

1 FEDERAL ENERGY REGULATORY COMMISSION

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5 IN THE MATTER OF: :

6 CONSENT MARKETS, TARIFFS AND RATES - ELECTRIC :

7 CONSENT MARKETS, TARIFFS AND RATES - GAS :

8 CONSENT ENERGY PROJECTS - MISCELLANEOUS :

9 CONSENT ENERGY PROJECTS - CERTIFICATES :

10 DISCUSSION ITEMS :

11 STRUCK ITEMS :

12 -----X

13 982ND COMMISSION MEETING

14 OPEN SESSION

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Commission Meeting Room

18

Federal Energy Regulatory

19

Commission

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888 First Street, N.E.

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Washington, D.C.

23

Thursday, June 21, 2012

24

10:48 a.m.

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1 APPEARANCES :

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3 COMMISSIONERS PRESENT:

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5 CHAIRMAN JON WELLINGHOFF (Presiding)

6 COMMISSIONER John R. NORRIS

7 COMMISSIONER TONY CLARK

8 COMMISSIONER PHILIP MOELLER

9 COMMISSIONER CHERL A. LaFLEUR

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1 PROCEEDINGS

2 10:48 a.m.

3 CHAIRMAN WELLINGHOFF: All right. We'll come to
4 order. We're finally ready to go here. Good morning. This
5 is the time and place that has been noticed for the opening
6 meeting of the Federal Energy Regulatory Commission, to
7 consider matters that have been duly posted in accordance
8 with the Government Sunshine Act. Please join us in the
9 Pledge of Allegiance.

10 (PLEDGE OF ALLEGIANCE.)

11 CHAIRMAN WELLINGHOFF: Well our since our 17th
12 open meeting, we've issued 93 notational orders, so we have
13 been busy, quite busy, up from 55 last month. Today, I've
14 got a few opening issues and announcements.

15 First, I'd certainly want to personally welcome
16 our newest Commissioner, Tony Clark to the Commission, and
17 to tell Tony how prompt we are all the time starting these
18 meetings.

19 Sorry for that Tony, but we're going to try to
20 keep on schedule in the future. As you know, Commissioner
21 Clark comes to us from North Dakota. He spent 12 years with
22 the North Dakota Public Utilities Commission as Commissioner
23 and chairman. Commissioner Clark also served as president
24 of the National Association of Regulatory Utility
25 Commissioners, and has broad experience in the energy and

1 regulatory matters field.

2 One thing I noticed, Tony, is that it's 88
3 degrees outside right now, which is on its way to 99, which
4 is 103 heat index, and in Fargo, it's 61, on its way to 79.
5 So I'm not sure that you're ready to get into it here this
6 summer, but you know, just stay inside, stay cool, drink
7 lots of water.

8 I also want to welcome, not welcome. I want to
9 congratulate Commissioner Norris for being sworn into a
10 second term. John, we're pleased to have that happen. So
11 we know that you're going to be here for a while more with
12 us, and so we have a full complement now in the Commission.
13 So congratulations to both of you.

14 I'm also pleased to announce the Commission is
15 planning as many as five regional technical conferences, to
16 explore the coordination between the natural gas and
17 electric industries. These conferences, which are
18 tentatively scheduled to cover the Midwest, West, New
19 England, New York and Atlantic and Southeast, which each
20 include a staff presentation on infrastructure in that
21 region, and an opportunity for a staff-led industry
22 discussion of national issues affecting the coordination
23 between gas and electric markets, electric reliability and
24 those issues of special significance to the particular
25 region.

1 My colleagues and I look forward to attending
2 these conferences as our schedules permit. Details are
3 still being worked out as to the dates and locations of each
4 of them. But we plan to hold them primarily in July and
5 August, with some conferences to be held here in Washington,
6 the Commission's headquarters, and some to be held in
7 regional centers.

8 We're looking forward to a productive discussion
9 that will us to identify and move forward on steps for both
10 the industry and regulators, both us and state regulators if
11 necessary, to improve coordination between the two
12 critically important energy sectors, gas and electric.

13 As a final note, did anybody go to the Nats game
14 last night? As I understand, there was a whole contingent
15 there from our Division of Analytics and Surveillance, and
16 they were appropriately recognized, as you can see here, at
17 the park.

18 (Laughter.)

19 CHAIRMAN WELLINGHOFF: So I'm glad that FERC is
20 given the appropriate reputation throughout the community,
21 and I want to thank them for that firm-wide. So with that,
22 any of my other colleagues have any announcements or maybe
23 you want to say something, Phil.

24 COMMISSIONER MOELLER: First of all John, of
25 course we want to welcome Tony, congratulate John for

1 another term. I look forward to us being a fivesome now,
2 where we can really get the efficiencies of a full
3 commission.

4 Thank you for announcing the regional technical
5 conferences, putting staff resources behind them, and
6 putting a sense of urgency to it with the conferences,
7 hopefully this summer, July and August. As you know, I've
8 talked a lot about this issue, and I think we have some
9 short-term issues related to specific markets, the next
10 heating season.

11 I know Commissioner LaFleur has had to suffer
12 through a near-misses in New England in 2004. We want to do
13 our best to make sure that the communications between the
14 industries are adequate, so that we don't have a problem
15 this heating season in those areas where there is dependency
16 between the two fuels.

17 And then the longer-term issues, of course, of
18 making sure that we have adequate pipeline capacity, market
19 issues, some market timing issues of the two. So I
20 appreciate the resources you're dedicating to this job, and
21 look forward to attending as many of the technical
22 conferences as I can.

23 CHAIRMAN WELLINGHOFF: Thank you. I look forward
24 to it too. I'm glad we're going to proceed with this.
25 John.

1 COMMISSIONER NORRIS: I'd like to also welcome to
2 the Commission. It's good to have you here, and I'll just
3 echo what Phil said. I think rather than make a lengthier
4 statement, I appreciate your leadership on these gas
5 conferences and look forward to it.

6 I know a lot of folks in the regions have done a
7 lot of work. So getting us engaged with them and working on
8 solutions, so it will be satisfactory outcome.

9 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

10 COMMISSIONER LaFLEUR: Well, I also want to
11 welcome Tony, and not just because I don't get to speak last
12 anymore.

13 (Laughter.)

14 COMMISSIONER LaFLEUR: I was interested in
15 reading, I read more North Dakota press in the last four
16 days than I've read in the last two years, and I always feel
17 like he can learn a lot about someone from who shows up to
18 honor them.

19 It was clear from everything I read and have
20 heard and know, that Tony has the respect of his peers, not
21 just in North Dakota but around the country, for his
22 judgment and judicial temperament, and experience and
23 dedication to customers. So I look forward to that.

24 It's great to have somebody from an energy-
25 producing region of the country, and I'm very excited to be

1 continuing to serve with John, who really brings so much to
2 the Commission. So congratulations to both of you.

3 I have nothing to add on gas and electric. It's
4 all been said. I'll try to remember as many of them as I
5 can, because I think it's an extremely important issue.

6 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony.

7 COMMISSIONER CLARK: Thank you, Mr. Chairman, and
8 I suppose that my first meeting, a few thanks are in order,
9 as I've made my way through the confirmation process. Of
10 course first thanks to President Obama for the appointment
11 to the Commission, as well as Senator McConnell, who
12 forwarded my name to the White House and of course Senator
13 Hogan, who was my prime sponsor, being from North Dakota.

14 Thanks also to the chairman, members of the
15 Commission. It's good to be here. I've worked with all of
16 you in the past, in my role both at NARUC and at the state
17 commission, and I'm looking very much forward to digging in.

18 When I walked into my office on Tuesday morning,
19 outside of the furniture there were three items that were in
20 there. One was, of course, the American flag, one was the
21 FERC flag, and one was the flag of my home state, North
22 Dakota.

23 I think that's probably the first time there's
24 been a North Dakota flag in the corner of one of these FERC
25 offices. But I hope that my time there will serve me well

1 with some of the issues that the Commission is dealing with.

2 As all of you know, my home state has been the
3 epicenter for probably one of the more remarkable oil and
4 gas plays, not just on the North American continent but
5 currently in the world right now, and I think we've learned
6 some things along that process. Mostly good developments
7 but some challenges that come along with that sort of energy
8 development, not only in oil and gas, of course, but
9 especially on the renewable side in electricity, over 1,400
10 megawatts that have gone in over the last decade or so.

11 So I hope that all serves me well as I move into
12 my federal role. Over the next few days, weeks, I'll be
13 putting together a staff. I don't have one yet, but I'll be
14 doing that, and so I'll note for the record that I'll be
15 voting present at this meeting, and once I do get staffed
16 up, then will start participating in the notationals as well
17 as the meetings themselves.

18 I would just finally note on a lighter note,
19 since you brought up baseball, I would like to acknowledge
20 that I believe we now have the majority of Cub fans on the
21 FERC. Commissioner Moeller, Commissioner Norris and myself
22 are all long-suffering Cub fans. So Commissioner LaFleur,
23 sorry. The Red Sox, I guess, are outvoted.

24 COMMISSIONER LaFLEUR: We're going to have plenty
25 of suffering this year.

1 COMMISSIONER CLARK: Thank you.

2 CHAIRMAN WELLINGHOFF: Thank you for your
3 comments about North Dakota. We're all actually looking
4 forward to North Dakota surpassing Texas in output of oil
5 and gas. So if we could then, Madam Secretary, move on to
6 the consent agenda please.

7 SECRETARY BOSE: Good morning, Mr. Chairman, good
8 morning Commissioners. Since the issuance of the Sunshine
9 Act notice on June 14th, 2012, Items E-18, G-1 and C-7 have
10 been struck from this morning's agenda. Your consent agenda
11 is as follows:

12 Electric items. E-1, E-5, E-6, E-8, E-9, E-10,
13 E-13, E-14, E-20 and E-27.

14 Gas items. G-1 and G-3.

15 Hydro items. H-2 and H-3.

16 Certificate items. C-1, C-2, C-3, C-4, C-5 and
17 C-6.

18 As Commissioner Clark noted, rather than
19 rendering a substantive vote on today's agenda, Commissioner
20 Clark will be voting present on all items. As to E-3,
21 Commissioner LaFleur is dissenting in part with a separate
22 statement. We are now ready to take a vote on this
23 morning's agenda. The vote begins with Commissioner Clark.

24 COMMISSIONER CLARK: Present.

25 SECRETARY BOSE: Commissioner LaFleur.

1 COMMISSIONER LaFLEUR: Noting my dissension part
2 on A-3, I vote aye.

3 SECRETARY BOSE: Commissioner Norris.

4 COMMISSIONER NORRIS: Aye.

5 SECRETARY BOSE: Commissioner Moeller.

6 COMMISSIONER MOELLER: Aye.

7 SECRETARY BOSE: And Chairman Wellinghoff.

8 CHAIRMAN WELLINGHOFF: I vote aye. And we could
9 move to the discussion agenda please, Madam Secretary.

10 SECRETARY BOSE: The first item for presentation
11 and discussion this morning is A-3. This is concerning
12 transmission facility outages during the Northeast snowstorm
13 of October 29th through October 30th, 2011. There will be a
14 presentation by Jette Gebhart from the Office of
15 Enforcement. He is accompanied by David Applebaum of the
16 Office of Enforcement, and David Cole and Loye Hull from the
17 Office of Electric Reliability.

18 MS. GEBHART: (off mic) Good morning, Mr.
19 Chairman, Commissioners. I'd like to present the summary of
20 the -- report. Excuse me. Thank you. I'll go ahead and
21 start over.

22 As you know, the report is the result of a joint
23 inquiry by Commission staff from the North American Electric
24 Reliability Corporation. The inquiry team also included a
25 representative from the Northeast Power Coordinating

1 Council. We thank NERC and NPCC for their contributions to
2 the inquiry and to the report.

3 I would also like to recognize team members from
4 the Office of Electric Reliability who are not present
5 today: Justin Cunningham, Andrea Scott and Norris
6 Henderson.

7 The report is based on conclusions of staff, and
8 does not represent the views of the Commission, the Chairman
9 or any Commissioner. During the course of the inquiry, the
10 team issued detailed data requests to many utilities and
11 other entities throughout the Northeast, made site visits to
12 transmission facilities in New England, and interviewed
13 representatives of a number of affected utilities.

14 The team also conducted numerous outreach
15 meetings and calls with agencies in affected states, and
16 with the electric industry trade associations. The purpose
17 of the inquiry was to look whether any FERC jurisdictional
18 facilities or NERC reliability standards were implicated in
19 the power outages caused by the October 2011 Northeast
20 snowstorm.

21 The inquiry focused on the storm's impacts to the
22 transmission system. We did not examine the storm's impacts
23 on the distribution system, or make any recommendations
24 regarding distribution facilities. The snowstorm that hit
25 the northeastern United States on October 29th and 30th,

1 2011, was an unprecedented fall weather event, breaking
2 records across the region.

3 Up to two and a half of heavy, wet snow fell on
4 trees that had not yet lost their leaves, and were rooted in
5 ground that had been saturated by an unusually warm, rainy
6 summer. The rate of the snow, in combination with the soft
7 ground, caused many healthy trees to become unrooted.

8 More than three million homes and businesses from
9 Pennsylvania to Maine were without power during the storm.
10 The majority of these outages were the result of damage to
11 distribution systems. Only about 130,000 customer outages,
12 less than five percent, were caused by transmission facility
13 outages.

14 Inquiry staff identified 74 transmission line and
15 44 transmission substation outages that lasted ten or more
16 minutes. These outages occurred in six states:
17 Connecticut, Massachusetts, Maine, New Hampshire, New York
18 and Rhode Island.

19 These are mostly 115 kV lines, but there were
20 three 345 kV and one 138 kV line outages. Although this
21 number of transmission facility outages constitutes a
22 significant transmission event, the outages did not threaten
23 the stability of the bulk power system.

24 These transmission outages were overwhelming
25 caused by tree contact. 55 of the 74 transmission line

1 outages, that's about 75 percent, occurred when snow-laden
2 trees and branches fell onto transmission lines. Most of
3 these trees fell onto lines from outside the utilities'
4 rights-of-way, but 12 transmission line outages resulted
5 from trees falling from within the utility's right-of-way;
6 that is, the area the utility has the right to maintain,
7 although in some cases that right might be limited.

8 Because the vast majority of transmission outages
9 were caused by tree contact, we examined the applicability
10 of the Commission-approved transmission vegetation
11 management reliability standard, to be in that -- that's
12 FAC-003-1. We found that the standard had limited
13 applicability here, mainly because the vast majority of
14 impacted lines were operated at 115 kV.

15 But FAC-003-1 does not apply to any lines under
16 200 kV, unless designated as critical to reliability by the
17 regional entity. In fact, FAC 003-1 applied to only one
18 line damaged by tree contact during the storm, a 345 kV line
19 in Connecticut.

20 As to recommendations, staff saw some areas where
21 utilities could take steps to improve transmission system
22 reliability in future snowstorms or similar weather events.
23 Therefore, the report makes several recommendations
24 regarding utility best practices.

25 The report's two key recommendations relate to

1 vegetation management. First, where appropriate, the report
2 recommends that utilities take targeted steps to address off
3 right-of-way danger trees. That is trees that are healthy
4 and growing so tall and so close to transmission facilities
5 that if they fell could contact a transmission line.

6 We recommend that utilities focus on identifying
7 danger trees outside the rights-of-way of lines operated at
8 over 200 kV and other critical transmission lines, and work
9 with landowners and other stakeholders to develop a strategy
10 for addressing the danger trees that pose the greatest risk
11 of harm to the bulk power system.

12 Second, where feasible, the report recommends
13 that utilities employ the industry best practice of ensuring
14 danger trees are not present inside their rights-of-way. We
15 recommend a targeted approach. Utilities should identify
16 area where elimination of danger trees inside the right-of-
17 way is feasible and would increase reliability, and then
18 prioritize their efforts on rights-of-way where critical
19 facilities are located.

20 The report recognizes that vegetation management
21 often a sensitive issue, and utilities should work
22 cooperatively with landowners in implementing these
23 recommendations. We thank you for the opportunity to
24 present this brief summary of t he inquiry report.

25 CHAIRMAN WELLINGHOFF: Thank you very much,

1 Jette, and members of the team, I want to thank you very
2 much and appreciate the work you did on this report. I
3 thought it was an extremely important report, and I've got a
4 statement with respect to it and more generally vegetation
5 management.

6 I think we're seeing that a reoccurring cause in
7 this and many blackouts has been vegetation-related outages.
8 Environmental issues, property rights and costs, among other
9 things, play an important role in every company's vegetation
10 management program.

11 In my view, the most successful vegetation
12 management programs have, as one of the core elements, a
13 strategy to engage the property owners in an adequate,
14 timely and forthright manner, and to work cooperatively with
15 those property owners.

16 For example, it's important to give the property
17 owners sufficient notice about the impending activity,
18 include type of vegetation management that is planned, for
19 instance, trimming or a herbicide application. In some
20 cases, a company may get the property owner to agree to a
21 planned action by simply switching methodologies.

22 Successful vegetation management programs also
23 help property owners maintain and even enhance the
24 environmental benefits and aesthetics of the right-of-way,
25 while ensuring sufficient clearance between vegetation and

1 energized conductors.

2 For example, trees are expected to grow into the
3 transmission lines are removed and replaced with lower-
4 growing native species, to provide a shelter for indigenous
5 wildlife. Another practice that property owners appreciate
6 is a small tree voucher program, that allows them to select
7 smaller trees from nurseries to replace the larger trees
8 that are removed from the right-of-way.

9 These efforts may even help persuade property
10 owners to allow vegetation management outside both the
11 jurisdictional facilities and existing right-of-ways. The
12 current reliability standard, FAC-003, requires both a
13 formal transmission vegetation management plan and an annual
14 plan for vegetation management work.

15 I believe companies should make these plans
16 available to the public, including the affected landowners,
17 by posting on their website. I urge all companies to
18 include these components in their vegetation management
19 programs.

20 As a final point, we continue to receive
21 complaints that utilities are clear-cutting right-of-ways in
22 order to comply with the reliability standards. In some
23 cases, the reliability standard has been cited as the reason
24 for clear-cutting, even when it does not apply, that is
25 transmission lines below 200 kV and also distribution lines.

1 The standard only requires that a minimum
2 clearance should be maintained and does not prescribe the
3 methodology that utilities are required to use. Companies
4 should not misrepresent the reason for vegetation action by
5 overstating the requirements or the applicability of a
6 standard.

7 Fellow colleagues, any comments? Phil.

8 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
9 I think it was 2008 when we had our first annual reliability
10 conference, and I asked, remember asking Mr. McClelland what
11 are the three areas that continue to be challenges, and they
12 were tools, training and trees, and trees continue to be a
13 challenge, and although a lot of the issues here, as the
14 staff quite nicely described, were at the distribution
15 level, I'm still glad we did this report, because it was
16 obviously a very traumatic event for the region and figuring
17 out the difference between what's in our jurisdiction and
18 what's in the jurisdiction of the state commissions was
19 important.

20 But it does highlight, your statement does, I
21 think the potential for utilities to work with nurseries and
22 landscaping, to try and proactively avoid some of these
23 challenges. I know that Seattle City Light, for a long
24 time, has had a tool or a tree-planting guide that describes
25 different trees and where they can be planted and those that

1 won't grow into power lines, and the potential is there so
2 that we can hopefully minimize these kinds of disruptions in
3 the future. I thank the team for their effort on this.

4 CHAIRMAN WELLINGHOFF: No, I agree. We want to
5 encourage utilities to be proactive and cooperative with the
6 landowners on this, because we need to make sure that the
7 landowners are comfortable with these right-of-ways going
8 through their land. Otherwise, we're not going to get any
9 more right-of-ways going through the land to do
10 transmission. So John.

11 COMMISSIONER NORRIS: I just want to thank the
12 team as well for your report, and appreciate your comments,
13 Mr. Chairman and Phil. I'm sure for some engineers, that
14 perfectly trimmed, cut to the ground, cut to the edges looks
15 great. I respect that.

16 Having said that, there's been a lot of
17 development, and the industry group has gotten together, I
18 forget the name of the group that has formed, to use better
19 practices and use landscaping and use the ability to make
20 this a more cooperative environment, to accomplish the
21 reliability objectives but also respect for the landowners
22 is critical to highlight and stress the importance. So
23 thank you.

24 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

25 COMMISSIONER LaFLEUR: Well thank you. I would

1 also like to thank the team at FERC and the folks at NERC
2 for this inquiry and report. While everyone has noted the
3 majority of the outages did not take place within the
4 transmission system that's in our jurisdiction, the event
5 was extremely significant to customers and officials in New
6 England, and I appreciate the chairman and OER giving the
7 resources to work on it.

8 Protecting reliability is really a blend of two
9 things. The first is day-to-day blocking and tackling, and
10 vegetation management is at the top of that list, both
11 keeping up with cycle trimming and danger trees. But it's
12 also effective preparation for unusual events and emerging
13 threats, and the northeast storm last year really
14 highlighted both aspects of reliability, both the day-to-day
15 need to keep up with trees, as well as storm preparation.

16 It also highlighted the close relationship
17 between the transmission system and the distribution system.
18 As we all know, when the lights are out, especially when
19 they're out for as long as they were last fall, customers
20 could really care less with regulator is in charge or which
21 part of the distribution. They just wanted the lights back
22 on.

23 So I think the recommendations in the report
24 illustrate our continuing responsibilities and the
25 complementary role that this Commission has with the bulk

1 electric system and keeping it stable, and all the state
2 regulators that work on, you know, the other 85 percent of
3 the outages that hit customers day to day. Thank you.

4 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Tony,
5 did you have anything?

6 COMMISSIONER CLARK: Not much. I hesitate to say
7 too much about trees. We had a former U.S. Senator who used
8 to say that my part of the country was first in wind, last
9 in trees. So I may not be the best person to advise on
10 vegetation management.

11 But I did appreciate the report. Thanks for your
12 hard work and I look forward to continuing.

13 CHAIRMAN WELLINGHOFF: Thank you, Tony. Thank
14 you, team. I appreciate it. Madam Secretary, your next
15 presentation.

16 SECRETARY BOSE: The next items for presentation
17 and discussion will be on Item E-2, concerning third party
18 provisions of ancillary services, accounting and financial
19 reporting of new electric storage technologies, and Item E-
20 3, concerning integration of variable energy resources.

21 There will be a presentation by Arnie Quinn,
22 Rahim Amerkhail and Jessica Cockrell from the Office of
23 Energy Policy and Innovation. They are accompanied by Lina
24 Naik, and Tim Duggan from the Office of the General Counsel.

25 MR. QUINN: Good morning Mr. Chairman and

1 Commissioners. Today, we will provide a summary of E-2, a
2 draft Notice of Proposed Rulemaking on the third party
3 provision of the ancillary services, accounting and
4 financial reporting for new electric storage technologies,
5 and E-3, a draft Final Rule on the integration of variable
6 energy resources.

7 In addition to those of us seated at the table,
8 other key members of the team are here, including for E-2
9 Chris Handy from the Office of Enforcement, Eric Winterbauer
10 from the Office of General Counsel, and Greg Basheda from
11 the Office of Electric Market Regulation.

12 For E-3, Pamela Sporborg from the Office of
13 Energy Policy and Innovation; Travis McGee from the Office
14 of Energy Market Regulation; and Thanh Luong from the Office
15 of Electric Reliability. For E-3, we'd also like to
16 recognize Sarah Crawford from the Office of General Counsel,
17 who is unable to join us today.

18 I will now ask Rahim Amerkhail to discuss the
19 proposed reforms in E-2.

20 MR. AMERKHAIL: Thank you. Under the
21 Commission's existing regulations, commonly referred to as
22 the EVISTA restrictions after the case in which the
23 Commission established its policy, a third party seller may
24 not sell ancillary services without a showing of lack of
25 market power to a public utility transmission provider that

1 would use the transaction to meet its owed obligation.

2 E-2 is a Notice of Proposed Rulemaking that seeks
3 to revise these restrictions in several ways, both by
4 modifying the showing that an entity must make to establish
5 it lacks market power, and by establishing market power
6 mitigation options in the absence of such a showing.

7 Specifically, based on the rationale that the set
8 of units that provide imbalanced energy, and the set of
9 units that provide energy and capacity are sufficiently
10 similar, the NOPR proposes to allow any entity with market-
11 based rate authorization for sales of energy and capacity to
12 also sell imbalanced energy at market-based rates.

13 The NOPR also proposes to create a rebuttable
14 presumption of lack of market power for any entity that can
15 supply no more than 20 percent of the ancillary service
16 needs in the relevant geographic market.

17 For an entity that cannot or chooses not to show
18 that it lacks market power, E-2 proposes to mitigate the
19 exercise of market power by allowing the entity to sell to a
20 transmission provider that is meeting its OAT obligation, at
21 a rate up to either the transmission providers OAT rate for
22 the same ancillary service or the highest such OAT rate for
23 any transmission provider to which the seller can physically
24 deliver the ancillary service in question.

25 E-2 also proposes to allow an entity to use a

1 competitive solicitation for the purposes of mitigation,
2 provided that the competitive solicitation meets certain
3 guidelines. E-2 also includes proposed changes to the pro
4 forma open access transmission tariff to extend the
5 rationale behind the Commission's fine rule on frequency
6 regulation service compensation to regions outside of RTOs,
7 to enhance transparency to the self-provision of that
8 ancillary service.

9 Finally, E-2 proposes to modify the Commission's
10 accounting regulations to increase transparency for energy
11 storage facilities. Specifically, the draft NOPR proposes
12 to add new electric plant and operation and maintenance
13 expense accounts to record the installed costs and operating
14 and maintenance costs of energy storage assets, and a new
15 account to record the cost of power purchased for use in
16 energy storage operations.

17 In addition, the draft NOPR proposes to amend the
18 Form Nos. 1 and 1F to include the new accounts and amended
19 schedules, to report statistical and operational information
20 on energy storage operations. Further, the draft NOPR
21 proposes to amend a schedule of the Form No. 3Q to include a
22 proposed new account to record the cost of power purchased
23 for use in storage operations.

24 My colleague, Jessica Cockrell, will now discuss
25 the reforms adopted in E-3.

1 MS. COCKRELL: E-3 is a draft Final Rule that
2 seeks to remove barriers and remedies operational challenges
3 related to the integration of an increasing amount of
4 variable energy resources. Taken together, the reforms
5 adopted and guidance provided in the draft Final Rule will
6 allow for more efficient utilization of transmission and
7 generation resources to the benefit of all customers.

8 The draft Final Rule adopts the NOPR proposal to
9 change the pro forma open access transmission tariff, so
10 that public utility transmission providers must allow
11 transmission customers to schedule transmission service at
12 15 minute intervals.

13 The draft Final Rule establishes this requirement
14 based on the need to allow transmission customers, including
15 those with naturally variable output, to avoid generator
16 imbalance penalties and thus ensure that the rate for
17 generator imbalance service is just and reasonable.

18 The draft Final Rule also describes the
19 Commission's expectation that the 15 minute scheduling
20 reform will eventually lead to lower costs associated with
21 the capacity set aside to provider generator imbalance
22 service.

23 The draft Final Rule allows entities to submit
24 alternative proposals that are consistent with or superior
25 to the 15 minute scheduling reform. Alternative proposals

1 will need to provide equivalent or greater opportunities for
2 transmission customers to mitigate generator imbalance
3 penalties, and for the public utility transmission provider
4 to lower its reserve-related costs.

5 This showing is relative to the market practices
6 currently in place within the region, including the tools
7 that already have been implemented to integrate variable
8 energy resources. The draft Final Rule also adopts the NOPR
9 proposal to change the pro forma LGIA to require new
10 variable energy resources to provide meteorological unforced
11 outage data to a transmission provider that will use the
12 data to conduct power production forecasting.

13 The draft Final Rule adopts the proposal, so that
14 public utility transmission providers will have the data
15 needed to officially deploy resources to manage variable
16 energy resource variability, and thus ensure that the costs
17 associated with the capacity set aside to manage the
18 variability remain just and reasonable.

19 Finally, the draft Final Rule declines to adopt
20 the NOPR proposals to create a pro form OAT schedule for
21 generator regulation and frequency response service. In
22 declining to adopt the NOPR proposal, the draft Final Rule
23 notes that the need to provide public utility transmission
24 providers with flexibility to design capacity services that
25 align with operational needs of a particular public utility

1 transmission provider.

2 The draft Final Rule provides guidance to
3 transmission providers that will seek to recover the
4 capacity costs associated with providing generator imbalance
5 service.

6 Consistent with the NOPR, E-3 acknowledges
7 ongoing industry efforts to integrate VERs and explains that
8 focusing on a particular set of reforms adopted in the draft
9 Final Rule will provide a reasonable foundation for public
10 utility transmission providers seeking to manage system
11 variability associated with increased numbers of VERs.

12 I will now ask Arnie Quinn to discuss the
13 interaction between E-2 and E-3.

14 MR. QUINN: Staff believes the reforms proposed
15 in E-2 and adopted in E-3 will be complementary.
16 Specifically, we believe that allowing transmission
17 customers to create and change transmission schedules on a
18 15 minute basis will provide the infrastructure to
19 facilitate the trading of short-term ancillary services,
20 like sub-ROE imbalance service, which will be enhanced by
21 easing other investor restrictions.

22 The transmission scheduling reforms adopted in E-
23 3 will provide a measure of consistency and scheduling
24 protocols across transmission providers, and the reforms
25 proposed in E-2 should make ancillary services transactions

1 easier to consummate.

2 Staff believes these reforms will be particularly
3 important for those public utility transmission providers
4 that want to be able to buy ancillary services from others
5 to help integrate variable energy resources.

6 Therefore, staff anticipates that the draft Final
7 Rule, in conjunction with the reforms of the EVISTA policy,
8 will enhance competitive and well-functioning ancillary
9 services markets, and facilitate more cost-effective
10 integration of variable energy resources. This concludes
11 our presentation. We're happy to answer any questions.

12 CHAIRMAN WELLINGHOFF: Thank you Rahim, Jessica,
13 Arnie and Tim, Lina, and I know the whole team that was
14 behind both of these orders, and I know that especially E-3
15 has been a while in coming. So I appreciate all the hard
16 work and perseverance that you've engaged in to get these to
17 us today.

18 You present us with two further steps in the
19 Commission's effort to foster competitive and efficient
20 markets, with the objective of managing wholesale electric
21 costs for consumers. I'd like to highlight some of the
22 features that I think will be helpful to new entrants being
23 able to provide lower cost services for customers.

24 First, the EVISTA electric storage NOPR, E-2,
25 proposes to provide tools for third parties wishing to sell

1 ancillary services in bilateral markets, in particular to
2 public utility transmission providers for use in their OAT
3 services, to demonstrate that they do not have market power
4 and thus can make sales of ancillary services at market-
5 based rates.

6 This could provide greater opportunities for
7 competitive sellers of ancillary services, to have access to
8 such buyers and in turn potentially provide these buyers
9 with new lower-cost sources of ancillary services. Thus the
10 overall effect is to lower cost to transmission customers.

11 The VERs Final Rule provides, among other things,
12 two important tools to improve the efficiency of the power
13 system. First, the opportunity to schedule transmission
14 service on a 15 minute basis, and the associated cost
15 savings will be available for all types of resources, as is
16 now not confined to VERs.

17 Second, the data and other requirements related
18 to power production forecasting are designed to reflect the
19 operational characteristics of variable energy resources,
20 and to accordingly use the transmission system more
21 efficiently.

22 Variable energy resources make up an increasing
23 share of new capacity coming online. This Final Rule
24 eliminates undue burdens on these resources and will help
25 transition providers and their customers to effectively

1 manage the costs of integration.

2 Finally, both the Final Rule and the NOPR note
3 the obligation of the transmission provider to provide
4 information to customers who wish to self-supply their
5 ancillary services, about the rules and requirements to
6 implement such choice.

7 This will facilitate efforts by transmission
8 customers who choose to manage their energy costs by self-
9 supplying some or all of the ancillary services needed to
10 make transmission service to them reliable and available.
11 So I'm pleased to vote for both of these items. Colleagues?
12 Phil.

13 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
14 As you alluded to, this has been kind of a long time coming,
15 but it's great that we were able to get this package out
16 today. I believe it moves things forward. We've known for
17 a long time that we have increasing amounts of variable
18 generation to integrate into the grid.

19 I've said consistently these are not
20 insurmountable challenges, but they are challenging in a way
21 that the trend line is clear. The reforms that are proposed
22 today enhance competitive markets, and the ability for those
23 products within a market to deliver the needs and the
24 services that will the market to work better.

25 We've heard consistently from the renewable

1 community that they prefer organized markets, because it
2 gives them access to the customers that they want to sell
3 to. So although there's been a little controversy involved,
4 and some people thought, particularly on E-3 we went too
5 far; some people thought we didn't go far enough, I think we
6 have struck a good balance to move things forward, although
7 we will eventually have to revisit some of these policies as
8 they evolve. So I'm pleased to vote for the orders as well.

9 CHAIRMAN WELLINGHOFF: Perfect. Thank you, Phil.
10 John.

11 COMMISSIONER NORRIS: Thank you. Thanks to the
12 team. I know it has been a lot of work on these two issues,
13 and I appreciate your work on it. I'm glad we presented
14 them together, because I think they tell a story, and even a
15 broader story of what I think we're doing not just with
16 these two orders today, but with transmission planning and
17 cost allocation, Order 1000, 745 with demand response
18 compensation, 755 we did last fall with compensation for
19 fast and accurate fixed costs.

20 The story here to me is we are recognizing that
21 there are both policy drivers and new technology drivers in
22 our electric system. How do we have to change our
23 operations to make sure that we optimize those new
24 technologies, and that we create the most efficient system
25 possible for delivering electricity to consumers, with the

1 reliance upon an effective market being a mechanism to help
2 deliver that.

3 So I think with VERs, I mean I don't think these
4 are major changes. These are, you know, I'm sure folks will
5 view them differently. It's a little bit of a nudge, a
6 little bit of a direction, but it's about making this system
7 perform more efficiently, and integrating those renewables
8 in the most efficient way possible.

9 With the EVISTA rule, I think we've addressed
10 some issues that are there to protect consumers. I think
11 we've preserved that protection for consumers from market
12 dominance of some individuals, but created an opportunity to
13 compensate ancillary services, and provide them in a
14 competitive market.

15 I particularly note that we, you know, I think
16 it's a good follow-up to 755 for accurate and fast
17 responding technologies like storage. This enables those
18 folks, I think again to provide a valuable service for
19 balancing the grid and integration of renewables in the most
20 efficient way possible.

21 So I think it's -- my main point is this is a
22 part of a bigger story, not just these two orders but how
23 they fit in a continuum of us trying to create operational
24 efficiencies that mirror the policy and technology
25 opportunities we have to build a more efficient system in

1 the long haul.

2 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

3 COMMISSIONER LaFLEUR: Well, thank you. I too
4 would like to congratulate the team and thank the team. I
5 understand one of your number might be becoming a parent
6 today, so that's a pretty big accomplishment on the same day
7 you're giving birth to these two rules.

8 So I was recently quoted last week in the Boston
9 Globe in saying that energy is the cool field right now,
10 which I think everyone at FERC agrees, but some people not
11 in the room might disagree. But I don't think many people
12 would disagree that we're seeing a lot of cool new
13 technologies in energy.

14 They span natural gas extraction, electric
15 generation, transmission automation, energy storage,
16 renewable generation and demand side technologies. So both
17 of these orders that we're voting out this morning really
18 reflect the increasing utilization of those new technologies
19 for customers.

20 I strongly support the Notice of Proposed
21 Rulemaking on ancillary services and storage technology,
22 both the changes to adapt the EVISTA policy for bilateral
23 market regions, which have told us that they need those
24 changes, as well as extending the principle of Order 755,
25 that we pay for what storage is really worth to all parts of

1 the country.

2 A few weeks ago, I was fortunate to speak at the
3 Silicon Valley Electric Storage Association in Palo Alto,
4 and visited two new manufacturers that are working on flow
5 battery technology, and I'm very excite about the
6 opportunity of storage for customers in the gird.

7 At the risk of compromising my cool factor, I am
8 dissenting in part on the Final Rule on variable energy
9 resources. I strongly support renewable energy, and I've
10 stated many times I believe one of the most important jobs
11 of this Commission is to support the development of rules to
12 address new power supply choices being made at the state and
13 federal level.

14 For that reason, I support the requirements of
15 the rule for intra-hour scheduling and power production
16 forecasting, as well as the guidance we provide on generator
17 reserve charges. I'm dissenting on the narrow point of the
18 compliance requirements in the Final Rule.

19 As noted in the rule, we heard from many parties
20 about ongoing efforts to establish intra-hour scheduling and
21 other market improvements in various regions. However, the
22 rules issued would only allow parties to demonstrate
23 compliance through incremental reforms beyond those already
24 underway, without any explanation of why the ongoing efforts
25 are insufficient.

1 I would give regions more flexibility to
2 demonstrate on compliance that their ongoing efforts meet
3 the objectives of the rule, and I know this is a rather a
4 subtle point to dissent on, especially for someone who
5 dissents as infrequently as me.

6 But I do think it's very important that we not
7 give any possible appearance in any of our rules that we're
8 leveraging our authority to achieve a pre-determined result,
9 but rather that we be flexible to different ways to reap the
10 objectives that we set forth, and that's why I'm dissenting.
11 Thank you.

12 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Any
13 other comments, anyone? I think -- Madam Secretary, I think
14 we're ready for the vote.

15 SECRETARY BOSE: We'll take a vote on these items
16 together, beginning with Commissioner Clark.

17 COMMISSIONER CLARK: Present.

18 SECRETARY BOSE: Commissioner LaFleur.

19 COMMISSIONER LaFLEUR: I'm dissenting in part;
20 otherwise, support the order.

21 SECRETARY BOSE: Commissioner Norris.

22 COMMISSIONER NORRIS: Aye.

23 SECRETARY BOSE: Commissioner Moeller.

24 COMMISSIONER MOELLER: Aye.

25 SECRETARY BOSE: And Chairman Wellinghoff.

1 CHAIRMAN WELLINGHOFF: I vote aye.

2 SECRETARY BOSE: The next item.

3 CHAIRMAN WELLINGHOFF: Yes, please.

4 SECRETARY BOSE: For presentation and discussion
5 this morning will be on Item E-4, concerning revisions to
6 the Electric Reliability Organization definition of bulk
7 electric system and rules of procedure.

8 There will be a presentation by Susan Morris from
9 the Office of Electric Reliability. She is accompanied by
10 Nick Snyder from the Office of Electric Reliability and Bob
11 Stroh from the Office of General Counsel.

12 MS. MORRIS: Good morning, Mr. Chairman and
13 Commissioners. Item E-4 is a draft Notice of Proposed
14 Rulemaking that proposes to approve two filings submitted by
15 the North American Electric Reliability Corporation.

16 First, the NOPR proposes to approve NERC's
17 modification to the currently-effective definition of bulk
18 electric system contained in NERC's glossary of terms used
19 in reliability standards.

20 Second, the NOPR proposes to approve NERC's
21 related filing that would change the NERC rules of procedure
22 to provide an exception process for adding elements to and
23 removing them from the bulk electric system on a case-by-
24 case basis.

25 In response to the Commission's directive in

1 Order No. 743, NERC filed revisions to the definition of
2 bulk electric system that (1) establish a core definition
3 that includes all transmission elements and real and
4 reactive power resources, operated at or connected at 100
5 kilovolts or higher, and (2) eliminate the discretion that
6 regional entities now have to define the system in their
7 region without any oversight from the Commission or NERC.

8 NERC's modified definition also identifies
9 specific facility configurations that are included in or
10 excluded from the bulk electric system. The draft NOPR
11 proposes to approve NERC's revised definition because (1) it
12 responds to the Commission's concerns in Order No. 743, (2)
13 it removes regional discretion that is contained in the
14 existing definition, and (3) it establishes a 100 kV bright
15 line threshold.

16 The draft NOPR indicates that NERC's proposal
17 offers additional clarity to the definition of bulk electric
18 system by creating specific bright line inclusions and
19 exclusions within the definition, which also provide
20 granularity with regard to common types of facilities and
21 facility configurations to determine whether they are part
22 of the bulk electric system.

23 While proposing to approve the revisions to the
24 definition of bulk electric system, the draft NOPR also
25 seeks comments on various provisions of NERC's proposal. In

1 these questions, the NOPR seeks better understanding
2 regarding the application of bulk electric system definition
3 to certain common facility configurations.

4 By soliciting comment on these matters, we seek
5 to provide a common understanding that will ensure a
6 consistent application of the definition in identifying bulk
7 electric system facilities.

8 While the NOPR does not propose to direct
9 modifications to any provision of the proposal, it does note
10 that responses to the questions in NOPR comments may
11 highlight the need to modify a provision.

12 With regard to NERC's second filing, the draft
13 NOPR proposes to approve NERC's changes to its rules of
14 procedure, which create an exception process for adding
15 elements to and removing them from the definition on a case-
16 by-case basis.

17 The draft NOPR proposes to find that the
18 exception process under which NERC will make the final
19 decision on whether to grant an exception request, better
20 assures consistency of decisions across all regions, and
21 provides clarity and consistency across the nation's
22 reliability regions in identifying bulk electric system
23 facilities.

24 Further, the draft NOPR proposes that NERC file
25 an informational filing within 90 days of the effective date

1 of a final rule, detailing its plans to maintain a list of
2 facilities that have received exceptions, and how NERC will
3 make this information available to the Commission, the
4 regional entities and potentially to other interested
5 persons. Thank you. This concludes our presentation.

6 CHAIRMAN WELLINGHOFF: Thank you Susan, and Nick
7 and Bob, I want to thank you all for your work on this NOPR.
8 Today's rule represents another step in the refinement of
9 the definition of the bulk electric system.

10 Since we first relied on NERC's initial
11 definition in Order No. 693, and again, in directing NERC to
12 refine the definition in Order 743, the Commission has
13 continued to work with NERC to establish a definition to
14 provide clarity to the industry, yet is flexible enough to
15 exclude facilities that are not necessary for reliably
16 operating the grid.

17 In today's order, we propose to approve NERC's
18 bright line threshold of 100 kVA or higher, and specific
19 configurations to be included and excluded in the definition
20 of the bulk electric system, as well as NERC's proposed
21 exception procedure to add and remove elements from the
22 definition.

23 I look forward to reviewing the comments in this
24 NOPR, and in continuing to work with NERC to refine the
25 definition, so that the Commission and NERC can focus on

1 those facilities which ensure the reliability of the grid.
2 Thank you, and I'll go over this way. Phil.

3 COMMISSIONER MOELLER: Mr. Chairman, thank you.
4 Thanks to the team for their hard work on this, again, one
5 that we were working on hard until not long ago. I
6 appreciate the way we're approaching this NOPR and the
7 flexibility that we're taking in considering what
8 constitutes the bulk electric system, because a date and a
9 number come to mind: September 8th of last year and seven
10 million people. Those were the number of people who were
11 blacked out in the San Diego area.

12 There were a variety of causes to that event, but
13 sub-100 kV facilities played a significant role in blacking
14 out seven million people, and that's why it is critical we
15 recognize that the bulk electric system or the bulk power
16 system, depending on which term you use, is interconnected
17 in a way that even sub-100 kV facilities can impact millions
18 of people, and we can't have another repeat of that event.
19 So I look forward to approving and voting this NOPR.

20 CHAIRMAN WELLINGHOFF: I agree. Thank you, Phil.
21 John.

22 COMMISSIONER NORRIS: I thank the team as well
23 for your work on this, and I think this is a great example
24 of FERC and NERC working together, to come up with
25 reasonable solutions. I know we made some recommendations

1 in our directive to NERC, and I think they met the
2 challenges of being equal or, I forget the legal language,
3 efficient and comparable to what we recommended.

4 So this is, I think this is a good example of
5 working together to address a critical issue. I think Phil
6 made a great point about San Diego, and that was sub-100
7 facilities that were involved there. I just want to stress
8 that point as well, on the exclusions and inclusions, and
9 really look forward to comments on how we can make sure that
10 those facilities --

11 I know people will be aggressive about getting
12 stuff excluded, and probably less aggressive about getting
13 stuff included. I get that and respect that. Having said
14 that, we have to make sure that those elements of the system
15 that are critical, that sub-100, get included.

16 I know we are going to rely upon the transmission
17 owners and operators and the REs and everyone out there in
18 the field who knows these systems best, to work to get those
19 needed sub-100 systems in the BES.

20 So I'm looking forward to the comments on how
21 that's going to work, and really relying upon industry to
22 step up to the plate and give us some ideas and directions
23 on that, and then what role and what should NERC and FERC do
24 when we identify facilities that maybe are not bubbling up
25 through that more organic process of folks who understand

1 how the system really works in the field.

2 So we'll appreciate your comments on that, and
3 but mostly I want to say this is a good example of when we
4 put our heads together and work collaboratively, FERC and
5 NERC can really address the reliability issues that Congress
6 has challenged us jointly to address. Thanks.

7 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl.

8 COMMISSIONER LaFLEUR: Thank you. I'm also
9 pleased to support this rule. I feel it's, in a modest way,
10 a milestone in the work between FERC and NERC. It was in
11 this case in Order 745 that we established a new paradigm
12 for Commission directives under 215(d)(5), under which the
13 Commission sets out its reliability concerns and offers NERC
14 guidance as to possible ways to solve them, but permits NERC
15 to propose equally efficient and effective alternatives.

16 That's the opportunity that NERC and the industry
17 took in this case, and I think gave us a very strong
18 standard that we can approve today. I'm pleased that the
19 standard proposes a definition that eliminates regional
20 discretion, but also includes a thoughtful and nuanced list
21 of inclusions and exclusions beyond that.

22 I agree with my colleagues that we ask important
23 questions in the NOPR proposing to approve this rule, about
24 the ongoing inclusion of transmission facilities that
25 operate at below 100 kV, and that we need to make sure we

1 all have a common understanding of how this is going to
2 work, to avoid ambiguities going forward in how it will be
3 interpreted.

4 Additionally, the NOPR we vote out today seeks
5 comment on whether we've successfully excluded local
6 distribution facilities from the bulk electric system.

7 As I noted in my separate statement in the City
8 of Holland case, Section 215 of the Federal Power Act
9 specifically excludes local distribution, and we have
10 deferred to this important proceeding the question of
11 whether the local distribution facilities excluded under 215
12 are the same as under the seven principles in Section 201,
13 and I look forward to receiving comments from that in this
14 proposed rulemaking that we're voting out.

15 I want to thank Bob, Susan and Nick and the
16 entire FERC team, but also the folks at NERC and the people
17 who volunteered and worked on the drafting team over the
18 last two years, who brought us to today. Thank you very
19 much.

20 CHAIRMAN WELLINGHOFF: Thank you, Cheryl. Okay,
21 I think we're ready to vote Madam Secretary.

22 SECRETARY BOSE: The vote begins with
23 Commissioner Clark.

24 COMMISSIONER CLARK: Present.

25 SECRETARY BOSE: Commissioner LaFleur.

1 COMMISSIONER LaFLEUR: I vote aye.

2 SECRETARY BOSE: Commissioner Norris.

3 COMMISSIONER NORRIS: Aye.

4 SECRETARY BOSE: Commissioner Moeller.

5 COMMISSIONER MOELLER: Aye.

6 SECRETARY BOSE: And Chairman Wellinghoff.

7 CHAIRMAN WELLINGHOFF: I vote aye, and Madam
8 Secretary, you have a clarify you wish to make?

9 SECRETARY BOSE: Thank you, Mr. Chairman. Out of
10 an abundance of caution, I wanted to ensure that the
11 Commission record was accurate. I would like to restate and
12 clarify that the consent gas items that was noted on the
13 consent notice that was issued today that this Commission
14 voted on are Items G-2 and G-3. I just wanted to make that
15 clarification, unless it was not heard properly with our
16 viewers outside this room.

17 CHAIRMAN WELLINGHOFF: Thank you, Madam
18 Secretary. Anything else to come before the Commission this
19 morning?

20 (No response.)

21 CHAIRMAN WELLINGHOFF: If not, we're adjourned.
22 Thank you.

23 (Whereupon, at 11:50 a.m., the meeting was
24 adjourned.)