



## 1 PROCEEDINGS

2 (10:20 a.m.)

3 CHAIRMAN WELLINGHOFF: Good morning. Sorry for  
4 the delay. We had a couple of Orders we had to finalize  
5 before we started this morning's agenda and vote on them.

6 This is the time and place that has been noticed  
7 for the open meeting of the Federal Energy Regulatory  
8 Commission to consider matters that have been duly posted in  
9 accordance with the Government in the Sunshine Act. Please  
10 join us for the Pledge of Allegiance.

11 (Pledge of Allegiance recited.)

12 CHAIRMAN WELLINGHOFF: Well since the November  
13 18th open meeting we have issued 47 Notational Orders--seems  
14 like we are slowing down a little bit from our usual pace of  
15 close to 100 sometimes. There are a few administrative  
16 announcements that we have before we begin the agenda.

17 First, it is with great sadness that I announce  
18 the retirement of our Executive Director, Tom Herlihy. I  
19 know that begging is not very dignified for a FERC Chairman,  
20 but I did try, apparently to no avail. Apparently there's  
21 no reconsideration, no rehearing in Tom's case.

22 (Laughter.)

23 CHAIRMAN WELLINGHOFF: But Tom has been with us  
24 for a while. He joined the FERC in July of 1996 as a  
25 financial manager, and progressed quickly through the ranks.

1 He was appointed to the Senior Executive Service in April of  
2 1997.

3 He served as Executive Director under six  
4 Chairmen. As Executive Director he has worn many hats,  
5 including the Commission's Chief Financial Officer, Chief  
6 Information Officer, Chief Human Capital Officer. And as  
7 you all know, efficiency is very important to me. Tom is  
8 the embodiment of a person who knows how to run an  
9 organization efficiently, and for that I am indebted. Tom  
10 has also probably kept me out of more trouble than anybody  
11 since Mrs. Miller in Third Grade.

12 So we do thank Tom. He has been an outstanding  
13 financial steward of this agency, and to the public. During  
14 his tenure the Commission received an unprecedented 16  
15 consecutive Unqualified Financial Statement Opinions. In  
16 managing an aggressive and effective recruiting program, he  
17 has helped recruit and retain some of the brightest, highest  
18 functioning best staff in the government. And Tom's work in  
19 recruiting his bright, dedicated staff will be a legacy that  
20 will live a long time after Tom is in retirement.

21 Tom often is in the unenviable position of saying  
22 'no' to requests for office space, hiring authorization,  
23 budget allocation; he's even said 'no' to me many times.

24 (Laughter.)

25 CHAIRMAN WELLINGHOFF: While he has earned

1 perhaps the nickname of "Dr. No," any request denied by Tom  
2 was done to protect this Agency which he has served so  
3 loyally for so long. Tom has never failed to facilitate  
4 anything that the Commission has needed to do to make our  
5 work efficient and effective.

6 I have nothing but the utmost respect for Tom and  
7 deep admiration for the exemplary service that Tom has given  
8 to this Commission. He will be sorely missed by me and his  
9 colleagues and the Commission.

10 It is with great pleasure that I present Tom with  
11 the Chairman's Medal.

12 (Applause and Standing Ovation.)

13 (Medal presentation is made.)

14 CHAIRMAN WELLINGHOFF: Colleagues, comments with  
15 respect to Tom's service? Phil?

16 COMMISSIONER MOELLER: I couldn't have said it  
17 any better myself, Mr. Chairman. I just think Tom is a  
18 standup guy. He has been an absolute delight to deal with  
19 here. He's had to help all of us set up new offices--it's  
20 been a few years now--but thank you very much, Tom, for your  
21 service and we will miss you.

22 CHAIRMAN WELLINGHOFF: Marc?

23 COMMISSIONER SPITZER: Just I agree with  
24 everything you've said and thank Tom for his service to the  
25 United States and wish him the best. Thank you.

1                   CHAIRMAN WELLINGHOFF:   John?

2                   COMMISSIONER NORRIS:   Thanks for what you said,  
3                   and you said it well.   Thanks, Tom.   It's clear that people  
4                   enjoy working here, and we've got a great workforce, and you  
5                   are largely responsible for that, so thank you.

6                   CHAIRMAN WELLINGHOFF:   Cheryl?

7                   COMMISSIONER LaFLEUR:   Thank you, Tom.   You've  
8                   been like the CAO of a major corporation here, running all  
9                   the underpinnings of FERC.   Thank you, you and your team,  
10                  for making it so smooth when I came on board a few months  
11                  ago.   I know you plan to spend some time in some nice  
12                  places.   I hear New England is one of them.   I wish you and  
13                  your family all the best.

14                  CHAIRMAN WELLINGHOFF:   Thank you.

15                  Well, while we will miss Tom, we have I believe  
16                  chosen a solid replacement for the Commission to continue to  
17                  run smoothly.   I would like to welcome Charles "Chuck"  
18                  Schneider, Chuck, as our next Executive Director.

19                  He comes to us with extensive experience in  
20                  running a Federal agency.   He recently served for five years  
21                  as the Executive Director and Chief Operating Officer of the  
22                  Federal Trade Commission where he had central responsibility  
23                  for the managerial and administrative operations for the FTC  
24                  headquarters, and eight regional offices.

25                  Prior to joining the FTC, he served for 10 years

1 as Deputy Administrator for the National Gallery of Art  
2 where he was responsible for the day-to-day operations of  
3 all administrative functions.

4 Charles is a retired and highly decorated Naval  
5 Officer, having served over 22 years in the Navy's Civil  
6 Engineer Corps. He received a Bachelor of Science in  
7 Mechanical Engineering from Lehigh University, and a Master  
8 of Science in Civil Engineering from Perdue University. So,  
9 Joe, you've got a fellow engineer here joining us.

10 (Laughter.)

11 CHAIRMAN WELLINGHOFF: He was a Registered  
12 Professional Engineer for over 30 years. And while we will  
13 miss Tom dearly, I have no doubt that Chuck will fully be up  
14 to the task of stepping right in into the duties of  
15 Executive Director.

16 Next I want to announce a change in my personal  
17 staff. Christie Walsh will be unfortunately leaving our  
18 office, with great sadness, but going on up in the  
19 Commission. She will be taking a position as Special  
20 Counsel in the Commission's Office of General Counsel. I  
21 want to thank Christie for all the service to my office.  
22 She did a wonderful job, and she will be missed in our  
23 office.

24 Replacing her will be Mike Henry. Mike, are you  
25 out there? There we go, Mike, okay. Mike has been with the

1 Commission for almost 10 years. During that time he has  
2 been an attorney in the Office of General Counsel and a  
3 managing attorney in the Energy Market Section of the Office  
4 of General Counsel for four years. He also worked on a  
5 detail with then-Commissioner Joe Kelleher. Most recently  
6 his work responsibilities with the Commission have included  
7 New England matters, reliability, and generation  
8 interconnection.

9 Finally, I would like to note this morning the  
10 Commission has announced it will be holding our next  
11 Reliability Conference on February 8th, 2011. The  
12 Commission will work with NERC on an agenda and will publish  
13 that at a later time. But I look forward to once again  
14 discussing policy issues related to reliability of the grid  
15 with NERC and the industry, and I urge any interested  
16 parties to attend.

17 Before we move on to the agenda though, I  
18 understand that, Commissioner Norris, you've got a couple of  
19 things you wanted to bring up. Thank you.

20 COMMISSIONER NORRIS: Thank you, Mr. Chairman. I  
21 wanted to address that technical conference.

22 As the Chairman noted, we are holding the next  
23 Commission-led Reliability Conference on February 8th, 2011.  
24 I see this as an important step in the ongoing dialogue  
25 between FERC, NERC, international regulators, and the

1 industry about the reliability of the bulk power system.

2 A central policy issue up for discussion at the  
3 February Technical Conference is how FERC, NERC, and the  
4 industry can work together to determine priorities for  
5 addressing risks to reliability.

6 I believe that the Commission Orders we are  
7 discussing here today, and we are issuing here today,  
8 highlight the need for a discussion of setting priorities  
9 going forward. In some of the Orders we issue today the  
10 Commission proposes new directives on reliability matters.  
11 Since I came to FERC earlier this year, I have heard  
12 frustrations that it's hard to know how to prioritize new  
13 directives from the Commission.

14 I know that NERC is working towards establishing  
15 a methodology for prioritizing its work on reliability  
16 standards, and I commend them for their efforts. It is my  
17 hope that the February conference will include a good  
18 dialogue about how priorities are set up, and what help the  
19 Commission can give in setting those priorities.

20 This is especially important so that we do not  
21 issue directives that disrupt NERC's reliability standards  
22 development teams.

23 As my colleague, Commissioner LaFleur, has said,  
24 when everything is a priority nothing is a priority. In my  
25 view, we need to find a balance. We do not want to set back

1 the work of standards development teams every time the  
2 Commission issues a new Order, nor do we want to be hesitant  
3 to issue a directive when necessary to ensure reliability.

4 If we sit down together and discuss priorities,  
5 we can help ensure that we strike this balance in the  
6 future.

7 Finally, I also want to highlight the large  
8 number of Reliability Orders that we are issuing today,  
9 seven in all. Anybody who pays attention to reliability  
10 issues knows that the Commission has issued a number, an  
11 increasing number of reliability orders over the last few  
12 months. I look at this as a very positive development.

13 We are making serious efforts to address  
14 reliability issues that are currently before the Commission  
15 so that by the time of our February conference we will have  
16 a good sense of the work that is before us and that can be  
17 factored into this discussion of priorities.

18 I want to commend the Commission staff for their  
19 hard work in addressing the complex reliability issues  
20 before the Commission, and I look forward to developing the  
21 agenda for this Technical Conference, and the participation  
22 of key leaders from NERC, the industry, and consumers.

23 So thank you for the opportunity, Mr. Chairman,  
24 to make this statement today and put a highlight, an  
25 exclamation point, on the importance of that February

1 Technical Conference.

2 CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
3 Norris. Do any of my fellow Commissioners have anything  
4 before we go to the Consent Agenda?

5 (No response.)

6 CHAIRMAN WELLINGHOFF: Okay, Madam Secretary.

7 SECRETARY BOSE: Good morning, Mr. Chairman.  
8 Good morning, Commissioners.

9 Since the issuance of the Sunshine Act Notice on  
10 December 9th, 2010, Item E-19 has been struck from this  
11 morning's agenda. Your Consent Agenda is as follows:

12 Electric Items: E-2, E-3, E-4, E-6, E-7, E-8,  
13 E-10, E-11, E-12, E-13, E-14, E-15, E-16, E-18, E-20, and  
14 E-21.

15 Gas Items: G-1, G-2, G-3, G-4, and G-5.

16 Hydro Items: H-1.

17 Certificate Items: C-1, C-2, and C-3.

18 We will now take a vote on this morning's Consent  
19 Agenda, beginning with Commissioner LaFleur.

20 COMMISSIONER LaFLEUR: I vote aye.

21 SECRETARY BOSE: Commissioner Norris.

22 COMMISSIONER NORRIS: Aye.

23 SECRETARY BOSE: Commissioner Moeller.

24 COMMISSIONER MOELLER: Aye.

25 SECRETARY BOSE: Commissioner Spitzer.

1 COMMISSIONER SPITZER: Votes aye.

2 SECRETARY BOSE: And Chairman Wellinghoff.

3 CHAIRMAN WELLINGHOFF: I vote aye.

4 SECRETARY BOSE: The first item for presentation  
5 and discussion this morning will be on Item A-3. This is  
6 the Annual Report of Natural Gas Transactions. There will  
7 be a presentation by Christopher Ellsworth from the Office  
8 of Enforcement. He is accompanied by Tom Russo, Eric  
9 Primosch, and Steven Reich, also from the Office of  
10 Enforcement. There will be a Power Point presentation on  
11 this item.

12 (Slide 1.)

13 MR. ELLSWORTH: Good morning, Mr. Chairman,  
14 Commissioners: Today I am pleased to present the Office of  
15 Enforcement's analysis of physical gas market transactions  
16 for 2009, using FERC Form 552 submissions.

17 (Slide 2.)

18 Form 552 had its genesis in the Energy Policy Act  
19 of 2005 where Section 23 of the Natural Gas Act authorized  
20 the Commission "to facilitate price transparency in markets  
21 for the sale or transportation of physical natural gas in  
22 interstate commerce."

23 On December 26, 2007, the Commission issued Order  
24 No. 704 which imposed an annual reporting requirement on  
25 certain natural gas market participants. Last year the

1 Commission began collecting information in its "Annual  
2 report of Natural Gas Transactions," Form 552, to shed light  
3 on the use of published price indexes by the gas industry  
4 and to better understand the fixed-price transactions that  
5 contribute or could contribute to published monthly and  
6 daily gas price indexes.

7 Form 552 collects information from market  
8 participants that sold and purchased--or sold or purchased  
9 2.2 million MMBtu or more of physical gas in the reporting  
10 year. That is roughly the amount of gas used by a 90-  
11 megawatt peak power plant running every day for 9 hours.

12 (Slide 3.)

13 Form respondents report aggregate transactions  
14 that use published daily and monthly index prices, aggregate  
15 transactions for fixed-price next-day or next-month delivery  
16 that could be reported to index publishers and used to  
17 establish index price, and certain monthly transactions that  
18 are based on Nymex trigger agreements and physical basis.

19 This information helps Market Oversight and the  
20 public understand the market's level of reliance on  
21 published price indexes. It also helps clarify the types of  
22 participants that contribute to and rely on those indexes  
23 for pricing information.

24 Additionally, it allows us to understand the size  
25 of the wholesale market for physical gas. The data

1 collected for 2009 shows that the respondents who reported  
2 fixed-price transactions to index publishers accounted for  
3 just 11 to 13 percent of total gas volumes reported on by  
4 Form 552 respondents.

5 Thus, the data indicates that index publishers  
6 are deriving their index prices from a relatively small  
7 amount of gas volumes. That a relatively small amount of  
8 gas volumes are being used to determine index prices may be  
9 a matter of some concern as a number of indexes are used to  
10 set the price of physical and financial gas contracts.

11 Form 552 does not attempt to catalog all possible  
12 kinds of physical market transactions, although we do think  
13 we are capturing a large portion of the market. Because the  
14 data are aggregated by company or company subsidiary, it is  
15 not a tool to uncover confidential commercial information.

16 (Slide 4.)

17 For calendar year 2009, we received submissions  
18 from 700 respondents which included corporate subsidiaries,  
19 and which accounted for 2,057 companies. Respondents  
20 reflected the entire spectrum of the gas industry, including  
21 producers, marketers, LDCs, generators, and industrial  
22 customers.

23 Total reported physical gas market transactions  
24 amounted to almost 56 trillion cubic feet, about 2.5 times  
25 domestic marketed production in 2009 of 22 trillion cubic

1 feet.

2                   Reported transactions are a multiple of the  
3 physical gas market because the same gas can be resold  
4 several times between producers and consumers. For example,  
5 if a producer sells to a marketer who sells to an end user,  
6 the same gas supply has been involved in two transactions.

7                   Our analysis of the 2009 data shows that:

8                   Transactions at a published price index accounted  
9 for 70 percent of reported volumes, and more than two-thirds  
10 of those transactions were based on next-month indexes.  
11 Taken together, fixed-price transactions from bilateral  
12 deals for next-day and next-month gas accounted for 22  
13 percent of total volumes. And of those, daily fixed-price  
14 deals are the majority.

15                   Transactions based on Nymex, such as Nymex  
16 trigger and physical basis agreements, represented about 8  
17 percent of reported volumes.

18                   (Slide 5.)

19                   As noted earlier, Form 552 requires market  
20 participants that sold or purchased 2.2 million MMBtu or  
21 more of physical gas during the reporting year to report  
22 total volumes for:

23                   Number one, transactions that used published  
24 daily or monthly index prices;

25                   Two, transactions for fixed-price next-day or

1 next-month delivery that could be reported to index  
2 publishers and used by publishers in an index.

3 Three, transactions for fixed-price next-day or  
4 next-month delivery that are not reported to index  
5 publishers.

6 And four, certain monthly transactions based on  
7 Nymex trigger agreements and physical basis.

8 The data for 2009 indicates that about one-fifth  
9 of respondents reported the prices for their fixed-price  
10 transactions to index publishers. These respondents  
11 accounted for about 6 trillion cubic feet of the volumes  
12 reported through Form 552. Nearly 5 trillion cubic feet of  
13 the volumes reported were fixed-priced--reported through  
14 Form 552, were fixed-price transactions that were not  
15 reported to index publishers.

16 Approximately 39 trillion cubic feet of the  
17 volumes on Form 552 were transacted at index prices. The  
18 reporting status of a statistically insignificant portion of  
19 fixed-price volumes was unclear.

20 By recasting the earlier pie chart in terms of  
21 index-based and fixed-price transaction volumes, we can see  
22 that index publishers are deriving their index prices from a  
23 relatively small amount of gas volumes. With at least 6  
24 trillion cubic feet of the market setting the price for 39  
25 trillion cubic feet of the market, this means that for every

1 million Btu reported to an index publisher, more than 6  
2 million Btu rely on that price.

3 This estimate is aggregated on a national basis,  
4 and the leverage of index volumes on fixed-price volumes  
5 will vary from point to point around the country.

6 In addition, as the largest market participants  
7 generally report to index publishers, the top 10 sellers  
8 represent 55 percent of the 6 trillion cubic feet reported  
9 to index publishers.

10 (Slide 6.)

11 In conclusion, Form 552 shows the approximate  
12 size of the U.S. gas market. Almost 56 Tcf of physical gas  
13 market transactions occurred in 2009. That is two-and-a-  
14 half times the volume of gas produced.

15 Form 552 provides information on who the largest  
16 participants are, and details common transactions by buyers  
17 and sellers. For example, the top 10 sellers account for 33  
18 percent of reported volumes. Also, monthly and daily index  
19 sales accounted for the majority of total reported volumes.

20 Finally, the data indicates that index publishers  
21 are deriving their index prices from a relatively small  
22 amount of gas volumes. This is added information to the  
23 market, advances the goal of price transparency, and  
24 provides a better understanding of the formation of price  
25 indexes.

1           However, since the data are aggregated  
2 nationally, the actual leverage of index volumes on fixed  
3 price volumes by trading hub is not captured by the data.

4           We would be happy to answer any questions at this  
5 point.

6           CHAIRMAN WELLINGHOFF: Christopher, thank you.  
7 And I want to thank the team for putting this presentation  
8 together. I think you did a very nice job, and I think it  
9 shows that we are getting more transparency with respect to  
10 this data, and we are getting more data available to us to  
11 be able to oversee these markets.

12           I wonder if I could just get some comment on that  
13 issue, with respect to the data that we are getting in the  
14 Form 552. Is it adequate? Do we need to look beyond this  
15 with respect to our activities of overseeing these markets?

16           MR. REICH: Why don't I take that, Chris.

17           The goal of Form 552 was to increase transparency  
18 in the natural gas market as a result of the broad authority  
19 given to the Commission under Section 23 of the Energy  
20 Policy Act of 2005.

21           This filing here was delivered as a result of a  
22 great deal of outreach. We had a number of technical  
23 conferences, and we had a number of meetings in developing  
24 the ultimate form that came out. And in doing so, the  
25 Commission took into account concerns over the potential

1 commercial sensitivity of the data, and it also took into  
2 consideration the fact that many of the companies that were  
3 expected to file Form 552 were new to the Commission. They  
4 generally don't have much interaction with Commission filing  
5 processes or Commission activities.

6 And so what came out in the 552 was structured as  
7 a result of that process. The analysis that Chris just  
8 presented should be seen as an integral part of that  
9 process. The key element of what we were doing with  
10 reviewing the 552 data is to provide transparency and an  
11 insight into the market.

12 We are letting buyers and sellers of natural gas  
13 know more about the market, and to better inform decisions  
14 that they make in terms of how much they are going to sell  
15 fixed-price and how much they are going to sell at index;  
16 what the risks are associated with selling it index; and  
17 whether or not it's a general good to report fixed-price  
18 deals to index publishers.

19 We believe this added transparency is helpful to  
20 market participants, but we continue to look for other ways  
21 of working with the Commission to provide additional  
22 transparency in the market.

23 CHAIRMAN WELLINGHOFF: Thank you, Steven.

24 Colleagues? Phil?

25 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

1 Thanks for the presentation, Chris, and team. A little  
2 broader question:

3 I think we all know that the convergence of the  
4 physical and the financial markets in energy products has  
5 been occurring, probably accelerating. Our time with the  
6 CFTC emphasizes that.

7 There are illusions, I guess, to that in your  
8 report but do you have any other observations or relevant  
9 observations from your research that could play on the  
10 convergence of the two markets?

11 MR. ELLSWORTH: We see a kind of a direct  
12 convergence in some of the respondents' information, in the  
13 physical basis deals, and Nymex trigger deals that directly  
14 correspond to financial prices, in particular futures'  
15 prices.

16 So there's a direct correlation there. But also,  
17 more broadly, many of the monthly fixed-price deals are  
18 based on Nymex, the closing of Nymex, the monthly deals. So  
19 there is a convergence there certainly between the futures'  
20 market and what is going on in the physical market.

21 And then kind of more broadly, as the futures'  
22 market and financial derivatives have grown, then there's  
23 been greater use of those instruments by physical traders to  
24 hedge their positions, or in some cases to even speculate.

25 So there's kind of a correlation going on there,

1 and that has--I think you can't really tell from this data.  
2 From a general observation, you know, I would say that with  
3 the growth of derivatives and financial instruments, then  
4 that correlation has probably become greater rather than  
5 lesser.

6 COMMISSIONER MOELLER: Well I think it is  
7 something we are going to be spending a lot more time on.  
8 When we were down at NARUC in Atlanta about a month ago,  
9 they organized a tour of the Intercontinental Exchange, and  
10 that was fascinating to see them trading swaps, but gas  
11 prices out to 2022. That's again something we'll be  
12 spending a lot more time on in the upcoming months and  
13 years. Thanks again.

14 CHAIRMAN WELLINGHOFF: Thank you, Phil. Anyone  
15 else? Marc?

16 COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
17 Just an observation, I suppose. You can have mixed feelings  
18 about the 56 Tcf of gas transactions, 2.5 times the volume  
19 of gas produced. And you raised the issue of speculation,  
20 potentially, and of course that's a term that's somewhat  
21 challenging to define, and the CFTC right now is working its  
22 way through rulemakings pursuant to recent legislation on  
23 the definition of "speculation."

24 But in terms of the big picture and the impact  
25 upon consumers, a number of entities that engage in--have

1 engaged in these transactions are regulated either at the  
2 federal level or most assuredly at the state level. And as  
3 you mentioned, hedging their positions.

4 It wasn't too long ago, maybe 10 years, where you  
5 had the collapse of the gas markets due to a few implosions  
6 in the industry, and those transactions were not available.  
7 Hedging of risk, particularly by end-users, regulated  
8 electric utilities or gas distribution companies, could not  
9 be had because of the absence of counterparties. And  
10 there's a great deal more faith and confidence in these  
11 markets. Surely we would like to see a more robust index  
12 participation, but we don't want the perfect to be the enemy  
13 of the good. And in this case we have seen great benefits  
14 to the ratepayers. Ultimately the ratepayers have  
15 benefitted from increase transparency, increased markets,  
16 and we just need to continue to be vigilant. I am  
17 appreciative of the work the Chairman's done with the CFTC  
18 and efforts to cooperate.

19 It is a very complex area, but I share my  
20 colleagues' thoughts in commending the team for their work  
21 on this. We look forward to future efforts in the area of  
22 gas markets to the benefit of the customers.

23 CHAIRMAN WELLINGHOFF: Thank you, Marc. Anyone  
24 else? John?

25 COMMISSIONER NORRIS: Let me also thank you for

1 your work on this. It is extremely important, not just  
2 important in transparency, it's also our job according to  
3 Congress, so thanks for helping us do it.

4 I have a couple of questions. One is, you know  
5 that the index prices are being developed from a relatively  
6 small amount of gas volumes reported in the price contracts.  
7 There are three parts to that.

8 One, what are the incentives for companies to  
9 report their fixed-price transactions?

10 And, two, can we get more companies to report  
11 their fixed-price transactions?

12 And then, can you estimate the percentage of  
13 physical gas transactions we might be missing from the  
14 smaller market participation?

15 MR. REICH: Why don't I take the first part. One  
16 of the issues here, and one of the reasons why the market  
17 has broken out the way that it has in terms of reporting/not  
18 reporting and index prices is that there are not great  
19 incentives to report.

20 Large companies that want to show their presence  
21 in the market, and also participate in the market may have a  
22 greater incentive to participate for that reason. There are  
23 also kind of arrangements that could be made with the index  
24 providers to provide an incentive to provide that  
25 information to the index providers, using provider number

1 times.

2 On the other hand, there are much greater  
3 incentives to rely on indexes from an LDC standpoint, for  
4 example. With an LDC it's a lot easier to justify a  
5 prudence proceeding that we're pricing our--we're buying our  
6 gas at a level that is commiserate with market, and we show  
7 that because we're using the market price.

8 And also, one of the reasons why, as I  
9 understand, the Commission has gotten to this point in terms  
10 of the transparency rules is not that long ago there were  
11 people who went to jail for misreporting to index providers,  
12 and some companies still feel concern and the possible risks  
13 associated with that.

14 And so those elements combined I think are what  
15 create kind of the balance, or at least part of the  
16 incentives for the balance that we have now.

17 I'll turn it over to--do you want to handle the  
18 percentage of the gas?

19 MR. ELLSWORTH: Sure. There's no direct way from  
20 the data that's collected on 552 to say what percentage of  
21 market transactions are not being reported. However, having  
22 said that, the size of--the minimum size of a respondent  
23 represents about 1/10,000ths of the gas market, the 2.2  
24 trillion Btu of cutoff. And actually that also represents  
25 about 220 contracts, futures' contracts, which is actually

1 the minimum required by CFTC for reporting.

2 So those are considered very minor, or small  
3 participants in the market. So we are getting most of the  
4 major players, and probably just losing a very minor part of  
5 the market.

6 MR. REICH: And I would add that that part of the  
7 market is probably more likely to be relying on index deals,  
8 just from a general understanding of the market, than to be  
9 participating and trying to set a fixed price.

10 COMMISSIONER NORRIS: Are you saying, Steve, that  
11 some of this is incentives and some of it is reducing the  
12 risk for providing information? Does that interpret your  
13 first comment?

14 MR. REICH: I think the incentives are greater on  
15 one side than the other.

16 COMMISSIONER NORRIS: Thanks.

17 CHAIRMAN WELLINGHOFF: Thank you, John. Cheryl?

18 COMMISSIONER LaFLEUR: Thank you, Chris and team,  
19 for that presentation. Given the implications you've  
20 commented on, the market relying on a relatively small  
21 amount of data to set these indices, and given the  
22 incentives that you just talked about--incentives and  
23 disincentives--to report, are there steps the Commission can  
24 take to encourage more reporting? Is there something more  
25 we can do to help the indices be more robust?

1                   MR. REICH: Well I think I probably would go back  
2 to kind of I think a good initial step is this, because  
3 helping the market understand how much--well, I look at it  
4 as the flamingo problem. Where if the market looks like the  
5 body of a flamingo, the index part of the market is the body  
6 of the flamingo, and the fixed-price part of the market  
7 that's reporting the index, that's setting those index  
8 prices, is the leg, there may be problems.

9                   I think that by doing this kind of presentation,  
10 by collecting the Form 552 and making that information  
11 public, what we are doing is we are letting the market know  
12 that this is how the market is set up, and individual gas  
13 buyers--it becomes up to individual gas buyers to determine  
14 whether they think the market looks like a flamingo or not.

15                   And also, as I said earlier, that, you know, we,  
16 you know, look forward to working on kind of improving the  
17 transparency where the Commission feels it's needed.

18                   CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
19 LaFleur.

20                   Gentlemen, thank you again.

21                   Madam Secretary, our next discussion item,  
22 please.

23                   SECRETARY BOSE: The next item for presentation  
24 and discussion is Item E-1. This is concerning a Draft  
25 Order in Docket No. ER10-1791-000, Midwest Independent

1 Transmission System Operator, Incorporated.

2 The presentation will be given by Eli Massey from  
3 the Office of Energy Market Regulation. He is accompanied  
4 by Elise Logan and Christie DeVoss, also from the Office of  
5 Energy Market Regulation; Jason Feuerstein from the Office  
6 of Electric Reliability; and Andrew Goodson from the Office  
7 of the General Counsel.

8 MR. MASSEY: Good morning, Chairman Wellinghoff  
9 and Commissioners.

10 CHAIRMAN WELLINGHOFF: Good morning.

11 MR. MASSEY: The Draft Order conditionally  
12 accepts, subject to compliance filings, Midwest ISO's  
13 proposal to create a new category designed as Multi Value  
14 Projects for transmission projects that are determined to  
15 enable the reliable and economic delivery of energy in  
16 support of documented energy policy mandates, or that  
17 address through the development of a robust transmission  
18 system multiple reliability and/or economic issues affecting  
19 multiple transmission zones.

20 In its proposal, Midwest ISO has developed a  
21 functional approach to identifying Multi Value Projects in a  
22 manner that will allow Midwest ISO and its members to:

23 First, identify transmission projects that will  
24 benefit the grid and that may also satisfy documented energy  
25 mandates and laws;

1           Second, ensure thorough, transparent  
2           consideration of the many factors that will determine which  
3           transmission projects should receive 100 percent regional  
4           cost sharing within the region;

5           Third, allow Midwest ISO flexibility to move  
6           forward Multi Value Projects to maximize benefits within and  
7           across the region; and

8           Fourth, further progress toward the goal of  
9           facilitating efficient regional transmission planning.

10           Additionally, the Draft Order accepts Midwest  
11           ISO's proposal to make permanent the interim cost allocation  
12           methodology for generator interconnection projects  
13           conditionally approved by the Commission on October 23,  
14           2009, in conjunction with the Multi Value Project proposal  
15           and create a new class of generator interconnection projects  
16           called Shared Network Upgrades.

17           Shared Network Upgrades reduce the financial  
18           burden faced by an initial generator interconnection  
19           customer that funds a network upgrade by requiring  
20           subsequent interconnection customers that benefit from the  
21           same upgrade to contribute to the costs of that upgrade.

22           As proposed, to qualify as a Multi Value Project  
23           a project must meet at least one of three criteria:

24           Criterion one requires the project be developed  
25           through Midwest ISO's transmission expansion planning

1 process for the purpose of enabling the transmission system  
2 to deliver energy in support of documented energy policy  
3 mandates or laws that have been adopted through state or  
4 federal legislation or regulatory requirement. The Multi  
5 Value Project must be shown to enable the transmission  
6 system to deliver such energy in a manner that is more  
7 reliable and/or more economic than it otherwise would be  
8 without the transmission upgrade.

9 Criterion Two requires that the project provide  
10 multiple types of economic value across multiple pricing  
11 zones within a total project benefit-to-cost ratio of 1.0 or  
12 higher.

13 Criterion Three requires that the project address  
14 at least one transmission issue associated with a projected  
15 reliability violation and at least one economic-based  
16 transmission issue that provides economic value across  
17 multiple pricing zones and generates financially  
18 quantifiable benefits in excess of the total project cost.

19 In its proposal, Midwest ISO submitted a list of  
20 16 potential starter projects that are illustrative of the  
21 projects that could be selected as Multi Value Projects.  
22 Midwest ISO performed an analysis of the starter projects  
23 and estimates that these projects will deliver between \$582  
24 million and \$798 million in annual economic benefits  
25 starting in 2015 in the form of production cost savings,

1 reductions in transmission losses, and a reduction in the  
2 region's reserve margin.

3 Additionally, Midwest ISO states that further  
4 benefits--though not quantified--may be realized.  
5 Specifically, Midwest ISO explains in its proposal that even  
6 a relatively small reduction of 0.5 percent in reserve  
7 requirements would result in a deferral of about 500  
8 megawatts of capacity investment, saving approximately \$500  
9 million annually.

10 The Draft Order accepts Midwest ISO's proposal to  
11 recover the costs associated with Multi Value Projects  
12 through a system usage charge allocated to all load in, and  
13 exports from Midwest ISO with the exception of exports to  
14 serve load in the neighboring PJM RTO.

15 The Draft Order requires Midwest ISO to make two  
16 compliance filings. The first compliance filing requires  
17 Midwest ISO to:

18 First, add tariff language stating that it will  
19 use a portfolio approach to identify Multi Value Projects;

20 Second, file annual informational reports  
21 detailing the selection of Multi Value Projects;

22 Third, ensure that Multi Value Project usage rate  
23 is not applied to export or wheel-through transactions that  
24 sink in the PJM RTO;

25 Fourth, clarify the proposed definition of

1 Monthly Net Actual Energy Withdrawal; and

2 Fifth, clarify that the divisor of the Multi  
3 Value Projects usage rate reflects the megawatt hours of  
4 grandfathered service provided by each transmission owner to  
5 reflect an allocation of costs of Multi Value Projects  
6 recovered under grandfathered agreements.

7 The second compliance filing requires Midwest ISO  
8 to describe what changes to its allocation of congestion  
9 rights are necessary to reflect the allocation of Multi  
10 Value Project costs.

11 That concludes our presentation on this Draft  
12 Order. We would be happy to take any of your question.

13 CHAIRMAN WELLINGHOFF: Thank you, Eli, and I want  
14 to thank the members of the team for their work on this very  
15 complex Order.

16 As I've mentioned before, cost allocation for  
17 transmission facilities is one of the most difficult issues  
18 facing the energy industry and regulators, whether state or  
19 federal.

20 Midwest ISO's proposal, which we accept today  
21 subject to some conditions, was the result of a lengthy  
22 stakeholder process that included participation and hard  
23 work by all stakeholders, including state commissions. I  
24 would like to commend all of the Midwest ISO stakeholders  
25 for their hard work in forging a regional solution to this

1       difficult issue.

2                   The Midwest ISO's proposal is the next step in  
3       the evolution of its transmission planning and cost  
4       allocation process. The creation of a new category of  
5       projects, Multi Value Projects, will enable the Midwest ISO  
6       to identify those projects which create regional benefits.  
7       As a valuation of these projects will occur in the MVP  
8       process, Midwest ISO's existing open and transparent  
9       transmission planning process, stakeholders will have the  
10      opportunity to analyze proposed projects in the context of a  
11      regional planning process that takes into account the  
12      diverse needs of the Midwest ISO's footprint.

13                   Accordingly, I support today's Order approving  
14      the Midwest ISO proposal. By providing additional certainty  
15      regarding transmission cost allocation, today's Order  
16      removes a barrier to and therefore supports transmission  
17      development in the Midwest ISO.

18                   Colleagues, comments? Questions? Phil?

19                   COMMISSIONER MOELLER: Thank you, Mr. Chairman.  
20      You all look remarkably fresh, given that you probably  
21      didn't get much sleep last night, but thank you for your  
22      effort on this.

23                   As noted in the presentation, more expansion of  
24      transmission can benefit consumers greatly just by producing  
25      reserve margins a little bit. But my main point is, I think

1       it is in footnote five still, we should note that despite  
2       the fact that we're approving this and going forward, we  
3       have an ongoing transmission rule. And I commend the  
4       Midwest ISO for moving forward on these issues, even though  
5       we have the rule pending, and that that may change things  
6       down the line.

7                    But again, thanks to the extraordinary effort,  
8       particularly in the last few days, of the team. Thank you.

9                    CHAIRMAN WELLINGHOFF: Thank you, Phil. Marc?

10                   COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
11       I support today's Order as another step in our efforts to  
12       adopt transmission planning and cost allocation mechanisms  
13       that are fair, and that will result in the construction of  
14       energy infrastructure.

15                   This Order, and Order E-5, the CAISO Transmission  
16       Planning Docket that we will discuss later this morning,  
17       demonstrate clearly that there is more than one just and  
18       reasonable approach to cost allocation and transmission  
19       planning.

20                   One of the critical issues we face today is  
21       ensuring adequate infrastructure to serve the country's  
22       growing demand for energy. Two of the more nettlesome  
23       challenges to getting transmission built are who plans for  
24       it, and who pays for it.

25                   Today's Order addresses those two concerns for

1 the Midwest ISO. The Just and Reasonable approach in this  
2 case was the product of a lengthy stakeholder process. I  
3 recognize the challenge for all involved. I greatly  
4 appreciate the hard work of the Midwest ISO, state  
5 regulators, and the stakeholders in working toward  
6 resolution of these complex issues.

7 As this Order and the CAISO Order observe, the  
8 Commission has shown an interest in expanding transmission  
9 planning processes and exploring cost allocation issues in  
10 its currently pending transmission NOPR.

11 As Commissioner Moeller noted, because our  
12 approval of the Midwest ISO's proposal precedes any final  
13 rule on the transmission NOPR, we have reviewed the filing  
14 to ensure consistency with existing Commission policies.  
15 The Midwest ISO, like all jurisdictional entities, will be  
16 subject to future rulemakings.

17 I thank the team for their hard work on this  
18 Order.

19 CHAIRMAN WELLINGHOFF: Thank you, Marc. John?

20 COMMISSIONER NORRIS: Thank you, Mr. Chairman. I  
21 was trying to decide what would be the best thing to do, but  
22 perhaps with all of the team building exercises that are  
23 going on at FERC this afternoon--

24 (Laughter.)

25 COMMISSIONER NORRIS: --perhaps the MISO team

1       should get a badge to get to the front of the line at the  
2       beverage line.

3                   (Laughter.)

4                   COMMISSIONER NORRIS: I thought it would be a  
5       great idea, but then I realized there would be nothing left  
6       for the rest of us if we did that.

7                   (Laughter.)

8                   COMMISSIONER NORRIS: But thanks for your hard  
9       work. I know this has been a demanding, demanding Order.  
10      So good work.

11                   You know, we're asking our transmission grid to  
12      do more than it was ever envisioned to do. And the Midwest,  
13      like many other regions of the country, are facing public  
14      policy mandates, aging infrastructure, and these changing  
15      uses of the grid. So I view this as a way that we are  
16      meeting the needs of the future, and this is an important  
17      step. I commend MISO and all of the folks, the stakeholders  
18      involved in that process, for getting this to us today. I  
19      know it was difficult on their end, as well. I have been a  
20      part of that MISO process. There are a lot of stakeholders  
21      with a lot of different interests, and it is hard--it is  
22      hard to produce something like this. And so I commend them  
23      as well for the effort here.

24                   This cost allocation conundrum is a difficult nut  
25      to crack, and I think we have got a reasonable approach here

1       today that we are issuing. So I would just say that it is  
2       almost like passing a major piece of legislation. It  
3       represents to me an important beginning of the work that  
4       needs to be done, but not necessarily an end. The Midwest  
5       ISO and stakeholders in the region and the Commission will  
6       be working through the planning and cost allocation issues  
7       under this framework I think for the foreseeable future.  
8       That is just part of how I think you do something this  
9       major.

10                So I don't think we're done with this, but this  
11       is a great step to get this process started going forward.  
12       And I hope the spirit of compromise and mutual interest that  
13       led to this proposal from MISO can continue as we go forward  
14       to work through the problems in working this thing out.

15                And that is what I planned to say last night.  
16       Now this morning I get up and I read the newspaper. So let  
17       me try and connect some dots here, if you will. We get in  
18       the weeds sometimes, and I think it is important sometimes  
19       to get a perspective on why we're doing this, and what this  
20       all means.

21                If you look at this morning's paper, we are in  
22       the longest war in the history of the U.S. in the Middle  
23       East. Chevrolet rolled out the Volt this morning, the  
24       electric car of the future. And gas prices today are the  
25       highest they have ever been in the history of this country

1 in December.

2 Somewhere I see these dots connecting. We're  
3 making a major step here this morning to help a region of  
4 the country that wants to plan and build for the future. So  
5 maybe there's some synthesis here of what we're trying to do  
6 and accomplish that can address the needs of this country.

7 So that is what you're working on, so I  
8 appreciate your effort.

9 CHAIRMAN WELLINGHOFF: Thank you, John.  
10 Commissioner LaFleur?

11 COMMISSIONER LaFLEUR: It's hard to follow that.

12 (Laughter.)

13 COMMISSIONER LaFLEUR: But I just wanted to  
14 remark that over the last several months, since joining the  
15 Commission, I have been trying to get around to as many  
16 regions and as many RTOs as I can. And a few months ago I  
17 was at the Midwest ISO and stood in that control room, and  
18 was just really floored. I've stood in a lot of control  
19 rooms, but I was floored by the geographic scope of the map  
20 on the wall in front of me, as well as really the diversity  
21 of resources that they were dispatching and that they had,  
22 including of course an abundance of wind resources. But a  
23 lot of really everything.

24 And given that scope and that diversity, I really  
25 congratulate the Midwest ISO and its stakeholders for coming

1 together and thrashing this out and agreeing on this what I  
2 think is a creative framework for transmission planning and  
3 cost allocation.

4 Like my colleagues, I also want to thank the  
5 team, the team that's in front of us and all the other  
6 people who worked on this Order, for their hard work in  
7 working through this.

8 The four elements of the Midwest ISO's proposal,  
9 the criteria they put together, the portfolio approach that  
10 ties it together for the region, the process for stakeholder  
11 review, and the studies they are relying on I think really  
12 work together to create an integrated regional solution.

13 And finally, on a lighter note, I frequently  
14 decry all the acronyms in the energy business. I sometimes  
15 feel we're like afloat in acronyms. But I just can't help  
16 but commending the Midwest ISO for what I think is one of  
17 the catchier acronyms I've seen in awhile. As an avid  
18 sports fan, I definitely appreciate "MVP"s. So I wish to  
19 everyone in the Midwest ISO that all your MVPs are as  
20 successful as Tom Brady.

21 (Laughter.)

22 CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
23 LaFleur. Well I think we're ready to vote, but, John, I do  
24 want to say you're right, it's all about connecting the dots  
25 dot by dot. Thank you for that comment.

1 Madam Secretary.

2 SECRETARY BOSE: The vote begins with  
3 Commissioner LaFleur.

4 COMMISSIONER LaFLEUR: I vote aye.

5 SECRETARY BOSE: Commissioner Norris.

6 COMMISSIONER NORRIS: Aye.

7 SECRETARY BOSE: Commissioner Moeller.

8 COMMISSIONER MOELLER: Aye.

9 SECRETARY BOSE: Commissioner Spitzer.

10 COMMISSIONER SPITZER: Vote aye.

11 SECRETARY BOSE: And Chairman Wellinghoff.

12 CHAIRMAN WELLINGHOFF: I vote aye.

13 SECRETARY BOSE: The last item?

14 CHAIRMAN WELLINGHOFF: Yes, please.

15 SECRETARY BOSE: For presentation and discussion  
16 this morning will be on Item E-5. This is concerning a  
17 Draft Order in Docket No. ER10-1401-California Independent  
18 System Operator Corporation. There will be a presentation  
19 by Katie Detweiler from the Office of Energy Market  
20 Regulation.

21 (The panel dons "Santa hats".)

22 (Laughter.)

23 SECRETARY BOSE: She is accompanied by Colleen  
24 Farrell, Kathryn O'Hare, and Bob Petrocelli from the Office  
25 of Energy Market Regulation, and Heidi Werntz and Adam Pan

1 from the Office of the General Counsel.

2 MS. DETWEILER: Ho, ho, hello.

3 (Laughter.)

4 MS. DETWEILER: Good morning, Mr. Chairman, and  
5 Commissioners.

6 CHAIRMAN WELLINGHOFF: Good morning.

7 MS. DETWEILER: Item E-5 involves the California  
8 ISO's proposed Revised Transmission Planning Process, or  
9 RTPP. The RTPP provides for a more comprehensive approach  
10 to transmission planning than California ISO's current  
11 transmission planning process.

12 As proposed, the RTPP fosters statewide  
13 participation in the planning process and culminates in the  
14 development of a comprehensive plan for California ISO's  
15 balancing authority area.

16 The RTPP also enables a partial integration of  
17 the generator interconnection process with the overall  
18 transmission planning process.

19 Additionally, the RTPP creates a new category of  
20 network transmission facilities called "policy-driven  
21 elements." California ISO proposes to identify policy-  
22 driven elements as those necessary to achieve state and  
23 federal policy requirements and directives such as  
24 greenhouse gas reduction requirements, and renewable energy  
25 targets that are currently set at 33 percent in California.

1           The RTPP also includes a competitive solicitation  
2 process that gives all transmission developers the  
3 opportunity to propose and own policy-driven and  
4 economically-driven transmission elements.

5           The Draft Order finds that the RTPP proposal  
6 enhances California ISO's transmission planning process by  
7 improving transparency and openness and expanding  
8 stakeholder, sub-regional, and regional collaboration.

9           The Draft Order conditionally accepts the  
10 California ISO's proposal and requires certain modifications  
11 to ensure no undue discrimination or preference in the RTPP.  
12 Green Energy Express and 21st Century Transmission Holdings'  
13 related Petition for Declaratory Order is also addressed in  
14 E-5.

15           The Draft Order finds the RTPP to be a positive  
16 step toward facilitating the development of new transmission  
17 infrastructure to meet California's ambitious renewable  
18 portfolio standards and other environmental goals. It also  
19 recognizes California ISO's efforts to expand its  
20 transmission planning process beyond its previously approved  
21 Order No. 890 compliant process.

22           That concludes the presentation, and we will be  
23 happy to take any questions.

24           CHAIRMAN WELLINGHOFF: Well thank you, Katie.  
25 Heidi, when I saw the Christmas bow I thought something was

1 up, but I can see now we have a whole ensemble here.

2 (Laughter.)

3 CHAIRMAN WELLINGHOFF: So this is terrific. It  
4 demonstrates that we not only do top flight work at FERC,  
5 but we also have fun. So I thank you, team; I appreciate  
6 very much the work on this.

7 We are on the eve of a new decade, and CAISO and  
8 its stakeholders have proposed a revised process to plan for  
9 expansion of a reliable transmission system. I congratulate  
10 them for continuing to strive to address the challenges that  
11 lie ahead through open, transparent, and efficient planning  
12 processes.

13 There are several aspects of the CAISO's proposal  
14 that contribute to my decision to vote to approve it. Among  
15 them are:

16 CAISO will expand and formalize through a  
17 statewide conceptual plan regional coordination with all the  
18 balancing authorities in the State of California, including  
19 those that are not members of CAISO, in developing of  
20 transmission plans.

21 CAISO and its stakeholders will take a  
22 comprehensive look at transmission infrastructure needs in a  
23 way that seeks to address reliability, economic and policy  
24 objectives in a coordinated and efficient manner.

25 It will take a comprehensive look at transmission

1 and nontransmission alternatives so that the final plan will  
2 set the stage for construction of needed transmission  
3 infrastructure at reasonable cost to consumers.

4 CAISO will conduct a competitive solicitation for  
5 developers to build and own the economically driven and  
6 policy driven elements of the comprehensive transmission  
7 plan.

8 New renewable energy projects, particularly wind  
9 and solar, figure prominently in its interconnection queue  
10 due to California's renewable goals. CAISO has proposed a  
11 process to identify the transmission facilities needed to  
12 reliably integrate these new resources, and to recover the  
13 associated costs through its transmission access charge.

14 I view approval of the CAISO's proposal as  
15 another step in the Commission's effort over the past two  
16 decades to establish processes to get needed transmission  
17 built at reasonable cost to consumers in order to ensure  
18 reliability and provide access to markets for new  
19 generation.

20 I look forward to seeing CAISO's revised planning  
21 process achieving these goals.

22 Thank you again, all, team. Colleagues? Phil?

23 COMMISSIONER MOELLER: Thank you, Mr. Chairman.

24 Katie, you did a nice job of describing the  
25 Order. Thank you. And to the team for working on it.

1                   It might be helpful, though, given some of the  
2                   complaints we've heard over the years, if you can contrast  
3                   it with the current transmission planning process in  
4                   California, please.

5                   MS. DETWEILER: The RTPP, as the Chairman touched  
6                   on, is a much broader, more comprehensive plan that  
7                   considers all types of transmission projects and elements,  
8                   including the new policy-driven elements in one  
9                   comprehensive plan. It includes additional opportunities  
10                  for stakeholders throughout the process, as well as  
11                  considering nontransmission alternatives along the way as  
12                  well.

13                  It starts with a conceptual plan that has  
14                  opportunities for stakeholder input and comment, and ends  
15                  with a comprehensive plan after everything has been  
16                  considered, and it goes to the Board and allows  
17                  opportunities for stakeholders to be involved all the way to  
18                  the end.

19                  COMMISSIONER MOELLER: As opposed to the current  
20                  plan?

21                  MS. DETWEILER: Yes. It has more opportunities  
22                  starting with that conceptual plan, having a statewide  
23                  approach in considering the policy-driven elements as a new  
24                  transmission element.

25                  CHAIRMAN WELLINGHOFF: Thank you, Phil. Marc?

1                   COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
2 I am pleased to see that the attitude from California has  
3 trickled down to the CAISO team.

4                   (Laughter.)

5                   COMMISSIONER SPITZER: And I'm assuming the surf  
6 boards didn't make it through security. My comments really  
7 are identical to that in the MISO Order, and I again  
8 appreciate my support for the Order for the team and for the  
9 work of the stakeholders.

10                   I wanted to just make a separate comment, though,  
11 that really does deal with both Orders. When we discuss  
12 the balancing of competing interests, the FERC has the  
13 obligation under the Federal Power Act to ensure just and  
14 reasonable transmission rates. But the competing interests  
15 to be balanced is the stakeholder process.

16                   And these two Orders illuminate the significance  
17 of the stakeholder process and the importance of, while we  
18 maintain ultimate discretion, ensuring the vitality of the  
19 stakeholder process by seeing that these hard efforts  
20 ultimately bear fruit.

21                   As we know, they don't always bear fruit. And,  
22 Commissioner Norris, you alluded to your status in MISO, and  
23 of course that's quite different with the separate  
24 jurisdictions, the regulators of which do attend to the  
25 interests of their states, and should, are appointed by

1       their governors to attend to the interests of their states,  
2       but are a bit different from California, the single-State  
3       ISO. But the principal underlying appropriate respect for  
4       the stakeholder process is the same.

5               And we have seen--all of us have traveled and  
6       been to these meetings and seen the stakeholders in action,  
7       working their way through extremely difficult issues,  
8       technically difficult issues, with a lot of money on the  
9       table regarding their respective constituencies.

10              And more often than not they are able to reach a  
11       consensus on some, if not all, matters before them. And  
12       where FERC is appropriately respectful, not a blank check  
13       but appropriately respectful of the stakeholder process, I  
14       think that increases the morale of the institutions of  
15       government, as well as those who participate in the  
16       industry. So I am pleased to see how this works.

17              These two Orders of course are inseparable in  
18       terms of analysis, but different. And again they reflect  
19       the view that there is not one single solution to these  
20       difficult challenges. And I am pleased to work, as we all  
21       do, with the regions and the folks around the country who  
22       are dealing with very complex issues to the benefit  
23       ultimately of our mutual constituents, the ratepayers of the  
24       U.S.

25              So I am pleased to support this Order,

1 Mr. Chairman. Thank you.

2 CHAIRMAN WELLINGHOFF: Thank you, Marc.  
3 Commissioner Norris?

4 COMMISSIONER NORRIS: Well said, Marc. I think  
5 recognizing the difference of these two, how they have  
6 approached it, but definitely with a common purpose of  
7 moving the transmission grid forward is important to  
8 recognize. So thank you for your work.

9 Let me pause here and get back to that. I've got  
10 to make a personal note. A funny thing happened on the way  
11 to the Commission meeting this morning. Mike, I want to  
12 confirm with you that Colleen in your office truly was on  
13 jury duty the last two weeks. We had not had the  
14 opportunity to meet before, and so I showed up in the  
15 hearing room this morning and realized we sat in the same  
16 jury together for the last two weeks.

17 (Laughter.)

18 COMMISSIONER NORRIS: So, really, when she turned  
19 that slip in that she was on jury duty, she truly was there.

20 (Laughter.)

21 COMMISSIONER NORRIS: Returning to this Order,  
22 thanks for your work. I think this does--you know,  
23 California is showing some leadership here on public policy.  
24 They have gotten together to put this before us to make that  
25 happen. So I think this enables them to do that.

1           This also is I think important because it does  
2 allow the opportunity for independent transmission  
3 developers to propose and construct policy, and economically  
4 driven transmission projects. So that's I think been a  
5 focus for me on this Order, but also I want to note that it  
6 is also a discussion of our upcoming transmission planning  
7 and cost allocation NOPR, the whole notion of right-of-  
8 first-refusal. So this Order I think approves the new CAISO  
9 planning process to increase competitive opportunities to  
10 propose and build transmission.

11           The Order rightly, though, I think, however,  
12 declines to eliminate the right-of-first-refusal in all  
13 instances. So that in part I think it's premature to get  
14 ahead of that final rule, and that we'll address that in the  
15 final rule. So this strikes a good balance I think.

16           I think the CAISO proposal raised a number of  
17 practical issues related to the right-of-first-refusal that  
18 will be helpful to us as we take a look at the more  
19 comprehensive proposal in our final transmission and cost  
20 allocation rulemaking process.

21           So thanks for your work.

22           CHAIRMAN WELLINGHOFF: Thank you, Commissioner  
23 Norris. Commissioner LaFleur.

24           COMMISSIONER LaFLEUR: Thank you. I would also  
25 like to thank the team for their hard work on this, and the

1 California ISO and its stakeholders for their hard work on  
2 this proposal. And also to thank so many folks from  
3 California for coming out for our tech conference on this  
4 proceeding in August.

5 Obviously there are common elements and themes  
6 between the two Orders we have discussed this morning, as  
7 has already been observed, but they put their own marks on  
8 them as well on some similar policy issues.

9 The State of California has pledged itself to one  
10 of the most ambitious renewable standards in the U.S., and  
11 that really calls for a fresh look at its transmission and  
12 distribution systems to support the changes in its  
13 generation mix. And I think CAISO and its stakeholders in  
14 the proposal they brought to us have really addressed this  
15 in a creative and thoughtful way.

16 I do believe that independent transmission has a  
17 role to play in helping to meet future transmission needs.  
18 And in order for independent transmission to play a role, it  
19 is going to be necessary to develop clear rules on how it  
20 participates in the transmission planning process. And this  
21 proposal that we approved today obviously does not answer,  
22 as Commissioner Norris said, the question of what will  
23 happen in the final transmission rule.

24 But it does I think provide a thoughtful  
25 delineation of the right-of-first-refusal based on different

1 types of projects, and dividing them between projects where  
2 existing transmission owners retain a right and obligation  
3 to build, and projects that provide an opportunity for new  
4 transmission developers in California.

5 In a case just last week, the D.C. Circuit  
6 observed that in a different context that unbundling  
7 services and all the changes in electricity markets have  
8 made line-drawing more complex. And I think this case is an  
9 example of really complex line-drawing, and I will be very  
10 interested to see how they apply it in practice and watching  
11 this unfold in the coming weeks and months.

12 Thank you.

13 CHAIRMAN WELLINGHOFF: Thank you, Cheryl.

14 Thank you again, team.

15 I think, Madam Secretary, we are ready for the  
16 vote.

17 SECRETARY BOSE: Thank you, Mr. Chairman. The  
18 vote begins with Commissioner LaFleur.

19 COMMISSIONER LaFLEUR: I vote aye.

20 SECRETARY BOSE: Commissioner Norris.

21 COMMISSIONER NORRIS: Aye.

22 SECRETARY BOSE: Commissioner Moeller.

23 COMMISSIONER MOELLER: Aye.

24 SECRETARY BOSE: Commissioner Spitzer.

25 COMMISSIONER SPITZER: Votes aye.

1                   SECRETARY BOSE:   And Chairman Wellinghoff.

2                   CHAIRMAN WELLINGHOFF:   I vote aye.

3                   With that, I think our business is done.   Before  
4   I hit the gavel, I want to encourage everybody to come to  
5   our holiday festivities upstairs later on this afternoon.

6                   With that, the meeting is adjourned.

7                   (Whereupon, at 11:25 a.m., Thursday, December 16,  
8   2010, the 965th open meeting of the Commissioners was  
9   adjourned.)

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25