Testimony of
Nora Mead Brownell
Commissioner, Federal Energy Regulatory Commission
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of the Committee on Energy and Commerce
United States House of Representatives

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to share my thoughts on the direction that our nation's electric restructuring policy should take. Over the past 10 days, I, like most Americans, have reassessed what is important in life, as an individual, an American, and a public servant. One thing that is obviously important is that we carefully consider the security of the nation's electric grid. I am eager to work with you and my colleagues to take every appropriate step to ensure that our energy infrastructure remains free from hideous acts of sabotage like those we witnessed last week.

Our energy production and delivery systems are among the best in the world and their safety and security are vital to our continued economic growth and development. We are proud of our energy industry's planning, communication and response in this crisis. Three days after the attacks on the World Trade Towers and the Pentagon, the Commission issued a Statement of Policy that provides the energy industry with regulatory assurance on energy infrastructure reliability and security matters. Specifically, the Commission has assured cost recovery for prudently incurred expenditures that electric, gas and oil companies incur to adopt new procedures, update existing procedures and install facilities to upgrade the safety of their electric power

transmission grid and gas and oil systems. I believe that our action is a good, responsive measure. It reassures the industry to undertake what is necessary and prudent. The Commission will continue to encourage jurisdictional entities to be proactive when it comes to securing the nation's electric grid.

I also believe that the time is ripe for participants in the energy industry (including government) to review their response plans. The energy industry has evolved and is much more complex. As part of a continuous process of review and evaluation of crisis management and response, I think some consideration should be given to the need for periodic operational audits of our energy providers and the organizational structures which manage them to assess, among other things, reliability, safety, security and communication protocols.

While we must take steps to protect the security of our nation's energy infrastructure, we must also get on with the other business of planning for the future, so that the forces of terror are not allowed a greater toll than they have already taken from this country. This nation’s energy policy is at a critical juncture. Fear of change must not deter us from finishing the job of transforming an outdated, inefficient electricity industry into the economically competitive, technologically vibrant marketplace that American consumers deserve.

One necessary step in transforming electricity markets is the development of Regional Transmission Organizations (RTOs). Large, independent RTOs can improve grid reliability by facilitating transmission planning across a multi-state region, create

better pricing mechanisms such as eliminating "pancaking", improve efficiency through better congestion management, and attract investment in infrastructure by facilitating regional consensus on the need for construction. Moreover, the development of large RTOs can enhance the security of the electrical grid.

Every crisis management expert that I have ever consulted identifies a number of essential ingredients for a successful response to a crisis:

- Accurate, timely communication
- standardized and predictable protocols and response mechanisms
- contingency planning
- back-up and redundancy features and
- the ability to identify and isolate vulnerabilities all serve as core features of crisis management.

Critical to the execution of any management plan is that all affected players know the plan, forward and back. It should be second nature; often there is no time to consult the play book. I believe that a large, fully functioning RTO is positioned to be a critical link in crisis management and ensuring reliability.

With large RTOs there will be a centralized chain of command and standardized processes. We also expect that RTOs would tend to have modern, forward looking control systems that generally exceed the capabilities of smaller systems. As a result, inefficiencies of non-standardized protocols and operation of the grid are reduced. There are no surprises. Emergency situations are better addressed from this efficiency of

response. An RTO has the ability to ascertain and communicate system status and response plans more quickly than 20 or so control area operators. This is, I believe, what every crisis manager looks for. To this end, I believe that large RTOs are in a position to be flexible to accommodate security needs (a single control area operator may not be required).

In addition, the RTO may serve as a central point for information. Accurate, timely information is critical to the assessment of the situation. Concerns that the Commission's goals of transparent market information and our OASIS system reveal too much information are misplaced. Information posted on OASIS does not include operating data, status of generation, or operational characteristics of transmission lines. Much of the information we seek to make publicly available is information necessary for the growth of markets; and is not sensitive information regarding energy management systems.

In sum, RTOs play an important role in assuring reliability. Congress should affirm FERC's authority to require the formation of RTOs and it should do so now.

In addition to the formation of RTOs, we must take other steps if we are to transform the electricity industry. The Public Utility Holding Company Act (PUHCA) was necessary to address abuses that existed a half-century ago. However, that statute has not only outlived its usefulness, it is actually thwarting needed development of our electricity resources by subjecting registered utility holding companies to heavy-handed regulation of ordinary business activities and to outdated requirements that they operate

“integrated” and contiguous systems. One of PUHCA's perverse effects is that it causes foreign companies to buy here and U.S. companies to invest overseas. For a myriad of reasons, PUHCA should be repealed.

The Public Utility Regulatory Policies Act (PURPA) also needs repeal. PURPA was enacted out of concern over dependence on oil for electric generation. Now, 22 years later, a gas-fired generator can be on-line in less than two years, and many advances are being made in distributed generation. Therefore, PURPA's subsidies for certain types of generation are no longer appropriate and more importantly stifle the nation's economy.

I also believe that changes in tax laws must be considered to allow companies to effectively restructure and transform themselves and to attract new investment.

We also need to develop uniform business rules. Where rules are standardized, there is less room for manipulation. I believe that all interstate transmission facilities should be under one set of open access rules, including the facilities owned and/or operated by municipals, cooperatives, the Tennessee Valley Authority, and the federal power market administrations and regardless of whether they are used for unbundled wholesale, unbundled retail, or bundled retail transactions. I also believe that we should develop standardized generation interconnection policies. Having all transmission under one set of rules will ensure a properly functioning and transparent transmission grid. It will reduce transaction costs, improve efficiency, and allow for competition. GISB successfully accomplished this goal in the gas industry and is poised to do so in the electric industry.

Furthermore, we must revise the way in which transmission facilities are sited. State-by-state siting of such transmission superhighways is an anachronism that impedes transmission investment and slows transmission construction. An RTO, or regional structure, with significant input of the states, should be the first stop for siting approval. However, at some point, it may be necessary for the Commission to make the final determination. Therefore, I suggest that the Commission act as a backstop and be given siting authority over interstate transmission comparable to the interstate natural gas pipeline siting authority in Section 7 of the Natural Gas Act.

Finally, the Commission must have an expanded role in monitoring for, and mitigating, market power abuse. The Commission must hire, train, and re-train personnel skilled in market monitoring and market power mitigation or buy expertise on a short-term basis, as needed. We must seek out experts to assist us in our new role. We must also act swiftly and with certainty to respond to market abuses. Markets are fragile and prolonged problems will destroy the market and the confidence of consumers. Therefore, I believe strengthening the Commission's market monitoring and enforcement capabilities must be a top priority. As markets change, market monitoring and enforcement capabilities become an even more critical piece of the regulatory puzzle. Effective market monitoring also includes modeling for the future, so we can more effectively anticipate where investment in infrastructure is needed.

Let me offer a few suggestions that may help the Commission develop an effective market monitoring and enforcement program. There are many different players in the

energy markets, many that have not traditionally been subject to our jurisdiction. A significant amount of relevant information about the operation of markets is in the possession of these entities. At times, there has been a reluctance to cooperate and provide the necessary information. It may be appropriate to clarify that the Commission has the authority to seek the information necessary to perform its statutory responsibilities from either jurisdictional or non-jurisdictional sources. With regard to the Commission's enforcement capability, the enabling statutes of the Securities and Exchange Commission and the Federal Communications Commission provide for a range of enforcement measures, such as civil penalties. I believe that providing the Commission with similar authority would send a powerful message to electricity market participants that we take violations of the Federal Power Act just as seriously.

The list of tasks for you in Congress and for us at the Commission is long but it is critical that we move forward. The cost to our country grows each day. Lack of investment in infrastructure (new transmission investment represents an average growth rate of less than one-half of one percent per year over the next decade), delays in the development and introduction of new technologies, uncertainty in and lack of confidence from capital markets impacts companies' values and thwarts transition. We need clarity and resolution. At the Commission we are working on a business plan - - a blue print for the future. Our plan sets forth an aggressive set of actions to resolve the uncertainties of the marketplace. We are committed to delivering to America's consumers the promise of an efficient, reliable, innovative energy future.

I hope that this information is useful to you. If I can be of further assistance, please do not hesitate to contact me.