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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

936TH COMMISSION MEETING

OPEN SESSION

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

Thursday, July 17, 2008
10:08 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JOSEPH T. KELLIHER (Presiding)

4 COMMISSIONER SUEDEEN G. KELLY

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

7 COMMISSIONER JON WELLINGHOFF

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P R O C E E D I N G S

(10:08 a.m.)

CHAIRMAN KELLIHER: Good morning. Welcome to John Moot Day at the Federal Energy Regulatory Commission.

(Laughter.)

CHAIRMAN KELLIHER: This open meeting of the Federal Energy Regulatory Commission will come to order to consider the matters that 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 recited.)

CHAIRMAN KELLIHER: Before we get to the business part of the meeting, we have a number of awards that we are going to give out to two worthy recipients. Let me start with John Moot.

I already told John that my goal here is to make him blush--

(Laughter.)

CHAIRMAN KELLIHER: --and I am not sure I will be able to accomplish that, but I am going to try. This is unusual in that the recipients of the awards are leaving Federal Service, and normally I try to give an award not just to honor someone's service but to inspire them to redouble their efforts while they still work for the

1 Government, but the recipients today are leaving but they
2 are worthy of the honor nonetheless.

3 Today is John's last day of public service at
4 FERC and I want to thank him for being my first General
5 Counsel and my second Chief of Staff. He has really
6 distinguished himself in both roles.

7 When I learned that I was going to become the
8 next Chairman after Pat Wood, I really gave a lot of thought
9 as to how I wanted to arrange the senior staff. I know I
10 wanted a strong General Counsel, because I do think, looking
11 at the agency over time, I think an agency operates better
12 with a strong General Counsel, but I also wanted a strong
13 Chief of Staff. And that is not a normal feature of the
14 FERC org chart. But I thought the need for a strong General
15 Counsel is pretty obviously, when in the end I was reading
16 the final version of the Energy Policy Act of 2005.

17 Just seeing the extent of the new authorities
18 that we were given and the nature of the kind of decisions
19 that we had to make, I realized I needed the smartest person
20 I can find to be General Counsel. And John was really the
21 first person who came to mind.

22 I had observed him. When I was a Commissioner I
23 saw him and read his articles in the Energy Law Journal.
24 The big problem thought was that John was a partner at a
25 leading law firm with a thriving practice.

1 Normally you become general counsel so that you
2 can later on be a partner at a law firm, but to me the trick
3 was how to get someone to change course and go in the
4 opposite direction. And I thought my chance, my only
5 chance, was that it was obvious that John loved policy and
6 loved ideas. Because John--I'm not sure many people know--
7 but John is the most prolific contributor to the Energy Law
8 Journal. I think Commissioner Wellinghoff is gaining on
9 him--

10 (Laughter.)

11 CHAIRMAN KELLIHER: --but John is the most
12 prolific contributor to the Energy Law Journal. To me that
13 means that this man loves ideas and loves policy.

14 I thought, given that, if you like energy policy,
15 if you like energy law, what better time to be at FERC than
16 right now? Because right now FERC really is the center of
17 the universe in those areas.

18 So John ultimately was seduced not by bonds of
19 friendship--because we really were not cronies, or we did
20 not have a long personal acquaintance--but he was seduced by
21 the power of ideas and the opportunity to really shape major
22 policy at a time when it is very important to the country.

23 So he was seduced by ideas. But I just want to
24 make sure that I recognize he did make a major sacrifice in
25 coming here because he did give up that thriving practice,

1 but I think we are all the better for it.

2 I know that I am a better Chairman because of
3 John's efforts and his commitment, so I am grateful for
4 that.

5 When I asked John to serve as General Counsel, I
6 relied in part on Machiavelli's advice in The Prince. I
7 know it's probably not smart for agency heads to admit that
8 they read The Prince--

9 (Laughter.)

10 CHAIRMAN KELLIHER: --from time to time, but John
11 and I reconfirmed in December, and I don't think reading The
12 Prince is malfeasance under the Federal Power Act, so--but
13 there's some really good advice in there, not about
14 governing from fear, but there's--

15 (Laughter.)

16 CHAIRMAN KELLIHER: --really good advice in The
17 Prince about the relationship of a prince--and I think we're
18 all princes--to his counselors, is the term Machiavelli
19 used, and I so want to have a little quote from Machiavelli
20 to try to spice up our morning. But Machiavelli said:

21 The choice of counselors is of no little
22 importance to a prince, and they are good or not according
23 to the discrimination of the prince. The first opinion one
24 forms of a prince and of his understanding--and at that
25 point it was always "his", not "his" or "her"--of his

1 understanding is by observing the men he has around him.
2 And when they are capable and faithful, the prince may
3 always be considered wise because he has known how to
4 recognize the capable and keep them faithful. But when they
5 are otherwise, one cannot form a good opinion of him for the
6 prime error he made was in choosing them. A wise prince
7 ought to choose the wise men in his state, and giving to
8 them the liberty of speaking the truth to him. He ought to
9 question them upon everything and listen to their opinions,
10 and afterwards form his own conclusions. With these
11 counselors separately and collectively he ought to carry
12 himself in such a way that each of them should know that the
13 more freely he shall speak, the more he shall be preferred.
14 Outside of these, he should listen to no one, pursue the
15 thing resolved on, and be steadfast in his resolutions.

16 I really think that is a really fine description
17 of how I think the Commissioners and the Chairman should
18 interact with senior staff. At least that's the way I think
19 we should interact. And I think not only me but I think all
20 of my colleagues benefitted from John's frank advice.

21 Because when I offered him the position of
22 General Counsel, his first question was: Can I offer my
23 honest opinion to the Commissioners?

24 And I said he would not be an effective General
25 Counsel otherwise. But then I also said, when you disagree

1 with me can you really highlight the merit in my position--

2 (Laughter.)

3 CHAIRMAN KELLIHER: --a little bit?

4 John has been--I've called John Stonewall
5 Jackson, and I think the people would be disappointed if I
6 didn't continue that today, but John has been my Stonewall
7 Jackson on many fronts since he joined the agency nearly
8 three years ago. And like Stonewall Jackson, he maneuvered
9 very quickly, and like Stonewall he preferred flank attacks
10 to frontal attacks because they generally achieve better
11 results at a lower cost.

12 But John has never been comfortable with this
13 Stonewall analogy I think because he is aware that Stonewall
14 Jackson was shot by his own troops in the end.

15 (Laughter.)

16 CHAIRMAN KELLIHER: And didn't survive the war.
17 But unlike Stonewall, John will survive his FERC service, at
18 least if you make it through the day. General Lee did
19 consider Jackson his right arm, and when Jackson was shot at
20 Chancellorsville his left arm was amputated. And when he
21 was lying in bed, which ended up being his death bed,
22 General Lee wrote Jackson stating:

23 You have lost your left arm, but I have lost my
24 right.

25 And I feel the same way about John. So at this

1 point, I see Longstreet was in the crowd somewhere.
2 Longstreet is here, and at this point I've lost both
3 Longstreet and Jackson, but we still have a strong
4 complement of core commanders, but for their benefit I will
5 not say who reminds me of John Bell Hood, Jubal Early,
6 Billy Mahone, or John Gordon, but no one reminds me of
7 George Pickett.

8 (Laughter.)

9 CHAIRMAN KELLIHER: I want to be really clear
10 about that. Today I really want to give John two awards:
11 the Exemplar To The Public Service, and The Chairman's
12 Medal. I am honoring him in this way because I really could
13 not choose between the two awards.

14 I was trying to agonize which one does he deserve
15 more, and ultimately concluded he deserves both because John
16 is an exceptional public servant. He has really taken to
17 it. He has been self-less, tireless, diligent, and since he
18 has arrived he has really been incredibly focused on and
19 mindful that we all serve the public, that the client is the
20 public.

21 But John has also shown tremendous leadership
22 since the day he got here on many fronts, so it was a
23 foolish exercise to try to choose between the two awards and
24 he deserves both so he should receive both, and I am honored
25 to give him both of our major awards.

1 So let me turn to my colleagues to see if they
2 have comments. Jon?

3 COMMISSIONER WELLINGHOFF: Thank you,
4 Mr. Chairman.

5 I just want to say that there is one reason and
6 one reason only that I am happy that John is leaving--

7 (Laughter.)

8 COMMISSIONER WELLINGHOFF: --and that is because
9 he will have some opportunity and some time to spend with
10 his family, well deserved. I am very happy and glad that
11 you will be able to do that, John.

12 But aside from that, there is no other reason
13 that I want to see you leave. I do want to tell you, I want
14 to give you my deep personal gratitude for all that you did
15 for me during my first term. Thank you, very much.

16 CHAIRMAN KELLIHER: Colleagues?

17 COMMISSIONER KELLY: Well I wanted to say that I
18 think it is very fitting that this award comes, and the John
19 Moot Day comes on an Open Meeting day when we, as our top
20 priority, accept a number of compliance filings on Order
21 890, because I know that that was your baby. It is probably
22 the most significant achievement in FERC policymaking that
23 has occurred since I have been on the Commission.

24 So I wanted to recognize the role that you played
25 in making that happen, and that will have an impact many,

1 many years into the future. And it shows that you are what
2 Joe said, in summary, you have been effective. And that is
3 the primary job of the Chief of Staff.

4 You have been effective for the Chairman, for the
5 Commissioners, and for the agency. And you have been
6 extraordinary. And when you were General Counsel you were
7 also a very, very good lawyer. I say that with heartfelt
8 meaning, because sometimes when it was necessary for me to
9 dissent it was a real challenge to try and rebut what you
10 had said in the majority.

11 (Laughter.)

12 COMMISSIONER KELLY: I am really grateful for
13 your service, and I thank you.

14 CHAIRMAN KELLIHER: Colleagues? Commissoria?

15 COMMISSIONER SPITZER: Thank you.

16 CHAIRMAN KELLIHER: I knew you would like the
17 Michiavelli quote.

18 COMMISSIONER SPITZER: I do.

19 (Laughter.)

20 COMMISSIONER SPITZER: And first I am glad I am
21 not Jeb Stuart, pompous with the ostrich hat. You know, I
22 am not erudite enough to write articles in The Energy Bar
23 Journal, until they start publishing bad spy novels.

24 (Laughter.)

25 COMMISSIONER SPITZER: So in a futile effort to

1 show, to manifest erudition, in El Principii, the Italian
2 version of The Prince, there is a term that I found
3 difficult to translate into English, "fortuna," which is
4 more than just fortune, and more than luck, it is a way of
5 making your own luck. It is almost an ethereal combination
6 of prescience and intellect and application and energy and
7 industry, and that defines Mr. Moot.

8 His joining the FERC predated my tenure here, but
9 I became aware of his joining through members of the staff
10 of the Arizona Commission, as well as entities in Arizona
11 who were familiar, and they were very pleased because that
12 came at a time not only of transition at FERC but at a time
13 when there had been some anxiety because of the imminent
14 passage of new legislation, and so the industry was
15 concerned with of course any change in the law but changes
16 that dramatic and historic, as well as frankly friction
17 between the States and the Federal Government, including
18 this agency.

19 And I received comments that Chairman Kelliher
20 has hired someone really excellent from the private sector
21 to come to FERC. And again, I had not met Mr. Moot but this
22 came from attorneys in Arizona whom I very greatly respected
23 in both the public and private sector. And that really is a
24 testament to his ability, as well as I think a great
25 commendation to the Chairman and to the FERC. And the

1 optimism that greeted Mr. Moot's appointment as General
2 Counsel has been very well served and has been evident
3 during his tenure.

4 I also have to point out that for a lawyer it is
5 a really cool name.

6 (Laughter.)

7 COMMISSIONER SPITZER: And I am jealous of that.
8 But I thank you. I would concur with all the sentiments
9 expressed by my colleagues and wish you the best in your
10 return to the private sector.

11 CHAIRMAN KELLIHER: Commissioner Moeller.

12 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
13 Commissioner Spitzer--

14 CHAIRMAN KELLIHER: We haven't had a good
15 roasting here. Is that later?

16 (Laughter.)

17 COMMISSIONER MOELLER: Yes, he grabbed that Moot
18 joke from me. When it appeared that I would be getting this
19 job, I asked a number of former Commissioners and senior
20 staff what advice they had. And one set of advice
21 particularly stood out, which was someone said well keep the
22 communication channels open on the 11th floor because it can
23 be a real scorpion's nest up there. And obviously those
24 words were from another time.

25 I think one of John's unofficial roles, but that

1 he has done extremely well, is keeping the communication
2 channels open on the 11th floor not only to keep things
3 civil but to keep policy moving. And one of the things I
4 admire of public servants, the ultimate public servant is
5 someone who can come up with creative approaches towards
6 solving issues, and John has done that on a number of
7 occasions.

8 In addition to being just a great guy with a
9 great taste in wine, he has also been a great public servant
10 in reaching solutions to challenges. And for that I will
11 always be grateful.

12 So, Mr. Chairman, I appreciate the fact you are
13 recognizing this fine public servant today.

14 CHAIRMAN KELLIHER: Thank you. Well, you are
15 admired by the entire Commission. I said we did not begin
16 as friends, but we end this time together as good friends,
17 so that will be lasting and your accomplishments here will
18 be lasting, but the friendship as well.

19 So, why don't you come up. I haven't really seen
20 a blush from you at all--

21 (Laughter.)

22 CHAIRMAN KELLIHER: --so I failed in my purpose,
23 buy why don't you receive your award.

24 (Applause and standing ovation.)

25 CHAIRMAN KELLIHER: And the second award, again

1 someone who is leaving us so I don't want people on the
2 outside to think these awards are generally given at this
3 point, but the second award is for Dan Hedberg to honor his
4 career service at FERC.

5 He has served the Commission since July of 1983
6 and has had increasingly important responsibilities. Most
7 recently he has been a group manager for Open Access
8 Transmission Tariff reform in the Office of Energy Market
9 Regulation.

10 Since Dan has been here he has worked on Open
11 Access Transmission policy, he has worked on corporate
12 merger reviews and acquisitions, he has worked on PURPA
13 administration which is its own special area, and General
14 Electric Tariff and Rate issues.

15 So I think it is fitting that he get this award
16 today as we are issuing some 890 Compliance Orders because
17 it has been a major undertaking and one of I think our
18 greatest accomplishments as a Commission, and something that
19 Mr. Moot was in charge of but Dan has played a major role in
20 implementing.

21 So I just want to honor his service and give him
22 the Career Service Award. I would just my colleagues if
23 they have comments. Jon?

24 COMMISSIONER WELLINGHOFF: Actually before I knew
25 Dan I had worked with David, his brother.

1 CHAIRMAN KELLIHER: Oh, really?

2 COMMISSIONER WELLINGHOFF: Yes.

3 CHAIRMAN KELLIHER: I didn't know that.

4 COMMISSIONER WELLINGHOFF: So I had had some
5 opportunity to know by association that I was going to like
6 Dan, and I certainly do, and do appreciate all that Dan has
7 done in the Open Access Tariff work in Order 890, and I
8 really thank him for his service.

9 CHAIRMAN KELLIHER: Colleagues? Commissioner
10 Moeller?

11 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
12 Similarly, you know when you're on the road in Pittsburgh
13 talking about 890 filings, it is not necessarily glamour
14 duty. But our staff, and I think of Dan primarily in that
15 role, was out there in many places at early morning into
16 late afternoons trying to make the policy process better.
17 He is an unfailingly pleasant man, and I thank you for
18 honoring his service, Mr. Chairman.

19 CHAIRMAN KELLIHER: Commissioner Kelly.

20 COMMISSIONER KELLY: Where is Dan? Oh, there he
21 is.

22 (Laughter.)

23 COMMISSIONER KELLY: Well when I learned that Dan
24 was going to get an award, I sent an e-mail around to
25 trusted people at FERC and said: What do you know about Dan

1 that I don't know?

2 (Laughter.)

3 COMMISSIONER KELLY: That I can tell the world.
4 And I think maybe, Jon, one reason that you like Dan is
5 because he is from Iowa, the heartland of our country, and
6 because he loves dogs. And he has a black Labrador
7 retriever, and that shows very good taste.

8 (Laughter.)

9 COMMISSIONER KELLY: I have had a golden. And he
10 kayaks. But I think maybe one of the most meaningful things
11 that was told to me about Dan was by one of the people who
12 works for him who said:

13 When I tell people that I work for Dan Hedberg
14 they go on and on and on and on about what a great manager
15 he is, and about how lucky I am to be working for him. And,
16 this person said, and they're right. He has this wicked
17 ability to edit, to guide, to discuss, to really get you to
18 learn and to do without offending anybody or creating
19 friction. And as a manager, that is the peak of perfection.
20 You can't get any better than that.

21 So thank you, Dan, for sharing your 25 years with
22 us and we will miss you.

23 CHAIRMAN KELLIHER: Commissioner Spitzer?

24 COMMISSIONER SPITZER: Thank you. I have to
25 think, being born in Pittsburgh, it is a very romantic city.

1 (Laughter.)

2 COMMISSIONER SPITZER: But not withstanding, my
3 team was effusive in praise, those folks who had worked in
4 various capacities, and they communicated this morning how
5 much they enjoyed working with you over the years in
6 different capacities, and how much you will be missed, and
7 the good nature--I guess maybe that is the Midwestern ethic
8 coming through, but that was notable in the reactions of my
9 team. This award is very deserved, and we will miss you,
10 and we thank you for your service.

11 CHAIRMAN KELLIHER: Dan, why don't you come up
12 and receive your award.

13 (Applause and standing ovation.)

14 CHAIRMAN KELLIHER: Okay, why don't we turn to
15 business. Before we turn to the Consent Agenda, let me just
16 observe that since the June 19th Open Meeting the Commission
17 has issued 62 Notational Orders. So again I commend the
18 staff, my colleagues, and the advisors.

19 Madam Secretary, let's turn to the Consent
20 Agenda.

21 SECRETARY BOSE: Good morning, Mr. Chairman.
22 Good morning, Commissioners.

23 Since the issuance of the Sunshine Act Notice on
24 July 10th, 2008, C-1 has been struck from this morning's
25 agenda.

1 concurrence in E-29, I vote aye.

2 SECRETARY BOSE: Commissioner Spitzer.

3 COMMISSIONER SPITZER: I vote aye.

4 SECRETARY BOSE: Commissioner Kelly.

5 COMMISSIONER KELLY: I vote aye with the
6 exception of dissents in E-10, E-15, and E-19.

7 SECRETARY BOSE: And Chairman Kelliher.

8 CHAIRMAN KELLIHER: Votes aye.

9 SECRETARY BOSE: Thank you. We will move on to
10 discussion items for this morning. The first item for
11 presentation is E-14 concerning certain reliability
12 standards in Docket No. RM08-7-000.

13 There will be a presentation by Patrick Harwood
14 from the Office of Electric Reliability. He is accompanied
15 by Michael Gandolfo from the Office of Electric Reliability
16 and Christopher Daignault from the Office of the General
17 Counsel.

18 MR. HARWOOD: Good morning, Mr. Chairman, and
19 Commissioners:

20 My name is Patrick Harwood from the Office of
21 Electric Reliability. Beside me are my team members,
22 Michael Gandolfo, Co-Team Lead, and Christopher Daignault
23 from the Office of General Counsel. Not with us at the
24 table at team members Eric Chiccoretti from the Office of
25 Enforcement, and Mike Miller from the Office of Executive

1 Director.

2 E-14 is a Draft Final Rule which would strengthen
3 existing Commission-approved Reliability Standards as
4 follows:

5 First, the Draft would approve the Electric
6 Reliability Organization's, or ERO's, proposed
7 interpretations of five requirements contained in four
8 reliability standards.

9 The underlying standards address resource and
10 demand balancing, voltage, and reactive power issues. These
11 standards were originally approved in Order No. 693 in
12 2007.

13 The proposed interpretations add clarity to the
14 Reliability Standards that will enhance understanding of
15 compliance expectations. These are the first
16 interpretations of Reliability Standards submitted for
17 Commission review.

18 Second, the Draft Final Rule approves NERC's
19 modifications to five Commission-approved Reliability
20 Standards related to interchange scheduling and
21 coordination.

22 Two of these modifications were in response to
23 the Commission's directives in Order No. 693. In that
24 Order, the Commission approved 83 Reliability Standards
25 while directing modifications to 56 of them.

1 This is also the first time the Commission would
2 rule on modifications to Commission-approved Reliability
3 Standards. Two of the modifications rescind unapproved
4 waivers from certain scheduling practices for entities
5 within the Western Electricity Coordinating Council, or
6 WECC.

7 These waivers were left pending in Order No. 693
8 until WECC provided further explanation on the need for the
9 waivers or withdrew them. WECC elected to withdraw them.

10 The proposed Order would approve the other three
11 modifications which deal with scheduling and implementing
12 ongoing energy interchanges between balancing authorities.

13 Finally, the Draft Rule directs additional
14 explanation with respect to a proposed modification to a
15 Reliability Standard on Transmission Loading Relief, or TLR.
16 It directs the ERO to submit an explanation within 15 days
17 of the effective date of this Final Rule on how the TLR
18 procedure is intended to be used in conjunction with other
19 measures in response to actual major transmission limit
20 violations.

21 The modifications, several of which address
22 applicable directives of Order No. 693, and interpretations
23 approved in this Draft Final Rule, are part of a significant
24 and continuing effort by the ERO, Regional Entities, the
25 industry and stakeholders and FERC staff to improve

1 Reliability Standards and thereby protect the reliability of
2 the bulk power system.

3 Thank you. The team will be happy to address any
4 questions you may have.

5 CHAIRMAN KELLIHER: Thank you. I want to thank
6 you for the presentation and also for your work on the
7 Order.

8 This Order we called for discussion really just
9 to highlight that, as staff indicated, this is the first
10 time that previously approved Commission Reliability
11 Standards are being modified. It reflects the action we
12 took last year when we approved Reliability Standards, but
13 we directed the ERO to develop modifications to 56 of those
14 standards.

15 It is just to highlight that the body of
16 Reliability Standards is not going to be static. The scope
17 is going to expand over time as new Standards are proposed,
18 but also previously approved Reliability Standards will not
19 be static. We will improve many of them over time.

20 So I think today's action is important and I want
21 to commend the ERO for proposing modifications quickly after
22 the Order we issued last year. So I think it is a
23 significant Order and I think it shows that the Commission
24 is committed to steadily improving reliability and higher
25 levels of reliability over time.

1 Congress gave us the authority to direct
2 modifications and we are using it, and I think we are using
3 it appropriately.

4 Colleagues? Comments? Commissioner Kelly?

5 COMMISSIONER KELLY: Well I think maybe one thing
6 that I could add in the same vein that you are going in,
7 Joe, is to talk about the process. The initial development
8 of the NERC Reliability Standards goes through a very
9 intensive grassroots process.

10 The modifications that have occurred by NERC and
11 given to FERC, that process has mostly been at FERC. But I
12 would like to point out that that process also has been very
13 deliberate and very accessible.

14 We have not hesitated to say when we have some
15 concerns, as we do in this case, that we have some concerns
16 about language and how it is to be understood, and so we
17 have asked NERC to take it back and to give us some more
18 information.

19 We have had very good response to the NOPR. A
20 number of parties have intervened and provided meaningful
21 comment. So I thought that I would just take this
22 opportunity to highlight that the process, although it is
23 not quite the same process that leads to the development of
24 standards, is an open, deliberative, and accessible one that
25 has been very beneficial.

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

3 COMMISSIONER SPITZER: Thank you, Mr. Chairman.
4 I had the opportunity to visit FRCC earlier this month and
5 they were speaking on behalf of Florida, of course, but as
6 well as the other regional entities there was frankly in the
7 statute some potential for disagreement and difficulty. And
8 it appears that the Regional entities and NERC and the FERC
9 staff have done quite a good job in trying to work together
10 to create a uniform system of reliability that still
11 respects regional variances and idiosyncracies, and I think
12 we have really accomplished that.

13 The interworking between the regional entities
14 and NERC and FERC can be difficult, and can be painstaking,
15 but I think it is illustrative of the cooperation of both
16 the public and private sector throughout the country that
17 there has been far less friction than could have been and
18 that some folks had envisioned in the wake of the 2005
19 legislation.

20 And to anybody who thinks this stuff is easy, I
21 call your attention to the equation at page 9 on Area
22 Control Error--

23 (Laughter.)

24 COMMISSIONER SPITZER: --which exceeds my limited
25 ability to comprehend, but the fact that we do have people

1 working on this is a great reassurance both to those on the
2 11th floor here, as well as to the ratepayers throughout the
3 country. So staff did a good job, and we appreciate it.

4 CHAIRMAN KELLIHER: Thank you. Colleagues?
5 Commissioner Wellinghoff?

6 COMMISSIONER WELLINGHOFF: I just wanted to thank
7 staff for their work on this Draft Rule and indicate that I
8 support it. I don't have any other comments or questions.
9 Thank you.

10 CHAIRMAN KELLIHER: Thank you. Commissioner
11 Moeller?

12 COMMISSIONER MOELLER: Thanks, Mr. Chairman. I
13 have a couple of questions.

14 I guess on the first one I will go to the team,
15 and on the second one I think I'll go to Mr. McClelland.

16 Mr. Harwood, the emphasis of this question is I
17 want to get people's focus. Some of this is sometimes
18 overwhelming I think to people who may not spend every
19 minute of every day on reliability issues.

20 So we approved the 83 Standards in Order 693, and
21 we directed modifications to 56 of those, and 2 of the
22 Standards approved in this Order relate to the 56 where we
23 directed modifications.

24 So what is the status of the other 54?

25 MR. HARWOOD: Well I think over the next few

1 months we expect to see several filings from NERC, several
2 of those which may address some of those modifications. The
3 others of those modifications NERC has developed a three-
4 year work plan, and they have been folded into that work
5 plan and will be presumably developed and presented to the
6 Commission later on.

7 COMMISSIONER MOELLER: Okay, so we have 54 more
8 of these to look forward to?

9 MR. HARWOOD: That's right.

10 COMMISSIONER MOELLER: Excellent.

11 (Laughter.)

12 COMMISSIONER MOELLER: So the next general
13 question goes to Mr. McClelland. Our authority to approve
14 or modify the NERC Standards, is that process working?

15 MR. McCLELLAND: Yes. I would say unequivocally
16 yes, the process is working. It is a startup process, so it
17 can be painful at times. There have been some bumps and
18 bruises, and we are still learning, but the process is
19 working well. And that is evidenced by the standards that
20 we are receiving back.

21 It is also evidenced by the hard work and
22 determination of not only NERC but the stakeholders, the
23 industry volunteers that spend the time to review the
24 Commission's Directive, work with Commission staff, and then
25 respond to the Directives by the Commission staff.

1 So it is working. It is still in startup. There
2 will be some more bumps and bruises I'm sure, but it is
3 getting better and better, and the results are really in
4 what we are seeing returned to the Commission and what we
5 are approving, and the improvements in the reliability of
6 the bulk power system. It is a continuing process. It will
7 keep getting better.

8 COMMISSIONER MOELLER: Okay. Well, again it may
9 not be the most glamorous part of government, but I am glad
10 you and your team are working on it.

11 MR. McCLELLAND: We think it's very glamorous.

12 (Laughter.)

13 COMMISSIONER MOELLER: All right, it is
14 glamorous, then. Thank you, Mr. Chairman.

15 CHAIRMAN KELLIHER: Thank you. I will just make
16 one minor comment that I do think what we are doing is
17 exactly what Congress wants us to do. Because the way the
18 law is written, this is the most elegant, it may be the only
19 elegant part of Section 215--maybe it's the most elegant--
20 but when we approve a proposed standard, we have to find
21 that it protects bulk power system reliability.

22 But to require a modification we don't have to
23 somehow find a standard is inadequate and it no longer does
24 that, we just have to find that it is necessary to achieve
25 the purposes of the Act. So we can say this standard is

1 good, it meets the--it protects bulk power system
2 reliability, while still recognizing there could be
3 improvements. Since we can't modify, this is the tool that
4 allows us to modify while still assuring the role of the ERO
5 in developing modifications.

6 So I think it does reflect a good balance, but it
7 allows us to ensure that standards are not static and they
8 improve over time, and we have raised reliability levels.
9 So I think, as you said, it is a first step and there will
10 be a lot of steps to come, but you have to take the first
11 step.

12 So with that, colleagues, any other comments?

13 (No response.)

14 CHAIRMAN KELLIHER: Let's vote.

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

17 COMMISSIONER WELLINGHOFF: Vote aye.

18 SECRETARY BOSE: Commissioner Moeller.

19 COMMISSIONER MOELLER: Aye.

20 SECRETARY BOSE: Commissioner Spitzer.

21 COMMISSIONER SPITZER: Aye.

22 SECRETARY BOSE: Commissioner Kelly.

23 COMMISSIONER KELLY: Aye.

24 SECRETARY BOSE: And Chairman Kelliher.

25 CHAIRMAN KELLIHER: Aye.

1 SECRETARY BOSE: The next item for presentation
2 this morning, we have several. It's E-1, E-2, E-3, and E-4.
3 They are going to be presented as a package. It is
4 concerning certain transmission planning-related compliance
5 filings submitted in response to Order No. 890.

6 There will be a presentation by John Cohen from
7 the Office of the General Counsel, and Dan Hedberg from the
8 Office of Energy Market Regulation.

9 CHAIRMAN KELLIHER: So we know Dan is going to
10 answer questions very frankly--

11 (Laughter.)

12 CHAIRMAN KELLIHER: What harm can come to you,
13 right?

14 MR. COHEN: Good morning, Mr. Chairman, and
15 Commissioners. I am John Cohen with the Office of the
16 General Counsel, and beside me is Dan Hedberg who has
17 already been introduced this morning.

18 (Laughter.)

19 MR. COHEN: We present to you Items E-1 through
20 E-4, Draft Orders addressing planning-related compliance
21 filings submitted in response to Order No. 890.

22 As you know, one of the primary reforms adopted
23 by the Commission in Order No. 890 involved the development
24 of a coordinated, open, and transparent transmission
25 planning process by each transmission provider.

1 To remedy the potential for undue discrimination
2 in planning activities, the Commission directed all
3 transmission providers to develop a transmission planning
4 process that satisfies nine principles and to clearly
5 describe that process in a new attachment to their OATTs
6 known as Attachment K.

7 By reducing their planning processes to writing,
8 transmission providers have identified with specificity how
9 customers and stakeholders are to be treated as they plan
10 the expansion of their systems.

11 The Draft Orders presented to you today are the
12 latest in a series of orders addressing the planning-related
13 compliance filings submitted in response to Order No. 890.
14 Over the past several months, the Commission has issued 10
15 orders accepting, subject to modification, compliance
16 filings made by transmission providers in the ISO/RTO
17 regions, Midwest United States, and Florida.

18 Today we present to you four additional Draft
19 Orders that accept, also with modification, the Attachment K
20 compliance filings submitted by transmission providers in
21 the Western United States. That is, transmission providers
22 participating in the Westconnect, ColumbiaGrid, and Northern
23 Tier Transmission Group regional planning processes.

24 Taken together, these Draft Orders further the
25 goal of ensuring that each transmission provider has

1 implemented a coordinated, open, and transparent
2 transmission planning process.

3 To help achieve that goal, these Orders also
4 direct Commission staff to continue monitoring the
5 implementation of transmission planning processes throughout
6 the country to determine if adjustments are necessary and to
7 convene regional technical conferences beginning in 2009 to
8 review planning-related developments in each region.

9 Dan will now provide an update regarding the
10 implantation of other reforms adopted in Order No. 890.

11 MR. HEDBERG: Good morning. As you know, Order
12 No. 890 adopted a number of reforms to the Commission's pro
13 forma Open Access Transmission Tariff, or OATT, and the
14 Commission has largely affirmed those reforms on rehearing
15 in Order No. 89-A issued in December, and in Order No. 890-B
16 issued last month.

17 Significant progress has been made toward the
18 implementation of Order No. 890 with the NERC and NAESB
19 nearing completion of standards and business practices
20 necessary to support the Order.

21 A central reform adopted in Order No. 890
22 involves the calculation of available transfer capability,
23 or ATC. The Commission directed public utilities, working
24 through NERC and NAESB, to develop standards to achieve the
25 consistent and transparent calculation of ATC.

1 After multiple rounds of comment in the NERC and
2 NAESB processes, the draft standards are in their final
3 stages of development. NERC has committed to filing the
4 bulk of its ATC-related Reliability Standards in August
5 2008, which will be followed by NAESB's submission of
6 accompanying business standards.

7 Together, these Reliability Standards and
8 business practices will eliminate the broad discretion that
9 transmission providers currently have in calculating ATC,
10 increasing nondiscriminatory access to the grid and ensuring
11 that customers are treated fairly in seeking alternative
12 power supplies.

13 NAESB is also working toward completion of
14 business standards to support other reforms adopted in Order
15 No. 890, many of which have already been implemented. In
16 compliance with Order No. 890, transmission providers now
17 consider the availability of a modified form of planning
18 redispatch or conditional firm service instead of simply
19 denying long-term requests for point-to-point service when
20 service may be unavailable for as little as one hour.

21 Network customers are permitted to pair requests
22 to temporarily terminate a network resource with a request
23 to redesignate that resource, ensuring continuity of service
24 for those customers.

25 Point-to-point transmission capacity is being

1 reassigned at negotiated rates, providing greater
2 opportunities for customers that value service the most to
3 access that service during the two-year study period. And
4 transmission providers are posting metrics regarding their
5 processing of service requests, and notifying the
6 Commission--and therefore their customers--when they
7 consistently fail to meet those deadlines.

8 These and other reforms have been implemented by
9 transmission providers through compliance filings that have
10 been accepted by the Commission over the past several
11 months.

12 Business practices supporting many of these
13 reforms are being finalized by NAESB which anticipates
14 submitting certain business practices by August 2008 to be
15 followed by additional business practices by the end of the
16 year.

17 Substantial staff resources have been dedicated
18 to support NERC and NAESB in their development of standards
19 and business practices and to the broader effort to ensure
20 compliance with Order No. 890.

21 We would like to thank the many members of our
22 offices, the Office of Electric Reliability and the office
23 of Enforcement, that have contributed to this compliance
24 effort. Many of our team members have literally worked for
25 years on these issues addressed in this proceeding, from the

1 Notice of Inquiry that initiated the proceeding, to the
2 issuance of Order No. 890, Order No. 890-A, and now Order
3 No. 890-B, to the review of subsequent compliance filings
4 and preparation of related orders. We thank them for these
5 efforts.

6 This concludes staff's presentation. We would be
7 happy to answer any questions you might have regarding the
8 Draft Orders, and I would like to personally thank you for
9 the kind words.

10 CHAIRMAN KELLIHER: Thank you. I just want to
11 pick up on Dan's last point, that this process really began
12 with the Notice of Inquiry in September of 2005. So it has
13 been--it has taken awhile, and it is an area like the prior
14 Orders where we are going to expect continuing improvement,
15 although probably at a faster pace than some of the
16 Reliability modifications.

17 But this is an important package. The package
18 should improve regional transmission planning. I think one
19 of the most important changes that we made in Order No. 890
20 was strengthening transmission planning, because we
21 recognized the nature of the grid. The grid is regional.
22 We don't have 500 separate grids in this country, and so
23 planning should not be limited to a system-by-system basis.
24 It should be regional in nature, and so we required regional
25 planning by jurisdictional entities.

1 I think there is a need to improve regional
2 transmission planning in all regions of the country,
3 regardless of market structure. There have been a lot of
4 improvements in the Regional Transmission Organization areas
5 in transmission planning, but these Orders today make
6 improvements outside of the RTO regions.

7 The four Orders we are considering today
8 represent the collective efforts of 16 different entities,
9 both jurisdictional and nonjurisdictional, that have worked
10 together to build upon and augment the existing subregional
11 planning processes in the West.

12 I think that spirit of cooperation is remarkable,
13 and we hope that it will deliver results, results in the
14 form of a stronger grid that will improve reliability and
15 support competitive markets, and also allow the addition of
16 new generation resources such as wind and renewable energy.
17 Because in the end we realized: Why did we pursue
18 transmission planning? Because we realized
19 nondiscriminatory access, or even perfect access to the
20 power grid by itself is not enough; the grid also has to be
21 adequate. So you need that combination.

22 We are taking a number of steps to assure that we
23 have a robust grid. Planning is one of the central steps
24 that we are taking. We are also granting incentives to
25 encourage investment. We are making regional cost

1 allocation decisions. And we have also issued federal
2 transmission siting rules that have not yet been applied.

3 So we are trying to make progress in both fronts:
4 to improve the quality of access, but also strengthen the
5 grid itself. And I think regional planning is a vital part
6 of strengthening the grid.

7 Colleagues? Commissioner Wellinghoff?

8 COMMISSIONER WELLINGHOFF: Thank you,
9 Mr. Chairman. First I would like to commend the staff for
10 their exemplary and continuing work in this area of Order
11 No. 890. We really owe a great debt to you for what you
12 have done here, and I think the whole country does because I
13 think this Order is so important.

14 I have a full statement that I will post, but I
15 would like to also commend the parties who made these
16 filings, for their joining together with other transmission
17 providers in the region to form voluntary groups. I think
18 this is very important for the purpose of coordinating
19 planning in subregional and regional levels. And also their
20 pledge to involve their customers and other interested
21 parties at the early stages of the planning process I think
22 is extremely important.

23 So I do endorse these orders and support them.

24 Thank you.

25 CHAIRMAN KELLIHER: Thank you. Colleagues?

1 Commissioner Kelly?

2 COMMISSIONER KELLY: I have a friend in New
3 Mexico who is an artist, and I like to talk to her regularly
4 because it exercises the other side of my brain, the other
5 side of our brains, the side that does not deal with
6 Reliability Standards, equations on page 9, transmission
7 metrics, and Regional Open Transparent Processes.

8 (Laughter.)

9 COMMISSIONER KELLY: But from time to time, what
10 she thinks about is what we think about. And she approaches
11 it in a different way, and it helps give insight. And this
12 happened in a conversation recently.

13 She said, the theme that she is exploring in her
14 art right now is that at the core of our life, all of our
15 lives, other than when we are sleeping is the core mission
16 of moving stuff.

17 She said, just think about it. There are
18 suitcases, and purses, and book carts, and most of our life,
19 other than sleeping, is spent moving stuff.

20 And I don't know that I agree with her that the
21 core of life is about moving stuff, but I do think that at
22 the core of FERC's efforts it is about moving stuff. It is
23 our job to make sure that those electrons move. And that is
24 about transmission line. And having a process that ensures
25 that they get built not just adequately but optimally is

1 more and more important to our society today as we face
2 great needs to have more generation, to reach reach
3 location-constrained resources, and to provide greater
4 reliability.

5 At the core of that is having a robust, optimal
6 transmission system. And I am very pleased to see the
7 efforts that were begun almost three years ago come to this
8 point.

9 I know that we still have more to do, and next
10 year we will hold another round of Regional Technical
11 Conferences, not unlike those we convened in the lead-up to
12 the filing of the 890 Compliance filings, to assess the
13 progress that has been made and the benefits of each
14 provider's transmission planning process.

15 So thank you for your work on this, and I am
16 going to be pleased to vote for it.

17 CHAIRMAN KELLIHER: Thank you. Commissioner
18 Moeller?

19 COMMISSIONER MOELLER: Thank you, Mr. Chairman.
20 I am not going to let Dan off without a question.

21 (Laughter.)

22 COMMISSIONER MOELLER: I have a couple of them.
23 The first is specific to this set of orders, and maybe it is
24 more appropriate for John, but maybe then a more general
25 one.

1 This set of Orders is focused on Western
2 entities. Can you compare and contrast what we have seen
3 from the RTOs and the ISOs generally speaking on 890
4 compliance versus what we are seeing in the Western
5 nonorganized market participants?

6 MR. COHEN: I think with regard to the ISOs and
7 RTOs, they already had formal planning processes that were
8 part of their tariffs. So the compliance challenge was to
9 ensure that what they already had was adjusted to be
10 compliant with the nine principles in Order No. 890.

11 The utilities and transmission providers subject
12 to the Western--that are in the West that are subject to the
13 Orders today already participated in subregional and
14 regional planning processes as well, but these were not
15 captured in their tariffs.

16 So they went through a substantial amount of time
17 and energy in developing tariff language to capture those
18 processes, and also to ensure that they comply with the nine
19 principles of Order No. 890.

20 COMMISSIONER MOELLER: So they're essentially
21 catching up with the RTOs and ISOs, but doing it in a way
22 that again complies with the nine principles, or at least
23 most of them.

24 MR. COHEN: Yes.

25 COMMISSIONER MOELLER: All right, Dan, I think

1 this one is for you.

2 (Laughter.)

3 COMMISSIONER MOELLER: In general, are we hearing
4 from folks as they have to comply with 890, 890-A, areas
5 that are particularly difficult to comply with?

6 MR. HEDBERG: I might be a little biased here,
7 but I think the implementation is just going fabulously.

8 (Laughter.)

9 COMMISSIONER MOELLER: That could be your quote
10 that ends your career, too.

11 (Laughter.)

12 MR. HEDBERG: It could go either way, though.
13 No, as you know, the reforms became effective last year and
14 they have been largely implemented.

15 There have been some specific issues that we
16 needed to clarify in the rehearing orders in 890-A and 890-
17 B, but by and large the implementation has gone pretty
18 smoothly for our transmission providers.

19 Where there were some reforms that did not
20 specifically apply to some transmission providers because of
21 some different factual circumstances, they have taken
22 advantage of coming in and making Section 205 filings to
23 voluntarily modify the tariff in certain ways and the
24 Commission has reviewed and analyzed those and accepted most
25 of those.

1 Other than that, work continues to be done on ATC
2 and planning, and staff intends to stay involved in the
3 development process of that and ensure they go smoothly, as
4 well.

5 COMMISSIONER MOELLER: Okay. Good. You will be
6 watching from a distance.

7 (Laughter.)

8 COMMISSIONER MOELLER: Well my colleagues have
9 heard me continuing my mantra on the need for more
10 transmission in this country. I think it enables markets
11 and it empowers consumers, and as we move toward a
12 marketplace where more and more renewables are being
13 demanded by consumers, and apparently we want to use less
14 carbon in the consumption of our electricity. Transmission
15 allows that.

16 What I have seen--and I will post a longer
17 statement as well--the one area that we kind of knew going
18 into this would be a challenge would be on cost allocation
19 and the challenges that relate to that, because at least it
20 is often perceived that there are winners and losers; I
21 wouldn't contend it's a zero sum game, but some people go
22 into it thinking that way.

23 So I would hope that as we move forward maybe in
24 the next year, if we have another round of meetings where we
25 go around the country, maybe Pittsburgh will be back in the

1 game again, that we do focus on the cost allocation issue.

2 I am glad I am a member of a body that is
3 embracing the need for more transmission. So that is going
4 to be one of the things that I will focus on and hope that
5 the Commission will do, as well.

6 Now we have gone through this massive effort, and
7 there is a question of is it actually working? I think we
8 saw some evidence just in the last few weeks that it is.
9 The folks down in New Mexico and Arizona have been in
10 proposing this big transmission line, SunZia, that is going
11 to move a lot of renewable, clean wind power from New Mexico
12 over to markets generally speaking in Arizona.

13 They were in and said basically the 890 effort
14 that required them to sit down at a subregional process,
15 although there were elements of it in place prior to 890,
16 was really the catalyst to allow this up to 3000-megawatt
17 carrying capacity line to be built.

18 So again, it may be anecdotal but it is real-
19 world evidence that this effort is working to get more
20 transmission built. That is why I am happy to vote for
21 these Orders.

22 Thank you, Mr. Chairman.

23 CHAIRMAN KELLIHER: Thank you. Commissoria.

24 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

25 Earlier you alluded to an elegant solution in EPAct, and I

1 think how Order No. 890 has interacted particularly with the
2 West is an elegant solution.

3 Things have been working in a very positive
4 manner prior to Order No. 890--I think we need to reflect
5 that, particularly in the area I was most familiar with, E-
6 1, the SWAT process. I had been involved in meetings going
7 back to the year 2000 where I think it is arguable that many
8 if not all of the nine principles had been applied to those
9 meetings, and there was a great deal of open and transparent
10 communication and cooperation.

11 However, had it not been embodied in tariffs and
12 it was not legally required, and it is important that the
13 legal formalities be aligned with operational practices, and
14 I think that is what was achieved. Now of course in the
15 West certainly in the SWAT region, but I think extending to
16 other areas of the West, you have got interesting challenges
17 with transmission, because you have got some of the most
18 heavily urbanized places in the United States that are
19 remote where you have vast expanses between these urbanized
20 areas. Generation is just about always remote from load.
21 There are public power entities, non-FERC jurisdictional.
22 There is substantial independent power.

23 You have a long tradition of bilateral contracts
24 going back 60 years across subregions in the West. And now
25 you have the issue of renewables where virtually every state

1 in the West has adopted some form of an RPS. And the
2 presence of wind resources and solar remote from load
3 exacerbates the existing structure for transmission in the
4 West.

5 But I believe that Order No. 890 and these
6 specific Orders that we approved this morning build upon
7 what had generally been a cooperative process but applies it
8 with the legal niceties that are important and applies them
9 to the tariffs for the benefit not only of the entities and
10 the jurisdictions but the customers who we are talking
11 about, the fastest-growing regions or states in the United
12 States.

13 We are talking about great challenges. The run-
14 up in natural gas prices has imposed real burdens on the
15 ratepayers, and then the challenges of dealing with the RPS.
16 So the challenges are very great, but I think we are up to
17 those, and implementing these Orders as part of the process
18 of adding transmission where transmission is desperately
19 needed is a very positive step, and I am pleased to support
20 these Orders and I thank the staff for working so hard.

21 CHAIRMAN KELLIHER: Any other comments?

22 (No response.)

23 CHAIRMAN KELLIHER: No? Let's vote.

24 SECRETARY BOSE: Mr. Chairman, we will take a
25 vote on these items together, beginning with Commissioner

1 Wellinghoff.

2 COMMISSIONER WELLINGHOFF: I vote aye.

3 SECRETARY BOSE: Commissioner Moeller.

4 COMMISSIONER MOELLER: Aye.

5 SECRETARY BOSE: Commissioner Spitzer.

6 COMMISSIONER SPITZER: Aye.

7 SECRETARY BOSE: Commissioner Kelly.

8 COMMISSIONER KELLY: Aye.

9 SECRETARY BOSE: And Chairman Kelliher.

10 CHAIRMAN KELLIHER: Aye.

11 I want to thank my colleagues. I want to thank
12 the staff. I want to thank our retirees, Dan and John. And
13 I have one final thank you. That is to Bennett Spitzer.

14 Bennett gave me this really nice photo of him and
15 me gavelling the meeting closed in March, I think, right?
16 Do you want to come up and reenact?

17 (Laughter.)

18 CHAIRMAN KELLIHER: Okay, you ready?

19 MASTER SPITZER: Yes.

20 CHAIRMAN KELLIHER: Okay. Good job.

21 (Laughter and Applause.)

22 (Whereupon, at 11:06 a.m., Thursday, July 17,
23 2008, the meeting was adjourned.)

24

25