gas
25 sales to power plants increased as more gas-fired plants

1 moved to baseload service.

2 During the year, gas demand for power generation
3 increased 5 percent, even as electric demand fell. This
4 demand growth was particularly pronounced in the Southeast
5 where gas burn in power plants averaged 4.2 billion cubic
6 feet per day, up 14 percent from 2008.

7 The change in the relationship of gas and coal,
8 coupled with the reduced demand for power, likely
9 contributed to the reduction of NOx and SOx emissions which
10 fell 30 and 25 percent respectively during the year,
11 according to the EPA.

12 These changes also squeezed spark spreads and
13 dark spreads, a measure of coal- and gas-fired plant
14 operating margins after accounting for fuel costs.

15 Monitoring Analytics estimates that PJM's coal
16 plants' margins fell by three-quarters of their after-fuel
17 revenues while combined cycle gas plants' margins fell less
18 than one-quarter between 2008 and 2009.

19 (Slide.)

20 About 25 gigawatts of new generating capacity was
21 put into service in 2009. For the second consecutive years,
22 gas and wind led the additions, accounting for 84 percent of
23 the new capacity.

24 The advent of the recession may have had a small
25 effect on the amount of capacity coming on line during the

1 year. However, most plants put into service last year would
2 have been too far along to stop construction at the
3 beginning of the recession.

4 The amount of generation capacity coming online
5 during the year was down 5 percent from 2008. Industry
6 reports indicate that 82 gigawatts of capacity has been
7 cancelled or postponed since the beginning of the recession.
8 This rate was not dramatically out of the norm compared to
9 recent years.

10 About one-quarter of the cancelled plants were
11 wind generators. However, plans for several new wind
12 generators are still going forward, a possible result of the
13 prepaid tax credits in the American Recovery & Reinvestment
14 Act . These credits cover 30 percent of the construction
15 costs for wind, solar, geothermal, and other innovative
16 energy projects.

17 In the second half of 2009, 37 large wind energy
18 facilities received \$1.9 billion under this program. Going
19 forward, even with the announced cancellations, another 85
20 gigawatts of new wind capacity has been proposed to be
21 online by the end of 2012.

22 (Slide.)

23 In contrast to 2008 when the commodity bubble,
24 Gulf Coast hurricanes, and the advent of the recession
25 buffeted the gas market, 2009 provided clarity on gas

1 supply.

2 Even as prices and drilling were dropping from
3 record highs, domestic gas production remained strong. The
4 strength stems from technological innovation in producing
5 gas from shale in Texas, Louisiana, Oklahoma, Arkansas, and
6 Pennsylvania.

7 Production from these new sources is also
8 creating a subtle shift in the market as supply activity
9 increases onshore in northern Texas and Louisiana at places
10 such as Perryville, Louisiana, and decreases in and around
11 the Gulf at places such as Henry Hub.

12 Not that long ago it would take several months
13 from the start of drilling to initial production. Average-
14 time-to-drill in 2009 was about 20 days.

15 Nowadays, production is almost certain before
16 drilling begins, and well efficiency increases as producers
17 learn the particular nuances of a given play.

18 Because shale production has many of the
19 characteristics of gas and storage, companies have greater
20 flexibility to produce gas when the market calls for it.
21 Production can be deferred without risking the integrity of
22 the well.

23 Ending long production lead times and the risk of
24 failure or loss in the production process may dramatically
25 temper the gas market's systemic boom-and-bust cycle.

1 New storage capacity may be expected to
2 compliment this trend. More than 107 Bcf of incremental
3 working gas capacity was added in 2009, including more than
4 50 Bcf in the Gulf region.

5 Additional production area storage in particular
6 allows suppliers to respond more adeptly to market signals
7 and, as a result, those signals are moderated. EIA says
8 that U.S. peak working gas capacity is around 3900 Bcf. In
9 late November 2009, U.S. inventories were 99 percent of that
10 capacity.

11 (Slide.)

12 A key distinguishing characteristic of last
13 year's gas supply rally is that it appears to be
14 sustainable. In June 2009, the Potential Gas Committee, an
15 independent group that develops assessments of gas
16 resources, raised its estimate to over 2 quadrillion cubic
17 feet, almost 100 years of gas supply at current consumption
18 levels. The large increase is almost entirely due to
19 improvements in our ability to produce gas from shale with
20 certainty and with control.

21 There is concern about the possible environmental
22 effects of shale production. In March, in response to a
23 Congressional request, the EPA announced that it would spend
24 \$1.9 million to conduct a transparent, peer-reviewed study
25 to answer questions about the potential impact of hydraulic

1 fracturing on human health and the environment. This study
2 is expected to address potential groundwater and air
3 pollution concerns.

4 (Slide.)

5 In addition to the advances in gas supply that
6 may be reducing the cyclical nature of the natural gas
7 market, 2009 brought important expansions and extensions of
8 gas transmission capacity that will reduce volatility in the
9 price of gas delivered to market.

10 The largest change in the physical infrastructure
11 of the gas market came with the completion of the Rockies
12 Express Pipeline from Wyoming to Eastern Ohio. REX serves
13 the dual role of relieving the constraints that suppressed
14 prices in the West while at the same time relieving the
15 constraints that increased prices in the East.

16 Other smaller projects have had similar effects.
17 New pipelines to increase the flow of Barnett shale gas into
18 the interstate network have had the secondary effect of
19 reducing congestion across the Texas-Louisiana border, a
20 remnant of the pre-1978 days of strict delineation between
21 inter- and intrastate supply.

22 The United States is closer than ever before to
23 being a single natural gas market with congestion limited to
24 a few markets for a few periods during the year.

25 The chart on this page shows that the price

1 difference from Henry Hub to places as diverse as New
2 England, western Wyoming, the Mid-Atlantic, and North Texas,
3 are coming closer together and that, when they do diverge,
4 the divergence is much less than in the past.

5 The Florida Peninsula and Northern California now
6 seem to be the most frequently constrained parts of the
7 country, but each is slated to receive significant new
8 pipeline capacity in the next year.

9 In November 2009, the Commission issued a
10 certificate to the Phase VIII expansion of Florida Gas
11 Transmission which is slated to add about 800 million cubic
12 feet per day of gas transmission capacity to Florida.

13 Additionally, this month the Commission
14 authorized construction of the 1500 million cubic feet per
15 day Ruby Pipeline from Opal, Wyoming, to Malin, Oregon.
16 Both pipelines are expected to be in service in the Spring
17 of 2011.

18 (Slide.)

19 In addition to the increased gas production in
20 the Mid-Atlantic area and expanded pipeline and storage
21 capacity, new market area Liquefied Natural Gas import
22 capacity appears to be have reduced winter price volatility
23 in New England.

24 Over the course of 2009, 2 billion cubic feet a
25 day of sendout capacity was added at the Northeast Gateway

1 Terminal in Massachusetts Bay, and the Canaport Terminal in
2 New brunswick, Nova Scotia.

3 A third new terminal, Neptune, off the northern
4 coast of Massachusetts began operation recently, with a
5 possible additional sendout of 750 million cubic feet a day.

6 During the course of this winter, there were days
7 when these terminals, as well as Everett Terminal near
8 Boston, accounted for half of New England's gas supplies.
9 On those days--days nearing all-time natural gas demand
10 peaks in the Northeast--the basis from Henry Hub never
11 exceeded \$5.25 per MMBtu. In the past, gas commonly reached
12 a premium of \$15 to \$15 per MMBtu on peak days.

13 In contrast to the New England Terminals, Gulf
14 Coast LNG terminals such as Sabine Pass and Freeport last
15 year sought authorization to re-export gas supplies
16 elsewhere.

17 (Slide.)

18 Last year, on January 6th, the Midwest ISO began
19 its new Ancillary Services Market at the same time it
20 consolidated its operations into a single balancing
21 authority.

22 The consolidated procurement of reserves with
23 energy across the entire market yielded reliability and
24 efficiency benefits and, it appears, lower price volatility.
25 Also in MISO, three Iowa utilities--Mid-American Energy

1 Company, Muscatine Power and Water, and the Municipal
2 Electric Utility of Cedar Falls--integrated into MISO on
3 September 1st, bringing to the market over 4000 megawatts of
4 load, and 7500 megawatts of generation.

5 Mid-American alone brought 1500 megawatts of wind
6 resources with the expectation that the renewable generation
7 could more efficiently be used across the wider market
8 footprint.

9 The addition of the Iowa utilities did change
10 congestion patterns in and around Iowa, but these changes
11 were all manageable.

12 The integration of the Nebraska utilities and
13 Missouri Public Service into SPP's Energy Imbalance Service
14 market added lower cost coal and nuclear generation to the
15 RTO.

16 Limited available transmission capability within
17 the SPP footprint, north to south, resulted in frequent
18 visible congestion and price separation in the market. SPP
19 has approved several transmission projects that are intended
20 to reduce congestion and bring down prices throughout the
21 entire footprint. These projects are scheduled to be
22 completed by 2013.

23 (Slide.)

24 The biggest RTO development of the year was the
25 long-awaited initiation of California ISO's new market on

1 March 31st. Since the market started, prices have been
2 generally consistent with nationwide trends, though the ISO
3 experienced some early start-up issues.

4 During the first few months of the new market,
5 energy price volatility in the real-time market led to some
6 extreme price outcomes--principally during the morning ramp
7 hours in Southern California.

8 On April 19th, for example, San Diego experienced
9 very high 5-minute prices caused by the dispatch of distant
10 generators to solve a transmission constraint. Lack of
11 flexibility in dispatching reserves in San Diego also
12 contributed to this situation.

13 The California ISO addressed that problem and
14 similar ones by moving in the direction of greater
15 transparency, adapting and relying increasingly on the
16 results of the market model and less on devices outside the
17 model run such as exceptional dispatch and manually managed
18 transmission constraints.

19 This allows market participants to better
20 understand the system as more of the market operations are
21 reflected in locational prices and less are reflected in
22 uplift and other out-of-market add-ons.

23 From the start of the market over the course of
24 2009, average Day-Ahead locational prices of wholesale
25 electricity in the California ISO fell into a relatively

1 tight band across the state.

2 Prices tend to be highest in Northwest California
3 and lowest near in-state hydro facilities. A major
4 component in the difference in prices is the cost of
5 congestion. This congestion component is what a financial
6 transmission right, or in CAISO's case a congestion revenue
7 right, is designed to hedge against.

8 (Slide.)

9 One key impact of the recession has been a
10 decline in the cost of congestion in the RTOs. RTOs
11 allocate congestion revenues through instruments commonly
12 known as financial transmission rights, but they are also
13 known more descriptively as Congestion Revenue Rights, as I
14 said in California, and Transmission Congestion Contracts in
15 New York.

16 ISOs determine the net amount of FTRs based on
17 the physical structure of the transmission system. Because
18 the payout of an FTR comes from the cost of congestion over
19 a path, the value of an FTR represents an expectation of
20 congestion cost or, in the case of a hedge, the value of
21 eliminating the risk associated with market results.

22 It is not easy to compare congestion consistently
23 across markets. Each RTO's Commission-approved tariff
24 provides unique rules for how the congestion revenues and
25 rights are allocated and/or sold. This analysis of

1 congestion costs therefore has delved into this painstaking
2 detail because it is important to understand the role they
3 play in the RTOs.

4 In each of the RTO markets the cost of congestion
5 fell below expectations as expressed in the RTO's FTR
6 markets. While congestion costs in the largest market, PJM,
7 fell by a quarter, the largest drop in percentage terms was
8 in ISO-New England where falling demand and fuel prices were
9 complemented by transmission additions that reduced
10 congestion.

11 Much of the change in congestion costs was
12 related to the congestion rights allocated to physical
13 participants. These rights account for over two-thirds of
14 the net value in the FTR market.

15 These allocated rights are typically given away
16 to load serving entities to be used as hedges against
17 congestion. This means the changing market value of these
18 rights have little effect.

19 In the market for purchased FTRs, purely
20 financial players, participants who have have no discernable
21 physical position in the market made approximately \$3
22 million in net revenues on the change in congestion costs in
23 2009--primarily because congestion increases in MISO offset
24 losses in PJM and ISO-New England.

25 (Slide.)

1 In summary, while 2009 did not resemble 2008's
2 roller coaster ride, it was not boring. Gas, coal, and
3 electricity prices fell and demand was off for the year.

4 A new gas world came into sharper focus with
5 technological innovation possibly changing the paradigm for
6 the gas market. The EPA will be studying the environmental
7 implications of new production methods in new areas.

8 Almost 25 gigawatts of new generation was added
9 during the year, with natural gas and wind leading the way.

10 The California ISO embarked on a new market with
11 enough flexibility to respond to start-up issues that arose.
12 And the cost of congestion fell in the RTOs as prices and
13 demand fell.

14 That is the State of the Markets Report, and we
15 are open to any questions you may have.

16 CHAIRMAN WELLINGHOFF: Steve, thank you very
17 much. I really want to thank your team for all the hard
18 work that you did in putting this State of the Markets
19 Report together. It is always a very useful and interesting
20 report for us to receive. And I think your summary page, if
21 I pick one bullet out of that, that would be the new
22 paradigm has emerged for natural gas with the discoveries
23 that we have made with natural gas in the one part. And I
24 think also really much of what the Commission has been able
25 to do and the industry has been able to do in expansion of

1 the pipelines for natural gas, and deliverability.

2 As you say, we are really reaching the point
3 where we truly have one market across the country for
4 natural gas, and I think that is a very positive thing.

5 I have got a few questions for you. One is on
6 your capacity chart, looking at the new capacity, which was
7 primarily gas and wind. In that discussion you talk about
8 going forward that there's actually another 85 gigawatts of
9 new wind capacity that's been proposed by the end of 2012.
10 That is a very high number. If I calculate that out over
11 the next three years, last year we had about over 9000
12 megawatts of windput in. That would be on average about 28
13 gigawatts of wind per year to reach that level. So that is
14 very aggressive.

15 Have you looked at all the impacts of that on our
16 transmission system?

17 Mr. Reich. Well let me start by saying that over
18 the course of time proposed projects, projects that are
19 announced, don't always come to fruition. And so the 85
20 gigawatts of capacity that's been announced that hasn't been
21 unannounced by this time is probably a high number in terms
22 of what ultimately comes about. The number is high, but by
23 the same token the incentives to build wind capacity have
24 been great.

25 In terms of the effects on the transmission

1 system, I'll turn it over to Keith.

2 MR. COLLINS: With respect to the transmission,
3 the projects that are in the queues at the RTOs and ISOs are
4 being evaluated as part of their process. And so I would
5 envision that most of the capacity we're looking--or a large
6 portion of the capacity that Steve is talking about is
7 within that process of evaluation at various levels.

8 CHAIRMAN WELLINGHOFF: But I assume, much like
9 we've been aggressive in gas pipeline transmission, that the
10 same will be necessary to be able to make this wind
11 deliverable to loads.

12 MR. COLLINS: In order to get--this is a very
13 aggressive amount of capacity, and so these processes will
14 need to work aggressively to make sure that the transmission
15 can handle this amount.

16 CHAIRMAN WELLINGHOFF: Okay. Thank you.

17 I was also interested in your discussion on
18 natural gas supply, and that we now have estimates that
19 there are as much as, perhaps more than, 100 years of
20 natural gas supply. That was a very revealing number.

21 I remember in the mid-1970s when I worked for the
22 Nevada Public Utilities Commission we talked at that time
23 that there's only 15 years of gas left, and people were
24 issuing rules to turn out their gas lights out in front of
25 their house, decorative gas lights, and those types of

1 things. It seems like we have now an extremely robust
2 supply of natural gas.

3 And I understand, I was at a conference a couple
4 of months back where there were some representatives of the
5 Department of Energy, and my understanding is that they have
6 revised their estimates of coal down substantially. I
7 remember at one time there were estimates that the
8 projections for coal reserves were somewhere in the--in this
9 country were somewhere in the neighborhood of 200, 250
10 years, and DOE was saying at this conference that they've
11 been revised down to about 100 years. Have you heard that
12 as well? Is that information you have?

13 MR. PETERSON: Mr. Chairman, I'm not aware of
14 those specific assessments revising the coal resource base
15 down, but one thing that we did see play out last year was
16 in places like Pennsylvania--I was reviewing some
17 information yesterday, and I think Pennsylvania reported
18 their lowest level of coal production in 100 years last
19 year. We had a 9 percent decline in coal production last
20 year.

21 And so there is something--you know, there is
22 something structural that took place last year with the
23 combination of the low demand environment due to the
24 recession, coupled with this evolving kind of renaissance in
25 natural gas supply, and the prices and the break-even costs

1 that you can clear with natural gas in the market now.

2 So in the short term we're definitely seeing
3 those effects. What that means for the longer term resource
4 base, I'm not equipped right now to opine on whether or not
5 that's true or not.

6 Mr. Reich. But, Mr. Chairman, we will look into
7 any studies that are available on that.

8 CHAIRMAN WELLINGHOFF: And again, these are
9 numbers that were being thrown out by I think a Deputy
10 Secretary for the Department, David Sandalow from the
11 Department of Energy, but I was wondering what the basis of
12 those studies was.

13 And back to gas. I mean, again I really think
14 the story is, in addition to the increased estimate of
15 reserves and supplies, I think the real story is the fact
16 that congestion has been almost eliminated. You noted two
17 places where there still are constrained areas in the
18 country, but we have approved pipelines in those areas as
19 well and we are making a very abundant energy resource
20 deliverable throughout this country. I think that is a
21 great story that we are telling here.

22 With that, I don't think I have any further
23 question.

24 Yes, Phil.

25 COMMISSIONER MOELLER: May I? I have them.

1 Well, Steve, thanks to you and your team for
2 this. Perhaps maybe it's your low-key New Mexico style, but
3 this is really an extraordinary report.

4 I take three things out of here that I think are
5 really worth noting:

6 The fact that on slide 8 you noted that in a year
7 when demand--or production is down, we still increased the
8 amount of gas-fired electricity by 5 percent. That should
9 tell us something. That is extraordinary. This country is
10 going along the path of using a lot more gas to make
11 electricity, and I think we should be fully aware of it as
12 we go forward.

13 Secondly, slide 7 is probably one that should be
14 plastered on a few sides of buildings--I don't know, maybe
15 that's a little extreme--

16 (Laughter.)

17 COMMISSIONER MOELLER: --but that's an
18 extraordinary slide in terms of showing the price decreases
19 in the wholesale markets this year.

20 If you can pull up slide 7?

21 (Slide.)

22 That's extraordinary. I mean, that's a much
23 better situation than we had a year ago when we had been
24 looking at price increases.

25 And finally, I think it was basically slide 16

1 and 17, this has been a pretty amazing year for wholesale
2 markets. When you go through the successful launch of
3 ancillary services in MISO, the expansion of SPP and the
4 fact that they are looking at aggressive transmission plans,
5 other utilities joining MISO, and what I think most would
6 argue is a successful launch of MRTU in California, that is
7 a big trend.

8 It is nice to be in a position where we have
9 these kinds of positive trends going forward, or at least in
10 the case of the first one, one that we can be well aware of
11 as we make policy.

12 I am curious--your thoughts. Usually I give you
13 a heads-up when I'm going to ask you, this time I didn't.

14 (Laughter.)

15 COMMISSIONER MOELLER: A year from now, what are
16 we going to be saying? And I'm going to predict that it's
17 going to be the year where we really grapple with variable
18 integration challenges that are not insurmountable but are
19 becoming an increasingly challenging part of the electric
20 system. I'm curious how you react to what you're going to
21 say a year from now.

22 Mr. Reich. Well, since I didn't get a heads-up,
23 give me a couple of seconds to think about this.

24 (Laughter.)

25 Mr. Reich. I think, one of the things I hope

1 that we see is that we continue seeing some of the evidence
2 that we've already started to see about a turnaround in the
3 economy in terms--that that becomes more active. We've seen
4 some initial evidence that demand for gas, which we have a
5 really good handle on because the Commission requires the
6 interstate pipelines to post that information, that demand
7 for gas for various industrial uses is up this year over
8 last year when the recession was hitting its depths.

9 So one of the things I hope that we see is, you
10 know, there's a continued increase in activity there. And
11 what I suspect, based on kind of our experience from last
12 year on the gas side, is that even with that increased
13 activity we are not going--the prices will remain moderate
14 because we have a sufficient supply and storage available to
15 handle all those things.

16 On the electric side, I will turn it over to
17 Keith.

18 MR. COLLINS: Well I think that's a great
19 question. I think that your comments on integration of
20 variable resources, as we saw this year, and the trends we
21 expect, or the projections going forward, is that we expect
22 that wind resources in particular will continue to play a
23 large role of new additions, particularly with the
24 aggressive RPS standards that many states have.

25 And so, then integration will continue to be a

1 very important piece of how we--of the state of the markets
2 going forward. And so I do agree that that will be a big
3 part of what we talk about next year, as well.

4 MR. PETERSON: I think what we are likely to see
5 is, by the end of the year we are going to see several bcf
6 per day of additional shale natural gas production come on
7 line through pipelines that the Commission has already
8 certificated and are filling up now with new supplies.

9 We are becoming increasingly less dependent on
10 Canada to import natural gas, and that is continuing to play
11 out.

12 We are going to probably see continued--more
13 extensive use of the natural gas generation and wind fleet
14 than we have in the past.

15 As Steve mentioned, economic activity will likely
16 pick up by the end of the year, and that may--you know, we
17 will see some different demand patterns maybe on gas later
18 in the year as a result of that.

19 But the kind of moderate price environment we're
20 in now, coupled with the robust introduction of new
21 infrastructure is something that will continue to effect the
22 natural gas industry, not just in '09 but that's probably
23 likely to color things for the next several years.

24 CHAIRMAN WELLINGHOFF: Thank you, Phil. And I
25 just wanted to note one thing before I turn to our next

1 Commissioner for questions, but your comment on opening up
2 these markets and the benefits economically, and I noticed
3 in your comments, Steve, you also indicated that MISO, for
4 example, the ancillary service market had benefits in
5 reliability as well. And so I think we need to understand
6 that opening these markets can have not only economic
7 benefits but also benefits in maintaining reliability for
8 the system. So that was I think something that was very
9 interesting and eye-opening.

10 Marc?

11 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

12 It's interesting that we think alike and there is
13 consensus up here on the bench on the benefits of markets,
14 and the potential use of the analogy of the successes in
15 natural gas supply to integrating renewable resources on the
16 electricity side. The analogy being that technological
17 innovations spurred on by competitive market forces, with
18 the backstop of FERC infrastructure, support for
19 infrastructure in terms of LNG, in terms of pipeline
20 capacity, in terms of storage, have collectively led to
21 increases in supply to the benefit of ratepayers. And
22 perhaps that analogy can be deployed on the electric side.

23 The first question. This is also--I apologize,
24 it may call for a little bit of speculation--but there are
25 these skeptics, natural gas skeptics, who say: Well, we've

1 seen gas bubbles before, particularly during the 1990s, and
2 there's been a downturn, and ultimately high prices.

3 Have we heard this story before? I am asked, on
4 natural gas. Or, is this a more permanent increase in
5 natural gas supply? Do you have any thoughts on that?

6 Mr. Reich. Let me start, and then I'll turn it
7 over to Chris for I guess the deeper, more specific version.

8 But I think what makes this story different than
9 any of the stories that we've heard before is that this
10 story is tied to specific, knowable, technological changes
11 in how we get gas. And so, unlike the past where we were
12 talking about incremental changes in the old ways in which
13 we produced gas, and where the gas came from, and going out
14 deeper to get gas the same way, now we're getting new types
15 of gas. New types of gas have become more economic because
16 of the technology of being able to identify where the gas is
17 and bring it out.

18 So that we know--if you have someone who is a
19 producer in the shales in Pennsylvania, in Arkansas,
20 Louisiana, Texas, they know where to drill the hole. And
21 they know what they need to do. And they have a really good
22 expectation of how much gas is going to come out. I mean,
23 it is a significant change from kind of the J.R. Ewing era
24 of--

25 (Laughter.)

1 Mr. Reich. --here's oil and gas production, into
2 a more, you know, Mr. Science area.

3 COMMISSIONER SPITZER: Is it fair to say it's
4 more like a manufacturing process as opposed to the old J.R.
5 Ewing exploration and production?

6 Mr. Reich. I think that's a very good analogy.

7 So because of that change, and because of the
8 changes in the technology, and the fact that the technology
9 is economic to do the gas production, the story has changed.

10 Do you have anything to add, Chris?

11 MR. COLLINS: Yes. So the pieces to the puzzle
12 that have established this environment, they're all there.
13 We can draw upon existing technology. We have a good
14 regulatory model to incent free entry into the market. And
15 innovation amongst the companies that are perfecting these
16 shale extraction techniques. We have a robust way to
17 introduce new supply chain facilities, as you mentioned,
18 Commissioner Spitzer, all the way from storage, to LNG, to
19 pipelines.

20 And so because we have virtually 100 percent
21 success rates extracting these resources with the supporting
22 regulatory model, innovation, existing technology, it seems
23 to us that this is a replicable, you know, longer-run
24 phenomenon than maybe some skeptics might say.

25 Mr. Reich. I do want to add one note. That is,

1 that there are some environmental issues associated with
2 production. But from what I've seen in kind of the
3 preparation for this new EPA study, those environmental
4 issues are going to be studied by the EPA and addressed. My
5 sense is that those will not substantially change the
6 economics of production.

7 COMMISSIONER SPITZER: And I am pleased to hear
8 from the Chairman a citation to data from Mr. Sandalow from
9 the Department of Energy, who will give kudos to Michigan
10 Law School Class of 1982--

11 (Laughter.)

12 COMMISSIONER SPITZER: --and I wouldn't want to
13 compare my transcript with David's.

14 Two more issues. Slide 4. We've got over the
15 course of a year a Henry Hub price of \$3.92, and we've got
16 Chicago at \$3.92. This seems to be an historic change with
17 the basis differential.

18 What would be the reasons to not only have low
19 prices--that's a supply and demand issue--but the basically
20 zeroing out of what has been an historically large basis
21 differential? And can we expect that type of flattening of
22 the basis differential going forward?

23 Mr. Reich. I think that's probably Chris's
24 wheelhouse.

25 MR. PETERSON: So the narrowing of the

1 transportation costs between Wyoming to Pittsburgh that
2 occurred last year is extraordinary. In a single year,
3 we've seen cost differentials go from triple digits, from
4 over a dollar range, to people being able to move gas on a
5 variable cost basis, we witnessed as part of our daily
6 market oversight, 20 cents, 25 cents per million Btu
7 difference between, you know, moving, taking gas out of Opal
8 and selling it into say storage fields in Pennsylvania.

9 So several things have underpinned the tightening
10 of those basis relationships. The major thing is the
11 commercialization of the Rockies Express Pipeline, which has
12 really served as a gateway to link, you know, the Western
13 market and the Eastern market.

14 But contributing to that also has been the huge
15 gains we've had in shale gas, in the Fail Pill Play, and
16 Haynesville, and the Barnett Shales, those have put downward
17 pressure on the Gulf prices at Henry Hub. And so the
18 narrowing of the transportation costs between the West and
19 East, coupled with a low commodity price environment because
20 of increased production, because of increased LNG supplies,
21 and the ability to manage volatility with a greater degree
22 of another 100 bcf of storage capacity, coupled with the
23 additional storage capacity we have at regas LNG terminals,
24 all those things working together, plus the infrastructure
25 we added in the Northeast which has really reduced, you

1 know, the seasonal basis that can arise there, especially in
2 the winter, those things together create an extraordinary
3 situation where the Continental differences between natural
4 gas across the country might only be 50 cents or so on a
5 given day.

6 And during the past several years when gas prices
7 have really ranged between \$6 to \$8, we've seen those
8 differences at times be as high as \$5 per million Btu.

9 Mr. Reich. I would also like to add that,
10 looking forward, I mentioned that the Commission had
11 approved the Ruby Pipeline. About the same time the
12 Commission approved Bison Pipeline, which will be bringing
13 new Rockies supplies to the Upper Midwest, and so that
14 differential could change even more in the future.

15 COMMISSIONER SPITZER: That leads to my final
16 question, which would be: You alluded to the Ruby and
17 Bison, and of course we have Tiger, which is more shale
18 moving--from the Carthage, Perryville Hub.

19 Slide 12. 2 quadrillion cubic feet. I'm not a
20 numbers guy, so I have trouble comprehending that figure.
21 In addition to the infrastructure that we have put in place,
22 what further infrastructure would be needed over time to
23 accommodate 2 quadrillion cubic feet of natural gas?

24 Mr. Reich. I mean, the 2 quadrillion cubic--
25 well, first of all, I have to apologize for the "quadrillion

1 cubic feet," because that was actually a discussion between
2 Chris and me. I thought "quadrillion" was much more
3 impressive than "2,000 trillion."

4 (Laughter.)

5 COMMISSIONER SPITZER: Well the left baseline has
6 the 2,000 trillion. So you can take your pick,

7 (Laughter.)

8 Mr. Reich. Right. In terms of how new supplies
9 will be accommodated, essentially the construction that's
10 been going on in the past few years taps into the areas
11 where that gas is coming from, the shale plays.

12 And so because it's a matter of balancing supply
13 and demand over time, there may be incremental increases in
14 capacity going forward but a lot of the expansions that have
15 been happening in the past few years have been directed
16 toward accommodating these new supplies.

17 COMMISSIONER SPITZER: All right. Thank you.

18 Thank you, Mr. Chairman.

19 CHAIRMAN WELLINGHOFF: Thank you. Just a comment
20 on your one initial question, Commissioner Spitzer, about
21 the gas skeptics. I would ask the panel, we can certainly
22 talk about the technology being real, but hasn't the market
23 also decided it's real with respect to futures prices in
24 gas, at least for now, relatively low? Isn't that another
25 indication that this huge new gas supply is real?

1 Mr. Reich. I mean the futures market certainly
2 has--I mean, it's pricing out on the basis of the \$4 to \$5
3 range going out. So I mean it's being--similar expectations
4 are being incorporated in the futures market.

5 CHAIRMAN WELLINGHOFF: Thank you.

6 Commissioner Norris?

7 COMMISSIONER NORRIS: Thank you.

8 Echoing what the other Commissioners have said, I
9 think this is all good news on the gas front from the
10 technological innovation and efficiency on shale production,
11 to all the infrastructure that's providing access to
12 markets, and even the supply LNG is playing in the
13 Northeast.

14 But assuming your projection on the EPA outcome
15 of the shale process is positive, are there any dark clouds
16 out there on the projected supply on gas, or prices that we
17 should be looking for, be aware of, or any concerns or
18 threats on those?

19 Mr. Reich. Well, I mean in terms of the long-
20 term price, first of all, we're not price forecasters. I
21 think two of the three of us actually have done gas price
22 forecasting in the past, but we certainly wouldn't attempt
23 to do that right here.

24 That said, the prices going forward are based on
25 the balance of supply and demand. So going forward, changes

1 in supply--drastic changes in supply or demand would be
2 necessary to affect the prices over the long term.

3 So, you know, policies that dramatically increase
4 gas demand beyond kind of existing projections might have
5 some impact going forward. And the same, if there is some
6 issue on the environmental side in the production of gas in
7 terms of the water tables, or emissions, that could also
8 impact the long-term price trajectory.

9 COMMISSIONER NORRIS: On the electric side, for
10 me it's a mixed bag. It's great that fuel prices are lower
11 and those dramatic drops in prices are good, but you hate to
12 have it attributable to a recession as well. So that is
13 some of the bad news in there.

14 But with that dramatic drop in prices, 45 to 60
15 percent on the wholesale market, do you have any sense of
16 how those wholesale prices have been reflected in retail
17 prices to consumers? Or do we track that? Or should we
18 look at that going forward?

19 Mr. Reich. Well let me start by saying that, you
20 know, we primarily focus on the wholesale markets because
21 that's kind of what we do here.

22 But we also do--we are aware of and keep track of
23 the retail prices. And in fact, we've recently had some
24 work that we did on the responsiveness of retail prices on
25 the electric side to falling wholesale prices.

1 What we found was the utilities seemed to have
2 learned from events such as the 2001 California crisis that
3 they don't want to put all their eggs in the Spot Market
4 basket. And so a lot of the slowness, relative slowness and
5 responsiveness to declining wholesale prices on the retail
6 side has to do with the fact that they have--that many
7 utilities have longer term contracts that may be two or
8 three years long that are still cycling off as we move
9 through time.

10 And so you get a little bit of drop, but you
11 still have these long-term contracts that are in effect.

12 The other issue is that much more than on the
13 wholesale side, fixed-costs have a large--contribute a large
14 portion to what retail customers pay. And so--and those
15 fixed costs are not necessarily responsive to changes in the
16 price of the energy input.

17 COMMISSIONER NORRIS: So are you saying over the
18 long term we may see this reflected more in retail prices
19 further out than we're seeing presently in the wholesale
20 prices?

21 Mr. Reich. Yes. I mean, we've tended to see
22 both increases and decreases kind of sticky, but eventually
23 responsive.

24 COMMISSIONER NORRIS: So where is, I guess, the
25 benefit accruing in these drop in wholesale prices? You're

1 saying it's just going to be reduced because of the fixed
2 costs in terms of the impact on the retail side? Or where
3 is the bulk of that benefit in the wholesale drop occurring?

4 Mr. Reich. Do you--

5 MR. COLLINS: I think just to echo Steve here a
6 bit, in that there's the Spot Market, which can affect
7 expectations--can help shape expectations of future prices.
8 I think that that's probably where the greatest benefit is
9 going to occur, is not in the immediate, given that Spot
10 prices don't filter down to retail very quickly.

11 It will, over time. But I think the idea is that
12 the expectations going forward, as forward expectations are
13 shaped by Spot markets, that as those have decreased that
14 will influence what happens in the future.

15 And so it is more forward looking than the actual
16 immediate benefits that we see in today's retail rate
17 prices.

18 Mr. Reich. And utilities do have a portion of
19 their portfolio as Spot. And in those cases--and in that
20 part of the portfolio, those prices are reflected.

21 COMMISSIONER NORRIS: With regard to the
22 structural changes you've pointed out in the Midwest last
23 year, what kind of--will you talk any more about the
24 benefits of reliability or efficiency that accrued from the
25 MISO's new ancillary services market?

1 Mr. Reich. Certainly. One of the key elements
2 of the benefits that occurred when MISO consolidated all of
3 the, I guess it was 40 balancing authorities into one and
4 started offering a market for ancillary services, is that
5 before that market was consolidated each individual utility
6 had to secure its own reserves and ancillary services.

7 By doing that, they had to undergo their
8 transaction costs of creating contracts to do that. And it
9 wasn't necessarily certain that they would get the most
10 optimal of resources to meet their reserve needs and their
11 ancillary services needs.

12 As they became part of MISO, MISO optimized over
13 the entire footprint. So that instead of, just to name--
14 Wisconsin Public Service, having to identify the best way to
15 meet its reserve needs, MISO now for Wisconsin Public
16 Service, and any of the other utilities in the footprint, is
17 able to say, you know, is able to identify the most economic
18 ancillary services--the most economic spinning reserves, the
19 regulation resources, on a minute-by-minute basis. And so
20 that efficiency gain MISO estimates in like the \$200- to
21 \$300 million a year benefit from that.

22 Now the Iowa utilities that joined MISO, in
23 addition to having the benefits of not having to secure
24 their own ancillary services, but now also, especially in
25 their case where there's a bit of an overhang in terms of

1 supply over the load that they serve, they now don't need to
2 have--you know, to call up every hour, every day, to try and
3 find is there someone who might want to buy our extra power?

4 That is essentially something that they can now
5 offer into the market, and the market takes care of--it
6 takes care of the sale of those resources, if they're
7 economic. And so that's the benefit on top of the ancillary
8 services market that the Iowa utilities, and for SPP, the
9 Nebraska utilities, gained by joining the RTO.

10 COMMISSIONER NORRIS: Thanks for your work on
11 this. Great work.

12 CHAIRMAN WELLINGHOFF: And thank you, John, for
13 that, especially that last question and answer. I
14 appreciate your exploring and expanding on the value that
15 ancillary services market gave in MISO. That was very
16 useful. Thank you.

17 Thank you, all.

18 SECRETARY BOSE: The next item for presentation
19 and discussion this morning will be on Item A-4 concerning a
20 report on Electric Capacity Reassignment. There will be a
21 presentation by Kelli Merwald from the office of
22 Enforcement. She is accompanied by Keith Collins, again
23 from the Office of Enforcement; and Laurel Hyde from the
24 Office of Energy Market Regulation.

25 MS. MERWALD: Commissioners, good morning. My

1 name is Kelli Merwald from the Office of Enforcement. Also
2 at the table with me from the Office of Enforcement is Keith
3 Collins; and from the Office of Energy Market Regulation
4 Laurel Hyde. A-4 on today's agenda is a Staff Report on
5 Capacity Reassignment.

6 In Order 890, the Commission lifted the price cap
7 on the reassignment of transmission capacity. The price cap
8 had previously been set at the maximum of the original
9 purchase price, the transmission provider's current tariff
10 rate, or the assignor's opportunity costs capped at the cost
11 of expansion.

12 The Commission removed the price cap in order to
13 help expand the secondary market for transmission capacity
14 and thereby help parties manage the financial risks
15 associated with their long-term commitments, reduce the
16 market power of transmission providers by allowing customers
17 to compete, and foster efficient capacity allocation.

18 The Commission limited reassignments above the
19 cap to a study period ending October 1st, 2010, and directed
20 staff to monitor the secondary market and prepare a report
21 to assist the Commission in deciding whether to extend the
22 rule beyond the study period.

23 Staff prepared this report in response to the
24 Commission's directives in Order No. 890-A and Order
25 No. 890-B.

1 In the report, staff analyzed five key aspects of
2 the data:

3 The number of transactions;

4 The terms of the reassignments;

5 The magnitude and variability of resale prices;

6 The relationship between reassignments and price
7 differentials in related energy markets; and

8 The nature of affiliate transactions.

9 Using the data filed by transmission providers in
10 EQR, staff observed 26 transmission providers report almost
11 35,000 capacity reassignments totaling 65 terawatt hours
12 during the period from the effective date of Order No. 890
13 in May of 2007 through the end of 2009. The number of
14 reported transactions and the volume of capacity reassigned
15 rose over the two-and-a-half-year period.

16 The term of the reassignments were for hourly,
17 daily, monthly, and yearly capacity. Hourly reassignments
18 were the most prevalent, accounting for almost 97 percent of
19 transactions. However, reassignments of over a month in
20 duration accounted for 88 percent of the volume.

21 Almost all prices for capacity reassignments were
22 below \$3 a megawatt hour. There were 134 transactions
23 priced above the cap, less than 1 percent of the total
24 number of reassignments. None of the capacity reassignments
25 priced above the cap exceeded the cap by more than \$2 a

1 megawatt hour.

2 Most oof the capacity reassignments had receipt
3 and delivery points in energy markets without reported price
4 indices. Based on the points that did have reported prices,
5 it appears that the value of capacity reassignments were
6 comparable to the price differentials between relevant
7 markets.

8 Sixteen percent of the capacity reassignments
9 were sold by affiliates of the transmission provider. One
10 affiliate reseller had transactions priced above the cap.
11 The volume-weighted markup for these 32 transactions was 85
12 a megawatt hour.

13 Based on the staff analysis of the study period
14 data, staff concludes that the removal of the cap did not
15 raise anticompetitive concerns. It appears that during the
16 study period resellers used the secondary market mainly to
17 derive value from unneeded capacity.

18 In addition, based on the data before us, there
19 was no evidence that affiliates of the transmission owners
20 were given any undue preference with regard to released
21 capacity rights.

22 That concludes our presentation. We are happy to
23 answer any questions.

24 CHAIRMAN WELLINGHOFF: Kelli, thank you very
25 much. And I want to thank all the members of the team for

1 their work on this.

2 Commissioners, questions? Commissioner Moeller.

3 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

4 Kelli, thanks for the report. As I understand,
5 it will be available online later today?

6 MS. MERWALD: Yes.

7 COMMISSIONER MOELLER: You noted between 2007-
8 2009 there were 35,000 transactions, but 28,000 of those
9 were in the Bonneville service territory. Can you elaborate
10 on that?

11 MS. MERWALD: Yes. We found that utilities have
12 many generation resources located in the BPA Control Area,
13 and they purchase long-term transmission to connect these
14 resources to their load.

15 When they don't need the transmission, they
16 resell it frequently on an hourly basis, which accounts for
17 the large number of transactions.

18 COMMISSIONER MOELLER: Okay. Thank you. Because
19 as I recall we gave people the option to do it hourly,
20 monthly, annually, and in recollection this was one we had
21 some--there was concern on the Commission if we go down this
22 route; we did a trial period, and I think we don't do that
23 very often but in this case it was a successful way to
24 approach it.

25 I look forward to the follow-up on this. Thank

1 you, Mr. Chairman.

2 CHAIRMAN WELLINGHOFF: Thank you, Phil. Marc?

3 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

4 Data is extremely interesting, and Commissioner
5 Moeller noted one aspect of the data. There are lots of
6 tidbits in here in terms of the markup, the number of
7 transactions, how they're spread out; a relatively small
8 number of transactions above the cap.

9 I think what has happened here is FERC has
10 deployed the old adage of "trust, but verify." We have a
11 theoretical academic and economic model for assigning proper
12 value for capacity as being in the interest of the
13 ratepayers, but the verification process yielded this data
14 that helps us validate that formula to guard against
15 potential anticompetitive or anticonsumer aspects.

16 We have further proceedings along these lines,
17 but this is one reflection of the deployment of the trust
18 and verify as a way of carefully ensuring that the
19 ratepayers are protected. So I thank you for this report
20 and look forward to its posting online.

21 MS. MERWALD: Thank you.

22 CHAIRMAN WELLINGHOFF: John.

23 COMMISSIONER NORRIS: No, I probably won't add
24 anything other than just saying it was interesting to me,
25 not having the value of expectations on this because I

1 wasn't here when this all developed, but this was I think
2 positively surprising to me based on the data you have right
3 here and look forward to just watching it going forward.

4 CHAIRMAN WELLINGHOFF: Thank you.

5 Thank you, very much. Appreciate it. Madam
6 Secretary, our next item?

7 SECRETARY BOSE: The next item for presentation
8 in this discussion this morning is on Item Item A-5
9 concerning Small Hydropower Development In The United
10 States. There will be a Power Point presentation on this
11 item. The presenters for this morning are Steven Hocking
12 from the Office of Energy Projects. He is accompanied by
13 Jennifer Hill and Kirk Cover, also from the Office of Energy
14 Projects; and Elizabeth Molloy from the Office of the
15 General Counsel.

16 MR. HOCKING: Good morning, Mr. Chairman and
17 Commissioners. My name is Steve Hocking. I'm with the
18 Office of Energy Projects. Seated with me at the table are
19 Jennifer Hill and Kirk Cover, also with OEP; and Elizabeth
20 Molloy with the Office of the General Counsel.

21 I am here to give you a progress report on the
22 status of the Commission's Small Hydropower Initiative.

23 (Slide.)

24 As we said at our December 2, 2009, Small
25 Hydropower Technical Conference, we have seen an increased

1 interest in small hydropower in recent years. We have
2 received over 150 phone calls and email inquiries to our
3 Small Hydro Hotline and email address last year, which was
4 almost double what we had the previous year.

5 We have also issued more preliminary permits and
6 have seen an increasing trend of more development
7 applications, license and exemption applications being filed
8 with the Commission. The graph on this slide shows the
9 number of issues preliminary permits and pending license and
10 exemption applications that are 5 megawatts or less,
11 excluding hydrokinetics, for the years 2007 through 2009.

12 We believe that some of this increased interest
13 has been generated by State Renewable Portfolio Standards,
14 Renewable Energy Incentives, and an increase in promoting
15 distributed generation.

16 (Slide.)

17 At our December technical conference we had two
18 panels, each with representatives from the hydropower
19 industry and the environmental community that discussed
20 issues related to the prefiling and postfiling licensing
21 process for small hydropower projects. Specifically, the
22 panelists discussed the Commission's program for granting
23 licenses and exemptions from licenses for small conventional
24 projects, and answered questions from the Commissioners.

25 (Slide.)

1 In addition to insights we received from the
2 panelists and attendees at our December conference, we also
3 solicited written comments and received over 40 comment
4 letters from industry representatives, federal, state, and
5 local agencies, private citizens, and non-governmental
6 organizations.

7 (Slide.)

8 While some commenters said that the FERC
9 licensing process is appropriate and should not be changed,
10 others said that changes are necessary because the licensing
11 process is costly and lengthy relative to the size of these
12 small projects.

13 These commenters recommended a wide range of
14 changes, including statutory, regulatory, and administrative
15 changes to address these concerns including:

16 Eliminating FERC jurisdiction over certain types
17 of small hydro projects--a statutory change;

18 Expanding the definition of "conduit exemptions"
19 to include projects on federal lands--another statutory
20 change; and expanding the definition of 5 megawatt
21 exemptions to include projects at federal dams--which would
22 be a regulatory change; and

23 Creating an automatic approval process for
24 projects that meet certain criteria or creating an entirely
25 new process for licensing small hydro projects, both of

1 which would be regulatory changes.

2 (Slide.)

3 Other commenters were concerned that license
4 applicants using the Integrated Licensing Process or ILP do
5 not have enough time to complete the prefiling steps of the
6 ILP within the three-year timeframe of a preliminary permit.
7 These commenters recommended:

8 Extending the maximum term for preliminary
9 permits held by license applicants--another statutory
10 change--to give applicants more time to complete the
11 prefiling steps of the ILP; or

12 Eliminating the ILP as the default licensing
13 process and allowing applicants to use any of FERC's
14 licensing processes without seeking prior Commission
15 approval--which would be a regulatory change.

16 These changes were recommended as a way to give
17 applicants more flexibility to complete required prefiling
18 steps before their preliminary permits expire.

19 (Slide.)

20 Finally, we heard many commenters recommend:

21 Adding tools to the FERC website and revising
22 FERC's guidance documents to make it easier for applicants
23 to understand and complete the licensing process--an
24 administrative change; and

25 Holding regional and/or state-by-state workshops

1 to educate small hydro developers on the licensing
2 process--which would be another administrative change.

3 Commenters recommended that we take these actions
4 because many small hydro developers do not have the
5 resources and the FERC experience necessary to understand
6 and complete the licensing process.

7 (Slide.)

8 FERC staff have considered the range of comments
9 and recommend the following actions. Of course any
10 recommended statutory changes would have to be addressed by
11 Congress. For recommendations under FERC's purview, our
12 existing recommendations provide the flexibility to grant
13 waivers, shorten comment periods, and make other changes
14 when appropriate to expedite the licensing process.

15 Therefore, our Action Plan includes the following
16 administrative changes:

17 (1) Adding new web-based resources to ferc.gov
18 to make it easier for applicants to understand and complete
19 the licensing process--and I'll come back to that in a
20 minute;

21 (2) Updating MOUs with other agencies to improve
22 coordination;

23 (3) Continuing our small hydro hotline and email
24 address to answer applicant questions; and

25 (4) Educating potential small hydro developers

1 via a new education and outreach program.

2 Collectively, these measures should help
3 developers understand the FERC licensing process, help
4 improve coordination with other agencies, and help license
5 applicants complete the process.

6 (Slide.)

7 A primary change that we have already started
8 working on is adding web-based resources to ferc.gov. Our
9 goal is to enhance the existing website to make it more user
10 friendly with simple tools that use plain English to help
11 applicants understand and complete the FERC process.

12 The enhanced website will provide a roadmap that
13 walks applicants through selecting a good project site;
14 determining if a project is jurisdictional; selecting a FERC
15 process; consulting with stakeholders; and finally,
16 preparing a license or exemption application.

17 New tools on the website will make it easier for
18 applicants to apply for a license or exemption, including
19 tools like fill-in-the-blank license and exemption
20 application templates, information on how to obtain waivers,
21 and examples of how applicants can expedite the process.

22 (Slide.)

23 Our goal is to have all of the new web-based
24 resources on ferc.gov by the end of this August. However,
25 we also intend to have resources like the conduit and 5-

1 megawatt exemption application templates loaded on the
2 website under the existing "small/Low Impact Hydropower
3 Projects" page, which is an existing page earlier.

4 And that concludes our presentation. We are
5 happy to take any questions.

6 CHAIRMAN WELLINGHOFF: Thank you, Steve, for your
7 presentation, and thank the team for their hard work on this
8 extremely important endeavor. It is one that I have been
9 particularly interested in.

10 To address the U.S.'s energy challenges, we must
11 ensure that we are both making the most efficient use of our
12 existing hydropower resources and promoting smart
13 investments in new hydropower and other hydrokinetic
14 innovative technologies.

15 There are great potential benefits from smart
16 investment in small hydropower projects, and I am pleased
17 that there has been an increased interest in small
18 hydropower. Development of such distributed resources would
19 not only provide new capacity, but also enhance reliability.

20 We should encourage small hydro by processing
21 these projects expeditiously, while ensuring that we
22 consider any environmental issues and the needs of the other
23 stakeholders that may have interests.

24 While I believe that small hydropower projects
25 have an important role to play in the country's energy

1 future, it is important to recognize that the project's
2 small size may not necessarily mean that it has few
3 environmental impacts.

4 Staff has done excellent work in engaging all
5 interested stakeholders on issues related to licensing small
6 non-federal hydropower projects in the United States, and we
7 have received significant interest in the issue.

8 I am pleased to support the action plan on small
9 hydro. It appropriately balances the need to reduce the
10 burden on developers of small hydropower projects with the
11 need to protect the environment.

12 Our staff has already been providing information
13 to small hydropower developers, and is properly continuing
14 programs such as the Small Hydro Hotline and email address
15 to assist applicants.

16 In addition, I am pleased that the staff will
17 reach out and provide education to small hydro developers.
18 Commission staff's experience will be invaluable in helping
19 these developers prepare their applications.

20 I also believe that by adding tools to the
21 website, potential developers will better understand the
22 licensing process and be able to choose the most effective
23 and appropriate course to getting their small hydro projects
24 built, while ensuring that environment issues are
25 appropriately considered.

1 The Action Plan will help break down regulatory
2 barriers facing small hydro projects and ensure that we are
3 developing hydropower resources in an efficient and
4 effective manner.

5 Colleagues, questions? Commissioner Moeller.

6 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

7 If you drive around the country, particularly in
8 the West, but even in places like the great State of Iowa,
9 you see a lot of potential of small hydropower that appears
10 to be untapped, and it's somewhat frustrating. So I
11 appreciate the effort we are undertaking.

12 The fact that you have made this a priority,
13 Mr. Chairman, I appreciate. And I hope it works. I will be
14 looking forward to hearing from the industry.

15 I have a couple of questions. The first:

16 Steve, you related to, I think on slide 8, some
17 memorandums of understanding with other agencies. Which
18 agencies are you talking about? And how would this actually
19 help this process?

20 MR. HOCKING: Right now we're working with the
21 Army Corps of Engineers, and the Coast Guard to develop
22 MOUs. And it would help in coordinating the two agencies,
23 because typically we have joint review responsibilities.

24 So we want to make sure that we are not
25 duplicating efforts; that we have our schedules sync'd; that

1 we all know what our responsibilities are. So it would be a
2 general coordination between FERC and the other agencies.

3 COMMISSIONER MOELLER: Good. I will look forward
4 to hearing progress on that.

5 And finally, you mentioned kind of an aggressive
6 outreach in education program. What do you have in mind for
7 that?

8 MR. HOCKING: Well, part of our outreach in
9 education is going to be through the website. We are going
10 to have a lot of tools and tips on the website based on our
11 experience of how small developers can expedite the process;
12 apply for waivers when that's appropriate.

13 We will have, as I mentioned, fill-in-the-blank
14 templates and application forms to make it easier, to show
15 them exactly what type of information we need in order to
16 process their application.

17 So that is going to be part of our education
18 program. We have currently Small Hydro Hotline that
19 consists of a dedicated phone number and email address where
20 we answer questions from developers directly; one-on-one
21 discussions on the questions that they have. We're going to
22 continue with that, and we encourage developers to contact
23 us via either email or phone number, or phone, using those
24 resources.

25 And then we plan to have an outreach program. We

1 will be taking a look at, you know, where the interest is
2 strongest in terms of developing small hydro, and we will be
3 targeting those areas for education, to help a lot of small
4 developers understand the process and be able to complete
5 it. That's what we're looking at.

6 COMMISSIONER MOELLER: Well thank you, and
7 perhaps on the website you could use some case studies along
8 the lines of what we had on December 2nd because I think
9 those could be quite instructive to potential new
10 developers.

11 MR. HOCKING: We will have some examples and case
12 studies, as well.

13 COMMISSIONER MOELLER: Thank you, very much.

14 CHAIRMAN WELLINGHOFF: Marc?

15 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

16 Just a few points. First, I thank the Chairman
17 and the staff for presenting this issue and taking the lead
18 in crafting solutions, more importantly than information,
19 but we're proposing solutions to explore green energy
20 alternatives.

21 Secondly, this is an opportunity to work with our
22 state colleagues, first to educate elected and appointed
23 officials in the states as to the merit of small hydro. In
24 some jurisdictions, an RPS does not include hydro, or does
25 not contemplate small hydro, and that is something for

1 consideration.

2 And then this information and these proposed
3 solutions or opportunities for those states where hydro is a
4 component of the RPS to meet the RPS in a very economic and
5 efficient way.

6 Third, it is very clear from the December
7 conference that a lot of our potential resources are
8 untapped. And so the staff has recommended administrative
9 changes for our consideration; I appreciate that.
10 Specifically, the education campaign and web-based resources
11 will make it easier for potential developers to determine if
12 a prospective project is FERC-jurisdictional, and if so how
13 to accommodate the FERC hydropower licensing process.

14 And then finally, I appreciate the staff's
15 identification of certain proposed statutory changes that
16 are, although outside of this Commission's control, are
17 potential for interested parties to petition Congress for
18 appropriate changes.

19 So I thank you for your hard work on this
20 important issue.

21 CHAIRMAN WELLINGHOFF: Thank you. John?

22 COMMISSIONER NORRIS: I appreciate your
23 recognition that Iowa has a lot of potential here, Phil, but
24 unfortunately we haven't seen a lot of it and it's an area I
25 didn't have a lot of experience of in Iowa, except as the

1 awareness of our energy challenges became more prevalent and
2 people wanted to be part of solving those challenges, it
3 became more of a day-to-day occurrence.

4 I often faced the question during my time in
5 Iowa: Well, why can't we just build a bunch of dams out
6 there and solve this problem?

7 And unfortunately, like I said, we didn't have a
8 lot of experience in that. So my stock answer was, or it
9 ranged from: Well, it's not that easy. Or it's really
10 complicated.

11 (Laughter.)

12 COMMISSIONER NORRIS: So hopefully this is the
13 beginning of how to address that for the folks who want to
14 see themselves as part of the solution.

15 I do say that our responsibility, I think we have
16 to take terribly seriously that both the safety and
17 environmental concerns are addressed and answered. And
18 that's not just in the interest of the general public, or
19 our natural resources; I think that is in the long-term
20 interest of the hydropower industry. So we have to maintain
21 that vigilance on that front.

22 But having said that, I think there are a lot of
23 opportunities out there and a lot of people who want to get
24 engaged in helping solve our energy problems through the
25 sources we have with hydropower, and I think you have made

1 some really positive steps here to make it so it's not quite
2 that complicated.

3 Thanks.

4 CHAIRMAN WELLINGHOFF: Thank you all again.

5 Madam Secretary?

6 SECRETARY BOSE: The next item for presentation
7 and discussion this morning will be on Item M-1 concerning
8 the transfer of certain hotline matters to the Commission's
9 Dispute Resolution Service. There will be a presentation by
10 Stuart Fischer from the Office of Enforcement. He is
11 accompanied by Nils Nichols from the Commission's Dispute
12 Resolution Service.

13 MR. FISCHER: Thank you, Mr. Chairman,
14 Commissioners:

15 Item M-1 is an Instant Final Rule that revises
16 two sections of the Commission's Regulations to substitute
17 the Commission's Dispute Resolution Service for the
18 Commission's Enforcement Hotline as the contact for handling
19 dispute-related calls pertaining to the construction and
20 operation of jurisdictional infrastructure projects,
21 specifically natural gas pipelines and hydroelectric power
22 projects. This would become effective on May 1st, 2010.

23 Transferring the responsibility of these calls to
24 DRS, with its expertise in conflict resolution, and allowing
25 the Office of Enforcement to focus on its other priorities,

1 would ensure an efficient allocation of the Commission's
2 resources that will better serve the public interest.

3 The Enforcement Hotline will continue to be the
4 contact for handling all other dispute-related
5 jurisdictional matters that are not pending before the
6 Commission. This matter is appropriate for an Instant Final
7 Rule because it concerns a matter of administrative
8 procedures and does not affect the rights of persons
9 appearing before the Commission.

10 Nils and I will be glad to take any questions
11 that you have. Thank you.

12 CHAIRMAN WELLINGHOFF: Thank you, Stuart. I
13 appreciate the presentation and the work on this.

14 The action we are taking today is good for
15 consumers and I am pleased to support it. The central
16 mission of the Commission's Dispute Resolution Service is to
17 reach consensual resolution of disputed matters through the
18 use of alternative dispute resolution methods such as
19 mediation.

20 These avenues will afford landowners the ability
21 to informally resolve disputes with natural gas pipeline
22 companies, as well as certain disputes related to
23 hydroelectric projects expeditiously and informally.

24 This should save the affected landowners time and
25 resources. It is important to note that the Commission's

1 DRS staff has extensive substantive expertise in
2 environmental, natural gas pipeline certificate,
3 hydroelectric, and liquified natural gas facility matters.

4 The DRS already receives and addresses a number
5 of calls from landowners affected by projects under the
6 Commission's jurisdiction. This will not be a new duty, but
7 rather an extension of an existing service. I believe that
8 the DRS will provide an appropriate forum to resolve
9 landowner disputes and I support this Order.

10 Thank you. Phil?

11 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

12 First of all, Mr. Fischer, it's my understanding
13 that this is kind of your child in a sense, the Hotline.
14 You were there from the beginning, and now it's kind of like
15 you're sending him off to college.

16 (Laughter.)

17 MR. FISCHER: Well, the Hotline was formed in
18 1987. I haven't been here quite that long, but it's kind of
19 old for college, but it's good to finally get him going.

20 (Laughter.)

21 COMMISSIONER MOELLER: Well, congratulations on
22 that tenure. And yet I am quite confident that with it
23 being handed off to a fine group of folks it will be in very
24 good hands.

25 I'm not sure if this is to you or to Nils, but in

1 addition to being the only right-hander up here, I am also
2 the only non-attorney. And so kind of the talk on the
3 street is that in terms of ADR, the lawyers don't always
4 favor that aspect of the Commission's practice. I wondered
5 if you could comment on that?

6 MR. NICHOLS: I'll field that one. At the risk
7 of getting myself in trouble at the very beginning, I'll say
8 that there's an old adage that if you're a hammer, every
9 problem looks like a nail.

10 I think for the litigators in the crowd, there's
11 a natural tendency to want to litigate. But I think there
12 are a lot of benefits to the use of alternative dispute
13 resolution processes such as mediation that probably aren't
14 as well recognized as they should be, and I will just
15 enumerate a few of those.

16 One, I think it gives the parties to an ADR
17 process control over the result. And to me that's extremely
18 important, because otherwise when you file pleadings at the
19 Commission, obviously the Commission is going to decide. If
20 you can retain control, I would think that that gives many
21 businesses a certainty that they desire. And in a mediation
22 we don't dictate the outcome of the process; we just
23 facilitate it, and the parties actually come up with the
24 result. And again, I think that's probably very desirable
25 from the point of many business disputes.

1 There's also an issue of controlling the timing.
2 If you bring a matter to the Commission, the Commission has
3 many priorities and it will get to it when it can. But
4 through mediation, parties have the ability to exercise a
5 great deal of control over the timing of the result.

6 I think something else that is often overlooked
7 is the fact that in the energy business there are many
8 relationships that tend to go on for years, if not decades.
9 And if parties work together to resolve their disputes, it
10 generally has the effect of improving those relationships.
11 Litigation often has the opposite effect.

12 A gentleman who has spent a great deal of time in
13 the energy business once said to me that, once you've been
14 deposed by a business partner, you really never feel quite
15 the same way about them.

16 (Laughter.)

17 MR. NICHOLS: And I think the truth of that is
18 pretty obvious.

19 Finally, I think mediation, or processes such as
20 mediation, are also very cost-effective. I mean, they can
21 be very clean and simple. So the bottom line is there are a
22 lot of benefits to using mediation.

23 COMMISSIONER MOELLER: Well it is a service that
24 we offer. It has probably been under-utilized. The success
25 rate is extraordinary, and the anecdotal evidence from

1 stories around the country of how you've gone in to solve
2 problems is also quite affirming.

3 So we have done our best--we probably haven't
4 done our best to promote the fact that it exists, and I
5 think we should continue to let the industry and consumers
6 know that we have this service that can often solve
7 problems, as you noted, Nils, in an expedites fashion. So I
8 will look forward to expanding your role now through the
9 Hotline.

10 Thank you, Mr. Chairman.

11 CHAIRMAN WELLINGHOFF: Thank you, Phil. Marc?

12 COMMISSIONER SPITZER: Mr. Chairman, thank you.

13 I agree one hundred percent with your statement. I
14 appreciate Commissioner Moeller repartee with Mr. Nichols.

15 As a lawyer, my best cases were the ones I never
16 tried.

17 CHAIRMAN WELLINGHOFF: Those are the best ones.
18 John?

19 COMMISSIONER NORRIS: Let me just thank you for
20 your putting this together. I think it is a great idea.
21 And basically to commend you, Mr. Chairman, for putting this
22 on the discussion. I think any time they can have something
23 that just accents service-oriented and user friendly, and
24 just makes good sense, is probably good that we elevate that
25 to a discussion. So I think you've done that, and I think

1 it has been good to highlight your effort today.

2 CHAIRMAN WELLINGHOFF: Thank you.

3 Madam Chairman, I think we're ready to vote--or,
4 Madam Secretary.

5 (Laughter.)

6 SECRETARY BOSE: The vote begins with
7 Commissioner Norris.

8 COMMISSIONER NORRIS: Aye.

9 SECRETARY BOSE: Commissioner Moeller.

10 COMMISSIONER MOELLER: Aye.

11 SECRETARY BOSE: Commissioner Spitzer.

12 COMMISSIONER SPITZER: Vote aye.

13 SECRETARY BOSE: And Chairman Wellinghoff.

14 CHAIRMAN WELLINGHOFF: Vote aye.

15 SECRETARY BOSE: The last item for presentation
16 and discussion this morning will be on Item E-13 concerning
17 Public Service Company of New Hampshire in Docket No.
18 QM10-04-000. The presentation will be given by S. L.
19 Higginbottom from the Office of the General Counsel. He is
20 accompanied by Larry Greenfield, also from the Office of the
21 General Counsel. And Matthew Moore, from the Office of
22 Energy Market Regulation.

23 MR. HIGGINBOTTOM: Mr. Chairman, Commissioners,
24 good morning. I am S.L. Higginbottom. With me is Larry
25 Greenfield and Matthew Moore. We are discussing E-13.

1 The Draft Order grants the application filed
2 pursuant to Section 210m of PURPA by Public Service Company
3 of New Hampshire to terminate the obligation to enter into
4 new contracts or obligations to purchase electric energy
5 from QFs larger than 20 megawatts, but denies without
6 prejudice the request to terminate the obligation to enter
7 into new contracts or obligations to purchase electric
8 energy from QFs between 5 megawatts and 20 megawatts.

9 PSNH has relied on the rebuttable presumption in
10 Section 292.309(e) of the Commission's Regulations that QFs
11 larger than 20 megawatts have nondiscriminatory access to
12 the ISO-New England markets, and that PSNH as a member of
13 ISO-New England should be relieved of the obligations to
14 purchase from QFs larger than 20 megawatts.

15 On this basis, the Draft Order grants the request
16 to terminate PSNH's mandatory purchase obligation with
17 respect to QFs larger than 20 megawatts.

18 Section 292.309 also provides utilities the
19 opportunity to rebut the presumption that QFs 20 megawatts
20 and smaller do not have access to markets by showing on an
21 individual QF-by-QF basis that each QF does have access to
22 the market.

23 PSNH's application is the first in which a
24 utility has attempted to rebut the presumption that QFs 20
25 megawatts and smaller do not have nondiscriminatory access

1 to markets.

2 The Draft Order finds that PSNH's arguments as
3 presented do not make the necessary QF-by-QF showing, and
4 its request to terminate its mandatory purchase obligation
5 with respect to QFs 5 megawatts through 20 megawatts is
6 denied without prejudice.

7 Thank you.

8 CHAIRMAN WELLINGHOFF: Thank you for that
9 presentation.

10 Commissioner Moeller?

11 COMMISSIONER MOELLER: Thank you, Mr. Chairman,
12 and thank you for letting me call this item. Because I
13 think the team highlights the significance of the Order.

14 Mainly it's the first time we have had an
15 electric utility come in to try and file the application to
16 rebut the presumption that the small QFs, under 20
17 megawatts, do not have nondiscriminatory access to the
18 market. So I think we will see many more of these.

19 Hence, I think the reason we talk about it today
20 to at least at explain what we are doing. So we are largely
21 making a procedural determination in denying New Hampshire's
22 application seeking to relieve itself from the PURPA
23 obligation to purchase the output of small QFs.

24 Is that right? That's a procedural
25 determination?

1 MR. HIGGINBOTTOM: Yes. Order 688 requires a
2 case-specific showing for each QF, and the application did
3 not attempt to do that.

4 COMMISSIONER MOELLER: So if they come back and
5 submit a future application, that they will have to show
6 facility-specific, case-by-case, rather than a general
7 argument that all their QFs have access to the market?

8 MR. HIGGINBOTTOM: That's right.

9 COMMISSIONER MOELLER: Okay. The final thing
10 that I think might confuse some people is the 5 megawatt
11 reference. Can you tell us where that came from?

12 MR. HIGGINBOTTOM: Well the Regulations draw a
13 line at 20 megawatts. The 5 megawatt line was one of PSNH's
14 own choosing. There's nothing in our Regulations or in the
15 preamble to the Regulations that points to 5 megawatts.

16 COMMISSIONER MOELLER: I was really scratching my
17 head when I saw that number, and never remembered us
18 deliberating it, and it's because we didn't.

19 (Laughter.)

20 COMMISSIONER MOELLER: So again, thank you,
21 Mr. Chairman. I hope this clarifies this Order and is
22 worthy of, at least from my perspective, calling it.

23 CHAIRMAN WELLINGHOFF: Thank you very much. Does
24 anyone else have anything else on this particular Order?

25 (No response.)

1 CHAIRMAN WELLINGHOFF: I think we're ready to
2 vote, Madam Secretary.

3 SECRETARY BOSE: The vote on this item begins
4 with Commissioner Norris.

5 COMMISSIONER NORRIS: Aye.

6 SECRETARY BOSE: Commissioner Moeller.

7 COMMISSIONER MOELLER: Aye.

8 SECRETARY BOSE: Commissioner Spitzer.

9 COMMISSIONER SPITZER: Vote aye.

10 SECRETARY BOSE: And Chairman Wellinghoff.

11 CHAIRMAN WELLINGHOFF: Vote aye.

12 If there's nothing further to come before us,
13 this meeting is adjourned.

14 (Whereupon, at 11:41 a.m., Thursday, April 15,
15 2010, the open meeting of the Commissioners was adjourned.)

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