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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 MISCELLANEOUS ITEMS :
CONSENT MARKETS, TARIFFS AND RATES - GAS :
CONSENT ENERGY PROJECTS - HYDRO :
CONSENT ENERGY PROJECTS - CERTIFICATES :
DISCUSSION ITEMS :
STRUCK ITEMS :
- - - - -x

866TH COMMISSION MEETING
OPEN MEETING

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

Wednesday, July 28, 2004
10:15 a.m.

1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN PAT WOOD, III, Presiding

4 COMMISSIONER NORA MEAD BROWNELL

5 COMMISSIONER JOSEPH T. KELLIHER

6 COMMISSIONER SUEDEEN G. KELLY

7 SECRETARY MAGALIE R. SALAS

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19 ALSO PRESENT:

20 DAVID L. HOFFMAN, Reporter

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

2 CHAIRMAN WOOD: Good morning. This is an open
3 meeting of the Public Utility Commission of Texas.

4 (Laughter.)

5 CHAIRMAN WOOD: Of the Federal Energy Regulatory
6 Commission. I haven't done that since I've been here. I'm
7 thinking about Alison leaving. It's got me going crazy
8 today.

9 This meeting of the Federal Energy Regulatory
10 Commission will come to order to consider the matters which
11 have been duly posted in accordance with the government in
12 the Sunshine Act.

13 Please join us in the pledge to the flag.

14 (Pledge of allegiance recited.)

15 CHAIRMAN WOOD: Our FERC seal is on the back now.
16 Thanks to the advice of Mr. Kelliher, we're pleased at that.

17 We have a number of things to do before we jump
18 in today. I think Suedeem has one to start with.

19 COMMISSIONER KELLY: I'd like to introduce my
20 student, who has been working with me, Nicole Situdo.
21 She'll be entering her third year at George Washington law
22 school.

23 CHAIRMAN WOOD: And Chris Christopoulos from
24 Howard University is working in our office. He's one of our
25 wonderful interns here this summer.

1 For the last nine years of my life the other Mrs.
2 Wood in my life is the wife of Ernie Wood, otherwise known
3 as Alison Silverstein.

4 Nine years ago, thanks to a classified ad in the
5 Austin American Statesman and a glowing recommendation from
6 Governor Bush's personnel office and the fact that I
7 appeared to be a better boss than Michael Dell of Dell
8 Computers (for those of you who don't know him, the richest man
9 in America under 40), Alison wandered into my life.

10 She has been a loyal and smart advisor, a dear
11 friend, and a tough enforcer ever since. Now, like all
12 Texans, even ones born in Maryland, she yearns to go home.
13 So I have to let her go.

14 This woman exemplifies the exemplary public
15 service award, which I'm going to take out and I have the
16 pleasure to give her today. Not only has Alison contributed
17 mightily to the fulfillment of our strategic plan here at
18 the Commission, but she's actually helped develop the
19 strategic plan. It actually has an advantage to a Stanford
20 MBA now and again. This is our agency roadmap that we talk
21 about often.

22 Alison has done so much to fulfill that and make
23 it happen. She has a lot of fingerprints in the industry,
24 both in Texas and here. Her strong advocacy for a fact-
25 based infrastructure analysis led to the

1 institutionalization of our infrastructure group in OEP.

2 Her organizational conceptualization and
3 understanding -- quick understanding really of what happened
4 in California because she had been a resident of that state
5 and worked for a major utility in that state prior to me
6 hiring her in 1995.

7 She really helped develop the whole concept and
8 the structure and assisted in getting the funding for the
9 Office of Market Oversight and Investigation back in 2001
10 and 2002 -- and most recently her timely leadership on the
11 American side of the blackout taskforce team, which, thanks
12 to our congressional appropriation, has led to the
13 establishment of the reliability group, headed by Gerald
14 McClellan, who is here today -- did a lot to round out the
15 mission of our agency going forward.

16 It's one thing to have good ideas. It's another
17 thing to be able to actually implement them. And if Alison
18 Silverstein stands for anything, it is the ability to
19 implement ideas, to be creative about understanding the
20 range of solutions for certain problems and potential
21 problems.

22 She solves problems. Sometimes she solves them
23 before anybody knows that they're a problem. But inevitably
24 they become problems if they're not solved. She's low on
25 ideology, high on solvability.

1 Issues such as demand-side management, regional
2 infrastructure, system reliability, renewable power,
3 appliance codes, grid architecture, cyber security, market
4 power, distributed generation, management of organizations,
5 management of vegetation, SCADA software -- these are her
6 loves.

7 And the policies in Texas and at the FERC and
8 across the nation have improved so much over the past nine
9 years. And you can bet that Alison Silverstein had
10 something to do with anything good happening in every one of
11 those fields.

12 I will miss her terribly. It is a great honor to
13 thank Ernie for your sacrifice as the husband who had to
14 telecommute back to Austin for the last three years to let
15 her do what she does so well -- which I will miss so
16 terribly, which is public service.

17 It's my pleasure and honor to present the
18 exemplary public service award to Alison Silverstein.

19 (Applause.)

20 CHAIRMAN WOOD: We had a wonderfully productive
21 agenda cycle this time around -- alas, until just a mere 17
22 minutes ago. And before we launch into the substance of
23 today's meeting, I want to thank so many on this staff
24 including my fellow commissioners -- because we all did some
25 heavy lifting this time as well as our wonderful staffs.

1 But as one who has now survived his fifth, last
2 meeting of the summer cycle at FERC, both as a staffer for
3 Langdon and here as a commissioner, this is the one the
4 least has dropped off of. ** It makes it a whole lot
5 easier, ** but it also is a real testament to everybody
6 getting a tremendous amount of paper and important decisions
7 that a lot of people in the regulatory community are waiting
8 for. **

9 I do look forward to those coming out. We'll
10 just thank collectively our good FERC team here for making
11 this happen.

12 So, Madame Secretary .

13 SECRETARY SALAS: Good morning, Mr. Chairman.
14 Good morning, Commissioners.

15 The following items have been struck from the
16 agenda since the issuance of the Sunshine notice on July
17 21st. They are E-4, E-56, E-64, and E-66.

18 Your consent agenda for this morning is as
19 follows:

20 Electric items E-3, 7, 8, 9, 10, 11, 12, 13, 14,
21 15, 16, 19, 20, 22, 23, 24, 25, 26, 27, 29, 32, 33, 34, 35,
22 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,
23 51, 52, 53, 54, 55, 57, 59, 60, 61, 62, 63, 65, 68, and 70.

24 Miscellaneous items M-1 and M-2.

25 Gas items G-1, 2, 3, 5 , 7, 8, 9, 10, 11, 12, 14,

1 16, 17, 19, and 20.

2 Hydro items H-6, 8, 9, 10.

3 Certificates C-1, 2, 3, 4, 5, 6, 7, and C-8. As
4 required by law Commissioner Kelly is recused from the
5 following cases on the consent agenda: E-15, E-22, E-37, E-
6 55, E-57, E-59, E-60, E-61, E-65, E-70, G-7, and G-10.

7 Specific votes for some of the items on the
8 consent agenda are as follows:

9 E-8 -- Commissioner Brownell dissenting in part
10 with a separate statement,

11 E-38 -- Commissioner Kelliher concurring with a
12 separate statement,

13 E-42 -- Chairman Wood concurring with a separate
14 statement,

15 E-43 -- Chairman Wood concurring with a separate
16 statement,

17 E-49 -- Chairman Kelly dissenting in part with a
18 separate statement,

19 E-52 -- Chairman Kelly dissenting in part with a
20 separate statement,

21 E-54 -- Chairman Kelly dissenting in part with a
22 separate statement,

23 E-63 -- Chairman Wood concurring with a separate
24 statement, and

25 M-1 -- Commissioners Brownell and Kelliher

1 dissenting in part with separate statements.

2 Commissioner Kelliher votes first this morning.

3 COMMISSIONER KELLIHER: I, noting my concurrence
4 in E-38 and partial dissent in M-1.

5 COMMISSIONER KELLY: In the cases in which I am
6 not recused I vote aye with my dissents in part in E-49, E-
7 52, and E-54.

8 COMMISSIONER BROWNELL: I, noting the partial
9 dissent in M-1 and M-8.

10 CHAIRMAN WOOD: I, noting the concurrences the
11 secretary read.

12 SECRETARY SALAS: The first item on your
13 discussion agenda this morning is G-15. This is the natural
14 gas interchangeability report. It's a presentation by the
15 National Gas Council.

16 With us this morning we have:

17 Mr. Don Santa, President of the Interstate
18 Natural Gas Association of America, who is accompanied by R.
19 Skip Horvath, ---** Gas Supply Association, Lynn Church from
20 the Electric Supply Association, Michelle Foss from the
21 University of Houston;

22 Evan Gaddis from the Gas Suppliers and
23 Manufacturers Association, Ray McQuade from North American
24 Air and Energy Standards Board, Mark Sutton from the Gas
25 Processors Association;

1 Laurie Traweek from the American Gas Association,
2 Keith Barnett from Edison Electric Institute, Chuck
3 Linderman from Edison Electric, David Sweet from
4 International Liquified Natural Gas Alliance, and Deano
5 Wiggins from Process Gas Consumers.

6 CHAIRMAN WOOD: I'd like to welcome you back, Mr.
7 Santa.

8 MR. SANTA: Thank you, Mr. Chairman, members of
9 the Commission.

10 I have been asked to be the spokesperson for the
11 NGC Plus Group this morning to make a presentation that will
12 update the Commission on the progress that the NGC Plus
13 Group has made on the natural gas interchangeability and
14 hydrocarbon liquid dropout issues.

15 We refer to this collaborative as the NGC Plus
16 Group because it is broader than the four trade associations
17 that are the core members of the Natural Gas Council.

18 This is truly a well head to burner tip
19 collaborative that represents stakeholders far beyond those
20 typically involved in Commission proceedings.

21 In addition to INGAA, AGA, NGSA, and IPAA, this
22 collaborative involves the following trade associations from
23 the upstream end of the business: the American Petroleum
24 Institute and the International LNB Alliance, from the
25 midstream business the Gas Processors Association, from the

1 distribution business the American Public Gas Association,
2 from the electric generation sector the Edison Electric
3 Institute and the Electric Power Supply Association, from
4 the industrial sector the process gas consumers, the Gas
5 Suppliers and Manufacturers Association, and the North
6 American Energy Standards Board, and the University of
7 Houston. As was noted in the introduction, I'm accompanied
8 here this morning by representatives of the leadership of a
9 significant number of these stakeholders.

10 Let me briefly describe the governance structure
11 that we have used in this NGC Plus effort. There is a
12 policy committee that is comprised of representatives of the
13 trade associations participating in the collaborative.

14 We also have two technical task groups comprised
15 of both trade association staff and technical experts from
16 individual companies. There is the hydrocarbon dew point or
17 gas quality task group and also the interchangeability task
18 group. We also have a new task group, the communications
19 task group that I will describe later.

20 Our basic approach has been to develop a sound
21 technical grounding for developing policy options and
22 attempting to forge a consensus on those options. Let
23 me now turn to the work of the hydrocarbon dew point work
24 group. The GDP work group has produced a white paper
25 regarding hydrocarbon liquid dropout. A copy of that draft

1 white paper has been provided to the Commission and its
2 staff.

3 I think that a description of the level of
4 participation that went into producing the white paper will
5 give you an appreciation of the resources that have been
6 devoted to this task.

7 Six straight associations have played an active
8 role in drafting the white paper: NGSA, INGAA, GPA, GAMA,
9 AGA, and APGA. This effort has been supported by three
10 research organizations: the Gas Technology Institute, the
11 Pipeline Research Consortium International, and the
12 Southwest Research Institute.

13 Test case calculations were performed by at least
14 10 companies. Forty-six individuals representing every
15 stakeholder in the collaborative were active. Every
16 stakeholder group in the collaborative were active in
17 reviewing the drafts of the white paper. Someone was
18 telling me this morning it's been estimated that one-half --
19 ** of effort has gone into the HDP's work groups efforts so
20 far.

21 The white paper is being provided to the
22 Commission as a draft because the document still must be
23 reviewed by the stakeholder trade association memberships at
24 large. This process will be completed over the course of
25 the next month and the draft will be finalized by August

1 31st.

2 In addition to a detailed background narrative on
3 the HDP issue, the white paper includes a series of
4 technical recommendations. Briefly, some of the highlights
5 are as follows.

6 First, control of hydrocarbon liquid requires the
7 use of a control parameter to assure operational safety and
8 reliability, system integrity, and environmental compliance,
9 as well as to minimize the effects on end-use equipment.

10 Second, hydrocarbon dew point or HDP has the
11 broadest applicability and is the preferred control
12 parameter.

13 Third, a crychondrotherm HDP -- that is the
14 temperature at which hydrocarbon liquids begin to form
15 regardless of pressure -- provides the greatest flexibility
16 for all stakeholders. Still, HDP at a specific pressure or
17 pressure range may be applied to control the liquid dropout.
18 And so a C-6 parameter can be a valid parameter as it tends
19 to correlate with HDP temperature. **

20 When the white paper is finalized, we'll be happy
21 to have the technical groups provide the technical briefings
22 to Commission staff. If in the interim based on review of
23 the white paper the Commission staff has any questions, we'd
24 be happy to entertain them and factor that into the process.

25 Let me turn to the gas interchangeability task

1 group. This task group has involved 62 individual members
2 representing 14 suppliers, 31 distribution companies and end
3 users, 4 gas transmission companies, and 7 consulting
4 organizations.

5 Compared to gas quality the technical issues in
6 connection with interchangeability have proven more
7 challenging. Here are some of the reasons why.

8 First, there is a wide variety of combustion
9 related and noncombustion related gas compositional
10 requirements that must be served, for example, ranging from
11 residential and commercial end users on the one hand to
12 commercial gas consumers on the other hand and processing
13 sensitive commercial and industrial users.

14 In some cases the tolerances for such
15 compositional variations have not been studied. And
16 perfectly available information has not yet been developed.

17 Second, for many customers, particularly
18 residential gas users, the lack of controls or mitigated
19 responses that can be taken should a potentially harmful gas
20 composition make its way to their gas-burning appliances
21 presents an issue.

22 Third, there is the effect that rapid changes in
23 the compositional variation of gas could have on the
24 reliability, safety, and integrity of the equipment used by
25 major end users.

1 Fourth, there's the exploration of the role of
2 both historical gas composition variability and regional gas
3 composition differences and how end users have responded to
4 this to date. On top of that the issues that could arise as
5 gas composition becomes less and less predictable due to the
6 emergence of a less linear, more network flow of gas in
7 North America.

8 In sum, these considerations create a special set
9 of challenges as the task group attempts to develop the
10 technical guidance that will facilitate adopting
11 interchangeability specifications that can balance the
12 potentially conflicting goals of addressing the needs of
13 most consumers, posing the fewest constraints on gas
14 supplies, and preserving the safety, reliability of end
15 users and equipment.

16 Let me now talk about the interchangeability gas
17 group work plan. The interchangeability task group has
18 developed a list of consensus items. A copy of that has
19 been provided to the Commission. Some of the highlights of
20 this list are as follows.

21 First, the BTU specification alone, as used in
22 tariffs today, is not an adequate measure for gas
23 interchangeability.

24 Second, the WOBBI index provides the most
25 efficient and robust of ** . There is limitations to the

1 applicability to the WOBBI index. And additional parameters
2 may be required to address combustion performance and
3 limitations. **

4 There the European experience in gas
5 interchangeability highlights important issues for
6 establishing U.S. interchangeability specifications and
7 demonstrates significant differences from the U.S.
8 situation.

9 This experience suggests that the historical
10 ranges of gases distributed in the U.S. may be used to
11 establish interchangeability criteria.

12 Just last week the interchangeability task group
13 met for two days with European representatives regarding
14 their experience with gas interchangeability. Beyond the
15 discussions with the European counterparts, there are
16 efforts to draw on other international experiences.

17 For example, an EEI work group is developing a
18 technical paper on the international experience with
19 regasified LNG fueling electric generators. This white
20 paper is scheduled to be completed by August 24th.

21 In addition, the task group will investigate gas
22 interchangeability in Australia and New Zealand, where
23 beyond the situation in Europe and the U.K. the ultimate
24 specifications and end user considerations appear to be more
25 similar to those in the U.S.

1 Similar to the efforts by the HDP task group, the
2 interchangeability task group will develop a white paper
3 that provides both a narrative background and a series of
4 technical recommendations.

5 We already have a preliminary outline of the
6 white paper that provides some perspective on the range of
7 issues that will be addressed. And the target date for
8 completion of this white paper is October 27th.

9 Finally, it should be noted that the task of
10 examining interchangeability issues is made daunting by some
11 major gaps in information regarding industrial and power
12 generation end users. Particularly with respect to
13 emissions the NGC Plus Group has discussed this gap with
14 several potential sources of government R&D funding, such as
15 the U.S. Department of Energy.

16 Given the importance of this issue to the
17 nation's efforts to enhance its supplies of natural gas,
18 federal R&D that would help fill these gaps would be
19 extremely timely.

20 Let me talk briefly about the communications task
21 group. This group will begin its work in August. The
22 communications task group will focus on intra-industry
23 communications about the proposed LNG projects and imports.
24 The new task group is still in the process of defining its
25 scope of work.

1 The overall role is to facilitate timely and
2 clear communications among prospective LNG importers,
3 pipelines, LDC's, and end users in order to deal in more
4 concrete terms with the gas quality and interchangeability
5 issues that are being addressed by our technical end policy
6 groups.

7 It's anticipated that the communications groups
8 will complete its work product concurrently with the
9 interchangeability task group on October 27th.

10 What's next? What is our proposed work plan?

11 I would note that the technical white papers do
12 not include policy recommendations. However, they provide a
13 foundation for policy recommendations and help to define the
14 range of options. Obviously we will not consider something
15 that's technically infeasible. Still, even after the
16 technical recommendations are received, there are a series
17 of policy related questions that must be addressed, possible
18 operational issues, and questions of how a policy solution
19 might fit within the Commission's legal and regulatory
20 framework.

21 The NGC Plus Group policy committee will begin
22 fleshing out policy options as soon as the technical
23 recommendations are ready. Still, to date we have been very
24 careful about not getting the cart before the horse.

25 As noted, the HDP technical work is more advanced

1 than the interchangeability work. Therefore, we anticipate
2 that the discussion of policy options there can begin sooner
3 than in the interchangeability case.

4 The NGC Plus Group recommends that the Commission
5 seek public comment on the technical white papers and
6 recommendations. While the NGC Plus task groups have been
7 very inclusive, some stakeholders may have chosen not to
8 participate.

9 We believe it would be prudent to provide them
10 with an opportunity for input before the recommendations
11 become the basis for any policy choices that the Commission
12 may make.

13 Also during this comment period the NGC Plus
14 policy committee will continue its work on policy
15 recommendations with the target of reporting its conclusions
16 to the Commission by the end of the year. As we've
17 already done, we will continue to provide the Commission
18 staff with regular updates regarding our progress. We
19 believe that this work plan will put the Commission in a
20 position to make policy choices with the benefit of the
21 industry technical input and the product of the NGC Plus
22 groups efforts to build a consensus on policy options.

23 Finally, this group has been kept apprised on
24 NAESB's ongoing efforts to develop Web-based reports for
25 tracking gas quality as defined in interstate pipeline

1 tariffs.

2 The group is in agreement that it would not be
3 advisable to request any further standards development until
4 the NGC Plus Group has completed its work and the Commission
5 has issued any further policy guidance.

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1 Given that such outcomes have yet to be
2 determine, it's premature to comment on what, if anything,
3 might be needed in the areas of standards development.

4 That concludes the NGC-plus group status update.
5 We very much thank the Commission for the opportunity to
6 make this presentation today.

7 CHAIRMAN WOOD: Thank you, Don. One of the
8 reasons we wanted to have it was, a) to kind of communicate
9 publicly, certainly how important this is to us, and to kind
10 of keep your nose to the wheel, and, again, build that
11 consensus in the effective way that you all can do, because
12 we need the answers.

13 We've already got a pending complaint or two
14 here, relating to many parts of this issue. This is a
15 broader study, as it should be. We appreciate you all
16 taking charge of having a broad and thorough scope for it.

17 I just want to re-communicate the urgency of the
18 thoughtful timeliness in converting this to customers on the
19 distribution side. I'll ask you, Mr. Gaddis, since you
20 represent the clients. We haven't seen you a lot here in
21 the years that I have been here, so I'm glad you're on this
22 panel. You are kind of where the rubber hits the road on
23 this issue.

24 Ms. Traweek, what does, I guess, the most
25 unsophisticated customer of natural gas -- what are the

1 impacts to them of having what is now becoming potentially a
2 more varied, less homogenous quality of gas coming all the
3 way to their home?

4 MS. TRAWEEK: Just to put it in perspective,
5 certainly over the years, as we've looked at differing
6 compositions with natural gas, they have all been within the
7 applicable or appropriate ranges to be able to accommodate
8 the gas appliances and the end users that are out there
9 right now.

10 And we think, overall, right now, as this is a
11 very developing issue, are able to continue to be able to
12 address these issues, but in trying to look ahead and also
13 in trying to address some of the liquid dropout issues, as
14 well as the potential of more LNG coming into the system, we
15 need to be concerned about issues such as on the liquids
16 side, too many liquids can clog the pipe and result in not
17 being able to get the gas through the meter.

18 Obviously, that has implications there, and then
19 also in terms of the overall efficiency and operation of the
20 appliances, longer term, can be an issue, and that's
21 certainly something that the appliance manufacturers are
22 looking at very carefully as well.

23 So, it is critically important as we work through
24 this process, that we are comfortable that with the gas
25 streams that are coming into the system, that we know that

1 the end-use equipment that is out there now, which meets the
2 majority of the needs of the residential customers, will
3 continue to work efficiently and effectively as this new gas
4 stream and sources and issues such as liquid dropout come to
5 bear.

6 CHAIRMAN WOOD: You said you've talked to your PN
7 groups who are going to go to the South Pacific, but, I
8 mean, how much variety in the standards is there for our
9 appliances, versus those that are used in Europe, where I
10 understand the gas stream has a different composition to it?
11 Do we have a different -- does a hot water heater work
12 differently here than it does in France?

13 MR. GADDIS: There are many different types of
14 hot water heaters, Mr. Chairman. Let me just say that the
15 idea of interchangeability -- and I like the word, "quality"
16 -- of the fuels, the natural gas, has not been an issue in
17 the United States.

18 There is a lot of experience in Europe, also in
19 Japan, through Asia, where they have used liquified natural
20 gas for quite some time. Historically, it's not been an
21 issue with the manufacturer or the consumer, because,
22 historically, we've been able to deal with the quality that
23 we work with.

24 Now, with the introduction of foreign gases
25 coming in, that's changing. We look at the effects on the

1 life cycle of our products. We look at the increase in
2 carbon monoxide, nitrogen dioxide.

3 We're looking at a decrease in the shelf life.
4 We're looking at, we believe -- we believe also that we're
5 looking at a decrease in efficiency. Now, we're in the
6 middle of research, and GAMA has just hosted a number of
7 conferences on that.

8 I would like to add that I'm very pleased to be
9 part of this panel, and that they're working with us, and I
10 believe we are definitely headed in the right direction.
11 But for the manufacturer, and, of course, the consumers that
12 we serve, I think our interest is looking at parameters,
13 standards, or whatever it is that assures that we keep in
14 that operating range.

15 For the record, we don't know what that operating
16 range is right now. We have to take a look at that. We're
17 just pleased to be here.

18 CHAIRMAN WOOD: You mentioned, Don, about the
19 industrials and the generators. Explain to me, why that
20 kind of factors into the broader report issue, the emissions
21 issue that struck me.

22 MR. SANTA: It would probably be better to ask
23 either Lynn or Chuck to address that one.

24 MR. LINDERMAN: Mr. Chairman, the emissions
25 issues are associated with higher heating value gas that may

1 create the potential of large levels of NOX emissions from
2 the combustion turbines and the combined-cycles.

3 Part of the work we are undertaking is an
4 analysis of the Korean experience where they use LNG
5 exclusively to fire a series of LM-6000 switches, the GE
6 unit, which is basically the same building blocks as the 7-
7 F, which is widely used in this country.

8 We've been told that there are NOX problems and
9 brown plume problems associated with LNG in Korea. Bear in
10 mind, of course, their standards for NOX emissions are
11 considerably less.

12 CHAIRMAN WOOD: That's because the gas is richer?

13 MS. CHURCH: The gas is richer, that's what we've
14 been led to believe. At this point, we will be addressing
15 that in the white paper that will be completed in late
16 August.

17 I just want to say that the other issue is that
18 the differing gas composition heat rate also can impact the
19 equipment and can cause vibration, turbine vibration and
20 potential damage, so it's both an emissions issue and an
21 equipment issue.

22 MR. LINDERMAN: I would add, Mr. Chairman, if I
23 might, that you've got the whole question of flame stability
24 in the combustion process, and whether or not you get
25 blowback or potential flameout. Lynne mentions the

1 potential changes in operations if the machines are not
2 spinning at the rate at which they were calibrated.

3 That can create vibration issues, long-term wear
4 issues, and, in essence, another word that everyone likes
5 around this building, reliability issues in the electric
6 sector.

7 CHAIRMAN WOOD: What kind of collar around the
8 quality that we've had, what kind of collar have we had for
9 HDP? I know Btu is kind of the inferior thing, but the C-
10 6s, all of these things, are all parameters that define the
11 gas stream.

12 What kind of elbow room have we been living under
13 already, before you get to these kinds of issues here?

14 MR. HORVATH: I'll start, Mr. Chairman. The
15 short answer is that no one knows, because it's not been an
16 issue. The industry has worked well together over the
17 years, given the gas that came out to blend and so forth,
18 the best efforts in processing and accommodation by the
19 customers. It hasn't been an issue.

20 What we're finding now is the LNG and the
21 economics for liquids has created a situation where the
22 elbow room, whatever it was, we now have to discover it.
23 Looking back at the records, we're finding out that the
24 numbers just aren't there.

25 So, we are really just starting. As part of the

1 explanation of why this is taking so long, there really is
2 no good record that we can go back to. We're trying to
3 figure it out.

4 CHAIRMAN WOOD: I had an interesting meeting with
5 Mr. Sutton's group a while back. It was very evident that
6 the whole economics of taking liquids out of the gas stream
7 would probably solve a number of other problems for us for
8 the last 40 years, just because the liquids were worth more
9 as liquids than they are part of the rich gas stream.

10 Now that that's closer to the edge, flipping back
11 and forth, that masking of all the other benefits and kind
12 of knocking the gas stream down, has kind of come into the
13 front, based on kind of what happens when you unbundle any
14 of these kinds of things that we do around here, whether
15 it's the power grid or the gas grid or whatever.

16 It is very important for you all, and, clearly,
17 looking at the outline of the report, you are taking a very
18 comprehensive view. But to make sure that all the things
19 that were kind of handled as an afterthought or really not
20 even as a thought at all, by another economic process, get
21 recaptured in the new world, if need be, through some sort
22 of industry protocol that NASEB deals with, or, if need be,
23 something we have to do.

24 But we do need to make sure we need to recapture
25 all the little tendrils that kind of crawl out of this, or

1 else we might have missed something important. I just want
2 to encourage you all. Thank you for the soup-to-nuts
3 approach here in pulling together the broader group than
4 just the original NGC. It's helpful to us.

5 Just skimming through the draft that you all gave
6 us last night, I would urge you to get as close to
7 recommendations as you can, because, quite frankly, what we
8 do in the public interest and that NAESB does on the
9 commercial side, has got to cover all the issues here.

10 If it's a money issue, which I know it is --
11 because what the hell isn't -- tee it up for us in a way
12 that we can make some decisions or at least provide some
13 guidelines as to how the economics aren't working to the
14 advantage as it used to be.

15 If we have to get a bill sent to somebody, what
16 ought to dictate who gets the bill? That would help us,
17 because I think I take very seriously that the National
18 Petroleum Council told us that this one and LNG are the two
19 things we've got to go with. It's not a fire burner; it's a
20 few years that we have to do it, but let's just do it while
21 we're focused on it.

22 Please, as far as you can get into the
23 recommendations piled on, if you all could do that, I think
24 it would really help us, than just saying here's a great
25 white paper. I don't want it to sit on the shelf. You've

1 all got too many high-dollar people sitting at this table
2 today for this to be just a thank you very much.

3 I want it to be an actionable item that we use to
4 conclude that there is no problem to be solved definitively,
5 here's that, or if there are some small problems to be
6 solved, we do that, but big problems that involve utilities
7 and appliances in this country, that's going to take a
8 longer lead time, but we ought to get started on it.

9 You've got the brains and the thoughts over
10 there, and obviously the economic interest to get it right.

11 MR. SANTA: It's one of the reasons, Mr.
12 Chairman, why we have chosen to put an end date on when
13 we're going to come back to the Commission with policy
14 recommendations, because I think we realize you can talk
15 about it forever, but at some point, we've really got to
16 decide on what are the items, based on the technical work,
17 that we can develop consensus on policy, and what are the
18 items?

19 Quite frankly, I hope we get all the way there,
20 but if we don't, we can at least properly frame the issue to
21 tee them up for the Commission to have both a good record
22 and on which we'll be able to act promptly.

23 CHAIRMAN WOOD: Great.

24 COMMISSIONER KELLY: Don, I just had one
25 question. You talked about the fact that you were going to

1 look at Australia and New Zealand and their experience with
2 interchangeability standards. I believe you said that the
3 end user similarities are more like us than European end use
4 criteria; was that correct; was that what you said?

5 MR. SANTA: Yes, that's what I said.

6 COMMISSIONER KELLY: Does it make a difference,
7 the diversity of sources of LNG? Are you finding that
8 that's making a difference in the difficulty of coming up
9 with an interchangeability standard, or is it really the
10 focus on the end use?

11 MR. SANTA: I think the variability creates a new
12 wrinkle that I think is a challenge. There are two points,
13 one of them being LNG now entering the mix and the challenge
14 created for end users is that while, if you know what the
15 gas stream is going to be, you can tune the appliance.
16 Within an range, you can tune the furnace or the electric
17 generator of the process use.

18 However, if you have variability that it could
19 change fairly dramatically within a short period of time,
20 that creates a whole new set of challenges, and that's the
21 concern that a lot have got with LNG and the fact that it's
22 likely to come in, intermittently, but in fairly big slugs,
23 particularly if it's coming in in a market area, so there is
24 that.

25 The other one on the variability -- and Evan

1 Gaddis may know this better than I do, but he reported back
2 to me that one of the discussions in terms of the European
3 experience was the fact that what was really their driver
4 was trade liberalization and the ability to have an
5 appliance manufactured in France be able to be sold in
6 Germany or Italy or vice versa.

7 So they ended up coming up with a range within
8 which appliances would be able to operate, and then when you
9 got into that specific market, that might have a somewhat
10 distinct gas stream, you would tune the appliance to that
11 particular gas.

12 So I think the fact that while there has been
13 variability in the U.S. gas supply, based on region and
14 things of that nature, we haven't, on the gas
15 interchangeability side particularly, yet faced the range
16 and also potential for variability within that range that
17 LNG now presents to us. It's a special challenge.

18 COMMISSIONER KELLY: Thank you. I just would
19 personally like to thank all of you for coming together and
20 working on this issue. I think it's been a tremendous
21 effort. I'm very impressed with the amount of work that's
22 gone into it, and with the cooperation that this great
23 number of groups have evidenced, you certainly make our job
24 a lot easier. Thank you very much.

25 COMMISSIONER BROWNELL: Don, you referenced that

1 there were information gaps that needed to be filled in with
2 possibly some R&D funding from government. Could you just
3 explain a little more about what those information gaps are
4 and how much of the final recommendations depend on filling
5 those information gaps?

6 Government R&D isn't always going to work in the
7 lifetime that we're looking for here.

8 (Laughter.)

9 MR. SANTA: On the technical end of that, I'll
10 ask Lori Traweek from AGA, who has been more involved in the
11 interchangeability work than I have, to speak to that one.
12 However, it's my impression that probably within the
13 recommendations, you can deal with it, however, you may end
14 up having to adopt, for example, a more conservative number
15 than you otherwise could, and then also maybe the
16 possibility of some outliers.

17 For example, I've been told that California, with
18 its very strict emissions requirements, could pose some
19 challenges in terms of having the record and the ability to
20 address those specifics. But let me turn it over to Lori on
21 the question of particular information gaps.

22 MS. TRAWEEK: I may also yield to some remarks by
23 Chuck in terms of power generation. Most of the gaps in
24 research are going to be around these newer applications,
25 power generation and emissions requirements associated with

1 the power generation units, and whether or not the gas
2 quality associated with LNG has detrimental or negative
3 effects on the emissions on the power generation side.

4 I don't know, Chuck, if there is anything else
5 you would want to add on that.

6 MR. LINDERMAN: Thanks, Lori. The only thing
7 that I would add, Commissioner, is that the environmental
8 side is not as well understood as is the combustion side
9 yet, even though there are in some cases, continuous
10 emissions monitors on some of these units.

11 The wrong kind of fuel has the potential to
12 create vibration inside the unit. Bear in mind that these
13 are machine-made to very tight tolerances that may create
14 operational difficulties or potential failure of the units,
15 which, of course, is something that neither Lynne nor I want
16 for either of our memberships representing the generation
17 business, and that's the key issue that we've got to think
18 through here.

19 What are the impacts on operations, as well as
20 emissions? Certainly with the NOX pressures in this area
21 during the summertime and on the East Coast as a whole, we
22 don't want to do anything inadvertently that raises NOX
23 limits or creates units that are out of compliance with the
24 Clean Air Act in the midst of a heat storm.

25 Those are all things that are on our list of

1 potential things that we may have to talk with the DOE about
2 for some R&D funding.

3 COMMISSIONER BROWNELL: Are the manufacturers
4 involved in this discussion? Is EPA involved in this
5 discussion? Are they part of the team, as the gas appliance
6 manufacturers are?

7 MR. LINDERMAN: The OEMs, the original equipment
8 manufacturers, Westinghouse and General Electric, are at the
9 table. What GE says is, we can design a machine for any
10 specification of fuel, but as Lori mentioned earlier, the
11 only thing that that machine can't do is, it can't take
12 changes in fuel quality on a basis that's just flowing
13 through the pipeline.

14 That takes time to reset, and redesign, re-change
15 the buckets in which the combustion takes place, and all of
16 those kinds of things, so we have to have notice. We need
17 to have a quality that is generally available and the
18 machine is designed for.

19 COMMISSIONER BROWNELL: You also mentioned that
20 we need to maybe issue these papers for comment, so that we
21 can get a broader representation of stakeholders. Are there
22 any particular stakeholder groups that you're concerned
23 about, that we could even begin to consider outreach to now?

24

25 MR. SANTA: None, in particular, Commissioner.

1 It's just a matter of wanting to be overly cautious and just
2 make sure that if the Commission was going to use this as
3 the basis for what it does on policy, that it has made sure
4 that for some reason, there may not be either a stakeholder
5 segment or perhaps a company within a stakeholder segment
6 that for some reason hasn't participated to date but would
7 want to have them put on it.

8 Although, as you have seen today, this has been a
9 very inclusive process, we really have reached out to both
10 trade associations and within the technical groups to
11 individual companies and others to participate. We're doing
12 everything we can to make sure that what we present to you
13 on the technical basis is both well founded and a consensus.

14 MR. HORVATH: To amplify, Commissioner, our
15 network is based on associations and memberships. Not
16 everybody belongs to associations. We just want to make
17 sure that those folks are included, because this is more
18 important than association politics. We're asking the
19 Commission to put it out for comment.

20 COMMISSIONER BROWNELL: Gee, could we get that
21 quotation, "this is more important than association
22 politics"? Do we have to get everybody to vote today on
23 everything? That's terrific.

24 (Laughter.)

25 COMMISSIONER BROWNELL: I think you have been

1 inclusive and I really commend you. I guess, while I
2 appreciate your concerns and your willingness to make sure
3 that everyone is heard from, candidly, the stakeholder
4 process can at times be less than helpful, and in our desire
5 to be inclusive, I think we've sometimes delayed or muddied
6 what are very, very important decisions, as Pat recognized.

7 I think maybe we can use this forum to say that
8 if you have an opinion that is based on facts and
9 experience, maybe the time to step up to the plate is now,
10 not six months from now when decisions are getting made. I
11 think you've done a terrific job.

12 MR. SANTA: We appreciate that.

13 COMMISSIONER BROWNELL: Thank you.

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1 CHAIRMAN WOOD: Thank you all for coming. We
2 look forward to a continued dialogue.

3 MR. SANTA: Thank you for the opportunity, Mr.
4 Chairman.

5 SECRETARY SALAS: The next item for discussion is
6 E-1, Midwest Independent Transmission System Operators. The
7 presentation is by the Commission's administrative law
8 judges Karen Johnson and Carmen Cintron on the written
9 report on the grandfather agreements pertaining to this
10 proceeding. Also at the table is Penny Murrell from the
11 Office of Markets, Tariffs, and Rents.

12 JUDGE JOHNSON: Good morning, Mr. Chairman. Good
13 morning, Commissioners. We'd like to begin our presentation
14 by thanking the Commission for the opportunity to
15 participate in this complex and challenging process.

16 CHAIRMAN WOOD: Very diplomatic.

17 (Laughter.)

18 JUDGE JOHNSON: What began as a seemingly
19 daunting task became an extraordinarily positive and
20 gratifying experience. We'd also like to take this
21 opportunity to thank the MISO, the parties to the GFA's, and
22 their legal counsel for working together to provide the very
23 best data possible to the Commission in a civil and
24 expeditious manner. It makes us as judges proud to be part
25 of this Commission and part of this industry.

1 JUDGE JOHNSON: Our last slide I'm turning over
2 to Judge Cintron.

3 JUDGE CINTRON: Good morning, Mr. Chairman,
4 Commissioners, Madame Secretary. We're issuing later today
5 a document which finds that load-serving entities or the
6 customers who utilize the Midwest ISO grid should be the
7 responsible entities under the grandfather agreements.

8 However, in a number of the grandfather
9 agreements the customers or the load-serving entities are
10 not FERC-jurisdictional. In addition, a number of the
11 customers do not fall within the definition of responsible
12 entity because they are not fully qualified market
13 participants within the definition of the Midwest ISO
14 tariff.

15 Consequently, these companies could not be the
16 responsible entities. In these cases we found that the
17 transmission owners, the counterparties to the grandfather
18 agreements, should be the responsible entities.

19 A number of the contracts reserved unilateral
20 rights for the parties to modify the rate. Consistent with
21 Commission precedent we found that under these contracts the
22 just and reasonable standard is the applicable standard of
23 review.

24 A number of the contracts did have provisions
25 relating to contract modification. For these contracts we

1 found that the public interest standard of review is the
2 applicable standard consistent with Commission precedent.
3 We also found that the just and reasonable standard applies
4 to Commission-initiated changes to the contracts.

5 Under some contracts the transmission rights of
6 one entity will be under the Midwest ISO. However, the
7 unilateral reciprocal rights of the contract will not be
8 under the Midwest ISO.

9 We additionally found that contracts 297 and 308
10 should not be under the transmission tariff. Because the
11 contracts do not affect the Midwest ISO energy market, the
12 generators are in the WAPA control area and the load is
13 dynamically scheduled.

14 Our finding does give the Commission sufficient
15 facts to go ahead and go on to step 3 of the proceedings.
16 The additional information that was found in steps 1 and 2
17 facilitate this process also.

18 We want to thank the Secretary's Office for their
19 prompt loading of all this information into the e-library so
20 we could prepare for the hearing. In particular Mr. Brooks
21 Carter was very instrumental in getting this accomplished.
22 We also want to thank Marty Reisen from the ITS staff, who
23 helped us navigate through Citrix so that we could work from
24 home.

25 We also want to thank the chief of the OMTR and

1 the General Counsels Office for separating staff so they
2 could help us through this hearing. In particular Jan
3 Bargen and Melissa Lord created a database for all the
4 information that has flowed in this proceeding.

5 Jason Stanick and Jeffrey Dennis from the General
6 Counsels Office helped us draft the findings that will be
7 released today.

8 On our staff Monica Berry, my law clerk, drafted
9 orders and the findings of fact. Michael Spleet, Judge
10 Johnson's law clerk, helped draft the orders and was the
11 liaison with all the different staffs.

12 In addition, two summer interns proved to be
13 invaluable: Charlene Silva and Fernine Fontanez drafted
14 orders in this proceeding. In addition, they drafted
15 uncontested settlements so that I could continue to move
16 forward with other cases that were before me.

17 I also want to thank my technical assistant,
18 Patricia Herriot, who many times in this procedure had to
19 run at 4:30 to the Secretary's Office and beg them please
20 for them to let us file our orders after the filing
21 deadline.

22 Thank you. This concludes our presentation. And
23 we will take questions now.

24 CHAIRMAN WOOD: Judges, thank you both for your
25 leadership here. Kind of at the end of the rope, you just

1 kind of pass it off to the ALJ and hope it works.

2 (Laughter.)

3 CHAIRMAN WOOD: You maybe have done a disservice
4 to your colleagues. There could be more of those kind of
5 hard to solve cases. But thank you for that.

6 I look forward to looking at the findings of
7 fact. I think our plan, Penny, is for the parties to have a
8 month to respond to that or 20 days.

9 MS. MURRELL: Exceptions to the written report
10 are due on August 17th.

11 CHAIRMAN WOOD: Then hopefully we'll do something
12 shortly thereafter in regard to a final order -- trying to
13 pull this all together. We couldn't have done it without
14 you.

15 How many filings total? You said there were 450.

16 JUDGE JOHNSON: There ended up being 450
17 contracts identified and reviewed. There were approximately
18 912 filings including motions, answers, responses, as well
19 as template filings that kept staff very, very busy.

20 CHAIRMAN WOOD: I'll bet. People did make large
21 use of the template that was developed by EEI.

22 JUDGE JOHNSON: They did. And we were very happy
23 to have that. That really helped us in reaching our
24 conclusions.

25 CHAIRMAN WOOD: The categories of contract that

1 fell on the first cut -- what types of contracts were
2 grandfathered that weren't of interest to you? The 200.

3 JUDGE JOHNSON: A lot of those did not involve
4 transmission provision.

5 CHAIRMAN WOOD: Lower voltage lines?

6 JUDGE JOHNSON: It could be economic type of
7 contracts, that sort of thing. So they really weren't
8 within the scope of the proceedings.

9 JUDGE CINTRON: There were a number of contracts
10 that the Midwest ISO identified as revenue sharing. They
11 moved for us to strike them from the proceeding. There were
12 a number of contracts that did not impact the energy
13 marketers or the TMT.

14 The parties moved for us to strike them from the
15 proceeding and we did. This was based on the July 2nd order
16 that the Commission issued, where it identified that that
17 was one of the parameters that we could use to strike
18 contracts.

19 JUDGE JOHNSON: The ones that were stricken --
20 the MISO did agree as well to their being stricken.

21 CHAIRMAN WOOD: I was just trying to plan ahead
22 for what we've got coming. So then after that process
23 there's still 200 contracts that are of interest here.

24 Three-quarters of those came to a consensus as to
25 who the responsible parties are, what the megawatts are,

1 where the take-out and put-in points are and all that.

2 JUDGE JOHNSON: That's correct.

3 CHAIRMAN WOOD: So those questions got answered
4 by three-quarters. On the last of the half of the total are
5 the ones that you dealt with that are written up in the
6 findings that are coming out today.

7 JUDGE CINTRON: Correct.

8 CHAIRMAN WOOD: I think from what you were just
9 saying the issue -- not the hard issue but the tough issue
10 to deal with -- is who's the responsible party?

11 JUDGE CINTRON: Correct.

12 CHAIRMAN WOOD: That's the analysis that Carmen
13 just laid out.

14 JUDGE CINTRON: The transmission owners argued
15 cost allocation because of the determination of who the
16 responsible entity is ultimately revolved around who's going
17 to be responsible for the cost.

18 And the transmission owners argued that to the
19 extent that they were named a responsible entity for the
20 customers, then they would be responsible for those costs.

21 Furthermore, if they cannot transfer those costs
22 on to the responsible entities or to the consumers, the
23 costs are going to be tracked.

24 The load-serving entities, on the one hand, argue
25 that because these are new Midwest ISO transmission charges

1 that they should not be responsible for them. That is the
2 key issue -- the responsible entity.

3 CHAIRMAN WOOD: Were there any of the contracts
4 that you all had to deal with that actually had a future
5 charges kind of provision? Or were they all --

6 JUDGE CINTRON: Some of the contracts provided
7 for modification of the rates, but none of them provided for
8 modification of the rates under the TMT.

9 That was the argument raised by the parties --
10 that "You cannot transfer those costs onto us, Commission,
11 because our contracts were unearthed in an area where the
12 Midwest ISO is around." They never entailed or they never
13 included being able to transfer those charges to us.

14 CHAIRMAN WOOD: Was there any discussion in any
15 of these about the current collection of the schedule 10
16 charges that a court just ruled last week that are allowed
17 to be passed on?

18 JUDGE CINTRON: Correct. Some of them argued
19 that some of the contracts had to be modified to admit those
20 charges so parties would pay those charges. The others did
21 not. Some of them do think they can pass on those charges
22 to the load-servicing entities.

23 CHAIRMAN WOOD: Do you have a sense of how many
24 megawatts are included in the contract that you all had to
25 deal with? We can probably have somebody go back and add

1 those up because that was one of the questions that each one
2 of them had to answer.

3 JUDGE CINTRON: Some of them were 230 kilowatts.

4 JUDGE JOHNSON: Is it the total number you're
5 looking for? We don't have that information available quite
6 yet. We're still working on some of the numbers.

7 JUDGE CINTRON: Some of the municipals had very
8 low wattage involved in the contract.

9 CHAIRMAN WOOD: Small volumes. Just for future
10 reference, anything that we should have done differently to
11 make this work better? You make it look easy from your end.

12 JUDGE CINTRON: We appreciate your having given
13 us staff. You remember when I did Nevada Power I did it by
14 myself. It was very useful to have additional staff be
15 involved -- with help from OMPTR and the General Counsel's
16 Office to separate the staff was invaluable. And we
17 appreciate that. Adding additional resources made it
18 easier.

19 CHAIRMAN WOOD: Okay. Thank you for your help.
20 I know that a lot of paper came in and other parties and
21 participants from the outside kept Sunrise Cafe very highly
22 profitable.

23 (Laughter.)

24 CHAIRMAN WOOD: And on behalf of our proprietor
25 of the plant we thank you for your patronage. It'll be busy

1 after we get your responses. And I want to thank the
2 parties in advance for coming around.

3 Just trying to get some of this core information
4 resolved. With the information we can make perhaps some
5 much more surgical approaches here than it looked like on
6 the first day. It wouldn't have happened without them.

7 You all smile a lot, but everybody else says
8 you're both mean as can be.

9 (Laughter.)

10 CHAIRMAN WOOD: I'm glad we're all on the same
11 side. Questions for our judges?

12 Joe.

13 COMMISSIONER KELLIHER: Mr. Chairman, I missed
14 your megawatt question.

15 CHAIRMAN WOOD: We don't know the answer to that
16 yet.

17 COMMISSIONER KELLIHER: The megawatts associated
18 with 215?

19 CHAIRMAN WOOD: The 54.

20 COMMISSIONER KELLIHER: I just had one question
21 about the legal standard that would govern in these
22 contracts. Do you have an idea of the megawatts that fall
23 into the just and reasonable box, the public interest box,
24 and the unknown or unspecified box?

25 JUDGE JOHNSON: You mean the total numbers

1 associated with those? The report has not gone out
2 officially yet, so there are still numbers being worked out
3 and run. Those numbers will be available. There's a huge
4 data base. And the commissioners will be -- and Commission
5 staff will be able to run different programs to get those
6 results. But we don't have them at our finger tips right
7 now.

8 JUDGE CINTRON: Of the 52 I would say half and
9 half actually reserved unilateral rights so that just and
10 reasonable would apply to them. The other half did not. So
11 Mobile Sierra applies to those.

12 COMMISSIONER KELLIHER: Half in terms of numbers
13 of contracts or in megawatts?

14 JUDGE CINTRON: Just in terms of contracts.

15 COMMISSIONER KELLIHER: Thank you very much.

16 CHAIRMAN WOOD: Thanks judges. I thank the staff
17 too.

18 We will take up the rest of E-1 later in the
19 meeting and go onto the items.

20 SECRETARY SALAS: The next item for discussion is
21 E-2. This is Amaren Corporation -- a presentation by Gabe
22 Hollis, accompanied by David Hunger, Roba Earley, Jim Akers,
23 and Andrea Hilliard.

24 MR. HOLLIS: Good morning, Mr. Chairman,
25 Commissioners.

1 The draft order addresses issues arising from and
2 conditionally authorizes a proposed merger involving Amaren
3 Corporation, Dynergy Incorporated, and Villanova Corporation
4 under section 203 of the Federal Power Act.

5 In this merger Amaren will acquire ownership of
6 Illinois Power Company. The draft order finds that the
7 proposed merger is in the public interest and as conditioned
8 will not adversely affect competition rates or regulation.

9 Applicants have proposed a 125 megawatt capacity
10 sale from the Joppa generating facility, which it jointly
11 owns with another generator.

12 In order to mitigate the harm to competition
13 resulting from Amaren's control of that facility applicants
14 have committed not to sell the capacity to two affiliates in
15 the Amaren family -- Amaren UE and Amaren CIPS.

16 The draft order specifies that the capacity must
17 also not be sold to the remaining Amaren affiliate, Illinois
18 Power.

19 In addition, the draft order accepts for filing a
20 set of power purchase agreements between Dynergy and
21 Illinois Power under section 205 of the Federal Power Act,
22 under which Dynergy will sell capacity and energy to
23 Illinois Power in 2005 and 2006 in order to meet Illinois
24 Power's retail native load obligation. Dynergy will retain
25 operational control of the generating capacity.

1 The draft order also finds that Illinois Power's
2 transfer of functional control of its transmission
3 facilities to the Midwest ISO will not adversely affect
4 competition rates or regulation and satisfies the
5 requirements of the Midwest ISO tariff.

6 In terms of competitive impacts, the draft order
7 finds that Dynergy will remain as a viable competitor in the
8 region. During the term of the power purchase agreements
9 and beyond 2006, when Illinois moves to retail choice,
10 Dynergy competes with other suppliers to serve retail
11 customers as well as wholesale customers in the region.

12 Finally, the draft order finds that the merger
13 will benefit customers because it facilitates Illinois
14 Power's participation in the Midwest ISO.

15 This concludes the staff presentation. We are
16 available to answer questions. And we thank you for being
17 able to present to you today.

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1 CHAIRMAN WOOD: Thank you for the hard work.
2 That is very gracious. It is fun to work here, I know, and
3 I'm glad to have the world see that, so, thank you, Gabe.
4 Questions or thoughts for the gang?

5 COMMISSIONER BROWNELL: Great job. They have
6 really done a complete and thorough analysis, giving us lots
7 of good information on which to make the decision, and I'm
8 really pleased with the Order. Thank you.

9 CHAIRMAN WOOD: In the three years we've been
10 here, I wonder if we've ever had a merger of this size?

11 MR. AKERS: This is actually the first merger for
12 awhile.

13 CHAIRMAN WOOD: I'm pleased to have the merger
14 commitment for Illinois Power to join the Midwest ISO be an
15 item that will happen prior to the closing of the merger,
16 and I hope that sends a pretty strong signal outside this
17 case.

18 We have shown a lot of focus on affiliate
19 transactions or transactions that look like affiliate
20 preference. Because that issue came up in this case, I did
21 want to call attention to the Commission's analysis of the
22 buyback contract between Dynegy and Illinois Power for a
23 short period of time.

24 I think it is absolutely prudent, in the context
25 of a large merger, for there to be provisions for a short

1 transition period of some stability. There's enough other
2 things going on when two companies integrate and have to
3 worry about procurement issues right away, although I would
4 say, as vigilant on that issue as I think any of us, that
5 that is a kind of common-sense approach that we have to take
6 to mergers here.

7 I think the ordering Paragraph 78 of the final
8 Order, I believe, will kind of lay out for the regulatory
9 community, the distinctive items here. But this is a
10 different cat than the other affiliate PPAs that we have
11 seen, because, otherwise, that would be what you would do
12 with this application.

13 But this one is substantially different, and I
14 think it started from a different spot, and, frankly, it's
15 two years long, which is an appropriate transition period
16 for such a matter. I don't think it was necessary for us to
17 send this to hearing, as a couple of people had requested.

18 Other than that, I think the Order is a pretty
19 straight-up 203 analysis and done in a thoughtful and
20 thorough way, and I appreciate your hard work.

21 COMMISSIONER BROWNELL: Pat, let me just use this
22 opportunity to comment on, I think, the importance of the
23 role that regulators can play in focusing on the issues for
24 which they are responsible, and the temptation of
25 intervenors in some cases. Having experienced something

1 like 26 mergers, I have experienced this where they look at
2 it as an opportunity to hold a merger hostage to a lot of
3 unrelated items, and, in fact, sometimes destroy the value
4 of the merger itself.

5 I hope that as we see more mergers -- and I'm
6 told that we will -- that we focus on the issues that affect
7 the customers, the competitive market, and we don't allow
8 the Agency or the process to get used or abused by people
9 who have other agendas or who add costs without adding
10 value, and that's very, very important to me.

11 We talk about merger synergies. They're hard
12 enough to find without using it as an opportunity to give
13 Christmas presents to everyone.

14 CHAIRMAN WOOD: Let's vote.

15 COMMISSIONER KELLIHER: Aye.

16 COMMISSIONER KELLY: Aye.

17 COMMISSIONER BROWNELL: Aye.

18 CHAIRMAN WOOD: Aye.

19 Thanks, gang.

20 SECRETARY SALAS: The next item for discussion is
21 E-6, Ameren Energy Generating Company, a presentation by
22 Kelly Perl, accompanied by Phil Nicholson, Clifford
23 Franklin, Cynthia Henry, David Hunger, Bill Earley, Jim
24 Akers and Ann McPherson.

25 MS. PERL: Good morning, Mr. Chairman and

1 Commissioners. The draft Order in E-6 addresses Ameren's
2 purchase of 548 megawatts of generating capacity and
3 associated facilities, through its affiliate, Ameren Energy
4 Generating Company.

5 The Commission had set this case for hearing to
6 examine the proposed transaction's effect on competition,
7 only to its concern with possible affiliate preference.

8 The initial decision found that the proposed
9 transaction will not adversely affect competition. The
10 draft Order before you affirms the initial decision, in
11 part; denies rehearing of the Commission's Hearing Order;
12 and approves the proposed transaction as consistent with the
13 public interest.

14 In addition, the draft Order and opinion analysis
15 of the Commission will review the effect on competition of
16 future Section 203 transactions.

17 Because of the concern that affiliate preference
18 can adversely affect competition, this review would be based
19 on a standard developed in Edgar. The Edgar Standard can be
20 met in one of three ways, but the most direct and reliable
21 way is to ensure no affiliate preferences through
22 competitive solicitation.

23 The Draft Order and Opinion further sets forth
24 guidelines for conducting competitive solicitations. The
25 objective of these guidelines is to ensure that the conduct

1 of competitive solicitations involving affiliates, does not
2 harm competitive markets by favoring those affiliates and
3 foreclosing opportunities to competition.

4 The guidelines were also intended to allow the
5 Commission to more easily identify affiliate transactions
6 that are unlikely to involve affiliate abuse, which can then
7 be approved without a hearing. As set forth in the draft
8 Order, the guidelines rest upon four principles:

9 Transparency, the competitive solicitation process should be
10 open and fair.

11 Definition: The product or products sought
12 through the competitive solicitation process should be
13 precisely defined.

14 Evaluation: The evaluation criteria should be
15 standardized and applied to all bids and bidders.

16 Oversight: An independent third party should
17 design the solicitation, administer bidding, and evaluate
18 bids prior to the company's selection. This concludes the
19 presentation.

20 CHAIRMAN WOOD: Thoughts?

21 COMMISSIONER BROWNELL: Great job, very incisive.
22 There should be no whining. Everybody now knows what the
23 rules are, and, frankly, if you can't meet those principles,
24 I'm not sure that the deal stands the laugh test.

25 I think this is fair and equitable and easily

1 achievable, and gives all of us, customers included, the
2 assurance that these are the best deals that will add value
3 for them. I'm very pleased.

4 COMMISSIONER KELLY: I think that as the
5 electricity market has evolved, we see today a market that's
6 different from what we have seen in the past, because
7 competition has been in place and there are choices out
8 there when assets are being acquired.

9 We are focusing on the utility and its exercise
10 of its monopsony power and the opportunities it has to
11 exercise that power are different. I think it's appropriate
12 that you have suggested to us that we will get back and use
13 the Edgar Standard.

14 I'd also like to point out that I found the
15 Federal Trade Commission's comments at the Technical
16 Conference to be very helpful, and their urging us to adopt
17 this standard has also influenced my decision on this.
18 Thank you.

19 COMMISSIONER KELLIHER: I do agree that the
20 proposed disposition is consistent with the public interest
21 standard and should be authorized, but I don't support
22 application of the new competitive solicitations policy to
23 acquisitions of facilities under Section 203.

24 I do so, just because I believe the Commission's
25 interest in the 203 proceeding is fundamentally different

1 from its interest in a 205 proceeding. When we're looking
2 at a contract, as we do under 205, we have a legal duty to
3 assure just and reasonable rates, and I do agree, and I
4 don't think my colleagues disagree that an unfair
5 solicitation process in the solicitation of a power purchase
6 contract, can result in unjust and unreasonable rates.

7 But I think a 203 proceeding is different. The
8 just and reasonable standard is not in Section 203. We're
9 governed by a public interest standard.

10 I just think this is going a little bit too far.
11 I also believe that, in part, because the interests that
12 would be guarded against in application of a competitive
13 solicitation process to the acquisition of facilities, it
14 would seem that we're guarding against the utility
15 overpaying or underpaying in the acquisition of the asset.

16 But the rationale for applying that policy seems
17 like regulatory failure on the part of the states. I think
18 that state commissions are certainly well prepared to review
19 whether or not a party is overpaying in acquiring an asset.
20 That's their basic function.

21 And we should not assume regulatory failure on
22 the part of the states, and I also think that the notion of
23 underpaying is pretty inconsistent with the normal
24 principles of regulatory law. So I believe that we should
25 start from the assumption that states can regulate these

1 acquisitions and that our interest in a 203 proceeding is
2 different than a 205.

3 So, I don't support application of the policy to
4 203s. I do in 205 proceedings, and I will make that evident
5 when we get to the next Order. Thank you very much. I do
6 dissent, in part, on that aspect.

7 CHAIRMAN WOOD: Kind of coming at it from the
8 other end, I actually, much like in the Mountain View case,
9 kind of lean to have this hope or this expectation that we
10 will fix these going forward, because of the troubling facts
11 in this case about the relatively -- I will call it low
12 impact role of the independent evaluator in this overall
13 process.

14 Were there a third party, it would be a no-
15 brainer, but because of the natural preference that a
16 company has for its own affiliates, I just sense that from
17 the record in this case, although the Judge ultimately found
18 it was in the public interest, based on the very broad view
19 that we've had of the public interest, even though we've
20 teed up the specific issues about the effects on competition
21 to be reviewed, among which was the safety net, but other
22 ones about the effect on competition problem, I guess I view
23 the public interest standard actually as a bit more
24 demanding than the just and reasonable standard.

25 For that reason, we do need put some road marks

1 out there as to what we're looking for in the future.

2 I think that the test we developed, based on the
3 public hearing we had in early June and the solicitations,
4 both in the 203 and the separate 205 context -- and, let me
5 tell you, there are two different issues here -- we just
6 might approach them a little differently, but they are
7 distinct requirements that we place, as we did in Mountain
8 View, in the 205 contracts and as we do here in this
9 guidance on 203 applications with affiliates.

10 I'm not going to go through the evidence. Quite
11 frankly, I'm supporting the Order, and not happily so, but I
12 do think that in the interest of regulatory fairness, which
13 is an important principle for us to maintain, that we did
14 not put this obligation on parties before now, and now that
15 we are putting them on, this will be applicable in the
16 future.

17 But I think this is something, quite frankly, as
18 a former state regulator, states, if not all of them in this
19 case -- maybe Missouri's got more sense in this case, but
20 states have a very strong interest in getting this right, as
21 Joe pointed out.

22 Our more limited interest, perhaps, in the
23 wholesale slice of power sales, is magnified, even when you
24 look at the retail jurisdiction trying to get this right.
25 So, as we're moving more and more to an acquisition-type

1 world of purchase power contracts, as I hope continues, or
2 the outright purchase of assets, that there is a very
3 transparent and open process that has, as we said here, the
4 definition of the product and the definition of what's being
5 done.

6 That was changed in the middle of this case. We
7 came to a 25-year analysis that would totally change the
8 map, but yet that was not kind of redone.

9 The evaluation process is very important. What's
10 the report card look like, the oversight process?

11 I think I'll jump ahead and say that I was very
12 impressed in the Maryland acquisition that we talked about
13 of purchased power. The Commission actually paid for and
14 had working for them, the independent evaluator of the
15 process and the administrator of the overall process.

16 In the next case we're going to talk about, I
17 just think it is important to know what we're looking for
18 and to make it real clear. It was hard working in
19 companionship with the states, as we did in this case with
20 the Missouri and Illinois Commissions.

21 I think, ultimately, just the Missouri Commission
22 was involved. We want to do things in a timely manner, and
23 I think what we put out here today, if we want to get things
24 done in a timely manner, here's the process you can go
25 through, so that, much like we do with non-affiliate

1 mergers, and like we're doing with affiliate deals on this
2 next case, E-17, that we commit pretty quick on that and
3 give people the regulatory certainty they deserve.

4 But I think you don't get that unless you lay
5 down a standard for what we are looking for and we think is
6 sufficient to satisfy the public interest standard.

7 I will be enthusiastic about the standard, and
8 barely so, on the application of the previous standard to
9 this case, but, nonetheless, vote for the Order without
10 writing a separate statement.

11 COMMISSIONER KELLY: Pat, I'd like to add
12 something to what you said and to what Joe said. I think
13 Joe is correct that the states do an excellent job of
14 looking at the costs of the acquisition, the impact it will
15 have on the retail customers.

16 I do, however, think that there is an area that's
17 not within the states' purview, that is important for us to
18 look at again. It's the FTC that caused me to think about
19 this.

20 If there is affiliate abuse or affiliate
21 preference or discrimination, that preference can cause more
22 efficient capacity in the wholesale market, to leave the
23 market or to not enter the market in the first place, which,
24 in turn, of course, drives the cost of providing power,
25 higher in the long run, both to wholesale customers and to

1 retail customers.

2 I think that is part of the responsibility that
3 Congress has given to FERC to look at, and, therefore, it's
4 another reason that I support the approach that we're taking
5 in this Order.

6 COMMISSIONER BROWNELL: I just want to add one
7 thing. Sudeen, I agree with you, and it would be my hope
8 that this would be helpful to states in making decisions,
9 who often are confronted with cases in which they haven't
10 had a lot of experience, and, I think, would welcome some
11 guidance and consistency.

12 I also think the fact that most of the companies
13 -- and I think we'll see an increasing number of companies
14 that are interstate, and the consistency this provides and
15 the certainty that this provides that Pat talked about, is
16 important in helping everyone make decisions in a timely
17 manner and in a way that we'll understand what expectations
18 are.

19 I agree with you, Joe, that the states do a great
20 job, and I think this will help them do an even better job,
21 and it would be complementary.

22 COMMISSIONER KELLIHER: Just two things: First
23 of all, I agree with the Chairman that we do have discretion
24 to interpret what does the public interest standard mean?
25 But we don't have unlimited discretion, and in the NAACP

1 case, the D.C. Circuit held, when defining the public
2 interest standard, we have to look at what our other charges
3 are under the Federal Power Act.

4 And we are charged with preventing undue
5 discrimination practices, not facility acquisitions. To me,
6 it falls outside our charge in the Federal Power Act to
7 prevent undue discrimination and preference.

8 The other point is, I'm just not sure we actually
9 can hold this out as a fast track, because there could be a
10 circumstance where the utility seeks acquisition, it may
11 successfully navigate the new competitive solicitation
12 process, but end up with market power, some kind of
13 accretion of market power.

14 So, it may be that someone -- that's what we're
15 supposed to look at, in part, in 203, so it could be someone
16 navigates the solicitation process and ends up with market
17 power, and I don't think that in that case, we should
18 approve the acquisition. I would think that in that case,
19 we would reject the acquisition.

20 CHAIRMAN WOOD: That's true. We've now passed
21 OGE. In OGE, this issue didn't even come up. We still come
22 here. Of course, it's not an affiliate transaction.

23 I think it's the fact that the affiliate really
24 doesn't change the HHI. They have their own corporation,
25 which I know is something that maybe we ought to think

1 about, if that's the right way to look at that anymore.

2 But, assuming it's still the same way, if HHI
3 doesn't change, then we probably wouldn't have the
4 generation market power issue. You've just got the broad
5 effect on competition, which is then the genesis for my
6 concern here, because these assets will be used for
7 wholesale power sales and we do have a nexus.

8 But that nexus is the next use of that plant, not
9 the purchase of the plant, but I understand the distinction
10 you make. It's fair.

11 I just think that our charge is a little bit
12 broader than that, to look at the overall market. Again,
13 it's a safety net concern, which the Judge didn't find to be
14 applicable here.

15 I think we had our shot at making the case, and
16 the Trial Staff didn't, so we've got to live with that. I'm
17 not willing to say that that won't be true in the next one,
18 and maybe couldn't be shown in the next one. It's a little
19 different concern than clearly we've had. Okay, who's
20 first? Joe?

21 COMMISSIONER KELLIHER: Aye, with a partial
22 dissent. Is that how I say it? Okay.

23 COMMISSIONER KELLY: Aye.

24 COMMISSIONER BROWNELL: Aye.

25 CHAIRMAN WOOD: Aye. Thank you all.

1 SECRETARY SALAS: The next item is E-17,
2 Allegheny Energy Supply Company, a presentation by Justin
3 Campbell, accompanied by Brandon Johnson, Gerry Peterson,
4 and Deborah Leahy.

5 MR. CAMPBELL: Allegheny Energy Supply Company
6 has filed a petition requesting Commission authorization to
7 make market-based rate sales to its affiliate, the Potomac
8 Edison Company. These proposed sales are the result of the
9 competitive solicitation process, supervised by the Maryland
10 Commission.

11 Through this process, Allegheny Energy Supply
12 Company was selected to provide the Potomac Edison Company
13 with power to fulfill some of its standard offer service
14 obligations in Maryland.

15 The draft Order in E-17 concludes that the
16 Maryland Commission competitive bid process described by
17 Allegheny Energy Supply Company, satisfies the Commission's
18 concerns regarding affiliate abuse.

19 The draft Order therefore grants Allegheny Energy
20 Supply Company's request. The draft Order also provides
21 guidance as to the guidelines the Commission would use in
22 the future when evaluating similar competitive
23 solicitations.

24 These guidelines include transparency, product
25 definition, bid evaluation, and oversight. Thank you.

1 CHAIRMAN WOOD: Thank you, Justin. Thoughts?
2 We've already kind of tipped our hands about this one. It's
3 good to have a good example of what we're talking about,
4 particularly here in the 205 context, which is when you've
5 got a buy-sell between an affiliate and a load-serving
6 entity that's regulated.

7 As I mentioned, I was very impressed with the
8 role that the local commission played, in this case,
9 Maryland. Under the procurement standards that were used
10 here, they find that Potomac met actually the existing Edgar
11 Standard and also the more refined discussions about
12 solicitations we've been having in the past several months.

13 It's kind of a win/win for them and certainly for
14 the customers, since it was done through an open process.
15 It certainly looks like a JN08 to me.

16 COMMISSIONER KELLIHER: I support application of
17 the new competitive solicitation process. In fact, I
18 probably would have even supported applying it in this
19 Order, because I think that it's an incremental step beyond
20 the Edgar test, and I really don't think it would have been
21 unfair to apply it in this Order, but I do support the Order
22 and I support the new policy in this context.

23 CHAIRMAN WOOD: I think we stated, in fact, that
24 what they did meets the new Order, right?

25 MR. CAMPBELL: At the end of the Order, it

1 applies the guidelines to Potomac's RFP and says that they
2 did meet the guidelines.

3 COMMISSIONER KELLIHER: That's informational. It
4 doesn't go to the analysis.

5 MR. CAMPBELL: Right.

6 CHAIRMAN WOOD: Good to see that one. Let's
7 vote.

8 COMMISSIONER KELLIHER: Aye.

9 COMMISSIONER KELLY: Aye.

10 COMMISSIONER BROWNELL: Aye.

11 CHAIRMAN WOOD: Aye. Thank you all.

12 SECRETARY SALAS: The next item for discussion is
13 a joint presentation of items H-1, 2, 3, 4, and 5. They all
14 pertain to the Idaho Power Company. This s a presentation
15 by Nick Jayjack, who is accompanied by Chris Nygaard, David
16 Wuehrmann, David Turner, and Jennifer Hill.

17 MR. JAYJACK: Good morning, Mr. Chairman and
18 Commissioners. We have a PowerPoint presentation for you
19 today.

20 (Slide.)

21 MR. JAYJACK: The Order pertains to relicensing
22 of five Idaho hydropower projects, located on the Snake
23 River in Southwestern Idaho. At more than 1,000 miles long,
24 the Snake River is the tenth longest river in the United
25 States, the largest tributary to the Columbia River.

1 (Slide.)

2 MR. JAYJACK: The five projects before you, C.J.
3 Strike, Bliss, Lower Salmon Falls, Other Salmon Falls, and
4 Shoshone Falls, occupy a 123-mile stretch of the River in a
5 largely rural setting between Boise and Twin Falls.

6 Important users along this reach of the Snake
7 River include hydroelectric generation, fishing, water-based
8 recreation, and water supply for both irrigation and
9 aquaculture.

10 (Slide.)

11 MR. JAYJACK: In addition, Shoshone Falls is one
12 of the premier scenic attractions in Idaho, and is a popular
13 destination for local residents, as well as national and
14 international visitors. The Snake River in the project
15 areas is also home to five snail species which have been
16 listed as either threatened or endangered under the
17 Endangered Species Act.

18 Consequently, project effects on these snails
19 have been a key issue in these proceedings. We are pleased
20 to report to you all that Idaho Power and the U.S. Fish and
21 Wildlife Service successfully reached a settlement agreement
22 that provides for measures that protect the listed snails.

23 Under the agreement, Idaho Power and the Fish and
24 Wildlife Service would cooperatively study project
25 operational effects on the listed snails for six years.

1 Bliss and Lower Salmon Falls will be operated by run-of-the-
2 river some years, and load-following mode in others to allow
3 comparison of the effects between the operational modes.

4 C.J. Strike will continue to operate in the load-
5 following mode. At the end of the six-year study period,
6 Idaho Power will file for Commission approval, a plan with
7 additional measures for the protection of snails, including
8 any proposed project operational changes at C. J. Strike,
9 Bliss, or Lower Salmon Falls.

10 It would help the completion of the formal
11 consultation of the Endangered Species Act between
12 Commission Staff and the Fish and Wildlife Service, and led
13 to the Service's biological opinion that none of the five
14 projects are likely, individually or in combination, to
15 jeopardize the continued existence of any of the listed
16 snail species.

17 The Orders before you include requirements
18 consistent with measures specified in the settlement
19 agreement.

20 (Slide.)

21 MR. JAYJACK: Issuances of new licenses allow the
22 projects to continue to provide 264.8 megawatts of capacity
23 needed by Idaho Power in the Northwest Power Pool area of
24 the Western Electricity Coordinating Council arrangement.

25 Although the Orders require some changes to

1 project operations, they allow Idaho Power, operational
2 flexibility to respond to short-term events, such as
3 electrical system emergencies and threats to life or
4 property.

5 The Orders include measures to protect the listed
6 snails and their habitats. The Orders also provide wetland
7 enhancement measures, including the creation of a 30-acre
8 wetland system to treat agricultural waste water before it
9 reaches the Snake River.

10 (Slide.)

11 MR. JAYJACK: The Orders require the acquisition,
12 protection, and management of riparian and spring habitats
13 which, due to the arid environment and relatively limited
14 supply, are especially valuable to fish and wildlife.

15 The Orders provide numerous recreation
16 enhancements, including fish, docking, boat launch
17 construction, and/or improvements, picnic and camping areas,
18 parking areas, educational and safety information, and
19 whitewater boating access improvements.

20 The Orders provide for measures to conserve and
21 improve White Sturgeon and its habitat. White Sturgeon
22 provides an important catch-and-release fishery in Idaho and
23 are classified by the state as a species of special concern,
24 due to declining populations.

25 Finally, the Orders maximize visual enhancement,

1 including 300 CFS minimum flow over Shoshone Falls. This
2 concludes our presentation.

3 CHAIRMAN WOOD: Thank you, Nick. Thoughts?

4 COMMISSIONER KELLY: I'd like to commend the
5 licensee and the Fish and Wildlife Service for their
6 cooperative efforts in entering into a settlement that
7 protects the endangered species, and also for agreeing to do
8 this six-year study.

9 I'm convinced that the new license addresses all
10 the fish and wildlife concerns that we know about now. The
11 fact that we're going to have an additional study, raises
12 the possibility that more concerns will be learned about in
13 the future, and the fact that the licensee has agreed to
14 take any measures that are necessary to address any of the
15 issues that come up in the study, is also something that
16 should be commended. I support this Order.

17 COMMISSIONER BROWNELL: I support the Order, and
18 I appreciate the work that everyone did to come to a
19 settlement. I'm really pleased that some critical
20 environmental issues have been addressed, I think, in a
21 meaningful and sustainable way.

22 I think that's an appropriate response in a
23 relicensing, since we now know much more than we did when
24 the dams were built in terms of what the impact is. I have
25 to be candid, but I wonder if the ratepayer knows and wishes

1 to support in their commitment, travel and tourism issues
2 like boat docks and whitewater rafting and other add-ons to
3 the licensing process.

4 I think this has been one of the things that some
5 people have been critical about in terms of how the
6 licensing process is used. Certainly we had someone who
7 testified from one of the agencies at a hearing, who called
8 it a pinata that people banged until they got what they
9 wanted.

10 I think it's just something we really need to be
11 thinking about, because I think the fact that this happens,
12 actually, also adds to the negotiation time, and that the
13 average relicensing is, what, seven years? I know it
14 happens, and I'm glad they came to a settlement, but I
15 really wonder, in the long term, whether this is the best
16 use of the licensing process.

17 CHAIRMAN WOOD: Thank you for your presentation.
18 Let's vote.

19 COMMISSIONER KELLIHER: Aye.

20 COMMISSIONER KELLY: Aye.

21 COMMISSIONER BROWNELL: Aye.

22 CHAIRMAN WOOD: Aye.

23 SECRETARY SALAS: That's a joint on all items,
24 right?

25 CHAIRMAN WOOD: Right. We're going to take -- we

1 may reconvene the open meeting following the closed meeting.
2 We'll make that decision later. That would be no earlier
3 than 3:00, so we will adjourn for a lunch break and start
4 the closed meeting at 1:00, as announced.

5 (Whereupon, at 12:00 p.m., the open session was
6 concluded.)

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