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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

917TH COMMISSION MEETING  
OPEN MEETING

Hearing Room 2A  
Federal Energy Regulatory  
Commission  
888 First Street, N.E.  
Washington, D.C.

Thursday, April 19, 2007  
10:05 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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21 ALSO PRESENT:

22 JANE W. BEACH, Reporter

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

(10:05 a.m.)

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

Please join us in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRMAN KELLIHER: We actually have a full agenda today. I was just talking with Suedeen about how big this agenda is, and we were both trying to remember when the last time the Commission had a small meeting, and I think that February of 06 was a pretty modest meeting, and that's probably the most recent Commission meeting where we had a pretty modest agenda.

But this one is pretty complete. Today we are acting to assure reliability of the bulk power system; we're acting to protect consumers; protect the integrity of markets; to provide greater regulatory certainty; to promote renewable energy development and fuel diversity; to increase transmission investment; and to strengthen the energy infrastructure, and I think that's pretty good for one day's work.

I want to thank my colleagues for all their work

1 on this agenda. We have had very few strikes; we have a  
2 very complete agenda, and we've really executed it.

3 And I also want to say that we continue to be  
4 impressed with the Staff. The Commission Staff has an  
5 extraordinary capacity to do excellent work, and to support  
6 the Commission.

7 Before I go any further, I want to recognize --  
8 we have a guest; we have a visitor from the Romanian Natural  
9 Gas Regulatory Authority, Marella Pleska. If you could  
10 stand, please, for a moment?

11 She is here to observe gas regulation, real-time,  
12 at FERC, and I want to thank you for attending. Rumania is  
13 really committed to developing effective energy regulation,  
14 and I hope we can help a bit, so thanks for being here.

15 I just want to comment that since the last open  
16 meeting, the Moeller family has doubled in size, and  
17 Commissioner --

18 (Laughter.)

19 CHAIRMAN KELLIHER: Commissioner Moeller might  
20 want to make a comment.

21 COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
22 Yes, I'm happy to announce that the blue shirt is in honor  
23 of my son and the pink tie in honor of my daughter. They  
24 were both born on April 9th. Thank you for all the good  
25 wishes.

1 (Applause.)

2 CHAIRMAN KELLIHER: And April 9th, is actually  
3 the anniversary of the surrender of Lee's army, so --

4 (Laughter.)

5 CHAIRMAN KELLIHER: In case you need help  
6 remembering the birth date --

7 I also want to point out that this is the first  
8 meeting for Kim Bose, our Secretary. Thank you, Kim. I've  
9 heard very good reviews of your performance leading up to  
10 this meeting, so, thank you for accepting the job and for  
11 being here today.

12 Before we get into the business part of the  
13 meeting, I want to make a few awards to some very deserving  
14 Commission Staffers. There are no surprises this month.

15 Last month was fun, but we thought we'd actually  
16 tell people in advance this time. And let me start with Joe  
17 McClellan, the Director of our Division of Reliability.

18 I just want to recognize the fine leadership by  
19 Joe McClellan of the Division of Reliability, by awarding  
20 him the Chairman's Gold Medal for Leadership.

21 Joe, of course, has led the Reliability Division  
22 since it was established in 2004, and he not only  
23 established office, but he has expanded it to meet the  
24 growing needs of the Commission over time.

25 He started with a handful of engineers, and the

1 office now has a staff of about 40.

2 I also want to commend Pat Wood for establishing  
3 the Division in the wake of the 2003 blackout. It would  
4 have been much more difficult, and, perhaps, impossible for  
5 the Commission to implement the reliability provisions of  
6 EPAct in time, if Pat hadn't had the foresight to establish  
7 the office in advance of EPAct's enactment.

8 The Reliability Division has done everything that  
9 the Commission has asked of it, and done it quickly and done  
10 it well. They did the Staff assessment of the proposed  
11 reliability standards, and I really think that was a first-  
12 rate piece of work.

13 They provided a constructive review of the  
14 proposed reliability standards. They also worked very  
15 effectively with the other Commission offices, on review of  
16 the reliability agreements, the delegation agreements.

17 Now, the Commission has been able to meet the  
18 aggressive goal of establishing a strong reliability regime  
19 by the Summer of 2007, because of the fine work of the  
20 Reliability Division under the effective leadership of Joe.

21 And thanks to Joe and the Reliability Division.  
22 This Summer will be the first Summer where the bulk power  
23 system is protected by mandatory reliability standards.

24 I think it's important to recognize that what the  
25 Reliability Division is doing, and, really, what the

1 Commission is doing, is new; it's new to us.

2 The role in enforcing reliability standards and  
3 establishing and enforcing reliability standards, is much  
4 more like safety regulation than traditional economic  
5 regulation.

6 We're really -- it's more like our Dam Safety  
7 Program than it is our traditional economic regulation.

8 That's new and a bit different for us, and it is  
9 the first -- the ERO is the first self-regulating  
10 organization in FERC's world, and, again, that relationship  
11 is new and different.

12 And there is the notion of the delegation  
13 agreements that we're reviewing today, and perhaps we'll  
14 prove today, that that's different, too, for the Commission  
15 to delegate some authority outside its boundaries.

16 I just want to say that Joe is one of the most  
17 dedicated Commission employees and recognize his leadership,  
18 and give him the Chairman's Gold Medal, but, first, I want  
19 to turn to any of my colleagues and see if they have  
20 comments they'd like to make. Jon?

21 COMMISSIONER WELLNGHOFF: Joe, I just wanted to  
22 say -- I also wanted to thank Joe and commend him for the  
23 work that he's done in conjunction with my work on the  
24 Defense Science Board, and all the work he's done with DOD,  
25 above and beyond everything else he does here at the

1 Commission. I really appreciate the efforts he's made  
2 there.

3 CHAIRMAN KELLIHER: Thanks, Jon. Colleague?  
4 Phil?

5 COMMISSIONER MOELLER: Similarly, Mr. Chairman,  
6 I've been impressed with Mr. McClellan, and the fact that he  
7 thinks beyond what is just in the realm of right now, and I  
8 think he's a great public servant, and I'm glad you're  
9 awarding him this.

10 CHAIRMAN KELLIHER: Great. Suedeen?

11 COMMISSIONER KELLY: Thank you, Joe, for leaving  
12 the job that you had to come to us. Where is Joe?

13 CHAIRMAN KELLIHER: Yeah, where is he, anyway?

14 (Laughter.)

15 COMMISSIONER KELLY: There's Joe.

16 CHAIRMAN KELLIHER: There he is.

17 COMMISSIONER KELLY: Stand up, stand up, Joe.  
18 Thank you for leaving the job in industry, taking a pay cut.

19 Not a lot of people know, I think, that Joe  
20 actually commutes over two hours a day, each way, to get  
21 here, and that's just one striking example of his dedication  
22 and commitment to the work he does.

23 I just want to say that it's a pleasure,  
24 personally, to work with you. Thank you.

25 CHAIRMAN KELLIHER: Marc?

1                   COMMISSIONER SPITZER: Mr. Chairman, I agree with  
2 what you've said, particularly regarding the creation of a  
3 new function and a new regime that is historically anomalous  
4 for the FERC.

5                   I came in in July, and, in early August, had my  
6 first briefing from Mr. McClellan and his team. I was very  
7 impressed, particularly when I would ask an ill-informed  
8 question and get a very patient response, which was based on  
9 engineering, not a lawyer's response.

10                   So it's very much appreciated and reflective of,  
11 really, the important and very new and challenging task  
12 that's been done, and under great time pressure, in a very  
13 thoughtful and professional way.

14                   So I absolutely agree with this award.

15                   CHAIRMAN KELLIHER: Great. Thank you. Joe, why  
16 don't you come up, and we'll give you your award.

17                   (Award presented; applause.)

18                   CHAIRMAN KELLIHER: Next, I'd like to recognize  
19 Bob Solomon. Frankly, the hardest decision I had with  
20 respect to Bob, was to decide which award to give him,  
21 either the Exemplar of the Public Service Award, or Gold  
22 Medal for Leadership, because I frankly think he has earned  
23 both, and, if you stick around, maybe you'll get the  
24 Exemplar.

25                   (Laughter.)

1                   CHAIRMAN KELLIHER: Now, Bob has provided  
2 outstanding leadership within OGC for 20 years, assuming  
3 various positions of responsibility within the Office.

4                   As both Deputy Solicitor and now Solicitor, he's  
5 worked effectively to increase our standing in the courts.

6                   I just want to note -- I cite my win/loss record  
7 frequently, and I attribute it, in large part, to Bob, but  
8 since I became Chairman, our record in the Federal Courts  
9 and Circuit Courts, has been 37, 10, and 10, and three of  
10 those losses, I have to point out, were --

11                   (Laughter.)

12                   CHAIRMAN KELLIHER: -- were where the Court  
13 agreed with my dissents, my early dissents.

14                   (Laughter.)

15                   CHAIRMAN KELLIHER: But the win/loss record  
16 really doesn't tell it all; that doesn't capture Bob's full  
17 role.

18                   One of the things that we discussed when he  
19 became Solicitor, is that I asked him -- we discussed  
20 voluntary remands; should the Commission seek voluntary  
21 remands of some of our prior decisions that were pending in  
22 the courts?

23                   And I asked him for his recommendations on what  
24 Orders we should seek voluntary remands; we sought a good  
25 number of voluntary remands. In some cases, we've

1 strengthened our rationale; in other cases, we, perhaps,  
2 have changed the outcome.

3 I really think that was the right thing to do, to  
4 take a hard look at some of the decisions pending in the  
5 courts, and that's something that probably hasn't gotten  
6 much attention.

7 Bob has very effectively defended the Commission  
8 Orders in the Circuit Courts, and he's played our hand very  
9 well, even when we haven't dealt him, necessarily, the  
10 strongest hand in the first place.

11 But Bob's Office plays a critical role within the  
12 Commission, in the development of our Orders, and that isn't  
13 necessarily recognized, Bob's Office, as well as Bob,  
14 personally.

15 The Office reviews draft Orders, particularly  
16 Rehearing Orders, to ensure that they can withstand judicial  
17 review.

18 Bob holds training for our young attorneys, to  
19 teach them how to draft Orders that will be sustained.

20 And Bob routinely brings groups of younger  
21 lawyers to see oral arguments, to see firsthand, how  
22 exacting judicial review can be.

23 Bob's a skill oral advocate with excellent  
24 judgment, and he leads by example, as well as by constantly  
25 seeking to upgrade the quality of the briefs and the

1 Commission's oral advocacy.

2 I think his counsel is indispensable at the  
3 Commission. He's shown great leadership in his current  
4 role, and I just think we should honor him and recognize  
5 him.

6 Colleagues, any comments? Jon?

7 COMMISSIONER WELLNGHOFF: Well, you know, Bob's  
8 Office is one of those oddities in an agency. You know he's  
9 doing a great job, if you never see him.

10 (Laughter.)

11 COMMISSIONER WELLNGHOFF: And so I haven't seen  
12 very much of you, Bob. I know you're doing a great job.

13 (Laughter.)

14 COMMISSIONER WELLNGHOFF: And I really appreciate  
15 all that you do for us, with respect to the courts and our  
16 Orders. Thank you very much.

17 CHAIRMAN KELLIHER: Phil?

18 COMMISSIONER MOELLER: Mr. Chairman, I would only  
19 add that in addition to all the accolades you mentioned,  
20 he's a really good guy, too.

21 (Laughter.)

22 CHAIRMAN KELLIHER: Yes, he is.

23 CHAIRMAN KELLIHER: Suedeen?

24 COMMISSIONER KELLY: The one other thing I would  
25 add, is that he recruits and manages a terrific staff, and I

1 know from talking to them, that part of the reason they are  
2 there, is because they work for someone like you.

3 And the skills that you show, the people skills  
4 that you show towards your staff, are also evident in the  
5 skills that you show in dealing with Commissioners.

6 It's a very difficult line, I know, to walk, to  
7 tell the Commissioners that what they might want to do,  
8 isn't legally a very sound idea, and you --

9 (Laughter.)

10 COMMISSIONER KELLY: And you do it with the  
11 utmost grace. I really value your counsel, and I'm so glad  
12 you're here.

13 CHAIRMAN KELLIHER: Marc?

14 COMMISSIONER SPITZER: Yes, Mr. Chairman, telling  
15 the Commissioners they're wrong, is a hard thing.

16 I will say that, to me, the distinguishing  
17 attribute of an outstanding lawyer, is judgment and judgment  
18 is manifested in a number of ways.

19 As the Chairman pointed out, Bob will assist in  
20 improving Orders in the process, which is important. Bob  
21 evaluates, in a very sound manner, the status of cases, and  
22 won't advance an argument that he doesn't believe to be  
23 meritorious.

24 And that's a delicate and difficult judgment, and  
25 the obligations imposed upon government attorneys, are

1 somewhat different when you represent the United States, and  
2 Bob does so very proudly and that brings honor and respect  
3 to this Commission.

4 CHAIRMAN KELLIHER: Great, thank you. Without  
5 any further ado, Bob, why don't you come up and accept your  
6 award?

7 (Award presented; applause.)

8 CHAIRMAN KELLIHER: I'm looking for Bryan Lee  
9 now. Where is Bryan Lee? There he is, where he should be.  
10 Bryan is next, and he is leaving the Commission.  
11 This is the last meeting where Bryan will help us keep the  
12 barbarians in check over there.

13 (Laughter.)

14 CHAIRMAN KELLIHER: See, we have kind of a low  
15 wall here between the Commission and the press.

16 (Laughter.)

17 CHAIRMAN KELLIHER: Now, I knew Bryan before I  
18 arrived at the Commission, when I was at the Committee  
19 Council, so, about ten years ago, I knew Bryan and saw how  
20 he watched. The Committee then was dealing with electricity  
21 legislation, legislation that ended up being incorporated  
22 into EAct, and I thought Bryan was -- I was very impressed  
23 with his insight into what we were doing, because it was a  
24 very complicated subject matter, but Bryan understood it and  
25 could explain it and could translate it.

1           But I think Bryan was the right man at the right  
2 time or the right person at the right time at the Commission  
3 when he joined us. He joined the Commission in 2002, two  
4 weeks before the SMD NOPR was issued.

5           But he arrived, more importantly, after the wake  
6 of the California crisis. Before the California crisis, the  
7 Commission was a semi-obscure agency; we weren't really in  
8 the public limelight, and we found ourselves thrust into the  
9 public limelight, and that really changed things  
10 fundamentally.

11           Before then, the Commission had kind of the  
12 attitude of a court, that if you wanted to understand the  
13 Commission policy, read the Order; the Order speaks for  
14 itself.

15           And that really didn't work anymore, didn't work  
16 after the California crisis, because it wasn't enough just  
17 to have good policy, well rooted in law, but we also had to  
18 maintain public confidence; we had to explain what we were  
19 doing and why we were doing it, to a different kind of  
20 universe, not the FERC bar, not FERC practitioners, but  
21 really to the general public and to the mainstream media,  
22 and I think Bryan was able to do that.

23           He was an ambassador from the Commission to the  
24 outside world, but then could help explain the outside world  
25 to the Commission. I think that requires a real unusual

1 combination of skills that Bryan certainly has. It's  
2 actually a rare combination.

3 Bryan has served the Commission very well under  
4 my Chairmanship, as well as Pat's, and he's served the  
5 individual Commissioners well, and I think what happens in  
6 Press Services, stays in Press Services. Bryan -- that's a  
7 Las Vegas reference, I suppose, but it's -- Bryan has given  
8 us all good advice, individually, but he's served the  
9 Commission very well, and he's given me some great advice.

10 And sometimes the best advice, is the advice that  
11 you're not asking for, but you're given nonetheless. Bryan  
12 has given me a lot of good, frank advice, and I rely on him.  
13 He's shown a lot of initiative in his role, and really has  
14 fiercely tried to protect the Commission's position in  
15 explaining it.

16 So, with that, I'd like to turn to my colleagues,  
17 but I do intend to give Bryan the Commission Award for  
18 Leadership Excellence. I would like to ask my colleagues if  
19 they would like to join in. Jon?

20 COMMISSIONER WELLNGHOFF: Joe, I would, and I  
21 think that Bryan very much deserves this award, and just  
22 what you did for me for the last eight months, deserves the  
23 award, Bryan. I appreciate it very much.

24 You know, I've had immeasurable assistance from  
25 you, learning about my transition from, you know, a very

1 state and local press milieu, to the Washington national  
2 press milieu, and it's a whole different world that you've  
3 helped me step through, and I appreciate that very, very  
4 much.

5 I appreciate that effort, and, again, all of the  
6 times that we have to sit down and talk about issues, as  
7 well. Thank you very much, Bryan.

8 CHAIRMAN KELLIHER: Phil?

9 COMMISSIONER MOELLER: Mr. Chairman, thank you.  
10 I, too, have known Bryan quite a while, and, in fact, I've  
11 been on the other end of his questions when he was in the  
12 private sector.

13 (Laughter.)

14 COMMISSIONER MOELLER: That was a little  
15 uncomfortable, but it's a testament to his quality,  
16 previously, as a reporter, and the outstanding job he's done  
17 here, because of his background and his understanding of  
18 this very complex industry.

19 You, too, have helped me, Bryan, and I  
20 appreciate, in the time I've been here, and wish you the  
21 best success as you leave, but you'll be missed.

22 COMMISSIONER KELLY: I think one of the highest  
23 accolades that you can give a spokesperson, is that they are  
24 a great communicator. I know that President Reagan  
25 appreciated that accolade, and I believe that the FERC

1 Commissioners would bestow it on you.

2 You've been really a standard-setting spokesman  
3 for FERC. You're the only press liaison that I've know here  
4 at FERC, and you've been terrific, and I'm going to miss  
5 you. Thanks.

6 CHAIRMAN KELLIHER: Marc?

7 COMMISSIONER SPITZER: Mr. Chairman, first, of  
8 all the people that have come through my office, Bryan is  
9 the only one who has praised my Pittsburgh Pirates trash  
10 can.

11 (Laughter.)

12 COMMISSIONER SPITZER: As someone also born in  
13 Pittsburgh -- wy wife, by the way, she really was  
14 disappointed that made the move. She thought it might get  
15 lost along the way.

16 (Laughter.)

17 COMMISSIONER SPITZER: It is difficult to  
18 sometimes -- particularly with regard to the mainstream  
19 press, to explain a very complicated legal issue or a  
20 technical issue, and that's a challenge.

21 And I continue to be impressed by Bryan's ability  
22 to do that, and then to explain to people like me, how to do  
23 that or how to try to do that. The only other thing I'd  
24 point out, is that a lot of people have a lot of  
25 intellectual capacity, and Bryan certainly does in the

1 context of his job, but Commissioner Brownell made a point  
2 to me, upon my nomination, and she said, get to know Bryan  
3 Lee; he is one of the most loyal and courageous people you  
4 will ever meet, and I agree. Thank you.

5 CHAIRMAN KELLIHER: I think you're entirely  
6 right. Bryan is very -- we all trust him, and I think we  
7 all like him, and we are going to miss you, but, Bryan, why  
8 don't you come up, and we'll give you your award.

9 (Award presented; applause.)

10 CHAIRMAN KELLIHER: I've run out of awards, so I  
11 think we're going to have to turn to some of the business  
12 matters, but before we get to the consent agenda, I'd like  
13 to point out that since the March open meeting, the  
14 Commission has approved 97 Notational Orders.

15 And that is a tremendous amount of work. I think  
16 that's four a day, roughly, every day since the last open  
17 meeting, and I think that's a tremendous amount of work, and  
18 I really want to thank my personal staff, the lawyers on my  
19 personal staff, as well as the advisors on all the  
20 Commissioners' staff and the general Commission Staff for  
21 the hard work and the ability to do so much in between the  
22 open meetings.

23 I think that really makes it easier for us to  
24 handle some significant matters at the open meetings, and  
25 have relatively few strikes. So, again, thank you for your

1 hard work.

2 And, Madam Secretary, let's turn to the consent  
3 agenda.

4 SECRETARY BOSE: Good morning, Mr. Chairman and  
5 good morning, Commissioners. Since the issuance of the  
6 Sunshine Act Notice on April 12, no items have been struck  
7 from this morning's agenda.

8 Your consent agenda for this morning, is as  
9 follows: Electric Items are: E-1, E-3, E-4, E-9, E-10, E-  
10 11, E-12, E-13, E-14, E-15, E-16, E-17, E-20, E-22, E-24,  
11 and E-26.

12 The Miscellaneous Item is M-2.

13 The Gas Items are: G-1 and G-2.

14 The Hydro Items are: H-1 and H-2.

15 The Certificate Items are: C-2, C-3, C-4, C-5,  
16 C-6, C-7, and C-8.

17 As required by law, Commission Moeller is not  
18 participating in the following Items: E-1, E-2, E-10, and  
19 E-19.

20 As to G-2 on the consent agenda, Commissioner  
21 Kelly is dissenting, with a separate statement.

22 Now, we'll take a vote on the consent agenda  
23 items, beginning with Commissioner Wellinghoff.

24 COMMISSIONER WELLNGHOFF: I vote aye.

25 SECRETARY BOSE: Commissioner Moeller?

1                   COMMISSIONER MOELLER: Vote aye, with the  
2                   exception of the items I'm recused from.

3                   SECRETARY BOSE: Commissioner Spitzer?

4                   COMMISSIONER SPITZER: I vote aye.

5                   SECRETARY BOSE: Commissioner Kelly?

6                   COMMISSIONER KELLY: I vote aye, with the  
7                   exception of my dissent in G-2.

8                   SECRETARY BOSE: Chairman Kelliher?

9                   CHAIRMAN KELLIHER: Aye.

10                  Madam Secretary, let's turn to the items on the  
11                  discussion agenda.

12                  SECRETARY BOSE: All right.

13                  CHAIRMAN KELLIHER: Oh, I'm sorry, but before we  
14                  do that, I think Commissioner Moeller had a comment that he  
15                  wanted to make on the MRTU Order. Is that true? I'm not  
16                  going to compel you.

17                  (Laughter.)

18                  CHAIRMAN KELLIHER: But I thought you -- if you  
19                  want to, you're welcome to.

20                  COMMISSIONER MOELLER: I have a written statement  
21                  that I'll publish.

22                  CHAIRMAN KELLIHER: Okay, perfect.

23                  COMMISSIONER MOELLER: Thank you.

24                  CHAIRMAN KELLIHER: Thank you very much. Let's  
25                  turn to the discussion agenda, then.

1                   SECRETARY BOSE: The first items on the  
2 discussion agenda for this morning, are E-19 and E-2,  
3 concerning the North American Electric Reliability  
4 Corporation.

5                   There will be a presentation given by David  
6 Miller from the Office of Energy Markets and Reliability;  
7 Andre Goodson from the Office of the General Counsel. They  
8 are accompanied by Kristin McKeown, Office of Enforcement;  
9 and Mary Agnes Nimis from the Office of Energy Markets and  
10 Reliability.

11                   MR. MILLER: Mr. Chairman and Commissioners, we  
12 present to you today, Item E-19, a Draft Order that would  
13 approve agreements between the North American Electric  
14 Reliability Corporation, or NERC, and eight regional  
15 entities, through which NERC will delegate authority to  
16 enforce Commission-approved bulk power system reliability  
17 standards, as well as develop and propose regional  
18 reliability standards.

19                   The Draft Order also approves FERC's proposal for  
20 a uniform Compliance Monitoring and Enforcement Program to  
21 be administered by NERC and each of the regional entities.

22                   After the conclusion of my remarks, Staff will  
23 present Agenda Item E-2, which addresses Requests for  
24 Rehearing of an October 24th, 2006 Commission Order that  
25 approved the budget for NERC as the Electric Reliability

1 Organization.

2 With me today, is Mary Agnes Nimis of the Office  
3 of Energy Markets and Reliability, and Kristin McKeown of  
4 the Office of Enforcement.

5 I am David Miller from the Division of  
6 Reliability in the Office of Energy Markets and Reliability.  
7 Other Staff who contributed to this document, include: Kent  
8 Carter of the Office of General Counsel, Keith O'Neal and  
9 James Stetson of the Office of Energy Markets and  
10 Reliability, and Roger Morie and Catherine Carswell of the  
11 Office of Enforcement.

12 The E-19 Draft Order would also approve NERC's  
13 revised pro forma delegation agreement, certain related  
14 changes in NERC's rules of procedure, and the regional  
15 entity business plans originally filed by NERC with its 2007  
16 budget proposal.

17 The pro forma delegation agreement will serve as  
18 the default contractual basis for the relationship between  
19 NERC and a regional entity. It provides criteria by which  
20 NERC will evaluate a regional entity candidate's governance,  
21 identifies common attributes that NERC will require of a  
22 regional entity's standards development process, and  
23 describes a framework for funding of regional entity-  
24 delegated functions.

25 The agreement also details a Compliance

1 Monitoring and Enforcement Program through which NERC and  
2 the regional entities will monitor, assess, and enforce  
3 compliance with Commission-approved reliability standards.

4 The issues addressed by the Compliance Program,  
5 include: Audits, investigations, allegations and  
6 complaints, mitigation plans, remedial action directives,  
7 settlements, confidentiality, hearings, and appeals.

8 Through the eight individual regional entity  
9 delegation agreements that would be approved by the Draft  
10 Order, NERC delegates enforcement authority to: Texas  
11 Regional Entity, a Division of the Electric Reliability  
12 Council of Texas, for the Texas Interconnection; the Midwest  
13 Reliability Organization for portions of the Midwest and  
14 Upper Plains States; the Northeast Power Coordinating  
15 Council Cross-Border Regional Entity, for the Northeast and  
16 New England; the Reliability First Corporation, for the Mid-  
17 Atlantic and portions of the Midwest; the SERC Reliability  
18 Corporation for the Southeast; the Southwest Power Pool for  
19 the South Central Region; to Western Electricity  
20 Coordinating Council for the entire Western Interconnection;  
21 and the Florida Reliability Coordinating Council for  
22 Peninsular Florida.

23 In July 2006, the Commission designated NERC as  
24 the nation's Electric Reliability Organization, or ERO,  
25 under Section 215 of the Federal Power Act.

1                   This past March, the Commission approved 83  
2 Reliability Standards proposed by NERC as the ERO.

3                   Building on these previous actions, this Draft  
4 Order takes the final major step forward in the transition  
5 to a strong electric reliability regime, by providing for  
6 vigorous enforcement of the Mandatory Reliability Standards  
7 throughout the United States.

8                   By adopting the Uniform Compliance Monitoring and  
9 Enforcement Program, each of these regional entities will  
10 have front-line responsibility in their regions for  
11 auditing, investigating, and otherwise ensuring that users,  
12 owners, and operators of the bulk power system, comply with  
13 the Reliability Standards.

14                   Through the delegation agreements, NERC also  
15 authorizes the regional entities to develop regional  
16 reliability standards and regional variances for  
17 consideration by NERC and approval by the Commission.

18                   While the Draft Order proposes to approve all of  
19 the eight regional entity delegation agreements, so that  
20 upon execution and refiling, they may become effective  
21 within 30 days.

22                   The Draft Order also identifies areas of concern.  
23 Therefore, where necessary to provide greater uniformity and  
24 clarity, and consistent with the authority granted by  
25 Section 215 of the Federal Power Act, Commission Order

1 Number 672, the Draft Order would also require that NERC and  
2 the regional entities, file certain modifications to the  
3 agreements within 180 days.

4 For example, the Draft Order would require  
5 changes to ensure that all interested stakeholders are able  
6 to participate in the development of regional reliability  
7 standards, to enhance the independence of regional entities  
8 that are also operators of the bulk power system, and to  
9 clarify certain due process requirement of enforcement  
10 proceedings.

11 Andre?

12 MR. GOODSON: Good morning. Agenda Item E-2  
13 addresses Requests for Rehearing of an October 24, 2006  
14 Commission Order that approved the budget for NERC as the  
15 Electric Reliability Organization.

16 Specifically, the Petitioners, including Western  
17 Electricity Coordinating Council, or WECC, seek rehearing of  
18 the exclusion from the NERC budget, of \$6.9 million for  
19 WECC's reliability coordinator activities.

20 The October 24 Order expressed concern that there  
21 was not a sufficient separation between WECC's oversight and  
22 real-time operations, and held that the same entity should  
23 not oversee its own compliance with reliability standards.

24 In response to the Request for Rehearing, the  
25 Commission, in a February 15 Order, found that WECC had

1 addressed a number of the Commission's concerns, but the  
2 Commission also found that several details about WECC's  
3 funding request, remained unclear, and it directed Staff to  
4 convene a technical conference.

5 At the technical conference held on March 2nd,  
6 2007, and in followup supplemental comments filed with the  
7 Commission, WECC and NERC provided further explanation.  
8 Other parties also filed comments.

9 The Draft Order grants rehearing, finding that  
10 WECC's Reliability Center's strategic initiative will  
11 improve its situational awareness and reliability by  
12 replacing its three existing reliability coordinators, who  
13 have situational awareness for pieces of the Western  
14 Interconnection, with two reliability coordinators, each  
15 with interconnection-wide situational awareness, on a  
16 primary and backup basis.

17 The Order finds that WECC's model to act as both  
18 a regional entity and as reliability coordinator, is  
19 strengthened by the independence of its reliability  
20 coordinators, and that independence will, in turn, be  
21 further enhanced under WECC's strategic initiative.

22 The Order authorizes the collection of \$5.7  
23 million for WECC, which is the amount for its reliability  
24 coordinators in the U.S, under Section 215 of the Federal  
25 Power Act.

1           The Draft Order also determines that the  
2           Commission's concerns about compliance and enforcement  
3           oversight of the WECC reliability coordinator function and  
4           the handling of monetary penalties, are more appropriately  
5           addressed in the proceeding concerning the regional entity  
6           delegation agreements with the ERO.

7           This concludes our presentation, and we would be  
8           happy to respond to any questions that you might have.  
9           Thank you.

10           CHAIRMAN KELLIHER: Thank you, thank you for that  
11           presentation. And I want to commend the Staff for the  
12           quality of the Order. I think it was a very well written  
13           Order and a good piece of work.

14           This Order is the third in a series of landmark  
15           actions that the Commission has taken in recent months to  
16           establish a strong reliability regime.

17           We certified an ERO; we've established Mandatory  
18           Reliability Standards, and, today, we provide for effective  
19           enforcement of those standards.

20           Just as with last month -- last month, we  
21           established Mandatory Reliability Standards, but we  
22           recognized the need to strengthen those standards over time,  
23           to provide greater protection for the bulk power system, and  
24           today we're providing for enforcement, but we recognize in  
25           the same light, that we're going to need to strengthen and

1 reinforce enforcement over time, both enforcement performed  
2 by the Commission, as well as by the regional entities.

3 A year ago, we set a goal of having a strong  
4 reliability regime in place by the Summer of 2007, and that  
5 was a very ambitious goal, but we meet it today, and I just  
6 want to commend the Staff for everything you've done over  
7 the past year.

8 The end result is that this Summer will be the  
9 first Summer where the U.S. bulk power system is protected  
10 by Mandatory Reliability Standards.

11 I can't guarantee that there won't be violations;  
12 I can't guarantee there won't be reliability problems this  
13 Summer, but we will have mandatory bulk power systems in  
14 place, and we will have an enforcement regime in place, as  
15 well.

16 So, again, thank you for your work, and I'd like  
17 to turn to any of my colleagues who might want to comment.  
18 Suedeen?

19 COMMISSIONER KELLY: As charged by law, NERC is  
20 building the structure that the country needs to ensure the  
21 most reliable electric system that we can practically  
22 achieve.

23 Today's approval of NERC's delegation agreement,  
24 as well as the eight NERC regional entities' delegation  
25 agreements, gives a solid and uniform foundation for this

1 structure; that is, for the enforcement of Mandatory  
2 Reliability Standards.

3 And it also demonstrates the hard work done by  
4 NERC, together with the regional entities, to develop,  
5 collaboratively, an effective and uniform enforcement  
6 structure, and I would like to commend them all for working  
7 together so effectively to come to us with a product that  
8 I'm happy to approve.

9 CHAIRMAN KELLIHER: Thank you. Colleagues?  
10 Marc?

11 COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
12 This is certainly one of the major elements of EPAct, and  
13 there can be no higher duty than assuring America's  
14 consumers, a stable and reliable utility system.

15 Just a few brief points: The delegation  
16 agreements appropriately allow regional entities to develop  
17 regional reliability standards and regional variances to  
18 meet the needs of a region, and this flexibility is  
19 appropriate.

20 However, while the rules place certain duties on  
21 NERC and the regional entities to monitor and enforce  
22 compliance, this Commission is in no way constrained from  
23 stepping in at any time to exercise its direct jurisdiction  
24 for the protection of the nation's consumers.

25 Thus, I believe that these Orders reach the

1 correct balance, and they have my full support.

2 Finally, I'd like to point out that E-2 is an  
3 example of a process working, where entities filed for  
4 reconsideration. Their comments were considered by the  
5 Commission, and heard as well as listened to. That isn't  
6 always the case in complex proceedings, but I think it's a  
7 testament to the willingness of the Commission to revisit  
8 issues, and I think we've reached the correct result with  
9 WECC.

10 I thank the parties, all of the parties,  
11 including WIRAP for bringing this issue to our attention and  
12 for its fair resolution. I support these Orders and thank  
13 you, Mr. Chairman.

14 CHAIRMAN KELLIHER: Jon?

15 COMMISSIONER WELLNGHOFF: Mr. Chairman, I would  
16 only say that I do support both these Orders, and I'd second  
17 Commissioner's Spitzer's statements with respect to E-2.  
18 I'm glad that we were able to come to the right resolution  
19 here, and I think we have, and I'm glad that we're able to  
20 approve the funding of WECC's reliability coordinator.

21 CHAIRMAN KELLIHER: Thank you. Okay, let's vote.

22 SECRETARY BOSE: We'll take a vote on both items  
23 together, beginning with Commissioner Wellinghoff.

24 COMMISSIONER WELLNGHOFF: I vote aye.

25 SECRETARY BOSE: Commissioner Moeller?

1 COMMISSIONER MOELLER: Recused.

2 SECRETARY BOSE: Commissioner Spitzer?

3 COMMISSIONER SPITZER: Aye.

4 SECRETARY BOSE: Commissioner Kelly?

5 COMMISSIONER KELLY: Aye.

6 SECRETARY BOSE: Chairman Kelliher?

7 CHAIRMAN KELLIHER: Aye.

8 SECRETARY BOSE: The next item for discussion  
9 this morning, is E-6, concerning the Californians for  
10 Renewable Energy, Incorporated vs. the California Public  
11 Utilities Commission.

12 We will have a presentation by Olga Kolotushkina  
13 from the Office of the General Counsel, accompanied by  
14 Shaheda Sultan from the Office of the General Counsel.

15 MS. KOLOTUSHKINA: Good morning, Mr. Chairman and  
16 Commissioners. The Order before you addresses two virtually  
17 identical Complaints filed by Californians for Renewable  
18 Energy, Inc., CARE, seeking Commission review and rejection  
19 of certain wholesale contracts approved by the California  
20 Public Utilities Commission.

21 The contracts at issue are long-term, market-  
22 based rate contracts entered into by sellers in the  
23 California market.

24 First, the Draft Order finds that CARE  
25 mischaracterized the relevant case law as invalidating the

1 Commission's market-based rate program, and as requiring  
2 prior Commission review and approval of market-based rate  
3 contracts.

4 Specifically, the Draft Order addresses claims  
5 made by CARE, regarding the applicability of several recent  
6 decisions by the United States Court of Appeals for the 9th  
7 Circuit to market-based rate contracts.

8 The Draft Order finds that, contrary to CARE's  
9 contentions, the recent decisions by the 9th Circuit, did  
10 not overturn the Commission's market-based rate program, nor  
11 did they require that all market-based rate transactions, be  
12 prefiled at or approved by the Commission.

13 The Draft Order also finds that CARE has provided  
14 no factual support to its allegations that the challenged  
15 contracts are unjust and unreasonable, or were tainted by  
16 the exercise of market power.

17 Accordingly, the Draft Order dismisses the  
18 Complaint. This concludes my presentation, and I will be  
19 happy to answer any questions you may have. Thank you.

20 CHAIRMAN KELLIHER: Thank you very much for the  
21 presentation. It was very succinct.

22 As Staff indicated, the Commission does deny  
23 these Complaints, reject these Complaints, because there was  
24 no factual support for the Complaints, in particular, no  
25 showing that there was any kind of severe market dysfunction

1 in California and the West, currently.

2 I think that our Orders do provide greater  
3 regulatory certainty, in the wake of the 9th Circuit  
4 decisions, and, as Staff indicated, CARE has  
5 mischaracterized the case law, the relevant case law, in  
6 particular, the argument that the contracts are not valid,  
7 without prior review by the Commission; that absent prior  
8 review, contracts violate the Filed-Rate Doctrine, is  
9 completely false and we think is belied by the Lockyer  
10 Decision, and nothing in Snohomish or the California PUC  
11 decisions are inconsistent with Lockyer's finding that the  
12 Filed-Rate Doctrine is not implicated by the Commission's  
13 market-based rate program with the reporting requirements  
14 associated with NBR authorization.

15 It's also worth pointing out that the 9th Circuit  
16 was very critical of the Commission's market-based rate  
17 program, but the Commission has strengthened that program  
18 very significantly. In fact, it really isn't the same  
19 program that the Court criticized.

20 The Court criticized the program as it existed in  
21 the years 2000 and 2001, but we've made a series of  
22 significant changes, strengthening that program over time,  
23 and began doing so years ago, not on the heels of the 9th  
24 Circuit decision, but did so years ago.

25 Since 2001, we have strengthened the reporting

1 requirement; we've changed the generation market power test;  
2 we've added the changes of the status reporting requirement.

3 We have begun revoking market-based rate  
4 authorization, when companies violate the conditions of  
5 authorization, and when they fail to make electronic  
6 quarterly reports, when they fail to file triennial  
7 analysis, we revoke their authorization.

8 We have also initiated a rulemaking, the MBR, the  
9 Market-Based Rate Reform Rulemaking. We initiated that  
10 months before the 9th Circuit decisions.

11 Also, I think our action today is fully  
12 consistent with California State policy. California is  
13 aware that one of the causes of the California and Western  
14 power crisis, was lack of adequate electricity supply in  
15 California.

16 Part of their solution to that is the MRTU  
17 proposal, but also encouraging long-term contracts by  
18 California utilities, and I think our action today is fully  
19 consistent with California policy, in that it's worth noting  
20 that the contracts in question, actually were approved by  
21 the California Public Utilities Commission.

22 So, I think that this is an important action that  
23 we're taking today.

24 I'll turn to my colleagues to see if they have  
25 comments to make. Commissioner Kelly?

1                   COMMISSIONER KELLY: I agree with what you said,  
2                   Joe. I think the thing to underline, is that what this  
3                   Order does today, is reject the proposition that the Lockyer  
4                   and Snohomish decisions from the 9th Circuit, invalidated  
5                   the Commission's market-based rate program.

6                   The Commission's market-based rate program is  
7                   effective, and, as you explained and as we detail in this  
8                   decision, the Commission has taken a number of steps to  
9                   strengthen it, since the Western energy crisis in 2000 and  
10                  2001.

11                  One of the things that I'd like to mention, in  
12                  addition to those steps, is that last year, the Commission  
13                  initiated a rulemaking proceeding to amend our regulations  
14                  governing market-based rate authorization.

15                  That proposal, which has received numerous  
16                  comments, is to provide a stringent, up-front analysis, of  
17                  whether market-based rates should be granted in the first  
18                  place, and it sets forth ongoing filing requirements and  
19                  conditions that will strengthen the Commission's oversight  
20                  of market-based rates.

21                  I agree with the Order's dismissal of the  
22                  Complaint.

23                  CHAIRMAN KELLIHER: Thank you. Colleagues? Any  
24                  other comments? Marc?

25                  COMMISSIONER SPITZER: Mr. Chairman, thank you.

1 I support today's Order, and I speak separately to raise two  
2 issues of importance to me:

3 First, the Complaints seek to abrogate long-term  
4 contracts. Unless for very good reasons shown -- and the  
5 Complainant does not show any here -- this Commission should  
6 encourage, rather than challenge long-term contracts.

7 This Agency and state commissions across the  
8 country, have long recognized that long-term contracts  
9 benefit consumers by leveling prices, ensuring supplies, and  
10 providing for the infrastructure to fulfill the obligations  
11 under the contracts.

12 In addition, long-term contracts are increasingly  
13 necessary for developers of renewable resources, to assure  
14 that there will be customers and revenues worth the higher  
15 cost investment in certain renewable energy.

16 Ironically, by challenging the long-term  
17 contracts, Petitioner is acting in a manner inconsistent  
18 with its mission to support renewable energy.

19 Secondly, I note that one of the contracts at  
20 issue, was administered through a CPUC-approved procurement  
21 process, and the buyers ran the procurement through an  
22 independent, neutral, third-party evaluator.

23 The Commission should appropriately respect the  
24 deliberations of the CPUC and all state commissions. I  
25 believe that these types of measures are worthwhile to

1       assure that the utility's purchase is prudent and not the  
2       result of market power.

3               These types of procurement practices will become  
4       more important to ensure a robust and competitive market.

5               The Chairman has asked me to serve as the Chair  
6       for the FERC-NARUC Task Force on Competitive Procurement,  
7       and I think this is one of the most important topics before  
8       us, and I look forward to participation throughout the  
9       country, both at the federal level and among my state  
10      colleagues, to ascertain the best practices to deal with a  
11      competitive procurement that supports not only renewable  
12      resources, but all resources and low rates and stable prices  
13      for America's consumers.

14              CHAIRMAN KELLIHER: Thank you. Colleagues?  
15      Commissioner Moeller?

16              COMMISSIONER MOELLER: Mr. Chairman, I'll try not  
17      to repeat too many of the other points, but, I too, agree  
18      with today's decision to dismiss the Complaints, and I'm  
19      pleased that the Order made clear that the recent 9th  
20      Circuit cases have not rejected, but actually upheld our  
21      market-based rate program.

22              These Court decisions address the unique set of  
23      facts that you alluded to, in a market-based rate program  
24      that has undergone substantial improvements.

25              Since 2001, the Commission has undertaken

1 numerous measures to address market structure flaws and  
2 potential market manipulation in markets nationwide, to  
3 ensure that there are appropriate market safeguards in place  
4 to prevent a repeat of the West Coast 2000-2001 energy  
5 crisis.

6 The Commission has strengthened its market-based  
7 rate program, its market oversight and enforcement  
8 capabilities, and its ability to impose meaningful remedies.

9 It has also accepted the ISO's market redesign  
10 proposal. We're acting on this, of course, today, as a  
11 measure to improve the California energy markets.

12 Further, I'd like to emphasize that to ensure  
13 reliable and adequate service for consumers, to echo what  
14 Commission Spitzer said, buyers and sellers alike must be  
15 able to rely on stable, long-term contracts.

16 Protecting parties' contractual expectations,  
17 encourages sellers and buyers to contract for rate certainty  
18 through fixed-rate contracts and make investments to support  
19 such long-term contracts.

20 Finally, our Solicitor, Bob Solomon, who was  
21 honored today, recently argued a case before the D.C.  
22 Circuit Court on the validity of FERC's market-based rate  
23 program, and I'm hoping the Court will also hold the  
24 Commission's market-based rate program, similar to the  
25 Lockyer Court, that conducting an ex ante filing of absence

1 of market power, coupled with ongoing reporting  
2 requirements, satisfies the notice and filing requirements  
3 of Section 205 of the Federal Power Act. Thank you.

4 CHAIRMAN KELLIHER: Jon?

5 COMMISSIONER WELLNGHOFF: Mr. Chairman, I support  
6 all these statements of my colleagues and you, Mr. Chairman,  
7 with respect to this particular decision. I support the  
8 decision.

9 I think it's very simple, as we have stated in  
10 the Order. CARE was wrong on the law, they didn't bring us  
11 any facts to have us find otherwise, so, I support the  
12 decision. Thank you.

13 CHAIRMAN KELLIHER: Thank you. Let's vote.

14 SECRETARY BOSE: The vote begins with  
15 Commissioner Wellinghoff.

16 COMMISSIONER WELLNGHOFF: I vote aye.

17 SECRETARY BOSE: Commissioner Moeller?

18 COMMISSIONER MOELLER: Aye.

19 SECRETARY BOSE: Commissioner Spitzer?

20 COMMISSIONER SPITZER: Aye.

21 SECRETARY BOSE: Commissioner Kelly?

22 COMMISSIONER KELLY: Aye.

23 SECRETARY BOSE: And Chairman Kelliher?

24 CHAIRMAN KELLIHER: Aye.

25 SECRETARY BOSE: The next item for discussion

1 this morning, is M-1, concerning the Transparency Provisions  
2 of Section 23 of the Natural Gas Act.

3 A presentation will be given by Steve Harvey and  
4 Eric Ciccoretti from the Office of Enforcement.

5 MR. HARVEY: Good morning, Mr. Chairman and  
6 Commissioners. I'm here today with Eric Ciccoretti to  
7 present a Draft Notice of Proposed Rulemaking designed to  
8 help the Commission assure the integrity of markets for the  
9 transportation and sale of wholesale natural gas, and assure  
10 fair competition by facilitating price transparency in those  
11 markets.

12 This draft NOPR proposes to revise the  
13 Commission's regulations, first to require daily posting of  
14 some natural gas flow information by intrastate pipelines,  
15 and, second, to require reporting of aggregate annual  
16 purchase and sales information by participants in wholesale  
17 natural gas markets that transact more than de minimis  
18 volumes.

19 These proposals make use of expanded Commission  
20 authority under Section 23 of the Natural Gas Act, which was  
21 added by the Energy Policy Act of 2005, to require reporting  
22 from entities that have not traditionally fallen under the  
23 Commission's jurisdiction.

24 Eric will review the proposals in more detail.

25 MR. CICCORETTI: Good morning, Mr. Chairman and

1           Commissioners. As Steve mentioned, the draft NOPR consists  
2           of two proposals: The first would make available, more  
3           information needed to track daily flows of natural gas  
4           throughout the United States.

5                        It would require that intrastate pipelines, post  
6           on the Internet, daily capacities of and volumes flowing  
7           through major receipt and delivery points and mainline  
8           segments.

9                        The proposal differs from the existing  
10          requirement on interstate pipelines that post scheduled  
11          volumes, because intrastate pipelines operate in different  
12          regulatory and business contexts from interstate pipelines,  
13          making scheduled volumes less helpful in assessing the  
14          movement of natural gas.

15                      Daily posting of flow information by intrastate  
16          pipelines, would improve transparency of the physical  
17          interstate natural gas markets. Market participants would  
18          be able to develop a more complete picture of supply and  
19          demand conditions that could help them to do their job of  
20          pricing physical natural gas transactions.

21                      Also, during periods when the U.S. natural gas  
22          delivery system is disturbed, such as in the wake of  
23          hurricanes, the postings would provide market participants  
24          with a clearer view of the effects on infrastructure, on the  
25          industry, and on the economy as a whole.

1           The second proposal would requires buyers and  
2           sellers of more than a de minimis volume of natural gas, to  
3           report numbers and volumes of relevant transactions to the  
4           Commission on an annual basis.

5           This proposal would increase transparency by  
6           allowing, for the first time, an annual estimate of the size  
7           of the physical domestic natural gas market, as well as  
8           other market characteristics, including: Prevalence of  
9           index pricing; the size of the fixed-price trading market  
10          used to produce index prices, and the relative size of major  
11          traders.

12          Finally, the draft NOPR would require holders of  
13          blanket marketing certificate authority or blanket unbundled  
14          sales services certificate authority, to notify the  
15          Commission annually, whether they report their transactions  
16          to publishers of electricity or natural gas price indices  
17          and whether such reporting complies with certain standards.

18          Currently, a holder of such blanket certificates,  
19          is required to report only when it changes its reporting  
20          practices.

21          Annual notification of reporting status would  
22          make Commission information about the reporting practices of  
23          these companies, more reliable.

24          We do not propose to extend this notification  
25          requirement, beyond companies historically jurisdictional to

1 the Commission under blanket certificates.

2 This draft NOPR does not propose additional  
3 regulations for transparency in electricity markets, because  
4 the Commission has recently addressed and is currently  
5 addressing electric market transparency in other  
6 proceedings.

7 Steve and I would like to thank the members of  
8 the Office team here at the Commission for their work on  
9 this effort. From the Office of Enforcement, we thank Lee  
10 Ken Choo, Bob Flanders, Chris Peterson, Michelle Veloso,  
11 Matthew Hunter, Tom Russo, Jesse Halpern, and Tim Shear;  
12 from the Office of General Counsel, we thank Tina Ham and  
13 Chris Wilson; from the Office of Energy Markets and  
14 Reliability, Ed Murrell; and from of the Office of Energy  
15 Projects, Berne Mosley.

16 With that, we welcome your questions.

17 CHAIRMAN KELLIHER: Thank you. I thank you for  
18 that presentation, and also for a very well written NOPR.  
19 It was a pleasure to read, actually.

20 The Commission today proposes to exercise for the  
21 first time, the transparency authority that Congress gave us  
22 back in the Energy Policy Act of 2005. I think this is a  
23 very significant Order.

24 It does result in greater transparency in natural  
25 gas markets, and I think it will protect the integrity of

1 the natural gas markets to a greater extent.

2 I would also point out that we have been very  
3 deliberate in our approach; we have not acted in haste; we  
4 held a host -- the Office of Enforcement had a host of  
5 outreach meetings last year, where it widely solicited ideas  
6 on how we might exercise this discretionary authority.

7 What we're doing today, is, we're ordering the  
8 transparency measures that are supported by the record  
9 before the Commission, currently.

10 Other proposals were advanced, that we do not  
11 embrace, we do not propose today, and it's frankly because  
12 they were not adequately supported by the record.

13 This might be our first use of the transparency  
14 authority, but there is no reason for anyone to conclude it  
15 will be our last use of transparency authority.

16 To the extent we develop a record to support  
17 other uses, additional uses of our transparency authority,  
18 either with respect to gas markets or power markets, I would  
19 expect we would use it.

20 So I think these are important Orders, and I  
21 think it will improve confidence in current natural gas  
22 markets, so I support the Order.

23 Colleagues? Jon?

24 COMMISSIONER WELLNGHOFF: Mr. Chairman, I would  
25 just only like to say that transparency in gas and electric

1 markets, is essential for protecting consumers, and I think  
2 this is a step in the right direction today, and I support  
3 the Order. Thank you.

4 CHAIRMAN KELLIHER: Thank you. Colleagues?  
5 Suedeen? Commissioner Spitzer?

6 COMMISSIONER SPITZER: Okay, I have a statement  
7 that I'll post. It's very similar to that of the Chairman  
8 and the Staff.

9 I would add, though, that what I think is  
10 particularly important here, is another example of  
11 government operating properly, getting impact, feedback.  
12 One of the first conferences I attended here, was the  
13 October 13 meeting, at which there was a very vigorous  
14 debate and there were a lot of written materials.

15 There was some degree of consensus; there were a  
16 couple of sticking points, and I think this NOPR is another  
17 example of good government, where the stakeholders, and,  
18 particularly -- I think it's particularly noteworthy, Mr.  
19 Chairman, that the consumer advocates and those advocating  
20 for industrial, commercial, and individual consumers, were  
21 present and very articulately stated their views and those  
22 views were incorporated into this NOPR, and I'm pleased to  
23 support this Order.

24 CHAIRMAN KELLIHER: Thank you. Commissioner  
25 Moeller?

1                   COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
2                   Similarly to Commission Spitzer, I'll post a statement, but  
3                   first I want to thank the Enforcement team for laying the  
4                   groundwork for this NOPR, and as it explains, we are given  
5                   extended authority to require information reporting from  
6                   entities who are not typically within the scope of our  
7                   jurisdiction, in this case, intrastate pipelines.

8                   Our intent is pretty simple: To promote greater  
9                   transparency, and this should be valuable information to  
10                  gauge how these markets are working.

11                  That said, I'm looking forward to the comments,  
12                  both formally and informally, and we realize that whenever  
13                  we have additional reporting requirements, there is a burden  
14                  that goes with it, but, in this case, we want to hear the  
15                  various perspectives on how we can get a better, more  
16                  transparent market. Thank you.

17                  CHAIRMAN KELLIHER: Commissioner Kelly?

18                  COMMISSIONER KELLY: I'd like to elaborate a  
19                  little more on what Phil just said. Congress, when it  
20                  passed the Energy Policy Act, gave us the authority to act  
21                  to ensure a more transparent gas market, but giving us the  
22                  ability to have other participants in the market, in  
23                  addition to those interstate pipelines traditionally under  
24                  our jurisdiction, take steps that we feel are necessary to  
25                  increase transparency.

1           Phil mentioned that is what we are doing today is  
2           to seek comment on the proposal that intrastate pipelines be  
3           required to post daily to the Internet the capacities of and  
4           volumes flowing through their major receipt and delivery  
5           points and mainline segments.

6           I just wanted to explain a little bit about why  
7           we are proposing this. Interstates are already required  
8           under Order No. 637 to post capacity and scheduled volume  
9           information with the intention of allowing shippers to  
10          monitor capacity availability. But this information does  
11          not provide a complete picture of gas flows in the U.S. or  
12          even those flows directly relevant to the pricing of natural  
13          gas flowing in interstate commerce.

14          Natural gas sold at or destined to be sold at  
15          wholesale in the interstate market is frequently exchanged,  
16          or the transaction consummated, at market hubs where  
17          interstate and intrastate pipelines are interconnected. For  
18          example, WAHA, KADY, the Houston Ship Channel, the Henry  
19          Hub, et cetera.

20          An example of where not all the information is  
21          available is one pricing point directly connected to both  
22          interstate and intrastate pipelines is Henry Hub Louisiana.  
23          That is the location for delivery of natural gas under the  
24          NYMEX Futures Contract, for example.

25          Monthly settlements of NYMEX's Henry Hub Natural

1 Gas Futures Contract has become important in determining a  
2 variety of monthly Index prices used to set natural gas  
3 prices in a variety of transactions, some in interstate  
4 commerce, particularly along the East Coast and Gulf Coast.

5 So you can see that supply and demand in  
6 intrastate markets also has a direct effect on prices of gas  
7 destined for interstate markets because intrastates and  
8 interstates both draw on the same sources of supply.

9 So I think that the proposal that we make here is  
10 a very valid one and is worth the burden that it will put on  
11 intrastate pipelines, but I welcome all of your comments,  
12 particularly on that question.

13 Also, I just wanted to draw attention to one  
14 other question we asked. We propose here that buyers and  
15 sellers of more than a de minimis volume of natural gas  
16 report annual numbers and volumes of relevant transactions  
17 to the Commission, but we asked the question whether that is  
18 sufficient, or whether the reporting should be perhaps  
19 monthly or some other smaller breakdown. I would appreciate  
20 your comments on whether you think the annual reporting of  
21 aggregated numbers is sufficient.

22 Thank you.

23 CHAIRMAN KELLIHER: Let me just follow up on  
24 that. I agree with that question, and I have floated the  
25 notion of a quarterly report at the Transparency Conference

1 and didn't get a lot of bites, but I think it is legit. The  
2 frequency of reporting is certainly a legitimate question  
3 and I would like to see what the comments are on that.

4 Any other comments?

5 (No response.)

6 CHAIRMAN KELLIHER: We're all done. Okay, well  
7 why don't we vote.

8 SECRETARY BOSE: The vote will begin with  
9 Commissioner Wellinghoff.

10 COMMISSIONER WELLINGHOFF: I vote aye.

11 SECRETARY BOSE: Commissioner Moeller.

12 COMMISSIONER MOELLER: Aye.

13 SECRETARY BOSE: Commissioner Spitzer.

14 COMMISSIONER SPITZER: Aye.

15 SECRETARY BOSE: Commissioner Kelly.

16 COMMISSIONER KELLY: Aye.

17 SECRETARY BOSE: Chairman Kelliher.

18 CHAIRMAN KELLIHER: Aye.

19 SECRETARY BOSE: The next item for discussion  
20 this morning is E-5 concerning the California ISO. The  
21 presentation will be by Shawn Bennett from the Office of  
22 Energy Markets and Reliability, accompanied by Katherine  
23 Gensler and Kendra Bean from the Office of Energy Markets  
24 and Reliability, and Carla Urquhart from the Office of the  
25 General Counsel.

1                   MR. BENNETT: Good morning, Mr. Chairman, and  
2                   Commissioners. We want to first thank some staff members  
3                   who are not sitting before you today. They are: Roland  
4                   Wentworth of the Office of Energy Markets and Reliability,  
5                   and Michael Henry of the Office of General Counsel.

6                   The draft order before you grants a petition  
7                   filed by the California ISO seeking conceptual approval of a  
8                   proposal to finance the construction of facilities to  
9                   interconnect multiple location-constrained resources to the  
10                  transmission grid.

11                  Location-constrained resources are defined in the  
12                  draft order as generation resources that are constrained as  
13                  a result of their location, their immobility of fuel source,  
14                  and relative size.

15                  The application states that these resources  
16                  typically include renewable forms of generation such as  
17                  wind, geothermal, and solar.

18                  Under the California ISO's proposal, each  
19                  generator that interconnects would be responsible for paying  
20                  its pro rata share of the going-forward costs of the line.  
21                  All users of the transmission grid would pay the costs of  
22                  any unsubscribed portion of the interconnection facility  
23                  until the line is fully subscribed.

24                  The California ISO's proposal includes several  
25                  features to ensure that benefits will accrue to users of the

1 grid and to limit the costs borne by ratepayers. Before a  
2 facility can be constructed, the sponsoring transmission  
3 owner must demonstrate a sufficient level of interest from  
4 location-constrained generators in the facility's capacity.

5 The facility must also be approved in the  
6 California ISO's transmission planning process which is  
7 developed after receiving input from all interested  
8 stakeholders.

9 Once the facility is constructed, generators of  
10 any type would be eligible to interconnect and contract for  
11 unsubscribed capacity consistent with the Commission's open  
12 access requirements.

13 Finally, the California ISO's proposal includes a  
14 rate cap to limit potential cost impacts to users of the  
15 grid.

16 The draft order recognizes that the difficulties  
17 faced by generation developers seeking to interconnect  
18 location-constrained resources are real, are distinguishable  
19 from those faced by other generation developers, and that  
20 such impediments can thwart the efficient development of  
21 infrastructure.

22 The draft order finds that the California ISO's  
23 proposal is an appropriate mechanism through which to  
24 accommodate the unique characteristics of location-  
25 constrained resources, and that doing so does not constitute

1 undue discrimination against others.

2 Furthermore, removing barriers to the development  
3 of these resources will support the State of California in  
4 reaching its renewable portfolio standard.

5 In conclusion, the draft order finds that the  
6 California ISO's proposal strikes a reasonable balance in  
7 that it addresses the barriers to development of location-  
8 constrained resources and includes appropriate ratepayer  
9 protections to ensure that rates remain just, reasonable,  
10 and not unduly discriminatory.

11 Thank you, and staff is prepared to answer any  
12 questions you may have.

13 CHAIRMAN KELLIHER: Thank you very much for that  
14 presentation and for the order.

15 I think this order is an important one. What we  
16 are doing is promoting renewable energy development, and we  
17 are also promoting greater fuel diversity in our electricity  
18 supply.

19 I think we are also recognizing that Commission  
20 policy with respect to allocation of transmission costs can  
21 present a barrier to entry for renewable energy projects. I  
22 think by and large the Commission's policy with respect to  
23 allocating interconnection costs is sound; it gives a  
24 generator an incentive to locate where the interconnection  
25 costs are least.

1           The problem is that the location of renewable  
2 energy potential is really dictated by nature, and that the  
3 strict application of Commission policy could end up  
4 limiting the development of renewable energy because it  
5 could end up limiting development of renewable energy to  
6 where the interconnection costs just happen to be least, not  
7 where the renewable energy potential is the greatest.

8           So I think what we are doing in the order is we  
9 are recognizing the unique characteristics of renewable  
10 energy projects, but we are not granting an undue  
11 preference, and I really think that is the right balance to  
12 take.

13           I think the order is also fully consistent with  
14 state policy. There is a large and growing number of states  
15 that have adopted renewable portfolio standards, and I think  
16 our action helps the states meet those targets.

17           It is also consistent with Federal policy. It  
18 has been Federal policy since the National Energy Policy Act  
19 of May 2001 to promote a great fuel diversity in our  
20 electricity supply, to move away from relying principally on  
21 one fuel to meet our electricity supply needs, and so I  
22 think our action is consistent with both Federal and state  
23 policy and I think it is very sound.

24           Colleagues, comments? Jon.

25           COMMISSIONER WELLINGHOFF: Thank you, Joe.

1           A recent Yale University poll found that over 85  
2 percent of Americans support the expansion of renewable  
3 energy, and this public mandate for accelerated use of  
4 renewable energy to power our homes and businesses and  
5 factories is validated in polls that have been conducted at  
6 the local and state level from Florida to Idaho.

7           Such support has been persistent and increasing  
8 for decades. With now heightened concerns about global  
9 warming and foreign oil dependence, as well as this Agency's  
10 statutory responsibility to maintain and enhance reliability  
11 of the electric grid, our collective will to accelerate the  
12 integration of clean, reliable domestic renewable energy  
13 sources into our Nation's energy portfolio should be clear.

14           But in this context, 10 years ago only 1 percent  
15 of the country's electric capacity came from non-hydro  
16 renewable energy sources. Today that figure is still less  
17 than 2 percent. Our voting to grant the CALISO's Petition  
18 for Declaratory Order has the potential to radically change  
19 that statistic by eliminating one of the most persistent  
20 barriers to widespread renewable development: transmission.

21           Renewable resources such as wind and geothermal  
22 are usually found in economically develop-able quantities at  
23 dispersed locations remote from the load center. Each  
24 discrete site is also typically small in size relative to  
25 the many central station fossil fuel plants or nuclear units

1 which often exceed 500 to 1000 megawatts each.

2 Because of these unique characteristics,  
3 renewable projects must be aggregated in large scale to  
4 justify the high transmission costs that often accompany  
5 delivering power in such remote locations.

6 With separate and often competing developers  
7 pursuing differing timelines for development, the collective  
8 effort needed for large transmission project funding to  
9 deliver the renewable resources to market often becomes  
10 impossible.

11 As a result, the renewable resource field never  
12 develops and the region and the Nation suffer the  
13 consequences.

14 By our order today we enable a mechanism that can  
15 overcome that barrier to funding transmission for efficient  
16 renewable resource development. In granting the CALISO's  
17 petition, we recognize that the challenges faced by  
18 generation developers seeking to interconnect renewable  
19 generation are both real and distinguishable from  
20 difficulties faced by other generation developers.

21 We make it clear that flexibility in applying our  
22 interconnection policies is needed to recognize the unique  
23 characteristics of renewable generation, and we also make  
24 clear that recognizing the unique characteristics of  
25 renewable generation does not constitute undue

1 discrimination against other generators.

2 I commend the CALISO for developing this  
3 proposal. I would also like to particularly recognize Greg  
4 Cook who is the manager of the CALISO's Tariff and  
5 Regulatory Policy Development who played a significant role  
6 in developing this proposal, and with whom I previously  
7 enjoyed working at the Nevada Utilities Commission.

8 I also encourage transmission providers in the  
9 West and across the country to take note of our order today.  
10 In comments on the CALISO's petition, Nevada Power Company  
11 and Sierra Pacific Power Company argued the same principle  
12 should apply to other transmission owners. I am pleased  
13 that today's order acknowledges the Nevada Company's  
14 request. We welcome similar proposals from other  
15 transmission providers, including both independent  
16 transmission providers like the CALISO, and vertically  
17 integrated entities like the Nevada Companies.

18 Thank you, Mr. Chairman.

19 CHAIRMAN KELLIHER: Thank you. Colleagues?  
20 Commissioner Moeller.

21 COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
22 I also support today's order approving this Declaratory  
23 Order of the CALISO financing mechanism for the construction  
24 of these interconnection facilities to connect location-  
25 constrained resources to the CALISO grid.

1           As I have consistently stated, I think the Nation  
2 needs additional transmission infrastructure, and I am  
3 encouraged by this proposal because it will enable the  
4 construction of additional transmission infrastructure and  
5 increase the diversity of generation resources that  
6 participate in the wholesale markets.

7           I am also happy to see that the order supports  
8 the interests of the state and the West in general as the  
9 Chairman alluded to in developing additional renewable  
10 resources, while allowing us to satisfy our statutory  
11 requirements under the Federal Power Act.

12           I think that the CALISO has attempted to strike a  
13 reasonable balance that addresses the barriers to the  
14 development of these resources, and includes appropriate  
15 ratepayer protections such as the Rate Impact Cap, and  
16 Capacity Subscription Requirements to ensure that rates  
17 remain just and reasonable.

18           As Commissioner Wellinghoff alluded to, I think  
19 other states can now look to this as well, other regions;  
20 hopefully this sets a good example. I am happy to support  
21 it.

22           I do have one question for Katherine, since she  
23 is based in California most of the time. I am kind of  
24 curious your reaction to the fact that California does have  
25 a pretty aggressive standard to meet by 2010, and your sense

1 as to how they're getting toward that goal.

2 MS. GENSLER: Well thank you, Commissioner  
3 Moeller. Certainly my involvement with the California ISO  
4 and other market participants gives me a little different  
5 perspective.

6 The aggressive target that's been set out by  
7 state policy requires load-serving entities, utilities, and  
8 municipals to meet a 20 percent RPS standard by 2010. They  
9 are on their way. They're not quite there yet.

10 Kendra, I think you pulled some numbers--  
11 depending on the utility, they are sort of around 8 to 12  
12 percent right now. Now they are meeting the current goals,  
13 but they are still a little behind meeting 20 percent.

14 COMMISSIONER MOELLER: Thank you. Any other  
15 elaboration from the rest of the staff?

16 (No response.)

17 COMMISSIONER MOELLER: No? Thank you.

18 CHAIRMAN KELLIHER: Colleagues? Marc.

19 COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
20 This is one of the most important orders that I have had the  
21 opportunity to consider in my tenure, and I am really proud  
22 of the team for innovative thought and just excellent work.

23 Mr. Chairman, in this order we approve in concept  
24 a financing mechanism that should provide consumers in  
25 California and neighboring states better access to renewable

1 resources at just and reasonable rates.

2 This order is a major step forward in FERC's  
3 policy of encouraging investment in facilities to assure the  
4 interconnection and transmission of plentiful supplies of  
5 renewable energy, including wind, solar, and geothermal  
6 resources, for years into the future.

7 The FERC recognizes distinctions between  
8 renewable resources and traditional generation. For  
9 example, in certain regions of the country renewable  
10 resources are remote from demand and, as a result, sellers  
11 of renewable resources often face interconnection and cost  
12 allocation issues that other generation sources do not  
13 face.

14 Traditional resources may choose where to be  
15 located and thereby exercise some control over their  
16 interconnection and transmission costs in a fashion that  
17 renewable resources simply cannot. These distinctions  
18 impose certain obstacles on a renewable resource's ability  
19 to serve customers and thereby limit those customers'  
20 options.

21 Today's order approves a mechanism that removes  
22 these obstacles in a fair and balanced manner. For example,  
23 the order would initially roll in the costs of the  
24 interconnection facilities to the transmission revenue  
25 requirement of the transmission owner that constructs the

1 facility.

2 All users of the transmission grid would pay the  
3 costs of any unsubscribed portion of the line until the line  
4 is fully subscribed. To ensure, however, that facilities  
5 are not unnecessarily built, the order requires the  
6 transmission owner to demonstrate a sufficient level of  
7 interest from the location-constrained generators in the  
8 facility's capacity before it is built and the facility must  
9 be approved in the CALISO's transmission planning process.

10 Finally--and very importantly--this order not  
11 only furthers the FERC's goals but furthers the goals of the  
12 people of the State of California. The people of  
13 California, through their elected representatives and State  
14 agencies, have established aggressive goals for renewable  
15 resources.

16 This order appropriately considers the Federal  
17 and State policy goals and assures that there will be  
18 adequate infrastructure to transmit renewable electrons to  
19 market for the ultimate benefit of ratepayers.

20 I therefore proudly support this Order Granting  
21 The CALISO's Petition For Declaratory Order. And I thank  
22 the Commission and my colleagues' indulgence for repetition,  
23 but again as we all agree I think this is a very important  
24 first step towards considerable expansion of renewable  
25 resources.

1                   CHAIRMAN KELLIHER: Thank you. Commissioner  
2 Kelly.

3                   COMMISSIONER KELLY: I agree. The California ISO  
4 and the California Stakeholders have undertaken  
5 groundbreaking work here, and I am very pleased that the  
6 Commission will act today to approve that.

7                   I would like to put it in the national context  
8 that it deserves to be put in. Growing concerns about  
9 losing ground toward a goal of U.S. energy independence,  
10 environmental sustainability, and climate change have  
11 heightened interest in this country in harnessing renewable  
12 energy resources as a response to these critical issues.

13                   Twenty-three states and the District of Columbia  
14 have adopted renewable portfolio standards, and nine more  
15 are considering doing so.

16                   Electricity generated using renewable resources  
17 will, for the most part, be delivered to the point of use  
18 via large-scale transmission systems. Consequently, the  
19 successful integration of renewable energy generation into  
20 large power systems is fundamental to successfully  
21 addressing energy independence, environmental  
22 sustainability, and climate-change concerns.

23                   And the integration of renewable energy  
24 generation must be considered in the light of a range of  
25 challenges facing today's electrical system where price and

1 technical performance are critical issues, as well.

2 Needs specific to renewable energy generation are  
3 different from those of conventional power generators around  
4 which the existing system was designed. These include one  
5 fact that we deal with today: Many renewable resources are  
6 location-constrained. That means the electric system must  
7 reach it; it can't reach the system.

8 We do need policies to address this need.  
9 Specifically, we need to develop policies that support the  
10 installation of renewable energy technologies in appropriate  
11 locations with the objective of avoiding unnecessary costs.

12 These policies must also be consistent with the  
13 development and implementation of commercial frameworks that  
14 accommodate renewable energy generation on a level playing  
15 field with respect to traditional generating technologies  
16 and also that encourage investment in it.

17 I believe that we achieve that here. California  
18 has significant wind potential at Tehachapi. California's  
19 electric system must reach it. Tehachapi can't move itself  
20 to reach the existing system.

21 The policy that the CALISO has developed here  
22 achieves the objectives of supporting the installation of  
23 renewable energy technologies in an appropriate location  
24 while avoiding unnecessary costs.

25 The policy also supports the implementation of a

1 commercial framework that accommodates renewable energy on a  
2 level playing field with traditional generating technologies  
3 and that encourages investment in it.

4 I want to emphasize that the Order today approves  
5 the framework of a financing mechanism, including mechanisms  
6 that will ensure that any rolled-in rate treatment is no  
7 more than necessary to facilitate the needed investment; but  
8 also to ensure that there will be rolled-in rate treatment.

9 It leaves the important final details to be  
10 worked out among the stakeholders which will ultimately lead  
11 to a Section 205 filing. I want to commend the California  
12 ISO and the Stakeholders for their groundbreaking work here,  
13 and I believe that this will become a model for the work of  
14 others around the country who are seeking to work creatively  
15 to better deploy location-constrained resources, renewables,  
16 and even carbon sequestration sites, and I am pleased to  
17 vote for this Order.

18 CHAIRMAN KELLIHER: Thank you. Why don't we  
19 vote.

20 SECRETARY BOSE: The vote will begin with  
21 Commissioner Wellinghoff.

22 COMMISSIONER WELLINGHOFF: I vote aye.

23 SECRETARY BOSE: Commissioner Moeller.

24 COMMISSIONER MOELLER: Votes aye.

25 SECRETARY BOSE: Commissioner Spitzer.

1 COMMISSIONER SPITZER: Aye.

2 SECRETARY BOSE: Commissioner Kelly.

3 COMMISSIONER KELLY: Aye.

4 SECRETARY BOSE: Chairman Kelliher.

5 CHAIRMAN KELLIHER: Aye.

6 SECRETARY BOSE: The next item for discussion  
7 this morning is E-8 and E-23 concerning PJM Interconnection  
8 LLC. A presentation will be given by Tatyana Kramskaya and  
9 Roy Cheruvelil of the Office of Energy Markets and  
10 Reliability. They are accompanied by Dan Nowak, Dave Mead,  
11 Kristen Buben from the Office of Energy Markets and  
12 Reliability. And Laura Wilson from the Office of the  
13 General Counsel.

14 MR. CHERUVELIL: Good morning Chairman Kelliher  
15 and Commissioners.

16 My name is Roy Cheruvelil from the Office of  
17 Energy Markets and Reliability. With me at the table today  
18 are Tatyana Kramskaya, Kristen Buben, David Mead, and Daniel  
19 Nowak from the Office of Energy Markets and Reliability; and  
20 Laura Wilson from the Office of the General Counsel.

21 Also making major contributions to the team were:  
22 Kurt Longo, Michael Leitzel, James Eason, and Thanh Luong  
23 from the Office of Energy Markets and Reliability; and  
24 Susanna Ehrlich and Michael Goldenberg from the Office of  
25 the General Counsel.

1 PJM is a regional transmission organization that  
2 is composed of 15 individual transmission systems, covers 13  
3 states and the District of Columbia, serves 51 million  
4 people, and extends as far East as the suburbs of New York  
5 and as far West as Chicago.

6 PJM currently uses a zonal or "license plate"  
7 rate design to allocate the cost of existing transmission  
8 facilities. Under license plate rates, the RTO's footprint  
9 is segregated into transmission pricing zones typically  
10 based on the boundaries of individual transmission owners or  
11 groups of transmission owners. A customer pays the embedded  
12 costs of existing transmission facilities located in the  
13 same zone as that customer.

14 As opposed to the costs of existing facilities,  
15 costs associated with new facilities are allocated based on  
16 a "beneficiary pays" approach. New facilities that are  
17 built to maintain reliability and enhance competition under  
18 the PJM Regional Transmission Expansion Plan may be located  
19 in one zone, but the costs of those facilities may be paid  
20 for by load in other zones.

21 In an Initial Decision issued July 13, 2006, the  
22 Administrative Law Judge found PJM's current license plate  
23 rate design for existing transmission facilities unjust and  
24 unreasonable and found that a postage stamp rate design  
25 would be the most appropriate methodology by which to

1 allocate the costs of existing facilities.

2 With respect to new, centrally planned  
3 transmission facilities, the Initial Decision found that the  
4 current rate design appropriately allocates the cost of such  
5 facilities.

6 Tatyana will now highlight the major findings of  
7 the Orders before you.

8 MS. KRAMSKAYA: Good morning. The draft Opinion  
9 in Docket No. EL05-121 that is before you today finds that  
10 there is insufficient evidence to find that the existing  
11 license plate rate design is unjust and unreasonable.

12 The current license plate rate design remains  
13 just and reasonable because it reflects the prior investment  
14 decisions of the individual transmission owners and the fact  
15 that these facilities were built principally to support load  
16 within the individual transmission owners' zones and  
17 continue to serve those loads.

18 These facilities were not part of a PJM-wide  
19 planning process. Moreover, replacing the current license  
20 plate rate design for existing facilities would cause large  
21 cost shifts that are not clearly associated with the actual  
22 use of these facilities.

23 In addition, such cost shifts could create  
24 adverse incentives among non-member transmission owners to  
25 refrain from joining or for current members to leave PJM.

1                   With respect to the new transmission facilities,  
2                   the draft Opinion finds that the current method of  
3                   determining beneficiaries is not fully laid out in the PJM  
4                   Tariff and is therefore subject to relitigation each time a  
5                   new project is proposed.

6                   This applies to both reliability and the so-  
7                   called economic or "market efficiency" projects that are  
8                   aimed at reducing congestion. The current need to litigate  
9                   cost allocation on a project-by-project basis deprives both  
10                  investors and customers of any certainty regarding the  
11                  allocation of the costs of new transmission facilities.

12                  A companion order to be issued today in Docket  
13                  No. ER06-1271, will require that the parties develop a  
14                  detailed "beneficiary pays" methodology for new facilities  
15                  below 500 kilovolts that would be set forth in the PJM  
16                  Tariff and not be subject to continuous relitigation. The  
17                  methodology may use different criteria for reliability  
18                  versus economic projects if justified on the record.

19                  The draft Opinion also accepts PJM's proposal to  
20                  allocate on a region-wide basis the costs of new centrally  
21                  planned facilities that operate at or above 500 kilovolts.  
22                  The Opinion finds, on the existing record, that the benefits  
23                  of new facilities at or above 500 kilovolts are sufficiently  
24                  broad that a rate that spreads the costs region-wide is  
25                  appropriate.

1           Taken together, these modifications to the cost  
2 allocation method for new facilities are aimed at  
3 encouraging the development of a robust transmission system  
4 in the region.

5           As PJM pursues region-wide transmission planning,  
6 and as more centrally planned transmission facilities are  
7 built, utilities will pay for the new transmission  
8 increasingly in proportion to benefits they realize from new  
9 transmission.

10           As new facilities are added and as existing  
11 facilities depreciate, this rate design will move cost  
12 allocation increasingly towards a sharing of costs based on  
13 the benefits received.

14           This concludes our presentation.

15           CHAIRMAN KELLIHER: Thank you very much.

16           I want to thank the staff for their hard work on  
17 this Order. This has been a long and complex proceeding. I  
18 want to start with a great quote. There's a great Supreme  
19 Court quote in our Order that I actually had not come across  
20 before, I had not seen before, and I love it so I am going  
21 to repeat it. Namely:

22           The "allocation of costs is not a matter for the  
23 slide rule. It involves judgment on a myriad of facts. It  
24 has no claim to an exact science."

25           So what we are doing today is we are setting

1       aside the slide rule. We are exercising our policy  
2       discretion and our judgment to establish a cost allocation  
3       approach that should increase investment and transmission in  
4       PJM and should also avoid significant cost shifts, but also  
5       be just and reasonable.

6               We do reach a different result than the Judge, as  
7       staff outlined in their presentation, and I think for good  
8       reasons.

9               The reality is that there is more than one just  
10       and reasonable way to allocate transmission costs, and that  
11       is reflected in the Initial Decision itself. We placed  
12       different weight on policy considerations than the Judge,  
13       and I think we are essentially talking policy considerations  
14       rather than hard facts.

15              For example, the existence of congestion in PJM.  
16       That to be suggests that not all transmission customers in  
17       PJM benefit equally from all investments that have been made  
18       up to this point in the PJM grid.

19              Also, cost shifts. I think we place a lot more  
20       weight on the cost shifts that would result from the Judge's  
21       recommended approach in the Initial Decision.

22              So I think we are appropriately exercising our  
23       discretion for what are essentially policy considerations,  
24       and we are setting a different just and reasonable approach,  
25       and one that I think though will avoid cost shifts, and it

1 will promote investment. So I think we take the right  
2 approach today, and I support the Order.

3 Colleagues? Anyone? Commissioner Kelly.

4 COMMISSIONER KELLY: Okay. Thank you.

5 This case arose in large part due to the  
6 circumstances that the American Electric Power Corporation  
7 currently finds itself in.

8 If we were to leave PJM Zonal Rates in place as  
9 they currently exist, AEP customers would pay for most of  
10 its extra-high voltage--that is, 765 kV transmission  
11 system--even though that system really is the backbone of a  
12 much larger region and benefits many others.

13 I think there are at least three important  
14 benefits of the action that we take today that I would like  
15 to summarize:

16 First, our cost allocation methodology, the one  
17 that we approve today, appropriately recognizes the very broad  
18 regional benefits of transmission facilities at 500 kV and  
19 above by granting them a single postage rate that will  
20 spread their costs broadly.

21 Second, these backbone facilities which this cost  
22 allocation will facilitate really make the market by  
23 bringing generation buyers and sellers together over large  
24 regions.

25 And third, encouraging this type of transmission

1 investment also brings cumulative benefits to the whole grid  
2 as lower voltage systems in contact with this backbone are  
3 strengthened to accommodate it.

4 In short, such investments in high voltage  
5 backbone facilities will both support competitive markets  
6 and ultimately lead to a more reliable system in  
7 general.

8 There are complex issues involved here as well,  
9 including the need to provide regulatory certainty to avoid  
10 rate shocks, to keep rate-shifting, or cost-shifting to a  
11 minimum, and economic upheaval.

12 And I believe that these two Orders accomplish  
13 that task. I think that staff has done a heroic job of  
14 balancing the very complex issues with the responsibilities  
15 attached to them, and I thank you for your work, and I am  
16 pleased to vote for this Order.

17 CHAIRMAN KELLIHER: Colleagues? Commissioner  
18 Spitzer.

19 COMMISSIONER SPITZER: Mr. Chairman, it's  
20 interesting. The Supreme Court quote caught your eye and  
21 caught mine for a different reason, and there are lots of  
22 areas--

23 CHAIRMAN KELLIHER: I thought I would use it  
24 before you did.

25 (Laughter.)

1                   COMMISSIONER SPITZER: You beat me. I had a case  
2 involving a Charitable Contribution of Art, and it was  
3 highly esoteric--I guess the word was "Expressionist." The  
4 question was the value of this art that the taxpayer had  
5 donated, and the government lawyer said:

6                   Look at this. My 10-year-old could do this.

7                   (Laughter.)

8                   COMMISSIONER SPITZER: So I really wish I'd had  
9 that quote back then.

10                  (Laughter.)

11                  COMMISSIONER SPITZER: Just a few points in  
12 support of today's Order.

13                  I agree that the rules we approve today provide  
14 regulatory certainty, and that is necessary to encourage  
15 greater investment in the PJM Grid.

16                  I am also in support of the decision we make to  
17 avoid significant cost shifts among PJM members for existing  
18 facilities. Now that we have made the call as to who pays,  
19 it is up to the members of the PJM Interconnection to do  
20 their job to plan, site, and construct necessary  
21 transmission facilities to ensure that the customers in  
22 PJM have access to plentiful and reasonably priced  
23 transmission.

24                  Finally, there is a distinction that I have taken  
25 some issue with regarding the demarcation between

1 reliability and economic projects. I think virtually every  
2 transmission project partakes of both, and my concern is  
3 that an arbitrary distinction could be potentially harmful  
4 to timely and full development of needed infrastructure  
5 where a project is denoted as "economic" rather than  
6 "reliability." But that is a minor caveat. I am in support  
7 of today's Order.

8 CHAIRMAN KELLIHER: Jon?

9 COMMISSIONER WELLINGHOFF: Mr. Chairman, thank  
10 you. I want to commend that staff for all the work they  
11 have done on these Orders. I think it was a real balancing  
12 act, there's no question about it.

13 I set aside the slide rule a long time ago--

14 (Laughter.)

15 COMMISSIONER WELLINGHOFF: --but I remember  
16 trying to explain what a slide rule was, or is, to my two  
17 teenage sons.

18 (Laughter.)

19 COMMISSIONER WELLINGHOFF: What was that, Dad?  
20 What did you use that thing for? But I do feel comfortable  
21 with this Order. I think it does move in the right  
22 direction, and I think we need to be in a position of  
23 assisting the construction of these large backbone  
24 transmission lines, and I think we are doing that also in  
25 the context of things like Order 890, which I think is very

1 important with respect to transmission planning and putting  
2 those two things together.

3 I do feel comfortable that in that Order 890 we  
4 have told the transmission owners and operators to look at  
5 planning from the standpoint of looking at both demand and  
6 supply on a comparable basis, and once that's done and then  
7 we do decide that you need these backbone lines, then I  
8 think we should assist in getting those costs spread. So I  
9 am supporting this Order.

10 Thank you.

11 CHAIRMAN KELLIHER: Commissioner Moeller.

12 COMMISSIONER MOELLER: Mr. Chairman, I am tempted  
13 to ask "What's a slide rule?"

14 (Laughter.)

15 CHAIRMAN KELLIHER: That's not fair.

16 (Laughter.)

17 COMMISSIONER MOELLER: No, I learned how to use  
18 one. But back to the points about supporting the Order,  
19 cost allocation is never easy. It is always a tough  
20 decision, and it is partly because there's always perceived  
21 winners and losers.

22 But although this wasn't an easy decision, it  
23 does hopefully give the certainty going forward. And I want  
24 to wish the PJM Stakeholders well, and good luck as they  
25 come forward with hopefully a methodology to allocate future

1 transmission--the costs of future transmission facilities,  
2 again with the reminder that consumers pay more when there  
3 is a lack of transmission infrastructure, and so the cost of  
4 delay is real, and I hope that those details will not get in  
5 the way of more transmission being built.

6 Thank you.

7 CHAIRMAN KELLIHER: Thank you. Let's vote.

8 SECRETARY BOSE: We will take a vote on both  
9 items together, beginning with Commissioner Wellinghoff.

10 COMMISSIONER WELLINGHOFF: I vote aye on both.

11 SECRETARY BOSE: Commissioner Moeller.

12 COMMISSIONER MOELLER: Vote aye on both.

13 SECRETARY BOSE: Commissioner Spitzer.

14 COMMISSIONER SPITZER: I vote aye.

15 SECRETARY BOSE: Commissioner Kelly.

16 COMMISSIONER KELLY: Aye.

17 SECRETARY BOSE: And Chairman Kelliher.

18 CHAIRMAN KELLIHER: Aye.

19 SECRETARY BOSE: The last item for discussion  
20 this morning is C-1 concerning the Rockies Express Pipeline  
21 LLC. A presentation will be given by Jack Donaho and Jeff  
22 Wright from the Office of Energy Projects, accompanied by  
23 Sandra Delude from the Office of the General Counsel; David  
24 Swearingen, and Pamela Romano from the Office of Energy  
25 Projects; and Gene Snyder from the Office of Energy Markets

1 and Reliability.

2 (Slide.)

3 MR. DONAHO: Good morning, Mr. Chairman and  
4 Commissioners.

5 The draft order in C-1 finds it is in the public  
6 convenience and necessity for Rockies Express Pipeline,  
7 Overthrust Pipeline Company, and TransColorado Gas  
8 Transmission Company, to construct and operate their related  
9 expansion projects, together referred to as the REX-West  
10 Related Projects. When combined, the projects will  
11 transport up to 1.5 million decatherms per day of Rocky  
12 Mountain supplies to major markets in the U.S.

13 Specifically, the three projects--Rockies  
14 Express' REX-West Project, Overthrust's Wamsutter Expansion  
15 Project, and TransColorado's Blanco-Meeker Expansion  
16 Project--consist of approximately 796 miles of new pipeline  
17 and 237,320 horsepower of compression at a total estimated  
18 cost of almost \$2 billion. The in-service date is projected  
19 to be January 1, 2008. Slide 2.

20 (Slide.)

21 The map shows Rockies Express' existing pipeline  
22 facilities as a solid red line and its proposed REX-West  
23 expansion facilities as a dashed red line. Rockies Express'  
24 REX-West Project is a 1.5 million decatherm per day project  
25 that includes 713 miles of new natural gas transmission

1 facilities extending from Rockies Express' existing system  
2 terminus at the Cheyenne Hub in Colorado to an  
3 interconnection with Panhandle Eastern Pipe Line Company in  
4 Missouri.

5 Rockies Express also proposes to construct  
6 approximately 177,000 horsepower of additional compression  
7 at five new compressor stations and two currently certified  
8 compressor stations. In addition, Rockies Express proposes  
9 to lease 625,000 decatherm per day of capacity on  
10 Overthrust's system.

11 Overthrust, whose portion of the overall project  
12 is shown in yellow, proposes to construct 77 miles of new  
13 pipeline to interconnect its existing facilities, which  
14 terminate at Kanda, with those of Rockies Express at  
15 Wamsutter.

16 Overthrust's Wamsutter Expansion Project includes  
17 45,000 horsepower of compression to be constructed at two  
18 new compressor stations. The Wamsutter Expansion facilities  
19 will provide 750,000 decatherms per day of capacity from  
20 Opal to Kanda and 625,000 decatherms per day of capacity  
21 from Kanda to Wamsutter.

22 TransColorado's piece, in blue, would involve the  
23 construction of approximately 15,000 horsepower of  
24 compression at two new compressor stations and one  
25 certificated compressor station for its 250,000 decatherm

1 per day Blanco-Meeker Expansion Project.

2 (Slide.)

3 The Commission in the September 21, 2006 Order on  
4 non-environmental issues made a preliminary determination  
5 that certification of Rockies Express' REX-West Project  
6 would be in the public convenience and necessity.

7 The Commission also made a preliminary  
8 determination establishing two rate zones and approving  
9 Rockies Express' proposed recourse rates.

10 Zone 1 consists of about the first 350 miles of  
11 Rockies Express' system located west of Cheyenne Hub.

12 Zone 2 consists of the 713 miles of proposed  
13 facilities to be located east of Cheyenne Hub.

14 Further, three additional incremental recourse  
15 rates were approved to cover the use of certain specifically  
16 defined facilities. Namely, the Overthrust Lease  
17 Facilities, the Meeker Hub Facilities, and the Cheyenne Hub  
18 Facilities. Rockies Express' request for a predetermination  
19 that it can roll in the costs of certain additions to its  
20 currently certificated facilities into its Zone 1 rates was  
21 also granted.

22 In addition, the Commission rejected as unduly  
23 discriminatory Rockies Express' proposed tariff provisions  
24 to accept from original shippers gas that does not meet the  
25 tariff's gas quality provisions before accepting similar

1 quality gas from shippers who contract for service after the  
2 in-service date of REX-West. Rehearing of this last issue  
3 was requested by Yates Petroleum Corporation, a Rockies  
4 Express shipper.

5 (Slide.)

6 The draft order finds that the REX-West Project,  
7 Wamsutter Expansion Project, and Blanco-Meeker Expansion  
8 Project are required by the public convenience and  
9 necessity.

10 Further, Overthrust is permitted to abandon and  
11 Rockies Express is authorized to acquire by lease 625,000  
12 decatherms per day of capacity in Overthrust's system.

13 The draft order also requires Overthrust to  
14 recalculate its initial firm transportation recourse rates  
15 to reflect appropriate accounting for lease revenues, and  
16 grants TransColorado's request for a predetermination of  
17 rolled-in rate treatment.

18 In addition, the draft order denies Yates'  
19 request for rehearing finding that providing a different  
20 quality of firm service to original shippers at the  
21 potential expense of future shippers is not justified in  
22 this situation.

23 This concludes my presentation on the REX-West  
24 Related Projects.

25 Now, Jeff Wright will briefly describe production

1 and reserve trends in the Rockies, as well as recent  
2 developments in pipeline infrastructure.

3 MR. WRIGHT: Thank you, Jack. Good morning,  
4 Chairman and Commissioners.

5 The Rocky Mountain region, which for the purposes  
6 of this presentation is comprised of Colorado, Wyoming,  
7 Utah, and Montana, has shown tremendous growth in production  
8 from the end of 2001 through the end of 2005, the last year  
9 for which detailed data is available from the Energy  
10 Information Administration of the Department of Energy.

11 (Slide.)

12 Now this slide shows that production in the Rocky  
13 Mountain has increased by almost 33 percent--an annual rate  
14 of about 7.4 percent--over the time period in question, from  
15 2.3 trillion cubic feet to about 3.1 trillion cubic feet,  
16 while production in the Offshore Gulf of Mexico has declined  
17 by about 38 percent--an 8.4 percent rate of decline  
18 annually, from 5.1 trillion cubic feet to 3.1 trillion cubic  
19 feet.

20 As components of total U.S. production, the  
21 change is dramatic. In 2001, the Gulf comprised just over  
22 one-quarter of U.S. production, while the Rockies accounted  
23 for a little less than 12 percent. By the end of 2005, each  
24 region accounted for approximately 17 percent of U.S.  
25 production.

1 (Slide.)

2 Now it is somewhat axiomatic that to produce gas  
3 one must have reserves. In this slide we see that, while  
4 the Rocky Mountain region has always been an important  
5 component of the proven natural gas reserves of the United  
6 States, its importance has only increased in recent years.

7 In 2001, the Rockies and the Gulf accounted for  
8 19.8 percent and 14.4 percent respectively of the U.S.  
9 proven natural gas reserves.

10 By the end of 2005, proven reserves in the  
11 Rockies increased by over 25 percent and now account for  
12 about 22.3 percent of total proven reserves in the United  
13 States. Over the same time period, Gulf reserves declined  
14 by almost 36 percent, now accounting for only 8.3 percent of  
15 proven reserves.

16 Given this reserve picture, the REX-West Project  
17 should help to further increase Rockies production for  
18 shipments of gas to markets east of the Rocky Mountain  
19 region.

20 (Slide.)

21 Now in this final slide, I would like to show how  
22 hard the Commission has actually been working to approve  
23 pipeline infrastructure to enable gas to get to the end  
24 user.

25 This map, albeit a little busy and a little bit

1 more legible in hard copy, is designed to give a quick  
2 impression as to where in the U.S. pipeline infrastructure  
3 has been approved, the generation direction of the flows of  
4 the projects, and the relative size of the projects as  
5 indicated by the widths of the arrow. The projects  
6 represented here are those approved by the Commission from  
7 the beginning of 2004 up to but not including this agenda.

8 In sum, we can see that in a little over three  
9 years the Commission has approved over 40 billion cubic feet  
10 per day of pipeline capacity, over 2700 miles of pipeline,  
11 over 625,000 horsepower of compression, at an estimated cost  
12 of about \$7.3 billion.

13 Averaging this out at about the past three years,  
14 the Commission has approved about 13 billion cubic feet per  
15 day of capacity and 900 miles of pipeline per year.

16 Now a large portion of the projects in and around  
17 the Gulf of Mexico and the Northeast Atlantic Coast are  
18 associated with liquified natural gas projects. There has  
19 been some activity in the Rocky Mountain region--notably the  
20 Cheyenne Plains Project which was approved in 2004 and went  
21 into service at year-end 2004.

22 The REX-West Project--in terms of capacity and  
23 length--is the largest "greenfield" pipeline that the  
24 Commission has approved in recent years. It also represents  
25 a change in the focus of the projects that have come before

1 the Commission in recent years, from those projects designed  
2 to haul liquified natural gas, or regasified liquified  
3 natural gas, to the pipeline grid to a major project to  
4 transport domestic production to market.

5 And in the not too distant future the Commission  
6 can expect to see more projects designed to transport  
7 domestic production as the industry develops the shale  
8 deposits in Texas, Oklahoma, and Arkansas.

9 That concludes our presentation. We will be  
10 happy to answer any questions that you may have.

11 CHAIRMAN KELLIHER: Thank you. I want to thank  
12 staff both for the presentation on this particular project,  
13 but also the broader description of some of the trends on  
14 production and infrastructure. This is an important  
15 project. As you have indicated, it is the largest  
16 "greenfield" project the Commission has approved in a number  
17 of years.

18 It is an interesting project in that it does  
19 reflect the reality that infrastructure development has to  
20 reflect the changes in domestic production. We have seen  
21 very significant changes in domestic gas production in the  
22 U.S., and infrastructure has to keep pace.

23 Now I have to say, the presentation on the  
24 production shifts is very interesting, particularly the  
25 relative importance of the Rockies versus the Gulf. I have

1 to say I did not appreciate how rapid the decline in  
2 offshore production has been until this presentation, so I  
3 think that is helpful information for me and perhaps my  
4 colleagues.

5 So just reflecting the production shifts that we  
6 are seeing in the U.S. and the domestic production and the  
7 need for infrastructure to keep up, I just want to commend  
8 the tremendous efficiency of the Office of Energy Projects  
9 and the way they deal with certificate applications.

10 We have a record that is outstanding, and a  
11 number of foreign countries have inquired. They want to  
12 know more about how we certificate pipelines in the United  
13 States because they think it does represent best practices.  
14 I think that speaks well of OEP and its leadership, and that  
15 is all I had to say. I do support the Order.

16 Commissioner Wellinghoff.

17 COMMISSIONER WELLINGHOFF: Thank you,  
18 Mr. Chairman.

19 I do want to commend the staff and thank them for  
20 their work on this Order and this entire Rockies Express  
21 Project, and I especially want to thank the Office of Energy  
22 Projects for putting up with all the questions from our  
23 office over the whole period of time.

24 Mr. Chairman, you will probably remember that the  
25 September agenda was my first agenda, and one that I had

1       some questions with respect to Rockies Express specifically,  
2       and efficiency of that project, and efficiency of gas  
3       pipelines, and I appreciate you asking staff to answer some  
4       questions. And we have learned a lot about efficiency since  
5       then.

6                   With your indulgence, I will tell you a little  
7       bit about it. With respect to pipeline design and its  
8       efficiency, I think the primary goal of pipeline design  
9       should be the efficient least-cost transportation of natural  
10      gas.

11                   Examples of efficiency in design materials and  
12      maintenance include, among others, optimizing the tradeoff  
13      between pipeline diameter and compression, optimizing  
14      pipeline routing and configuration for efficiency, selecting  
15      the compressors and designing the compressor stations to  
16      minimize fuel consumption, utilizing internal pipe coatings  
17      to minimize surface friction, using waste heat from  
18      combustion turbines or reciprocating engines to drive  
19      station compressors to either generate electricity for use  
20      at the compressor stations or to generate electricity for  
21      sale, to operate a secondary steam rank and cycle turbine to  
22      partially drive the compressor, to product absorption  
23      cooling to either reduce combustion turbine inlet  
24      temperatures, to improve turbine efficiency, or to provide a  
25      cooler and denser gas that's more efficient to transport,

1 exploring pressure letdown, energy extraction with  
2 backpressure turbines, and line pigging--one of my  
3 favorites.

4 (Laughter.)

5 COMMISSIONER WELLINGHOFF: In addition, pipelines  
6 should be encouraged to consider lifecycle costs such as a  
7 design that allows for easy expendability in their initial  
8 design of the project.

9 Now with respect to the specific Rockies Express  
10 Order and the overall project, in September we issued a  
11 preliminary determination on non-environmental issues raised  
12 by Rockies Express' proposed project.

13 Shortly after issuing the Order, we sent data  
14 requests that asked Rockies Express to discuss the measures  
15 it had considered to maximize efficient energy use in its  
16 operations, including the opportunity for waste heat  
17 recovery.

18 As to the general efficiency questions, Rockies  
19 Express responded that it had conducted a study in the early  
20 stages of the project development and determined that it  
21 would be utilizing internal coating to optimize fuel  
22 consumption and reduce capital associated with the installed  
23 horsepower.

24 Rockies Express further committed to maintain  
25 energy efficiency in fuel consumption on an ongoing forward

1 basis. To that end, Rockies Express stated that it plans to  
2 dispatch and utilize combinations of its compressor units to  
3 maximize efficiency and minimize fuel consumption.

4 Rockies Express also indicated that during the  
5 construction planning stages it had considered the  
6 feasibility of waste heat recovery.

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1           Given the inservice timeline required and the  
2 short timeframe between identifying the size, location, and  
3 output of the proposed compressors in the filing of its  
4 application, that implementation of a waste capture process,  
5 was not feasible as part of the initial construction.

6           However, Rockies Express has pledged that it  
7 would continue to explore using waste heat recovery  
8 technologies on its system on a retrofit basis.

9           In today's Order, we direct Rockies Express to  
10 keep us informed about the results of these efforts in these  
11 areas, by filing a series of annual reports.

12           As to next steps, I certainly want to commend  
13 Rockies Express for its efforts, to date, and I'm interested  
14 in seeing the results of its continued efforts in energy  
15 efficiency in the pipeline project.

16           I'm also interested in exploring with the other  
17 Commissioners, our Staff, and members of the gas pipeline  
18 industry, uniform processes and procedures to incorporate  
19 energy efficiency considerations, early in the certificate  
20 process, to thus take full advantage of the opportunities  
21 for efficiency gains, without disrupting the certificate  
22 timeline.

23           I want to emphasize that the certificate process  
24 works very well, and energy efficiency efforts should  
25 complement that process by fully integrating energy

1 efficiency into it.

2 I'm concerned that we are either losing  
3 opportunities or increasing costs, however, when pipelines  
4 address these issues on a retrofit or ad hoc basis.

5 For example, in another Order we approved today,  
6 C-4, we addressed the second Questar proposal to restage or  
7 reconfigure compressor stagings. In 2004, we authorized  
8 them to reconfigure a compressor station to place three  
9 compressor units in series, rather than in parallel, in  
10 order to bolster system pressures.

11 Today we authorize the replacement of existing  
12 impellers with a different set to increase the horsepower.  
13 It appears that the company has taken the right steps, but  
14 I'm interested to see whether these steps could have been  
15 taken when the compressor station was first expanded in  
16 2001, and that's something that I want to look at on a  
17 forward-going basis with respect to new applications.

18 It's worth considering such efficiency measures  
19 could and should be considered at an earlier stage and  
20 reviewed in a comprehensive and systematic manner. I look  
21 forward to exploring these issues further with my  
22 colleagues, and I would welcome their thoughts on how to  
23 best address this issue in a more generic manner, so that  
24 pipeline efficiency can be optimized in every project that  
25 this Commission approves. Thank you, Mr. Chairman.

1                   CHAIRMAN KELLIHER: Thank you. Colleagues?  
2 Commissioner Kelly?

3                   COMMISSIONER KELLY: The Rockies Express REX-WEST  
4 Project is, as its name implies, truly a king-like project,  
5 which leads me to a question I've been wanting to ask, and,  
6 Jeff, I think I'll ask you: Was the name of the project  
7 chosen with this particular implication in mind, and is this  
8 the first pipeline that's branded itself?

9                   MR. WRIGHT: I think a lot of pipelines have gone  
10 by nicknames, but I think this is the first one that's ever  
11 kind of crowned itself, so to speak.

12                   (Laughter.)

13                   COMMISSIONER KELLY: Well, I think it probably  
14 lives up to its name. It will result in nearly 800 miles of  
15 new pipeline designed to bring reliable and affordable  
16 supplies of natural gas from the Rocky Mountains to major  
17 markets in the East and in the Midwest.

18                   This is a significant investment in U.S. energy  
19 infrastructure, and is yet another big step in helping to  
20 meet our growing need for energy.

21                   It will also help to enhance the competitiveness  
22 of our natural gas markets, by bringing Rocky Mountain gas  
23 to major East-of-Rockies markets that haven't seen it  
24 before.

25                   And on a personal, specific note, I did want to

1 mention that the related application will permit it to  
2 deliver an additional 250,000 decatherms per day of natural  
3 gas from the Blanco Hub area in San Juan County, New Mexico,  
4 through Trans Colorado's pipeline system to Rockies Express.

5 I want to recognize the huge amount of effort  
6 that Staff undertook in processing this request. As we saw  
7 from your graphs and as we know from reading the Order,  
8 there have been many, many parts to this application, and  
9 most of them have been moving, and you have handled it with,  
10 it looks like, ease.

11 You set deadlines and assessed criteria and that  
12 is truly remarkable, what you were able to accomplish, and I  
13 want to thank you for that.

14 It is one of the biggest green field projects  
15 ever certificated by the Commission, and you've processed  
16 this in a timely and thorough manner, and it has resulted in  
17 an Order that I'm very proud of.

18 I also wanted to note that I support Jon's  
19 position that we should continue to explore integrating  
20 efficiency measures into pipeline construction at the  
21 outset. Thank you.

22 CHAIRMAN KELLIHER: Thank you. Colleagues?  
23 Commissioner Moeller?

24 COMMISSIONER MOELLER: Briefly, I, too, thank the  
25 Staff for the enormous amount of work and point out that

1 consumers benefit when there's more energy infrastructure in  
2 the ground, and this will help that, and, finally, to  
3 emphasize the point that you made, Mr. Chairman, that the  
4 West sometimes gets a little bit of short shrift in terms of  
5 its contribution to the nation's energy supply.

6 We saw in the graph that certainly Rockies gas is  
7 increasing in its share, and with four western  
8 Commissioners, I expect we'll continue that theme a little  
9 bit more. Thank you.

10 CHAIRMAN KELLIHER: Thank you. We want it in the  
11 East, too.

12 (Laughter.)

13 CHAIRMAN KELLIHER: It works out for both of us.  
14 Commissioner Spitzer?

15 COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
16 You know, the commodity costs, and, particularly, with  
17 regard to natural gas, are, by far, the greatest burden on  
18 American ratepayers, both in terms of their gas for heat and  
19 then electricity, from a derivative point of view, so this  
20 is an important issue.

21 The magnitude of this project, 796 miles and 1.5  
22 million decatherms, is, indeed, regal.

23 I wanted to first say that as we're concerned  
24 about costs to ratepayers, it's very important to consider  
25 what Commissioner Wellinghoff has said; that anything we can

1 do to increase efficiency and provide for economies long-  
2 term, in a cost-effective manner, to benefit ratepayers, is,  
3 particularly in light of the increasing commodity costs,  
4 critical.

5 So we should absolutely explore any and all cost-  
6 effective measures to reduce the energy consumed in  
7 transportation of natural gas.

8 This project is, of course, a major undertaking.  
9 It is doing -- it is achieving the certificate without  
10 subsidies and without adversely affecting other pipelines  
11 and their customers.

12 It facilitates the transportation of low-cost  
13 natural gas to the Midwest and other point East, so the  
14 Easterners are the beneficiaries of our Western largess.

15 It is providing alternatives for customers. It  
16 will provide benefits to the residents of the production  
17 states, particularly Colorado, who will benefit from  
18 economic development during construction and who will  
19 benefit from revenues during the operation of the project,  
20 so people across the country will enjoy the benefits of this  
21 project.

22 The project is environmentally sound. The  
23 facilities proposed by Rockies Express, Trans Colorado and  
24 Overthrust, are considered interconnected projects that are  
25 necessary components of a larger combined natural gas

1 transportation system.

2 Therefore, the environmental analysis concerned  
3 the impact of all three projects together, and concluded  
4 that the project would have limited environmental impact,  
5 because, among other reasons, more than 99 percent of the  
6 REX-WEST facilities would be collocated along existing  
7 rights of way.

8 The Order also encourages Rockies Express to  
9 continue discussions with landowners near the project,  
10 highlighting the Commission's commitment to consideration of  
11 concerns of all potentially interested parties.

12 Most importantly, this project brings domestic  
13 supplies of natural gas to the Midwest and supports my  
14 priority of developing energy resources responsibly, while  
15 reducing the nation's reliance on energy imports. For those  
16 reasons, I proudly support this Order.

17 CHAIRMAN KELLIHER: Thank you. I think we're  
18 ready to vote.

19 SECRETARY BOSE: The vote will begin with  
20 Commissioner Wellinghoff.

21 COMMISSIONER WELLNGHOFF: Aye.

22 SECRETARY BOSE: Commissioner Moeller?

23 COMMISSIONER MOELLER: Aye.

24 SECRETARY BOSE: Commissioner Spitzer?

25 COMMISSIONER SPITZER: Aye.

1                   SECRETARY BOSE:  Commissioner Kelly?

2                   COMMISSIONER KELLY:  Aye.

3                   SECRETARY BOSE:  And Chairman Kelliher.

4                   CHAIRMAN KELLIHER:  Aye.

5                   Thank you.  I want to thank my colleagues and I  
6                   want to thank the Staff, and I would like to particularly  
7                   commend the Secretary on her maiden voyage.  She did very  
8                   well today, and let's see how quickly we can get these  
9                   Orders out.

10                  SECRETARY BOSE:  You got it.

11                  (Laughter.)

12                  SECRETARY BOSE:  The pressure's on.

13                  CHAIRMAN KELLIHER:  So, with that, we are  
14                  adjourned.

15                  (Whereupon, at 12:03 p.m., the open meeting was  
16                  concluded.)

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