

Chairman Joseph T. Kelliher's Statement on EPAct 2005

One significant development since the Commission's last meeting in July, of course, was enactment of The Energy Policy Act of 2005. That law, enacted on August 8th, was one of the most important changes in the laws we administer in 70 years. I think it is literally true, that every law we administer other than the Interstate Commerce Act was amended in the Energy Policy Act of 2005. So it really was sweeping change for us. We were given a lot of new responsibilities, particularly in the area of electric regulation, but also gas regulation.

I want to praise Congress for passing such a good law. That bill has had a bit of an evolution, and I actually worked on an early version of it back in 1999. But I think this law is actually the best version of it that we have seen in the past four years, and it gives the Commission new tools it needs to exercise its legal responsibilities.

I want to also praise the President for his determination in pushing this legislation. It is testament to his persistence and commitment to good national policy. He has been pushing this bill since 2001, and the bill would not have become law without his determination.

I think this is a very important law. I just wanted to highlight, with some broad strokes, how I view and interpret the law. It grants the Commission much stronger regulatory tools, in part to assure that competitive markets actually work well.

For example, it establishes an express prohibition of market manipulation, and it authorizes the Commission to define that term by rule or order. It gives us new tools to prevent the accumulation and exercise of generation market power by granting us authority to review acquisitions and transfers of generation facilities, something we did not have previously. It gave us significant penalty authority for the first time. It provided for enforcement of reliability rules. It also gave us authority to issue rules and orders to assure price transparency.

The new law also shows a strong commitment to a robust energy infrastructure. It has provisions regarding LNG siting, clarifying our exclusive jurisdiction to authorize LNG import facilities. It has new language, including federal backstop provisions on transmission siting. It has provisions on transmission pricing reform, something the Commission has been pursuing independently for 2-1/2 years. It has provisions regarding gas pipelines, to provide for judicial review of state decisions and development of a consolidated record.

So to me, with the broadest strokes, what the bill does is to give us authorities we need to prevent unjust and unreasonable rates in wholesale power sales, to prevent undue discrimination or preference in wholesale power sales and transmission service, and to

encourage the development of a stronger energy infrastructure.

The new law also demonstrates significant confidence in the Commission. Congress has given us, as I said, a huge piece of work. They have set a lot of deadlines, a lot of tight deadlines that are hard to achieve. Just measuring the amount of work, discretion and responsibility they have given us, you really cannot avoid the conclusion that Congress has confidence in the Commission. I believe the Commission will prove itself worthy of that trust and confidence and the best way we can do that is to faithfully execute the law.

Under Cyndy Marlette's leadership, we have developed a plan to implement the Energy Policy Act of 2005. I am committed to meeting the deadlines in the law. I do not want to have to explain to Congress why we missed the deadlines. So if we do not miss them, the question will not be asked. We have already taken significant actions to implement the law. Two weeks after it was enacted, the Commission issued its first proposed rule regarding LNG prefiling. Three weeks after the bill was enacted, we took our second action. We issued the proposed rule to implement the reliability provisions of the bill. We also took final action with respect to a hydro project license extension. Today, we act to implement the PUHCA repeal provisions of the bill. So we have been moving swiftly to faithfully implement the Energy Policy Act of 2005.

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