



**Federal Energy Regulatory Commission
July 19, 2007
Open Commission Meeting
Statement of
Commissioner Sudeen G. Kelly**

Items E-1, E-2, and E-3: FPA Section 203 Supplemental Policy Statement (Docket No. PL07-1-000), Cross-Subsidization Restrictions on Affiliate Transactions (RM07-15-000), and Blanket Authorization Under FPA Section 203 (Docket No. RM07-21-000)

"When the Energy Policy Act of 2005 (EPAAct 2005) was enacted almost two years ago, it provided the Commission with new authorities to protect customers against cross-subsidization or encumbrances of assets. In implementing these statutory provisions through the Order No. 667 and 669 rulemaking proceedings, the Commission established technical conferences to evaluate whether our regulatory actions were appropriate and determine whether additional actions should be taken. In addition to the experience we have gained in implementing these new authorities, the technical conferences have been very useful in informing the Commission as to whether additional regulatory actions needed to be taken to appropriately exercise our new authorities.

At the December 2006 technical conference, for example, the American Public Power Association and the National Rural Electric Cooperative Association recommended that the Commission codify its code of conduct requirements in the regulations and that these restrictions be made applicable to all traditional public utilities and their unregulated affiliates. That is what the Commission is proposing to do in E-2, the *Notice of Proposed Rulemaking on Cross-Subsidization Restrictions on Affiliate Transactions*. In E-2, the Commission proposes to codify code of conduct affiliate restrictions to prevent cross-subsidization involving power and non-power goods and services transactions and to make those restrictions applicable to all traditional public utilities (not only public utilities seeking section 203 approval) and their transactions with power sellers as well as non-utility affiliates.

In addition, in response to comments from a number of financial institutions, in E-3, the *Notice of Proposed Rulemaking on Blanket Authorization Under FPA Section 203*, the Commission is proposing to provide a limited blanket authorization under FPA section 203(a)(1) to allow a public utility to dispose of less than 10 percent of its voting securities to a public utility holding company if, after the disposition, the holding company and any associate company in aggregate will own less than 10 percent of that public utility.

I believe that these orders mark another step in our process of implementing these EPAAct provisions and we will continue to evaluate the effectiveness of our regulatory actions."