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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

968TH COMMISSION MEETING
OPEN SESSION

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

Thursday, March 17, 2011
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

7 COMMISSIONER CHERYL A. LaFLEUR

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1 PROCEEDINGS

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, pursuant to the
6 Sunshine Act. If you could all join me now for the Pledge
7 of Allegiance. Thank you.

8 [PLEDGE OF ALLEGIANCE.]

9 CHAIRMAN WELLINGHOFF: Since the February 17th
10 Open Meeting, we've issued 64 notational orders, and we'll
11 be discussing one of those notational orders right after we
12 take a vote on the Consent Agenda. But as for opening
13 matters, I understand, Commissioner Spitzer, you have some
14 comments you'd like to make.

15 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
16 Just very briefly, we have received from the Accounting
17 Division, Bryan Craig, a notice to all jurisdictional
18 natural gas pipeline companies and public utility companies
19 and Licensees regarding the revision to Accounting Release
20 No. 5, "Capitalization of Allowance for Funds Used During
21 Construction, AFUDC," and just want to thank Mr. Craig, my
22 colleagues and all at FERC for aligning good accounting
23 practices with good environmental practices.

24 The pre-filing process has been very successful
25 in resolving disputes prior to the filing. And also, as my

1 colleagues and I distinctly recall Commissioner Norris and
2 Commissioner Moeller pointing out the ratepayer benefits
3 and enhanced infrastructure attendant to the timing issues
4 in AFUDC, and the folks in Accounting sometimes labor in
5 obscurity, and I think they ought to be congratulated and
6 thanked for their good work on behalf of the ratepayers of
7 the U.S. Thank you.

8 CHAIRMAN WELLINGHOFF: Thank you very much, Mark.
9 Thank you. Now Madam Secretary, if we go on to the Consent
10 Agenda?

11 SECRETARY BOSE: Good morning, Mr. Chairman.
12 Good morning, Commissioners. Since the issuance of the
13 Sunshine Act notice on March 10th, 2010, no items have been
14 struck from this morning's meeting. Your Consent Agenda is
15 as follows:

16 Electric Items: E-1, E-3, E-5, E-12, E-13, E-14,
17 E-15 and E-16.

18 Gas Items: G-2, G-3 and G-4.

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

20 Certificate Items: C-2, C-4 and C-5.

21 As to E-1, Commissioner Norris is dissenting in
22 part with a separate statement, and Commissioner LaFleur is
23 concurring, with a separate statement. We will now take a
24 vote on this morning's Consent Agenda items, beginning with
25 Commissioner LaFleur.

1 COMMISSIONER LaFLEUR: Thank you. Noting my
2 concurrence on E-1, I vote aye.

3 SECRETARY BOSE: Commissioner Norris.

4 COMMISSIONER NORRIS: And noting my partial
5 dissent on E-1, I vote aye.

6 SECRETARY BOSE: Commissioner Moeller.

7 COMMISSIONER MOELLER: Votes aye.

8 SECRETARY BOSE: Commissioner Spitzer.

9 COMMISSIONER SPITZER: Votes aye.

10 SECRETARY BOSE: And Chairman Wellinghoff.

11 CHAIRMAN WELLINGHOFF: Vote aye.

12 SECRETARY BOSE: Approval. Now move on to the
13 discussion and presentation item for this morning, which is
14 the demand response compensation Final Rule in Order No.
15 745 and Docket No. RM-1017, which was notationally voted
16 and issued by the Commission on March 15th, 2011.

17 The presentation will be by David Hunger from the
18 Office of Energy Policy and Innovation. He is accompanied
19 by Caroline Daily and Arnie Quinn, also from the Office of
20 Energy Policy and Innovation; Dennis Hough and Helen Dyson
21 from the Office of the General Counsel; and Eric Icart from
22 the Office of Energy Market Regulation.

23 MR. HUNGER: Okay, thanks. Good morning, Mr.
24 Chairman and Commissioners. On Tuesday, March 15th, the
25 Commission issued Order No. 745, a Final Rule on demand

1 response compensation in wholesale energy markets. The
2 Commission issued a Notice of Proposed Rulemaking on March
3 18th, 2010, which proposed a remedy to concerns that
4 inappropriate compensation inhibited meaningful demand-side
5 participation.

6 The Commission issued a supplemental Notice of
7 Proposed Rulemaking in response to the first round of
8 comments, and held a subsequent technical conference,
9 providing the opportunity for additional comment. This
10 process resulted in considerable input from and discussion
11 with market participants and stakeholders, as well as
12 nearly 3,800 pages of comments in total.

13 The Final Rule requires that RTOs and ISOs pay
14 demand response resources, participating in the day-ahead
15 and real-time wholesale energy markets, the locational
16 marginal price or LMP, when it is cost effective to do so,
17 based on a net benefits test, in order to ensure just and
18 reasonable rates.

19 The specific compensation approach is based on
20 the finding that demand response resources are capable of
21 balancing supply and demand in the wholesale energy
22 markets, and when dispatched by the RTO or ISO is cost
23 effective as determined by the net benefits test described
24 in the Final Rule, should therefore be paid the LMP.

25 The Final Rule recognizes that demand response

1 resources should be paid LMP only when the benefits of
2 compensating demand response resources to LMP outweigh the
3 energy market cost to consumers of compensating the demand
4 response with the LMP. However, it recognizes that
5 dispatching demand response resources may result in an
6 increased cost per unit in dollars per megawatt hour, to
7 the remaining wholesale load associated with the decreased
8 amount of load payment bill.

9 This is the case because consumers, customers are
10 billed for energy based on units, megawatt hours of
11 electricity consumed, and the Final Rule refers to this
12 potential result as a billing unit effect of dispatching
13 demand response resources.

14 Therefore, to address this billing unit effect,
15 the draft Final Rule requires that RTOs and ISOs implement
16 the net benefits test to establish a monthly threshold
17 price based on the unique supply conditions of each RTO and
18 ISO, above which demand response resources must be paid
19 LMP. The objective of the net benefits test is to ensure
20 that the overall benefit of the reduced LMP that results
21 from dispatching demand response resources exceeds the cost
22 of dispatching and paying LMP to those resources.

23 The Final Rule also requires that the cost of
24 demand response payments be allocated among all consumers
25 who benefit from the lower LMP resulting from a demand

1 response. The Final Rule also directs each RTO and ISO to
2 include as part of its compliance filing an explanation of
3 how, in light of the requirements of this Final Rule, its
4 measurement and verification protocols will continue to
5 ensure that the appropriate baselines are set, and that
6 demand response resources will continue to be adequately
7 measured and verified as necessary to ensure the
8 performance of each demand response resource.

9 Each RTO must submit a compliance filing on or
10 before July 22nd, 2011, to reflect these requirements in
11 the tariff. These compliance filings will become effective
12 prospectively from the date of the Commission orders
13 addressing those filings.

14 Finally, the Final Rule also requires each RTO
15 and ISO to undertake a study examining the requirements for
16 and impacts of implementing a dynamic approach to the
17 incorporation of the billing unit effect into the dispatch
18 algorithm, both day-ahead and real-time energy markets, and
19 to file the results of the study with the Commission on or
20 before September 21st, 2012.

21 The Final Rule finds that this approach for
22 compensating demand response resources helps to ensure the
23 competitiveness of wholesale energy markets, and remove
24 barriers to the participation of demand response resources,
25 thus ensuring just and reasonable rates. This completes

1 our presentation, and we would be happy to answer any
2 questions.

3 CHAIRMAN WELLINGHOFF: Thank you very much,
4 David. I want to thank you for that explanation of this
5 rule that we voted on in the notational. I thank the
6 entire team for assisting the Commission so ably, as we
7 considered and debated the issues presented here. You
8 provided us with the foundation, support and clear thinking
9 upon which to make the decisions we've made.

10 I also want to thank Commissioner Moeller and his
11 team for providing us with his counterparts to the rule,
12 and his comprehensive dissent. I find his perspective
13 valuable. The Commission's proposed rulemaking elicited
14 comments from almost 150 commenters.

15 We heard from representatives of large and small
16 customers, who told us they were interested in demand
17 response because they want reliable electricity service at
18 the lowest reasonable cost.

19 Mayors and governors are interested in keeping
20 energy costs affordable for their citizens and businesses,
21 because it's critical the continued growth and prosperity
22 of their cities and states. They told us they see demand
23 response as a way to help grapple with difficult budget
24 issues, meet sustainability goals and help all users of
25 electricity save money.

1 Utilities and aggregators of demand response are
2 interested in offering consumers innovative ways to manage
3 their energy costs. RTOs and ISOs want to run their
4 systems efficiently and reliably. We heard from
5 generators, the competitors to demand response resources,
6 if you will, who want the competition to be on a level
7 playing field.

8 Not surprisingly, these commenters have strong
9 views about how to achieve these goals. I thank the
10 commenters for articulating those opinions for us, and I
11 appreciate the discussions that I've had with my colleagues
12 on these issues.

13 After careful consideration, we decided that the
14 RTO or ISO should be able to accept the voluntary offer of
15 a customer to reduce his or her demand in order to balance
16 supply and demand on the system, when the total cost to all
17 customers is lower if the RTO accepts demand response,
18 rather than the higher offer from an alternative resource.

19 Because the marginal value of the market of the
20 resource necessary to balance supply and demand is the
21 market clearing price, the LMP, it makes sense that the
22 cost-effective demand response resource should receive the
23 LMP, as do other resources dispatched for that hour.

24 As the order explains in detail, we put
25 conditions on this compensation approach. First, that the

1 demand response resources is capable of balancing supply
2 and demand for the system, and second, that it is cost
3 effective to dispatch and pay the LMP to the demand
4 response resource for the services it provides.

5 I believe the approach to compensating demand
6 response resources required by the Final Rule will have
7 three important effects. It will help provide more
8 resource options for efficient and reliable operation; it
9 will encourage new entry and competition in energy markets;
10 and it will spur deployment of new technologies. I believe
11 that with this action we have acted here to ensure just and
12 reasonable, and not unduly discriminatory or preferential
13 wholesale rates for ratepayers.

14 For these reasons, I voted for this Final Rule.
15 Colleagues, comments? Commissioner Moeller.

16 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
17 Thank you for the chance to comment on the rule that I
18 dissented on. I would urge everyone, whether they're
19 directly involved in this issue or not, to read the rule
20 carefully, hopefully read the dissent carefully as well,
21 because obviously you know I have strong feelings on the
22 issue.

23 Yet there are things we agree on. The question
24 here really is not whether we compensate demand response,
25 because we need demand response. The question is how we

1 compensate it. And the reason I have strong feelings is
2 that I feel that if we don't compensate it enough, it won't
3 be there when we need it. But if we overcompensate it, it
4 has perverse economic impacts.

5 The fact of the matter is in compensating demand
6 response, we're actually paying people to reduce or stop
7 economic output, whether it's commercial output or
8 industrial output. My concern is that if we overcompensate
9 them, especially at a time when we are coming out of an
10 economic downturn, we could have job-killing results, and
11 that's not what I, I don't think anyone wants. I want us
12 to do it right.

13 Now if we really take this issue to the next
14 level, I don't think we have a disagreement that the
15 ultimate demand response is having dynamic retail pricing,
16 and that unfortunately is not in our purview. That is in
17 the purview of our state commissions. So lacking that, my
18 concern is that this effort will actually set back retail
19 dynamic pricing.

20 If we take a look at the 40,000 foot level of
21 this rule, we clearly have vested interests on lots of
22 sides. We have the vested interest of the demand response
23 community, which generally but not universally wanted
24 essentially what the rule has provided, a full LMP. The
25 generation community thought that that was

1 overcompensation. They wanted the other approach.

2 The industrial consumers, from my perspective
3 they were happy to be paid by captive residential customers
4 to reduce output. All that is vested interest. But the
5 people who don't have the vested interest are the people
6 who regulate our organized markets, and we regulate them.
7 So they had to be relatively careful in what they said.

8 What they ask number one is don't standardize
9 this across the United States, and yet that's what the rule
10 does. Secondly, they said please, please, please don't
11 give us a net benefits test, because we don't know how to
12 do it. Yet that's what the rule did.

13 So my concern is obviously strong feelings that
14 demand response is necessary, but we need to compensate it
15 right. I want to acknowledge the staff efforts as you did.
16 I mean there were a lot of weekends and nights that were
17 burned on this thing, starting in about February of 2010.
18 I mean the staff really came through, and that's really a
19 testament to the fine people we have here.

20 So Mr. Chairman, thank you for letting me express
21 my thoughts, and I look forward to the discussion
22 continuing.

23 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
24 Moeller. Commissioner Spitzer?

25 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

1 I support the Final Rule the Commission issued earlier this
2 week. It was a long but very valuable discussion, and I'm
3 proud of the work on all sides of this issue from the
4 commentators, through the team, through my colleagues.

5 I've often observed that government is about the
6 balancing of competing interests. The question of the
7 appropriate compensation for demand response resources in
8 the organized wholesale markets raises a series of complex
9 and competing interests that need to be balanced.

10 Those competing interests include generation
11 versus demand response, demand response participants versus
12 load, uniformity versus recognition of unique regional
13 circumstances, and federal versus state interests. These
14 competing interests interrelate, which adds to the
15 complexity of this proceeding.

16 It is apparent from the record that the
17 compensation question generates a debate over both theory
18 and practice on which reasonable minds may differ. To that
19 point, I very much respect the views of my colleague,
20 Commissioner Moeller, who does not agree that the payment
21 of full locational marginal price to demand response
22 resources in the organized wholesale markets is
23 appropriate.

24 However, I believe that the result achieved in
25 the Final Rule correctly balances the many competing

1 interests to the ultimate benefit of the ratepayers. I
2 remain sensitive to the concerns of the generators. I
3 continue to support development of energy infrastructure,
4 including supply resources.

5 However, I also support the elimination of
6 barriers, so that all resources may compete on a level
7 playing field. I've concluded that the Final Rule balances
8 those and achieves those objectives. An important reason
9 for my support for the Final Rule is that it improves upon
10 the Notice of Proposed Rulemaking by requiring compensation
11 to demand response resources at full LMP, only when capable
12 of balancing supply and demand, and can do so in a cost-
13 effective manner.

14 In determining cost effectiveness, the Final Rule
15 recognizes that each RTO-ISO will differ, depending upon
16 the individual profile of its region. The Final Rule also
17 respects state interests while exercising appropriate
18 authority over the organized wholesale power markets under
19 the Federal Power Act.

20 There was one particularly challenging aspect of
21 this Final Rule as a matter of law. The regulatory outcome
22 mandated herein precludes other potential outcomes arising
23 from RTO-ISO stakeholder processes. As one who respects
24 regional stakeholder deliberations, this conclusion does
25 not come easily.

1 However, a request we heard from the majority of
2 the commentators in this docket is that the Commission
3 provide regulatory certainty in the Final Rule, rather than
4 use the Final Rule to send policy questions back to the
5 stakeholders for further meetings and further discussions.
6 Regulatory finality is as important as regional diversity,
7 particularly in a sector as capital-intensive as
8 electricity.

9 Moreover, settled law allows for the
10 determination of business and regulatory plans for demand
11 response participants, generators, load-serving entities,
12 RTOs, state regulators and consumers on a predictable and
13 stable basis. This virtue of the Final Rule, in my view,
14 exceeds any potential limitations it imposes.

15 I again want to thank the team and my colleagues
16 and everyone at FERC and outside the building who devoted
17 so much time and effort to this case.

18 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
19 Spitzer. Commissioner Norris.

20 COMMISSIONER NORRIS: Thank you, Chairman. Let
21 me also start by thanking the staff and I appreciate your
22 hard work on this, and I'm actually very pleased we got
23 this out before today, because even the non-responsible
24 Irishmen among you would have had a hard time combining the
25 vote on this today along with St. Patty's Day. So it's

1 probably a good thing we didn't combine those two elements
2 for you.

3 Let me say that I think this rule does a number
4 of positive things. It helps consumers, because it
5 empowers them to make decisions about electricity choices.
6 It helps with competition and also runs the system more
7 efficiently. I believe it also unleashes a new level of
8 innovation in the demand response sector, that can bring
9 about a lot of the valuable things such as competition and
10 managing the system efficiently by spurring more investment
11 tools to take this to a higher level.

12 I think ultimately this adds resources to the
13 mix. It helps us meet challenges such as the new EPA
14 rules, reliability challenges, and also helps mitigate
15 costs going forward by adding to the competition mix. In
16 essence, the Final Rule recognizes that demand response
17 resources should receive a level of compensation that
18 reflects the value to the marketplace that these resources
19 provide.

20 I also want to make note, however, that it's
21 important that with opportunity comes responsibility. If
22 demand response resources are paid the full market price,
23 we must ensure that they are treated as equal market
24 participants, with equivalent obligations to those imposed
25 on other resources. The Final Rule recognizes this.

1 In particular, it correctly recognizes the need
2 to ensure that the reductions that demand response
3 providers are paid for are true and accurate. The Final
4 Rule calls on the ISOs and RTOs to take another look at the
5 measurement and verification protocols, and ensure their
6 integrity. As the demand response industry grows and
7 matures, we may also need to take a broader look at the
8 rules and procedures with regard to demand response
9 resources, to make sure they are appropriate to their level
10 of participation in the organized wholesale competitive
11 markets.

12 I thank you very much again for your work on
13 this.

14 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
15 Norris. Commissioner LaFleur.

16 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman.
17 Since I joined the Commission last summer, this rulemaking
18 has been one of the matters I've heard and read the most
19 about, from people with strong views on all sides of the
20 issues.

21 As I've observed before, it seems to be an issue
22 to which people bring an almost religious fervor,
23 particularly with respect to whether they view demand
24 response and generation as comparable resources in the
25 energy market.

1 You certainly know that a docket is important
2 when experts like Bill Hogan and Fred Kahn are so deeply
3 involved, and it's poignant that this was Dr. Kahn's last
4 regulatory engagement in his amazing career.

5 I thought a great deal about this issue, and
6 while respecting the views of Commissioner Moeller, I'm
7 pleased to join my colleagues in supporting the Final Rule.

8 I believe that the Final Rule correctly reflects
9 both the comparability and the differences between demand
10 response and generation. Demand response and generation
11 are equally capable of balancing supply and demand at the
12 margin, and therefore both should receive the same price.
13 However, because the market is measured and billed in
14 megawatt hours delivered, demand response and generation
15 have different effects on the market.

16 Today's order balances both of these
17 characteristics of demand response, and requires demand
18 response to be paid the locational marginal price when it
19 is shown to be cost effective. I believe the monthly net
20 benefits test that we voted out is workable and respects
21 the comments we received from all the regional
22 organizations on the difficulty of integrating demand
23 response and dispatch at this time, and is a much more
24 simplified, hopefully workable net benefits test.

25 I believe this will increase the competitiveness

1 of the organized electricity markets, and help ensure that
2 they produce just and reasonable rates for customers.
3 That's good for competitive markets, it's good for
4 customers, and by bringing down the cost of electricity
5 it's ultimately good for the economy.

6 For a time earlier in my career, I had direct
7 responsibility for delivering demand side services to
8 customers, including very early generation direct load
9 control. Based on that experience, I know that demand
10 response doesn't just happen.

11 It requires technology, including aggregation
12 technology and customer organization and communication. I
13 believe that the Final Rule gets the market signals right,
14 and will encourage investment in the infrastructure needed
15 to allow customers to collectively participate in wholesale
16 markets, when they would not be able to do so directly.

17 As Commissioner Norris observed, the Final Rule
18 also emphasizes the critical importance of measurement and
19 verification. Demand response resources are not directly
20 measured by a meter in the same way that generation
21 resources are, but it's equally important that they be
22 measured accurately. We must set clear expectations for
23 how demand response resources will be measured, how their
24 baselines will be set, and how their performance will be
25 verified, and I believe the Final Rule does that.

1 Finally, as with so many other aspects of our
2 work at the Commission, I know that demand response
3 requires efforts by both state and federal regulators. One
4 of our key jobs as federal regulators is to ensure that
5 wholesale market rules are fair and effective, and that
6 they evolve to allow new technologies to participate.

7 I believe this rule is an important step in that
8 effort. Thank you to the team, those at the table and the
9 many more, and to all my colleagues and all who
10 participated in the docket, for the hard work that's gone
11 into this rule.

12 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
13 LaFleur, and again, thank you to the team. Madam
14 Secretary, if we could have our next presentation please?

15 SECRETARY BOSE: Yes sir. The next presentation
16 for this morning is a joint presentation. It's on Items E-
17 4, E-6, E-7, E-8, E-9 and E-10 concerning bulk power system
18 reliability. The presentation will be by Jonathan First
19 from the Office of the General Counsel, and Keith O'Neal
20 from the Office of Electric Reliability.

21 They're accompanied by Karen Lawson from the
22 Office of the General Counsel and Kumar Agarwal from the
23 Office of Electric Reliability as well.

24 MR. FIRST: Good morning Mr. Chairman and
25 Commissioners. Before you today for your consideration are

1 six draft orders pertaining to bulk power system
2 reliability. Each of these orders address reliability
3 standards or other matters proposed by the North American
4 Electric Reliability Corporation or NERC, the Commission-
5 certified electric reliability organization.

6 Agenda Item No. E-4 is a draft order on rehearing
7 of Order No. 743, revision to the electric reliability
8 organization definition of bulk electric system. In the
9 underlying order, Order No. 743, the Commission directed
10 NERC to develop modifications to NERC's definition of the
11 term "bulk electric system," to address the Commission's
12 concern that currently, regional entities have broad
13 discretion to define the parameters of the bulk electric
14 system in their regions, and that the exercise of this
15 discretion has led to inconsistencies in how facilities are
16 classified within and among the regions.

17 The draft order, E-4, denies request for
18 rehearing and upholds the underlying directive from the
19 Final Rule that NERC, as the ERO, develop appropriate
20 revisions to the definition of bulk electric system, to
21 address the Commission's concerns. The order on rehearing
22 finds that the rationale for the directive set forth in
23 Order No. 743 is justified and supported, from both a legal
24 and technical point of view.

25 In addition, the order on rehearing provides

1 clarification that local distribution facilities, which are
2 excluded under Section 215 of the Federal Power Act, should
3 also be excluded from the definition of bulk electric
4 system. While petitioners sought clarification regarding
5 various aspects of the exemption process discussed in Order
6 No. 743, the order on rehearing leaves these matters to
7 NERC's discretion, consistent with the underlying order.

8 Finally, the order on rehearing makes clear that
9 the intent of the Final Rule is not to alter NERC's current
10 compliance registration process, or shift the evidentiary
11 burden for registration. Thank you. That concludes my
12 presentation, and Keith O'Neal will now discuss other
13 reliability matters on the agenda.

14 MR. O'NEAL: Thank you, Jonathan. Item E-10 is a
15 draft approving revisions to NERC's rules of procedures.
16 The revisions outline procedures NERC would follow in order
17 to respond to Commission directives, if the existing
18 process cannot produce a responsive reliability standard.

19 In addition to E-10, before the Commission are
20 four other agenda items pertaining to reliability standards
21 submitted by NERC. Item E-6 is a draft Final Rule that
22 would approve three emergency operations and preparedness
23 reliability standards, as well as the definition of the
24 term "Blackstart Resource." The three reliability
25 standards set requirements to enable system restoration

1 from Blackstart Resources.

2 Item E-7 is a draft Final Rule that would approve
3 a regional reliability standard for planning resource
4 adequacy analysis, assessment and documentation, developed
5 by Reliability First Corporation, RFC. The regional
6 reliability standard requires planning coordinators within
7 the RFC footprint to analyze, assess and document resource
8 adequacy for the supply of load each year.

9 Item E-8 is a draft Final Rule that would approve
10 three new reliability standards dealing with
11 interconnection reliability operations and coordination
12 related to emergency preparedness and operations. These
13 reliability standards are designed to prevent instability,
14 uncontrolled separation or cascading outages that adversely
15 impact the reliability of major interconnections.

16 These standards ensure that the reliability
17 coordinator has the data necessary to assess reliability
18 within the reliability coordinator footprint, ahead of and
19 during real-time operation.

20 Item E-9 is a draft Final Rule that would approve
21 a revised regional reliability standard developed by the
22 Western Electricity Coordinating Council. The revised
23 standard provides requirements for the effective mitigation
24 of overloads on major transmission interconnections within
25 the Western Interconnection, due to unscheduled flow.

1 This concludes my presentation. We would be
2 happy to answer any questions that you may have.

3 CHAIRMAN WELLINGHOFF: Thank you Keith and
4 Jonathan and members of the team. I appreciate your work
5 very much. Reliability is an important part of our
6 responsibility here at the Commission, and these orders
7 represent a solid share of today's agenda. One year after
8 an agenda similarly for reliability orders, today's
9 reliability orders represent another step in the evolution
10 of the Commission's relationship with NERC.

11 These orders collectively show how NERC, as the
12 ERO and this Commission can work collaboratively to improve
13 the reliable operation of the grid. I want to thank the
14 staff members of the Office of Electric Reliability, the
15 Office of General Counsel, the Office of Enforcement, as
16 well as NERC and the industry for their continued diligent
17 work to improve the reliable functioning of this nation's
18 interconnected transmission network. Colleagues?
19 Commissioner Moeller.

20 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
21 I won't go into the details of the order. I think both
22 Jonathan and Keith did that fine. But I'm glad you pointed
23 out that tomorrow is the one-year anniversary of our
24 package of reliability orders that shook people up a little
25 bit, and I want to say in the last year, and I think if you

1 particularly look at this package, our reliability orders
2 are much better now.

3 They're better constructed, they read better,
4 they're more logical, and I wish to commend you, Mr.
5 Chairman, for bringing on Jonathan and his team and Joe
6 McClelland for seeing the need to address that, and commend
7 the entire 11th floor, my colleagues, and particularly
8 their advisors, who have engaged in these sets of issues,
9 very complex, controversial, the details matter, and in the
10 last year we've really turned this around; the hard work of
11 advisors to improve the orders; the messages we're sending
12 out, and I like the direction we're on.

13 So thank you for recognizing that and putting the
14 resources into doing it, and of course thanks to the people
15 who actually did it.

16 CHAIRMAN WELLINGHOFF: I like the direction too.
17 Thank you very much. Commissioner Spitzer.

18 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
19 I have a more full statement that I'll post, and I don't
20 want to belabor the anniversary issue, other than to say
21 that as you, or as my colleagues have pointed out, there's
22 been a great deal of attention to this issue, consistent
23 with the importance of the topic, and that had not always
24 been the case, but it is the case now.

25 And it is to our credit, and I agree with

1 Commissioner Moeller, that the substantive quality of the
2 orders has improved, and it is due not only to the staff
3 and to my colleagues and their advisors, but to the
4 stakeholders, to NERC and its staff and its board of
5 directors.

6 During the past year, rather than bemoaning
7 circumstances, we've engaged in a cooperative dialogue in a
8 number of occasions, both public and through the docket, in
9 individual proceedings, that have made us come a great
10 deal. So I think great progress has been made, and I'm
11 pleased with the way we're going, and I look forward to
12 future commitment of all the stakeholders to the
13 reliability of the grid.

14 CHAIRMAN WELLINGHOFF: Thank you, Commissioner
15 Spitzer. Commissioner Norris.

16 COMMISSIONER NORRIS: Well, at risk of being
17 redundant, this deserves redundancy, I think, to
18 acknowledge that it's been a year now, and I think what has
19 evolved in this past year has been very positive for a more
20 reliable system, which is what ultimately this is all
21 about.

22 So I'm equally pleased with our staff, with NERC,
23 the international regulators, the industry, for all
24 rallying around this issue in the last year to get this
25 effort, I think, on track going forward. So I think we're

1 in a better place today than we were a year ago, and I
2 think it will only continue to improve as long as we keep
3 communication going going forward.

4 I would just probably use as an example of that
5 is E-4 today and the bulk electric system. It represents a
6 good model for future reliability orders. Just to make a
7 few notes on that specifically, the BS NOPR and Final Rule,
8 the Commission identified a reliability concern, as to
9 whether the definition of the bulk electric system
10 encompasses all facilities necessary for operating an
11 interconnected electric transmission network.

12 We then suggested a solution we thought would
13 address the reliability concern, adopting an 100 kV bright
14 line test, with an exemption process. I want to note
15 briefly and mention this exclusion and exemption process,
16 because that was in the draft order.

17 I know that this issue has caused a lot of
18 concern, especially for entities in the West. In addition
19 to the exemption process that we have directed NERC to
20 develop, the order clarifies that NERC may establish
21 criteria to identify local distribution facilities and
22 certain categories of radial lines that qualify for
23 exclusion from the definition of the bulk electric system,
24 and therefore do not need to apply for exemption.

25 Together, I believe our directives in this

1 rulemaking represent a flexible approach that addresses the
2 concerns the commenters raised. I recognize the importance
3 of this issue to many in industry, and we will be very
4 cognizant, I will be very cognizant of that when we receive
5 NERC's proposed and revised definition for an exclusion
6 criteria and the exemption process. So I look forward to
7 that being a part of this going forward.

8 And again, I think that's a good example of how
9 the evolution in the last year of communicating and working
10 together with industry and with NERC, and the international
11 regulators, have developed a better process here. Thank
12 you.

13 CHAIRMAN WELLINGHOFF: Thank you, John.
14 Commissioner LaFleur.

15 COMMISSIONER LaFLEUR: Thank you, Mr. Chairman,
16 and thank you to the team. I just want to add a few
17 thoughts. Everyone's already observed that this is the one
18 year anniversary. Nobody's mentioned that it's Evacuation
19 Day in Boston, so I can add that holiday in.

20 But obviously the orders that were voted out a
21 year ago tomorrow were a springboard for a lot of
22 discussion with NERC and industry about what's gone well
23 and what hasn't gone well since we started working on
24 Section 215, and I missed the first technical conference;
25 was delighted to participate in the other two, and I look

1 forward to continuing the discussions and continuing to do
2 better and seeing where we can continue to improve.

3 Two of the reliability orders that we voted out
4 today directly relate to the March 18th orders. One that
5 has already been commented on by my colleagues is the bulk
6 electric system order. I do strongly support the order,
7 because I think it addresses the potential for a
8 significant gap in reliability that needs to be addressed.

9 But it also really carefully hews to the law and
10 to the approach set forth in Order 693, by setting out a
11 proposed one possible solution and allowing NERC to develop
12 an alternative equally effective solution. Another order
13 that also had its roots on last year's orders was E-10. I
14 want to say a few words about that.

15 In one of the orders that was voted out last
16 March, the Commission expressed concern that NERC's rules
17 could be used to prevent NERC from complying with its
18 obligation as the ERO, to submit to the Commission a new or
19 modified reliability standard pursuant to a Commission
20 directive.

21 And as a result, the Commission directed NERC to
22 propose modifications to both its rules of procedure and
23 its standards development process, to avoid that outcome.
24 In September, we approved NERC's proposed revisions to a
25 standards development process, and in today's order, we

1 approved NERC's proposed revisions to its rules of
2 procedure.

3 I want to commend NERC and its stakeholders for
4 their hard work on developing these proposed revisions.
5 Taken together, they equip the NERC board with multiple
6 options to address the Commission's concern. I want to
7 note that the commenters in E-10 requested that the
8 Commission use its Section 215(d)(5) authority to direct
9 modifications to standards judiciously.

10 I agree that the Commission should use this
11 authority judiciously, and only after having given due
12 weight to the technical expertise of the ERO, only when
13 after having given due weight to the technical expertise we
14 deem it appropriate to issue a directive, to carry out our
15 responsibilities under Section 215. To that end, I note
16 that four of the reliability rules we voted out today
17 contain no directives.

18 Finally just in closing, I know that all of us
19 have been following the dramatic and tragic events in Japan
20 in the last week. Like other natural disasters, this one
21 underscores the dependence of modern society on the
22 electric grid, and the importance of preparing for high
23 impact, low frequency events such as those we discussed at
24 the February technical conference.

25 I'm pleased that NERC recently launched a severe

1 impact resilience task force in the last few weeks, and I
2 encourage these efforts, and hope those result in specific
3 action plans to further protect the electric grid. Thank
4 you.

5 CHAIRMAN WELLINGHOFF: I think we're ready to
6 vote. Madam Secretary?

7 SECRETARY BOSE: As you know, we'll be taking a
8 vote on these items together, and the vote begins with
9 Commissioner LaFleur.

10 COMMISSIONER LaFLEUR: I vote aye.

11 SECRETARY BOSE: Commissioner Norris?

12 COMMISSIONER NORRIS: Aye.

13 SECRETARY BOSE: Commissioner Moeller?

14 COMMISSIONER MOELLER: Votes aye.

15 SECRETARY BOSE: Commissioner Spitzer?

16 COMMISSIONER SPITZER: Votes aye.

17 SECRETARY BOSE: And Chairman Wellinghoff?

18 CHAIRMAN WELLINGHOFF: Vote aye. Now I think we
19 have one more matter. Commissioner Moeller would like to
20 make a closing statement.

21 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
22 I appreciate that. It's on the same topic that
23 Commissioner LeFleur referenced, and uncharacteristically
24 I'm going to read a little bit, so that I don't say
25 anything wrong in such a sensitive time.

1 We've been witness in the past week to the
2 unprecedented disaster in Japan and this nation stands with
3 the Japanese people, as they seek to overcome this event.
4 Given our jurisdiction over various aspects of the
5 electric, gas, hydropower and oil pipeline industries,
6 we've been monitoring the events in Japan with respect to
7 how we can help the Japanese people, and concerning the
8 ways that this nation can be better prepared in the event
9 that we suffer a disaster that is similar in magnitude.

10 While we've not received any requests for
11 assistance, I fully expect that this Commission would offer
12 whatever assistance may be required, and cannot speak for
13 the industries we regulate, but I presume that they too
14 would offer whatever assistance they can.

15 Regarding our own preparation for events of
16 similar magnitude, I'm interested in making sure that our
17 basic infrastructure is operated and built in such a way
18 that it is most resilient to even the most severe
19 disasters, so that recovery efforts can move forward as
20 quickly as possible.

21 FERC has an especially important role with
22 respect to electric reliability, and events of this past
23 week illustrate the ways that electricity is essential to
24 our most vital needs. Among its many benefits, electricity
25 is critical to the proper supply of heat, light,

1 transportation, drinking water and telecommunications
2 services.

3 Though nuclear plants provide electricity, they
4 also need a reliable source of electricity when they are
5 not operating. Thus, I fully support our Office of
6 Electric Reliability, as it examines the best ways for us
7 to be prepared for the most severe disasters. Most
8 obviously, we should examine our inventories of electric
9 transformers and other vital assets.

10 We should examine our pre-positioning of assets,
11 and further review our ability to coordinate with the gas,
12 water, nuclear and telecommunications industries. Our
13 planning for worst possible events also needs further
14 study, and we should further study whether any of this
15 needs to be mandated, or if goals can be achieved without
16 government mandate.

17 As Commissioner LaFleur mentioned, our nation has
18 already made great advances in preparation for what are
19 sometimes called high impact, low frequency events. The
20 NERC and various private and governmental organizations
21 already have ongoing work related to these matters. In
22 fact, such ongoing work already occupies a significant
23 amount of our efforts here at the Commission.

24 But the events of last week prove that no matter
25 how well we have designed, built and operated our basic

1 infrastructure, natural events can radically disrupt our
2 lives, and we need to be prepared. Thank you for letting
3 me make the statement, and I'll post it online later.

4 CHAIRMAN WELLINGHOFF: Thank you for that very
5 timely, I think, and appropriate statement, and I agree
6 with the sentiments that you've expressed there,
7 Commissioner Moeller. Anyone else have anything? If not,
8 we're adjourned.

9 (Whereupon, at 10:47 a.m., the Open Meeting was
10 adjourned.)

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