

1 UNITED STATES OF AMERICA  
2 FEDERAL ENERGY REGULATORY COMMISSION  
3 CONSENT ELECTRIC,  
4 CONSENT MISCELLANEOUS, CONSENT GAS,  
5 CONSENT HYDRO, CONSENT CERTIFICATES,  
6 DISCUSSION ITEMS, STRUCK ITEMS

7

8 1069th COMMISSION MEETING  
9 TELEPHONIC CONFERENCE

10

11 Thursday, July 16, 2020  
12 Conference Room  
13 Ace-Federal Reporters, Inc.  
14 555 12th Street, N.W.  
15 Suite 630-A  
16 Washington, D.C. 20004

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18 The Commission met in open session at 10:00  
19 a.m., when were present:

20 CHAIRMAN NEIL CHATTERJEE  
21 COMMISSIONER RICHARD GLICK  
22 COMMISSIONER BERNARD McNAMEE  
23 COMMISSIONER JAMES DANLY  
24 SECRETARY KIMBERLY D. BOSE

25

1 Agenda Items:

2

3 Consent-Electric

4 E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12,

5 E-13, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-21, E-22,

6 E-23, E-24, E-25, E-26, E-27, E-28, E-29, E-31, E-32, E-33,

7 E-36 and E-37

8

9 Consent-Miscellaneous

10 M-1

11

12 Consent-Gas

13 G-1

14

15 Consent-Hydro

16 H-2, H-3, H-4, H-5, and H-6

17

18 Consent-Certificates

19 C-1, C-2 and C-3

20

21 Discussion Items

22 E-1 and H-1

23

24 Struck Items

25 E-30

1 Commissioner Statements for July 16, 2020

2

3

4 E-1 - Commissioner Glick dissenting in part with a separate  
5 statement

6 E-2 - Commissioner McNamee concurring with a separate  
7 statement

8 E-2 - Commissioner Danly concurring with a separate  
9 statement

10 E-3 - Commissioner Glick dissenting with a separate  
11 statement

12 E-4 - Commissioner Glick dissenting with a separate  
13 statement

14 E-5 - Commissioner Glick dissenting with a separate  
15 statement

16 E-24 - Commissioner Glick concurring with a separate  
17 statement

18 E-25 - Commission Glick dissenting in part with a separate  
19 statement

20 E-37 - Commission Glick dissenting with a separate  
21 statement

22 E-37 - Commission Danly concurring with a separate  
23 statement

24 H-4 - Commissioner Glick concurring with a separate  
25 statement

- 1 C-1 - Commissioner Glick dissenting with a separate
- 2 statement
- 3 C-1 - Commissioner McNamee concurring with a separate
- 4 statement
- 5 C-2 - Commissioner Glick dissenting in part with a separate
- 6 statement
- 7 C-2 - Commissioner McNamee concurring with a separate
- 8 statement
- 9
- 10 Discussion and/or Presentations
- 11 E-1 - Presentation by Joshua Kirstein (OGC)
- 12 H-1 - Presentation by Doug Boyer (OEP)
- 13
- 14 Struck Items
- 15 E-30

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

(10:19 a.m.)

(The following proceedings are being held by teleconference.)

CHAIRMAN CHATTERJEE: Madam Secretary, we are ready to begin.

SECRETARY BOSE: Good morning, Mr. Chairman. Good morning, Commissioners. This is the time and place that has been noticed for the open meeting of the Federal Energy Regulatory Commission to consider the matters that have been duly posted by the Commission.

Please join me in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

SECRETARY BOSE: Commissioners, since the June open meeting, the Commission has issued 61 Notational Orders.

Thank you, Mr. Chairman.

CHAIRMAN CHATTERJEE: Thank you, Madam Secretary, and good morning to everyone. I appreciate your patience as we are running a few minutes behind this morning. I have not had a chance yet to check my phone, but it exploded with comments about the music in the lobby. So we will turn to that before the September meeting.

Now before I turn to the items on today's agenda, I would like to offer my sincere condolences to the family

1 of former FERC Commissioner George Hall who passed away last  
2 month. Commissioner Hall is remembered fondly by FERC staff  
3 who served under his leadership.

4 In the 1970s, he was an economic advisor at the  
5 Atomic Energy Commission, and then Deputy Assistant  
6 Secretary of Defense in the Office of Program Analysis and  
7 Evaluation. In 1977, he joined the Carter White House in  
8 the Office of Energy Policy and Planning, which drafted the  
9 legislation to create the Department of Energy.

10 Later, he was appointed as a FERC Commissioner  
11 and served at the Commission from October 1977 through May  
12 of 1981. After leaving the government in the early 1980s,  
13 he had a successful career in economic consulting from which  
14 he retired in 2003.

15 Our thoughts are with his loved ones during this  
16 difficult time.

17 I would like to kick things off this morning by  
18 highlighting our successful two-day COVID-19 technical  
19 conference last week, and to once again thank Commission  
20 staff and panelists for the huge amount of work and  
21 preparation they put into bring the conference to fruition  
22 and make it so worthwhile. It is my hope that we will  
23 continue to tackle the unique issues this pandemic has  
24 brought to bear on the energy industry in a collaborative  
25 manner.

1           As I said during the conference, we are all in  
2 this together. And we will continue to work together to  
3 move forward and maintain a proactive posture.

4           Again, thank you to everyone who joined us  
5 virtually for the technical conference. Let's keep the  
6 dialogue going. We will provide an opportunity for the  
7 public to submit post-technical conference comments. Please  
8 look for the notice requesting comments soon.

9           Now on this point, I would like to take a little  
10 time to talk about all of the good work the Commission staff  
11 has been doing, despite the new realities of working  
12 remotely through the pandemic.

13           Since the transition to full telework status in  
14 mid-March, and really even before, Commission staff has been  
15 at the forefront helping the industry prepare for, weather,  
16 and hopefully very soon recover from the unprecedented  
17 impacts of COVID-19.

18           Going into this, I felt it was critical that we  
19 act quickly to establish a point of contact for all industry  
20 inquiries related to the pandemic's effects on their FERC  
21 jurisdictional activities. That is why one of my first  
22 actions was to name Caroline Wozniak as the Commission's  
23 pandemic liaison. Caroline jumped right in, forming a team  
24 of more than a dozen staffers representing each of the  
25 Commission's twelve program offices who have been crucial in

1 guiding us through these times.

2 We also acted quickly to coordinate with NERC on  
3 its March 10th Pandemic Alert to registered entities,  
4 assuring that grid operators were well prepared for the  
5 impacts brought by the pandemic.

6 The Commission then issued our COVID-19 Policy  
7 Statement making it clear that FERC would treat filings made  
8 to ensure the reliable operation of energy infrastructure as  
9 our highest priority, and give them expedited consideration.

10 Working with our DOE partners, we also issued a  
11 joint letter to every governor in the United States  
12 affirming that workers from across the energy sector should  
13 be considered essential and, as such, should have continued  
14 freedom of movement in restricted and quarantined areas, or  
15 within states and across boundaries.

16 Now as we enter the fifth month of our new  
17 COVID-19 reality, marked by this fourth virtual Commission  
18 meeting, I could not be more impressed with or proud of the  
19 extremely high level of work that Commission staff continues  
20 to achieve.

21 Since going to full telework status, we have  
22 issued more than 410 Commission Orders, including some  
23 really significant items through today like Final Rules on  
24 PURPA and Natural Gas Pipeline Construction; Notices of  
25 Proposed Rulemakings on the Safety of Hydro Projects, and on



1 Electric Transmission Incentives Policy; Notice of Inquiry  
2 of Potential Enhancements to the Critical Infrastructure  
3 Protection, or CIP Reliability Standards; and a Policy  
4 Statement on Natural Gas and Oil Pipeline ROEs.

5 In addition, Commission staff prepared and put  
6 out for comment a white paper exploring a new framework for  
7 providing incentives to encourage investments that produce  
8 significant cyber security benefits that exceed the  
9 requirements of the CIP Reliability Standards.

10 Our Enforcement staff remains vigilant and has  
11 continued without interruption our market surveillance  
12 activities covering 37,000 pricing nodes, and 185 natural  
13 gas trading hubs to ensure our markets continue to remain  
14 efficient, and deliver efficiencies and benefits to  
15 consumers without interruption. We have also completed  
16 audits through adapting our practices such as using virtual  
17 site visits.

18 Despite this new telework environment, grid  
19 reliability has continued to be at the forefront of our  
20 efforts, and Commission staff continues to successfully  
21 carry out the duties of our Reliability Monitoring Center,  
22 maintaining 24/7 situational awareness of bulk power system  
23 conditions or events that could potentially impact  
24 reliability.

25 We know that threats to our grid and bad actors

1 will not take a break just because we are in the midst of a  
2 global pandemic. We have analyzed thousands of electric,  
3 natural gas, and oil rate and tariff filings, and since the  
4 beginning of March Commission has approved more than 400  
5 natural gas and oil pipeline tariffs and rate filings  
6 through delegated authority, processed more than 300 annual  
7 oil pipeline rate changes permitted by the Oil Pipeline  
8 Index, processed approximately 60 electric, natural gas, and  
9 oil pipeline filings that provided industry with regulatory  
10 relief due to the impacts of the COVID-19 emergency;  
11 approved more than 900 electric tariffs and rate filings  
12 through delegated authority; and processed approximately 27  
13 applications for approval of corporate transactions under  
14 Section 203 of the Federal Power Act.

15           Further, Commission staff has issued 20  
16 Environmental Assessments for natural gas and hydropower  
17 infrastructure; issued authorization for 7.2 Bcf a day of  
18 pipeline capacity; and 2 LNG export terminals totaling 3.7  
19 Bcf a day of capacity; relicensed more than 550 megawatts of  
20 hydropower capacity; and issued 11 in-service approvals for  
21 natural gas pipeline and LNG projects.

22           We have held several virtual technical  
23 conferences, including conferences on modernizing the  
24 process for filing certain FERC forms, on advanced software  
25 to increase market efficiency and enhance resilience, and

1 most recently on the impacts of COVID-19, a two-day  
2 conference I referenced earlier that drew more than 4,000  
3 unique livestream views, making it one of the largest  
4 engagements we have ever had at a tech conference. And we  
5 are not stopping there.

6           Coming up next week is the Hybrid Resources  
7 Technical Conference, and planning continues for two more  
8 significant conferences this fall on the topics of carbon  
9 pricing and in the organized wholesale electricity markets,  
10 and offshore wind integration in RTOs and ISOs.

11           Commission efforts with our state and  
12 international partners is going strong. On the state side,  
13 we have worked with groups like NARUC and NASIO to stay in  
14 touch with local regulators throughout the pandemic, holding  
15 briefings on FERC's efforts and its implications for states.

16           And on the international front, staff continues  
17 outreach and coordination under our various MOUs and through  
18 initiatives like the State Department co-led Flexible  
19 Resources Initiative and the U.S.-India Gas Tax Force. This  
20 included 15 video and teleconferences with Indian  
21 electricity and natural gas regulators, and one with the  
22 European Union energy regulators.

23           We continue to lend our expertise and regulatory  
24 experience to some of our Indian regulatory counterparts as  
25 they undertake major reforms to their electricity and gas

1 markets.

2           FERC's Administrative Law Judges adapted rapidly  
3 to conditions by conducting WebEx settlement conferences,  
4 and the first ever virtual hearing. Between March 16th to  
5 July 10th, ALJs issued three Initial Decisions, certified a  
6 reported 34 settlements, and held two oral arguments, all  
7 very much in line with the numbers for the same period in  
8 2019.

9           In addition, the settlement success rate during  
10 the pandemic period is a stellar 92 percent. As part of all  
11 that activity, the Commission's Office of Administrative  
12 Litigation filed 29 settlement comments, 9 briefs, and 22  
13 pieces of testimony and affidavits. And, the Secretary's  
14 office has taken significant steps in how we interact with  
15 the public and the regulated entities, transforming our  
16 traditional approach of handling the hard-copy submissions  
17 to one that is primarily electronic, more flexible and  
18 adaptable.

19           This included ensuring that key policy issuances  
20 were publicly available, sometimes long after business hours  
21 or on weekends.

22           Maintaining transparent and effective lines of  
23 communication with the public and all of our stakeholders  
24 has only gotten more important in these difficult times. To  
25 that end, we have made great strides to modernize and

1 improve FERC's online presence over the past few months.

2 We have expanded our reach of social medial  
3 platforms, launched the new ferc.gov website, a completely  
4 updated platform that is more user friendly, 508 compliance  
5 and easily accessible even on the go with our mobile  
6 compatibility.

7 Similarly, efforts are underway to revamp  
8 E-Library, making it even more reliable and accessible for  
9 the public. And because staying socially distant does not  
10 mean staying out of touch, we have greatly expanded the  
11 number of open access and EnVision podcasts that are  
12 producing. If you haven't already, I would encourage you to  
13 take a listen. I know everyone seems to have a podcast  
14 these days, but I've learned a lot and think it's been a  
15 really great way to stay connected with our partners  
16 throughout the industry, all while wearing what I refer to  
17 as the new business formal, sweat pants and suit jacket.

18 So I know we've all missed the in-person  
19 interaction with our colleagues and would like to get back  
20 in the office. I have just been blown away by how much  
21 normalcy we've been able to bring to this situation,  
22 ensuring that FERC continues to achieve its important  
23 mission.

24 So while this took a bit of time to share this  
25 morning, it's worthwhile to highlight all that our great

1 staff across the agency has accomplished, and express my  
2 appreciation for their hard work and professionalism in  
3 ensuring that the Commission continues to perform at a high  
4 level for the American public while staying safe and  
5 healthy.

6           Switching gears a bit, I'd like to take this  
7 opportunity to thank this year's class of summer interns for  
8 their hard work for the Commission. Beginning in June, FERC  
9 virtually welcomed 37 interns and volunteers to the  
10 Commission. During their summer at FERC, they've attended  
11 workshops on personal branding, resume writing, salary  
12 negotiation, and federal hiring.

13           This cohort of talent from around the country  
14 includes Veterans, musicians, a competitive athlete, and  
15 world travelers. I applaud their shared commitment to serve  
16 their country and learn more about the energy industry and  
17 FERC's regulatory process. We've enjoyed having this class,  
18 and are hopeful they will consider FERC for their careers  
19 when the time comes.

20           Moving on to today's agenda, I'm extremely  
21 pleased that in Item E-1 the Commission is issuing its Final  
22 Rule to update its PURPA regulations. This final rule  
23 includes a wide-ranging and comprehensive set of reforms  
24 that will be described in today's presentation.

25           It's been more than four decades since Congress

1 enacted PURPA, and I've been clear that it is incumbent on  
2 us to update our regulation as Congress instructed us to do  
3 from time to time, in order to ensure that the Commission  
4 continues to satisfy its statutory requirements under PURPA.  
5 This Final Rule is a major achievement for this Commission  
6 and reflects a huge undertaking by our excellent team of  
7 PURPA experts.

8           Thank you to the team for all of your hard work  
9 on this very important Final Rule.

10           Turning to Item E-2, today the Commission votes  
11 to dismiss the Petition for Declaratory Order filed by the  
12 New England Ratepayers Association concerning net metering.  
13 The Petition asks the Commission to make certain  
14 jurisdictional determinations regarding energy sales from  
15 rooftop solar facilities and other distributed generation  
16 located on the customer side of the retail meter.

17           Declaratory Orders to terminate a controversy or  
18 remove uncertainty are discretionary. We exercised that  
19 discretion today and find that the issues presented in the  
20 Petition do not warrant a generic statement from the  
21 Commission at this time. In the Order, we also note that  
22 the manner in which the Commission addresses a petition for  
23 declaratory order depends on the specific facts and  
24 circumstances presented to the Commission.

25           Here, we find that the Petition does not identify

1 a specific controversy or harm that the Commission should  
2 address in a declaratory order. While a couple of my  
3 colleagues may write separately, I am pleased that we  
4 reached a unanimous result in this matter.

5 With that, I will conclude my remarks and turn  
6 back to my colleagues for any additional opening statements  
7 or announcements they may have, beginning with Commissioner  
8 Glick.

9 COMMISSIONER GLICK: Thank you, Mr. Chairman. I  
10 want to start today by introducing Jen Gordon who recently  
11 joined my office on detail from the Office of General  
12 Counsel. Jen is a graduate of the University of South  
13 Carolina and UVA Law School, and prior to coming to the  
14 Commission, was an attorney with Bracewell firm. She is  
15 already fitting in well, and I am very glad she decided to  
16 join us, as we have of advisors that will soon be out on  
17 parental leave.

18 Also I want to reiterate what the Chairman said  
19 about our summer interns. Each summer, interns descend upon  
20 Washington, D.C., to work on Capital Hill and in a variety  
21 of federal agencies, including FERC. It's a great  
22 opportunity for them to learn about the Federal Government,  
23 but also for us because they perform a number of important  
24 tasks.

25 Unfortunately, given the strange circumstances we



1 are all living under, this year's class of interns has been  
2 forced to work remotely, just like the rest of us. But I  
3 hope they still have had a rewarding experience, such as  
4 staying up late working under staff, which actually brings  
5 me to the two interns of my office, Anna Whistler and Nathan  
6 Waldal, who both have been involved in some of the dissents  
7 that we have been writing, late-night dissents over the last  
8 couple of days.

9           Both are law students. Anna attends Cornell and  
10 Nathan attends Harvard. They are both extremely impressive  
11 and have contributed significantly to the work product  
12 emanating from our office. So thank you, Anna and Nathan,  
13 and thanks to all of this summer's FERC interns.

14           Mr. Chairman, I want to take a minute and discuss  
15 the fallout from the D.C. Circuit's recent decision in the  
16 Allegheny case where the court basically concluded that the  
17 Commission used some tolling orders to delay the issuance of  
18 rehearing orders beyond the statutory 30-day deadline is not  
19 permissible.

20           I think the court got it right. It is unfair to  
21 an aggrieved party if the Commission delays acting on a  
22 rehearing because that party can't appeal a Commission  
23 decision until rehearing is denied. This is especially true  
24 in gas pipeline cases where a project developer could take  
25 land by eminent domain and construct the pipeline all before

1 the Commission acts on a rehearing order. As the adage  
2 goes, "Justice delayed is justice denied."

3 I am also cognizant that it is going to be  
4 administratively difficult, given the limited resources that  
5 we have, for this Commission to complete all rehearing  
6 orders within 30 days, especially if the Commission  
7 continues to respond to each rehearing request that is  
8 filed, which I'm not certain really is necessary.

9 So Chairman Chatterjee and I have jointly called  
10 on Congress to pass legislation to give the Commission a  
11 more reasonable time to act on rehearing requests.

12 Recognizing the specific concerns about pipeline  
13 proceedings, we were asking that this legislation ensures  
14 that natural gas pipeline developers won't be able to  
15 initiate an eminent domain proceeding or begin construction  
16 of a project before the Commission acts on rehearing.

17 I hope that Congress can act on such legislation  
18 relatively quickly.

19 I will be dissenting, or dissenting in part, on  
20 eight orders we will be considering today. I will defer my  
21 comments on E-1, the PURPA Final Rule, until after the  
22 presentation. But I wanted to briefly discuss several of  
23 the orders we are about to vote on.

24 First of all, I will be dissenting on E-3 and  
25 E-4, both of which deny rehearing of two Commission orders

1 issued in 2018 designed to bail out the financially  
2 struggling Everett LNG Import Terminal, by requiring  
3 consumers to pay the full cost of service for the Mystic  
4 Electric Plant in New England. Not coincidentally, both  
5 Everett and Mystic are subsidiaries of Exelon.

6           The record since day one makes unmistakably clear  
7 that the real fuel security need in New England was the  
8 Everett LNG Import facility, not the Mystic Plant, which is  
9 necessary only to keep Everett in business. I'm not  
10 unsympathetic to the concern that if the Everett LNG Import  
11 Plant were to shut down, natural gas supplies in New England  
12 could be a squeeze during extremely cold days. But neither  
13 the Federal Power Act nor any other statute provides this  
14 Commission -- provides that this Commission can and should  
15 act for the purpose of subsidizing an LNG import terminal.  
16 In fact, FERC has no jurisdiction at all over LNG project  
17 sales or finances.

18           Two years ago when the original orders came down,  
19 the Commission justified its decision by suggesting that the  
20 Everett terminal and Mystic, which is FERC jurisdictional,  
21 are inextricably linked. Recognizing that argument as  
22 insufficient, the Commission has changed course and is today  
23 arguing that it can regulate Everett's costs because they  
24 are in a FERC jurisdictional tower, but that still doesn't  
25 excuse the Commission's decision to use its Federal Power

1 Act authority to force customers to pay for the fuel  
2 security benefits provided by an LNG facility.

3 The best way to ensure New England's long-term  
4 fuel security and electric reliability is through a durable  
5 approach to identifying and resolving reliability needs, not  
6 by expanding this Commission's jurisdiction.

7 Now I am also dissenting on E-37, which denies  
8 rehearing and approves the New York ISO's compliance filing  
9 regarding the Commission's previous order imposing  
10 buyer-side market mitigation on renewable energy generation  
11 and self-supply in the ISO's capacity market.

12 I want to start with the obvious oxymoron the  
13 Commission has weaved: That the Commission is doing to  
14 burden renewable energy generation has anything to do with  
15 buyer-side market power mitigation. These renewable energy  
16 generators clearly are a buyer and they do not have market  
17 power. There should be some kind of law prohibiting FERC  
18 from imposing buyer-side market power mitigation against  
19 sellers without market power. Maybe we can call it the  
20 "Truth In Regulating Act."

21 What we really are considering today is an order  
22 that is yet another attempt by this Commission to raise  
23 Capacity Market prices and preserve the old generation mix  
24 that is threatened by the transition to a clean energy  
25 future. Now my colleagues, they're going to say that this

1 is all about promoting competition, but why is it that the  
2 Commission wraps itself in the banner of market when it  
3 benefits certain types of generation resources, but then  
4 runs away from those market forces and toward  
5 counter-intuitive administrative mechanisms when those same  
6 resources need protection?

7           And this Commission also continues to ignore what  
8 the states are telling them; that if the Commission  
9 continues on this destructive path of blocking state energy  
10 programs, the states are going to figure out a solution that  
11 threatens the future of RTOs and ISOs as we know them.

12           What do you think the New York Public Service  
13 Commission is going to do with its resource adequacy  
14 proceeding when it sees today's order? I'll give you one  
15 guess.

16           I also want to briefly mention that today's order  
17 is also troubling because it excludes the New York Tower  
18 Authority from seeking the self-supply exemption. The  
19 Commission finds that the threshold setup for all other  
20 self-supplier insufficient to protect the market against  
21 government instrumentalities, such as NYPA, the Commission  
22 argues that NYPA will ignore its own interests and instead  
23 do the bidding of regions that the state doesn't even  
24 serve.

25           That just doesn't make sense to me, and it would

1 harm NYPA's customers. This Commission ignores the  
2 inconvenient aspects of the record to unfairly deny NYPA the  
3 ability to seek a self-supply exemption. This will subject  
4 any new resource NYPA seeks to use for self-supply to a  
5 minimum price war, which is going to severely limit NYPA's  
6 ability to self-supply in the future.

7           Now finally I want to briefly mention an order  
8 with which I agree. The Commission is today transferring  
9 the Klamath Hydropower Project license to a new licensee for  
10 the purpose of facilitating the decommissioning of four  
11 facilities of the project.

12           The current licensee, PacifiCorp, has negotiated  
13 an arrangement with a number of interested parties to remove  
14 the facilities in large part because the relicensing of the  
15 project would require a number of costly improvements that  
16 outweigh the power production benefits.

17           I believe that Hydropower, because it is a zero  
18 emissions and reliable generation resource, has a bright  
19 future. But we are also going to see an increasing number  
20 of projects as they come through the relicensing process,  
21 face the same challenges as Klamath, and choose to  
22 decommission.

23           It is important that we assure that these  
24 decommissioning efforts proceed in an environmentally sound  
25 and cost-effective manner. While I understand the agreement

1 PacifiCorp struck with the stakeholders caused the utility  
2 to transfer the project license to a newly formed company  
3 that will be responsible for decommissioning, I support the  
4 Commission's decision today to condition our order on  
5 PacifiCorp agreeing to remain as a co-licensee, because the  
6 newly formed company has limited financial resources and  
7 doesn't have experience as a hydro project licensee.

8 I believe this condition is in the public  
9 interest, and hope that it does not dissuade PacifiCorp from  
10 moving forward.

11 Thank you very much, Mr. Chairman.

12 CHAIRMAN CHATTERJEE: Commissioner McNamee?

13 COMMISSIONER McNAMEE: Thank you, Mr. Chairman.

14 First of all, it's my understanding that it's the Chairman's  
15 birthday today. I want to wish him a happy birthday, and I  
16 will not make everybody suffer through my poor singing  
17 skills. But I also want to thank the Chairman for his  
18 leadership during this COVID crisis, and over the last four  
19 months. As the Chairman mentioned, we've achieved an  
20 incredible amount of work. The staff has done an incredible  
21 job, and is credit to everybody, but of course our Chairman  
22 leads the Commission and he has done a great job and I think  
23 we should all be very grateful for the things he has been  
24 able to achieve so far in moving us forward.

25 And with that, I also want to comment on some of

1 the things that the Chairman mentioned. He gave a long list  
2 of various accomplishments, and I think it's important for  
3 all of us to pay attention to those accomplishments.

4 Because the work of FERC is often just making sure the day  
5 job gets done, making sure that we're filing and processing  
6 tariffs, that we're paying attention to issues of market  
7 manipulation that we're dealing with, set standards. These  
8 are many things that are vitally important to ensuring that  
9 we have a reliable energy infrastructure, reliable energy  
10 system, and to making sure that customers are protected.

11           And so though the Commission meetings at times,  
12 and sometimes our orders, can make it look like there's a  
13 lot of contention, there's a lot of things that are just why  
14 can't we just all get along? I think that we need to focus  
15 on the bigger picture of the things that are accomplished.  
16 And I think that it's a credit particularly to the FERC  
17 staff, to the Chairman, and to my fellow Commissioners that  
18 we have been able to achieve these things. I am sure that  
19 they will continue to happen.

20           I also want to acknowledge, along with the  
21 Chairman, about the passing of former Commissioner George  
22 Hall. It's interesting to think about, you know, when we  
23 enter these jobs that other people create them, think about  
24 them, build them, and that we're benefitting from what they  
25 have been able to do.



1           And so my condolences to Mr. Hall's family, and I  
2 know that it is important for us to always remember those  
3 that came before us.

4           Likewise, I want to comment on the summer  
5 interns. It's unfortunate that an opportunity such as an  
6 internship at FERC had to be done virtually, but it's my  
7 understanding that, as with so many things, that the  
8 Commission has done a very good job in trying to provide  
9 them a meaningful experience. And I hope that it was  
10 meaningful, and I hope that you will consider in the future  
11 working for FERC.

12           Now I want to turn to a few items. As the  
13 Chairman mentioned, today is a big day with us adopting  
14 final rules in relation to PURPA. I'll provide further  
15 comments on that after we have the presentation.

16           I also want to touch on Net Metering. As the  
17 Chairman mentioned, we are rejecting the Petition for Net  
18 Metering. I will be issuing a concurrence, however. And  
19 that concurrence makes the point that, though I support the  
20 Commission's Order dismissing on procedural grounds the NERA  
21 petition for a declaratory order concerning net metering. I  
22 provide this concurrence to make clear that today's Order  
23 does not address any of the important substantive issues  
24 underlying the petition.

25           To that end, the Commission's Order is not a

1 decision on whether the Commission lacks jurisdiction over  
2 the energy till made through net metering nor is the  
3 decision on the merits of the issues raised by and contained  
4 in the petition.

5 I also observe in my concurrence the recent  
6 decision by the U.S. Court of Appeals on Commission Orders  
7 841 and 841A regarding electric storage resources. There,  
8 the court affirmed that the Commission's authority over  
9 energy storage resources -- that the Commission has  
10 authority over those resources even if they're connected to  
11 the distribution system behind the meter.

12 I also point out that this was counter to my  
13 partial concerns and dissent in 841 in which I didn't think  
14 we had jurisdiction. Of course the jurisdictional issues  
15 are ones that we'll have to look at on a case-by-case basis.

16

17 And finally, I note in my concurrence that as a  
18 general proposition I think it is best to decide important  
19 legal and jurisdictional questions like the ones raised in  
20 the petition when applying the law to specific -- to a  
21 specific set of facts, and such things as the Section 206  
22 complaint or through rulemaking proceedings.

23 I just want to touch on a few other orders. In  
24 the Mystic Orders that my colleagues mentioned regarding  
25 fuel security agreements, and the agreements to keep the

1 Mystic running, I think it is important to put these in the  
2 proper perspective. In his dissent, my colleague states  
3 that the Commission is, quote, "bailing out the Everett LNG  
4 facility," and that, quote, "a real motivating factor is to  
5 contribute to the Everett financial solvency."

6 He then uses these accusations to proclaim that  
7 the Commission does not have jurisdiction over the issue in  
8 its orders. But the reality is that today's orders  
9 considered the cost-of-service agreement between Mystic and  
10 ISO New England. The cost-of-service agreement will permit  
11 the Mystic Generating Units to operate, provide electric  
12 service to customers in New England. There's no dispute,  
13 and my colleague even admits that the sole source of fuel  
14 to operate the Mystics comes from the Everett LNG facility.

15 The Commission was asked to approve the  
16 cost-of-service agreements between Mystics and ISO New  
17 England to ensure that the Mystics could continue to provide  
18 essential electric service to the people of New England.

19 Contrary to assertions by my colleague, the  
20 Commission is not exercising jurisdiction over the Everett  
21 facility. We review the components of the Mystic Fuel  
22 Supply Charge, which is in itself a cost-of-service rate,  
23 and is therefore subject to the Commission's review and  
24 approval. Ultimately, my colleague admits in his dissent  
25 that cost-of-service ratemaking, that the Commission can

1 exercise jurisdiction over generation fuel costs. But he  
2 attempts to recover from this jurisdictional reality by  
3 accusing the Commission of using this as, quote/unquote, "a  
4 pretext to achieve its real goal of helping the Everett  
5 facility."

6 In these proceedings, ISO New England represents  
7 the Commission -- to the Commission that an unacceptable  
8 liability impact is going to occur from the loss of Mystic's  
9 809 in the capacity commitment periods of 2022-23, and  
10 2023-24.

11 Now while my colleague suggests in his dissent  
12 that the lack of gas for the Mystics could, quote/unquote,  
13 "be brief," even a brief few hours of cold and dark during  
14 the severest parts of winter might be very challenging or  
15 even deadly for people in New England.

16 The fact is that the Order the Commission  
17 approves is a relatively short agreement that will end in  
18 2024. I concede, however, that this is not a perfect  
19 solution. But our duty is to ensure that electric  
20 reliability takes place, and it is part of our core mission  
21 on behalf of the American people, and therefore I approved  
22 the Order.

23 I won't go through other standard dissents or  
24 concurrences on the natural gas. I think people are  
25 familiar with the positions that I've taken on those. And I

1 think we should also, in a good-news story, in H-1 we're  
2 dealing with the Safety for Water Projects, and hydro, and I  
3 think we'll be having a presentation on that. And I think,  
4 you know, we often focus on natural gas and traditional  
5 electric issues, but our obligation for dam safety and  
6 hydro issues are very important, and I'm happy to see that  
7 we're continuing to move those orders forward.

8           With that, thank you, Mr. Chairman.

9           CHAIRMAN CHATTERJEE: Thank you, Commissioner  
10 McNamee. Commissioner Danly?

11           COMMISSIONER DANLY: Thank you, Mr. Chairman. I  
12 just have one point that I want to raise when it comes to  
13 the dismissal of the Petition for Declaratory Order.

14           I of course am voting for the dismissal, and I  
15 agree that the Commission has discretion to dismiss the  
16 petition on procedural grounds, but I wrote separately to  
17 express my concern about what the possible consequences of  
18 this dismissal could be. One of which, which I believe is  
19 quite profound, is that if the cases end up being presented  
20 in serial litigation before the Federal District Courts,  
21 which would presumably consider the cases under principles  
22 of preemption, that could create an inconsistent  
23 state-by-state regime of conflicting rules that would take  
24 years to clean up.

25           And I think that ultimately the proper forum for

1 considering the issues that were presented in the petition,  
2 albeit untethered to a specific state statutory scheme, the  
3 proper place for considering issues in the first instance is  
4 the Commission.

5 That's all I have. Thank you.

6 CHAIRMAN CHATTERJEE: Thank you, Commissioner  
7 Danly. Before I turn it back to Madam Secretary, I also  
8 want to welcome Jennifer Gordon to the 11th floor.  
9 Commissioner Glick is fortunate to have you on his team, and  
10 I very much look forward to working with you in the coming  
11 weeks.

12 With that, Madam Secretary, we are ready to go to  
13 the Consent Agenda.

14 SECRETARY BOSE: Thank you, Mr. Chairman.

15 Since the issuance of the Sunshine Act notice on  
16 July 9th, 2020, Item E-30 has been struck from this  
17 morning's agenda. Your Consent Agenda is as follows:

18 Electric Items: E-2, E-3, E-4, E-5, E-6, E-7,  
19 E-8, E-9, E-10, E-11, E-12, E-13, E-14, E-15, E-16, E-17,  
20 E-18, E-19, E-20, E-21, E-22, E-23, E-24, E-25, E-26, E-27,  
21 E-28,  
22 E-29, E-31, E-32, E-33, E-36, and E-37.

23 Miscellaneous Items: M-1.

24 Gas Items: G-1.

25 Hydro Items: H-2, H-3, H-4, H-5, and H-6.

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

2 As to E-1, Commissioner Glick is dissenting in  
3 part with a separate statement. As to E-2, Commissioner  
4 McNamee is concurring with a separate statement; and  
5 Commissioner Danly is concurring with a separate statement.  
6 As to E-3, Commissioner Glick is dissenting with a separate  
7 statement. As to E-4, Commissioner Glick is dissenting with  
8 a separate statement. As to E-5, Commissioner Glick is  
9 dissenting with a separate statement. As to E-24,  
10 Commissioner Glick is concurring with a separate statement.  
11 As to E-25, Commissioner Glick is dissenting in part with a  
12 separate statement. As to E-37, Commissioner Glick is  
13 dissenting with a separate statement. As to H-4,  
14 Commissioner Glick is concurring with a separate statement.  
15 As to C-1, Commissioner Glick is dissenting with a separate  
16 statement; and Commissioner McNamee is concurring with a  
17 separate statement. As to C-2, Commissioner Glick is  
18 dissenting in part with a separate statement; and  
19 Commissioner McNamee is concurring with a separate  
20 statement.

21 Mr. Chairman, with the exception of E-1 where a  
22 vote will be taken after the presentation and discussion of  
23 that item later in the meeting, we are now ready to take a  
24 vote on this morning's Consent Agenda. The vote begins with  
25 Commissioner Danly.

1           COMMISSIONER DANLY: Noting my concurrences in  
2 E-2 and E-37, I vote aye.

3           SECRETARY BOSE: Commissioner McNamee.

4           COMMISSIONER McNAMEE: I vote aye on all items,  
5 and note my concurrences in E-2, C-1, and C-2. I said--  
6 yes, E-2, C-1, and C-2.

7           SECRETARY BOSE: Thank you, Commissioner.  
8 Commissioner Glick.

9           COMMISSIONER GLICK: Noting my dissents in E-3,  
10 E-4, E-5, E-37, and C-1, and my dissents in part in E-25 and  
11 C-2, and my concurrences in E-24 and H-4, I vote aye.

12          SECRETARY BOSE: And, Mr. Chairman.

13          CHAIRMAN CHATTERJEE: I vote aye.

14          SECRETARY BOSE: Mr. Chairman, we are now ready  
15 to move on to the discussion and presentation items. The  
16 first presentation and discussion item on this morning's  
17 agenda is Item E-1, a Draft Final Rule Concerning Certain  
18 Commission Regulations Relating to the Public Utility  
19 Regulatory Policy Act of 1978.

20                 There will be a presentation by Joshua Kirstein  
21 from the Office of the General Counsel.

22           MR. KIRSTEIN: Good morning, Mr. Chairman and  
23 Commissioners.

24                 Item E-1 is a draft final rule that revises the  
25 Commission's regulation implementing Section 201 and 210 of



1 the Public Utility Regulatory Policies Act of 1978, or  
2 PURPA.

3 With some modifications which I will describe  
4 later, this draft rule largely adopts the proposals in the  
5 September 19th, 2019 -- September 2019 Notice of Proposed  
6 Rulemaking, or NOPR, issued in Docket Numbers RM19-15-000  
7 and AD16-16-000.

8 PURPA was enacted as part of a legislative  
9 package intended to reduce the country's dependence on  
10 conventional fossil fuel to generate electricity by  
11 encouraging the development of alternative generation. That  
12 is, qualifying facilities or QFs. While PURPA provided  
13 encouragement to QFs, PURPA also imposed limits.

14 For example, the mandatory purchase rates for QF  
15 output cannot include the purchasing utilities' avoided  
16 costs, even if the QF cost of producing electricity might be  
17 higher. Another example is that small power product QF  
18 cannot exceed 80 megawatt power production capacity.

19 This draft final rule implements changes that  
20 continue to encourage the development of QFs, but also  
21 ensures that the Commission's PURPA regulations are  
22 consistent with PURPA. This draft final rule changes to the  
23 Commission's regulations implementing PURPA include:

24 First, the draft final rule grants state  
25 regulatory authorities and nonregulated electric utilities

1 to other states the flexibility to require that energy  
2 rates, but not capacity rates, and QF power sales contracts  
3 and other legally enforceable obligations vary in accordance  
4 with changes in the purchasing electric utilities as  
5 available avoided costs at the time the energy is delivered.

6           Second, this draft final rule grants states  
7 flexibility to allow QFs to have a fixed energy rate and to  
8 provide that such state authorized fixed energy rate can be  
9 based on projected energy prices during the term of the QF  
10 contract based on the anticipated dates of delivery.

11           Third, this draft final rule grants states  
12 flexibility to set as-available QF energy rates based on the  
13 locational marginal price, or LMP, established in organized  
14 electric markets. However, the NOPR proposed that LMP, per  
15 se, represents the as-available avoided cost of the electric  
16 utilities located in these markets, but the draft final rule  
17 changes that to establish a rebuttable presumption that LMP  
18 represents the purchasing utility's avoided costs. With  
19 respect to QF selling to electric utilities located outside  
20 of the organized electric markets, this draft final rule  
21 provides states the option to set as-available energy  
22 avoided cost rates either at competitive market prices from  
23 liquid market hubs, or calculated from a formula based on  
24 natural gas price indices and specified heat rates, provided  
25 that the states first determine that such prices represent

1 the purchasing electric utility's avoided costs. The draft  
2 final rule makes clear that the states have the flexibility  
3 to choose to adopt one or more of these options: LMP,  
4 liquid market hubs, or formula rates based on natural gas  
5 price indices and specified heat rates, or to continue  
6 setting QF rates under the standard, long-established in the  
7 Commission's regulations implementing PURPA.

8           Fourth, this draft final rule provides states the  
9 flexibility to set energy and capacity rates pursuant to a  
10 competitive solicitation process conducted pursuant to  
11 transparent and nondiscriminatory procedures.

12           Fifth, this draft final rule modifies the  
13 Commission's one-mile rule for determining whether  
14 affiliated small power production facilities are considered  
15 to be at the same site for purposes of determining whether a  
16 small power production facility meets the statutory 80  
17 megawatt limit. Under the draft final rule, a facility one  
18 mile or less from an affiliated small power production QF  
19 would be deemed to be at the same site as its affiliate. A  
20 facility located more than one mile but less than 10 miles  
21 from the affiliated small power production QF, would be  
22 rebuttably presumed to be at a different site from its  
23 affiliate. And a facility more than 10 miles from an  
24 affiliated small power production QF, would be deemed to be  
25 at a separate site from its affiliate.

1           Sixth, the draft final rule allows electric  
2 utilities, state regulatory authority, and other interested  
3 parties to challenge an initial self-certification or  
4 self-recertification, by filing a protest and not having to  
5 file a petition for declaratory order, and to pay the  
6 associated filing fee. The draft final rule clarifies that  
7 protests may be made to new certification, both  
8 self-certifications and the applications for Commission  
9 certification, but in change from the NOPR limits protests  
10 to self-recertifications and applications for Commission  
11 recertification that make a substantive change to the  
12 existing certification.

13           Seventh, the draft final rule revises the  
14 Commission's regulation implementing PURPA Section 210(m)  
15 which provides for the termination of an electric utility's  
16 obligation to purchase from a QF with nondiscriminatory  
17 access to certain markets. The draft final rule updates the  
18 threshold for the rebuttable presumption for small power  
19 production facilities, but not co-generation facilities. As  
20 a modification to the NOPR, this draft final rule changes  
21 the rebuttable presumption from 20 megawatts to 5  
22 megawatts, compared to 1 megawatt as proposed in the NOPR,  
23 and revises the Commission's regulations implementing PURPA  
24 to include examples of factors which, among others QF may  
25 argue, show that they lack nondiscriminatory access to such

1 markets.

2           Finally, this draft final rule clarifies that a  
3 QF must demonstrate commercial viability and a financial  
4 commitment to construct its facility pursuant to objective  
5 and reasonable state-determined criteria before the QF is  
6 entitled to a contract or a legally enforceable obligation.  
7 In a change from the NOPR, the draft final rule states that  
8 a QF need only show that it has applied for all required  
9 permits and paid all applicable fees, and not that the QF  
10 has obtained such permits.

11           The changes in this draft final rule will be  
12 effective 120 days after publication in the Federal  
13 Register, and are effective prospectively for new contracts  
14 or legally enforceable obligations, and for new facility  
15 certification and recertification filed on or after the  
16 effective date of this final rule.

17           This draft final rule does not permit disturbance  
18 of existing contracts or legally enforceable obligations, or  
19 existing facility certification.

20           We are happy to answer any questions. Thank you.

21           CHAIRMAN CHATTERJEE: Thank you very much for  
22 that presentation and helpful overview of the reforms in  
23 this important final rule. I just have a few questions for  
24 the team.

25           First, I know some commenters claimed that the

1 NOPR was an attempt by the Commission to repeal or eliminate  
2 critical protections granted by PURPA. Does this final rule  
3 do those things?

4 MR. KIRSTEIN: No, Mr. Chairman. This final rule  
5 does not seek to repeal or eliminate any aspect of PURPA,  
6 which is a federal law that only Congress can modify.  
7 Congress has required that the Commission from time to time  
8 revise its regulations implementing PURPA, and that is what  
9 this final rule does.

10 As stated in our presentation, the changes in  
11 this final rule will enable the Commission to continue  
12 satisfying the statutory requirements of PURPA, including  
13 that the rules encourage QF development, while also adhering  
14 to PURPA's other requirements, such as the requirement that  
15 the rates paid to QFs not exceed the avoided costs of the  
16 purchasing utility.

17 The new flexibility the rule gives the states to  
18 develop an avoided cost rate requires that the rate be  
19 avoided -- be the avoided cost rate for the purchasing  
20 utility, which is what PURPA requires.

21 CHAIRMAN CHATTERJEE: Thank you. Following up on  
22 that question, will the revised PURPA regulations still  
23 encourage small power production and cogeneration as  
24 required by PURPA?

25 MR. KIRSTEIN: Yes. The revised regulations will

1 continue to encourage QFs. For example, the revised  
2 regulations give states more flexibility to establish  
3 avoided cost rates accurately by using, where appropriate,  
4 market-based pricing such as LMP, pricing hubs, formulae,  
5 competitive solicitations, or other means.

6 We expect that this increased optionality for  
7 accurately determining avoided costs will continue to  
8 provide encouragement for the development of small power  
9 producers and cogeneration as required by PURPA, while also  
10 respecting the PURPA requirement that such rates not exceed  
11 the purchasing utility's avoided costs.

12 In fact, since such pricing mechanisms are likely  
13 to be more transparent and efficient and less labor  
14 intensive than existing administrative determinations of  
15 avoided cost rates, as the same resources spent by all sides  
16 in the process, both utilities and their customers and QFs  
17 are likely to receive more bang for their buck, so to speak.

18 I also add that our regulations also continue to  
19 require utilities to provide backup service,  
20 interconnection, and relief from federal regulation under  
21 the FPA which encourages the development of QFs.

22 CHAIRMAN CHATTERJEE: Thanks again. I have one  
23 final question. How will the changes in this final rule  
24 impact states' implementation of PURPA?

25 MR. KIRSTEIN: Staff believes these changes will

1 promote state flexibility. The changes in this final rule  
2 provide states added flexibility to implement PURPA in the  
3 manner that is best for their own states.

4 For example, the final rule now provides  
5 flexibility for states to use variable energy rates as a  
6 component of avoided costs but does not require that they do  
7 so. The Commission also delineates a process whereby states  
8 may meet their PURPA obligations via competitive  
9 solicitations. But again, they are not required to do so.

10 The goal of the Commission in this final rule is  
11 to promote state flexibility. And staff believes that, in  
12 the same spirit as the original rulemaking implementing  
13 PURPA, this rule does just that.

14 CHAIRMAN CHATTERJEE: Thank you, Josh. And to  
15 the team, for all your hard work on this final rule, and for  
16 this very informative presentation.

17 With that, I will turn it over to my colleagues  
18 for any questions they may have, starting with Commissioner  
19 Glick.

20 COMMISSIONER GLICK: Thank you, Mr. Chairman.  
21 And before I get back to PURPA, I wanted to talk about  
22 something that Commissioner McNamee referenced and I forgot  
23 about, that today is your birthday and I wanted to wish you  
24 a happy birthday, and I hope you get to do something fun  
25 today, even more fun than presiding over a Commission



1 meeting.

2 CHAIRMAN CHATTERJEE: Thank you.

3 COMMISSIONER GLICK: Now -- welcome.

4 So now with regard to PURPA, I have to disagree  
5 with you on a couple of points. I don't know if parties  
6 said that the proposed rule would repeal PURPA. Maybe some  
7 said that, but what I have suggested is that it would  
8 actually gut the statute. And I think that is still true.  
9 And as a matter of fact, you referenced, and I think rightly  
10 so, that one of PURPA's requirements is to encourage QFs.  
11 And I don't know, at least after I read the draft final  
12 rule, I have a hard time seeing how it actually encourages -  
13 - I think it actually discourages QF development. We will  
14 see how that plays out over time.

15 But I do want to reiterate what you just said,  
16 which was thanking the staff, because I know this was very  
17 hard work. You worked a lot of long hours. It took a long  
18 time to put this together. It was a very difficult effort,  
19 and I appreciate that. I also appreciate the presentation  
20 this morning.

21 I am disappointed both as to what the Commission  
22 is moving forward with today, but also how we got to this  
23 point. When the Commission issued the NOPR back in  
24 September, the document began with a very lengthy preamble  
25 suggesting that PURPA was no longer necessary to promote new

1 energy development.

2           The NOPR went on to propose some dramatic changes  
3 to the way the statute has been implemented by FERC and  
4 state regulators, including major modifications for which  
5 there was little or no record support.

6           States asked for additional time to submit  
7 comments on such a major proposal, but the request was  
8 rejected. Others asked for a technical conference, or  
9 conferences to help build the record on this important  
10 issue. I made a similar request. But the Commission didn't  
11 respond.

12           So others argued that at the very least the  
13 Commission should perform an environmental analysis on the  
14 NOPR as required by NEPA to consider whether reducing QF  
15 generation may adversely impact the environment. But the  
16 Commission didn't do this, either.

17           So we're here today to vote out a final rule  
18 that, although using gentler language and containing some  
19 modest improvements, still aims to achieve what Congress has  
20 failed to do -- gut the heart of PURPA, with very little  
21 reasoned decisionmaking.

22           Let me highlight a couple of these issues. One  
23 of PURPA's key requirements is that utilities can't treat  
24 QFs differently than they treat their own resources, but  
25 today's final rule ignores this. QFs no longer will be

1 guaranteed an option for a fixed-term contract that makes it  
2 easier to finance certain projects.

3 Utilities, when they self-build, certainly  
4 subjected to such uncertainty. In addition, states are now  
5 permitted to assess avoided costs for energy QF based on  
6 locational marginal pricing, or some other liquid price,  
7 even in regions without sufficiently competitive markets.  
8 Not exactly the same risks for pricing faced by utilities to  
9 get guaranteed rate recovery.

10 Under existing regulations, there is a rebuttable  
11 presumption that QFs smaller than 20 megawatts located in  
12 RTO/ISO regions don't have sufficiently nondiscriminatory  
13 market access to eliminate the PURPA must-purchase  
14 requirements. In the NOPR, the Commission proposed, without  
15 any record support mind you, to reduce this figure to 1  
16 megawatt. The final rule rate was capped at 5 megawatts,  
17 presumably because 1 megawatt looked too Draconian. But  
18 again the Commission has no record to support this change.

19 To be fair, there are provisions in the rule that  
20 I believe are consistent with our statutory mandate, and  
21 that is why I am only partially dissenting. For instance,  
22 the rule makes what I believe is a regional change to the  
23 one-mile rule to prevent gaming. But I am disappointed that  
24 the majority has chosen the path it did, rather than pursue  
25 an approach in which we all may have been able to reach

1 consensus, one that is already authorized by Congress and  
2 has the support of NARUC and several other commenters.

3           The Energy Policy Act of 2005 directed FERC to  
4 move in a direction of more competition. Requiring the  
5 Commission to excuse a utility from PURPA's must-purchase  
6 requirement with QFs of nondiscriminatory access to  
7 sufficiently competitive market structures.

8           Instead of gutting key aspects of PURPA critical  
9 to QF encouragement and financing, I believe the Commission  
10 should have permitted utilities operating outside of RTOs to  
11 get out from under the must-purchase requirement if they  
12 acquire all of their energy and capacity pursuant to  
13 sufficiently competitive auction. But, unfortunately, the  
14 Commission chose not to pursue this type of reform even  
15 though it fit the PURPA statutory construct.

16           Now, if you don't mind, I do have one question  
17 for staff. Given all the changes included in the final  
18 rule, particularly changes associated with the ability to  
19 protest self-certification and adjusting to the one-mile  
20 rule, many parties commenting on the NOPR expressed concern  
21 about how these changes may apply to existing QF sites since  
22 they must recertify.

23           Can you explain how the final rule addresses this  
24 concern?

25           MR. KIRSTEIN: Sure. This draft final rule

1 allows protests to recertifications that make substantive  
2 changes, and that are filed after the effective date of the  
3 final rule. Those substantive changes to recertifications  
4 entail, for example, a change in electrical generating  
5 equipment that increases power production capacity by the  
6 greater of 1 megawatt or 5 percent of the previously  
7 certified capacity of the QF, or a change in ownership in  
8 which an owner increases its equity interest by at least 10  
9 percent from the equity interests previously reported.

10           Changes that are administrative only, for  
11 example, would not be subject to a protest under this draft  
12 final rule.

13           The draft final rule also permits rooftop solar  
14 PV QF developers an alternate option to file their  
15 recertification application. Due to the unique nature of  
16 rooftop solar PV QF developers, the draft final rule finds  
17 the recertification requirement for rooftop PV QF developers  
18 to be unduly burdensome. This draft final rule therefore  
19 allows a rooftop solar PV developer to recertify on a  
20 quarterly basis, rather than requiring it to file for  
21 recertification each time it adds or removes a rooftop  
22 facility.

23           The draft final rule also allows that if in any  
24 quarter a rooftop solar PV QF developer either has no  
25 changes or only has changes of power production capacity of

1 1 megawatt or less, then it would not be required to  
2 recertify until it has accumulated changes greater than 1  
3 megawatt total over the quarter since its last filing.

4 COMMISSIONER GLICK: Thanks. I appreciate that.  
5 Thank you very much.

6 Thank you, Mr. Chairman.

7 CHAIRMAN CHATTERJEE: Thank you. Commissioner  
8 McNamee?

9 COMMISSIONER McNAMEE: Thank you, Mr. Chairman.  
10 And like my colleagues, I first want to thank the staff for  
11 all of the hard work that they did in -- both through the  
12 NOPR and through all the comments that were filed in the  
13 record after the NOPR, and in producing the final rule that  
14 we're voting on today and enacting.

15 It is sometimes hard to understand for parties  
16 that aren't involved and for the general public just how  
17 much work has to go in to ensure that we are paying  
18 attention to the comments that are made by all the parties  
19 with their differing points of views, with their insights,  
20 and to make sure that we are responding to them and have an  
21 order that is properly informed and that helps us as  
22 Commissioners make a reasoned decision.

23 So I cannot thank everybody involved enough for  
24 that hard work.

25 I do support the new final rules that we're

1 issuing in PURPA. With the modernization of these rules, we  
2 continue to meet our statutory duty to encourage the  
3 development of alternative generation facilities and  
4 cogeneration facilities. But we will also be ensuring that  
5 we meet our other statutory duty, which is to protect  
6 customers from paying excessive rates by ensuring that they  
7 are not paying more under PURPA contracts than they would if  
8 they had continued their power from the utility or the  
9 market.

10 Modernizing PURPA cannot be controversial or  
11 surprising. Not only did Congress direct that the  
12 commission revise its PURPA regulations from time to time,  
13 and it's been 40 years since the Commission first adopted  
14 its PURPA regulation and must has changed in how electricity  
15 is generated and priced.

16 With the new rules, the Commission provides the  
17 states with more options for setting energy rates paid to  
18 QFs. We do not dictate any particular approach. In fact,  
19 under this rule states still have the option of allowing QF  
20 to have fixed energy rates. But now states will also have  
21 the flexibility to set energy rates for the QFs under a  
22 variety of methods, and to allow such rates to fluctuate to  
23 better match the actual cost of power at the time the  
24 energy is delivered.

25 These changes were necessary because the evidence

1 demonstrated that under the old PURPA regime it was likely  
2 that customers were overpaying for the power they receive  
3 from QFs, and in contradiction of the requirements of the  
4 PURPA statute.

5 Evidence was provided that certain customers have  
6 been overpaying for electricity by as much as \$2.2 billion  
7 to \$3.9 billion. To address this problem, some states were  
8 shortening the duration of PURPA contracts for QFs, which in  
9 turn may have made it even harder to get financing for those  
10 QFs.

11 So in these revisions the Commission still  
12 requires that capacity costs be set at the time of the LEO  
13 or contract is made that allows for energy rates to  
14 fluctuate by being tied to markets if the state so  
15 determines.

16 The passage of PURPA was a very important first  
17 step by Congress in promoting competition in electric  
18 markets, and there has been much success. And the  
19 Commission has played an important role in implementing  
20 PURPA. With this final rule we are fulfilling our statutory  
21 obligations to continue that encouragement of the  
22 development of QFs and to protect customers from paying  
23 excessive rates.

24 And with that, I have no questions for staff.  
25 Thank you.



1           CHAIRMAN CHATTERJEE: Thank you, Commissioner  
2     McNamee. Commissioner Danly?

3           COMMISSIONER DANLY: Yes. I don't have any  
4     questions, but I just want to say one thing in response to  
5     Commissioner Glick, his comments. It is inapposite to  
6     compare QFs and utilities with regard to guaranteed cost  
7     recovery.

8           The two types of facilities are in two completely  
9     different legal and recovery mechanisms. This, if I'm not  
10    mistaken -- it was explicitly part of PURPA. Congress  
11    contemplated it, even noting in the conference report that  
12    QFs are not guaranteed cost recovery, and there is a certain  
13    amount of risk that is assumed.

14           I just think that when we are talking about the  
15    history of how we got here, it is necessary to recognize  
16    that in pursuing its policy objectives Congress created a  
17    category in the qualified facility that is simply different  
18    in fundamental ways from the traditional mechanisms by which  
19    we have regulated utilities both federally and at the state  
20    level.

21           That is the only comment I have. Thank you.

22           CHAIRMAN CHATTERJEE: Thank you, Commissioner  
23     Danly.

24           Madam Secretary?

25           SECRETARY BOSE: Thank you, Mr. Chairman. We are

1 now ready to take a vote on this item. The vote begins with  
2 Commissioner Danly.

3 COMMISSIONER DANLY: I vote aye.

4 SECRETARY BOSE: Commissioner McNamee.

5 COMMISSIONER McNAMEE: I vote aye.

6 SECRETARY BOSE: Commissioner Glick.

7 COMMISSIONER GLICK: I vote no, in part.

8 SECRETARY BOSE: And Chairman Chatterjee.

9 CHAIRMAN CHATTERJEE: I vote aye.

10 SECRETARY BOSE: Thank you. The next  
11 presentation and discussion item for this morning is Item  
12 H-1, a Draft Notice of Proposed Rulemaking Concerning the  
13 Commission's Dam Safety Program. There will be a  
14 presentation by Doug Boyer from the Office of Energy  
15 Projects.

16 MR. BOYER: Good morning, Mr. Chairman and  
17 Commissioners. Today the Commission is proposing important  
18 changes to its dam safety regulations which are located at  
19 18 CFR Part 12.

20 While staff and the Commission's Division of Dam  
21 Safety and Inspections has periodically updated its  
22 engineering guidelines to reflect evolving dam safety  
23 practices, these regulations provide one of the cornerstones  
24 of the Commission's Dam Safety Program, that of the  
25 independent consultant inspection program, commonly

1 referred to as the Part 12D program.

2 First I will provide some background to explain  
3 the dam safety incident and the resulting review that  
4 precipitated the changes to the Commission's Dam Safety  
5 Program that we are proposing in today's Notice of Proposed  
6 Rulemaking.

7 In February 2017, a major incident at the  
8 Oroville Dam Spillways resulted in extensive damage to its  
9 primary spillway, and the first activation of its auxiliary  
10 spillway, the evacuation of approximately 180,000 people,  
11 and an extensive repair project in both scope and speed to  
12 ensure the safety of the highest dam in the United States.

13 Within days of this incident, the Commission  
14 ordered the owner of Oroville Dam, the California Department  
15 of Water Resources, to convene an independent forensic team  
16 to evaluate what factors contributed to the Oroville  
17 spillway incident.

18 At that same time, the Commission convened an  
19 After-Action Review Panel to scrutinize the incident, and  
20 the Commission's own Dam Safety Program, and to suggest  
21 potential changes to our program that might have improved  
22 our ability to detect the underlying problems at Oroville in  
23 advance.

24 The reports on both of these initiatives, which  
25 are available through the Commission's website, offered

1 recommendations to improve the Commission's Dam Safety  
2 Program policies and practices.

3           Shortly after the reports were published, the  
4 Division of Dam Safety and Inspections convened an internal  
5 team to review the findings and conclusions of these  
6 reports, other previous incidents, and the practices of  
7 other agencies with dam safety responsibilities, including  
8 the Army Corps of Engineers and Bureau of Reclamation.

9           The team was tasked with proposing any specific  
10 changes that they thought were necessary and appropriate to  
11 address the recommendations and improve our Dam Safety  
12 Program. The team has done a tremendous amount of work to  
13 develop these proposed changes to our Part 12D program, and  
14 continues to work to develop training for our staff and  
15 regulated industry.

16           We recognize the substantial hardship and  
17 economic damage caused by the recent failures of Eatonville  
18 and Sanford Dams in Michigan. However, the changes we are  
19 proposing today have been in development for nearly two  
20 years as a direct response to the Oroville spillway  
21 incident, and were substantially complete before the  
22 Michigan dam failures.

23           A forensic investigation is currently underway to  
24 understand the root causes of the Michigan dam failures.  
25 Commission staff will review any findings and

1 recommendations when that investigation is complete.

2           Now I will briefly outline the proposed changes  
3 to the Commission's Dam Safety Program that are described  
4 further in today's Notice of Proposed Rulemaking. I note  
5 that these changes will not affect Commission staff's safety  
6 inspections of all regulated projects.

7           First, we propose to adopt a two-tier independent  
8 consultant inspection cycle. Projects would still be  
9 subject to a Part 12D inspection every five years, but the  
10 required scope of the inspection would alternate between a  
11 periodic inspection and a comprehensive assessment. A  
12 periodic inspection would focus on the performance of the  
13 project over the previous five years, and would include a  
14 field inspection, a review of project operations, an  
15 indepth review of monitoring data trends and behavior, and  
16 an evaluation of whether any potential failure modes are  
17 occurring.           A comprehensive assessment builds  
18 on a periodic inspection, with a deep dive into every aspect  
19 of a project, including a detailed review of the design  
20 basis, analysis of record, and construction history, an  
21 evaluation of spillway adequacy, a potential failure mode  
22 analysis, and a risk analysis.

23           Second, we propose to revise how we review and  
24 evaluate who performs Part 12D inspections. Instead of  
25 focusing on the individual independent consultant, we would

1 focus on the qualifications of the independent consultant  
2 team. Our goal is to ensure that every project is inspected  
3 by an independent consultant, or an independent consultant  
4 team with sufficient experience and expertise for each  
5 project-specific site conditions.

6 Third, we propose to codify an existing  
7 requirement that owners of high and significant hazard dams  
8 prepare and maintain an owner's dam safety program which  
9 formalizes a licensee's policies and procedures related to  
10 organizational oversight and responsibility, internal  
11 communication, resource allocation, and continuous  
12 improvement. This requirement established in 2012, has  
13 succeeded in raising dam safety awareness by licensees and  
14 exemptees across the country. A proactive, conscientious  
15 licensee is the first line of defense against potential dam  
16 safety issues.

17 And finally, concurrent with the issuance of this  
18 Notice of Proposed Rulemaking, the Commission is issuing for  
19 public comment four draft chapters of engineering guidelines  
20 that relate to the proposed changes to the Commission's  
21 regulations.

22 We believe that the proposed changes to our dam  
23 safety regulations are necessary and, once implemented along  
24 with the new chapters of the engineering guidelines, will  
25 significantly improve our dam safety program. We will never

1 be able to prevent every dam safety incident and failure,  
2 but these changes will increase the likelihood that we can  
3 identify, design, and operational deficiencies before they  
4 progress to major incidents or failures.

5 We appreciate the Chairman's and the  
6 Commissioners' consideration of this important revision to  
7 the Commission's Dam Safety Policies and Procedures.

8 This concludes our presentation, and we are happy  
9 to answer any questions you may have.

10 CHAIRMAN CHATTERJEE: Thank you very much for  
11 that presentation. I truly appreciate staff's hard work.  
12 Dam safety is a top priority of mine, and I am so pleased  
13 the Commission is proposing important changes to its Dam  
14 Safety regulations. I have no further questions and will  
15 turn it over to my colleagues, beginning with Commissioner  
16 Glick.

17 COMMISSIONER GLICK: Thank you. And thanks to  
18 the staff for the presentation. You know, this is actually  
19 a very important issue. Ensuring the safety of dams over  
20 which the Commission has jurisdiction is a very important  
21 responsibility for the Commission.

22 As we were witnesses with regard to the Oroville  
23 Dam incident in 2017, and more recently at the two Michigan  
24 dams, dam failures can have severe impacts, risking lives  
25 and property, which has been mentioned.

1           I look forward to reviewing the comments that are  
2 submitted in response to this NOPR which was developed in  
3 response to what we learned in the aftermath of Oroville.  
4 But I am also interested to review the results of the  
5 analysis that is currently underway as to what went wrong in  
6 Michigan.

7           It is quite possible that we will need to further  
8 strengthen the Commission's Dam Safety Regulations after we  
9 get that report. But I think it is also important that  
10 Congress give this issue some attention as well. It very  
11 well could be that the Commission doesn't have sufficient  
12 authority to adequately protect the public, especially when  
13 the project licensee is reluctant to make the necessary  
14 investments in the facility.

15           According to a recent investigation conducted by  
16 the Associated Press, there are more than 1,600 high-hazard  
17 dams that are rated as being in poor or unsatisfactory  
18 condition across the country. High-hazard dams, as I  
19 understand it, those dams if they fail can have significant  
20 impacts that will cause loss of life and loss of property.

21           I am not sure exactly how many of those dams are  
22 subject to FERC oversight, but I am confident some of them  
23 are. We have an important responsibility to protect the  
24 public, and we need to be sure both that our regulations are  
25 sufficient and that we have the authority necessary to



1 protect the public.

2 So thank you, Mr. Chairman.

3 CHAIRMAN CHATTERJEE: Thank you, Commissioner  
4 Glick. Commissioner McNamee?

5 COMMISSIONER McNAMEE: Thank you, Mr. Chairman. I  
6 also want to thank the staff for the work that they have  
7 done in proposing this Notice of Proposed Rulemaking for Dam  
8 Safety Regulations. I think it goes without saying that  
9 each of the Commissioners believes that this is a very  
10 important issue to ensure that we're providing appropriate  
11 oversight in ensuring dam safety.

12 And the work that has been done so far, and I am  
13 sure the work that will have to be done in the future, is  
14 going to make important differences. And I look forward to  
15 seeing what the reaction is in the comments that will be  
16 provided on this NOPR.

17 I do have a couple of questions, however, I'd  
18 like to ask. First of all, could you briefly explain what  
19 proposed two-tier independent consultant inspection cycle  
20 will improve dam safety over the current process?

21 MR. BOYER: Yeah, sure. The two-tier framework  
22 provides for an alternating cycle of periodic inspections  
23 and comprehensive assessments. So each are performed on an  
24 alternating five-year cycle. The current program that we  
25 have is one level of detail performed every five years. The

1 proposed comprehensive assessments provide for a much deeper  
2 dive into the project design, the analysis of record, and  
3 performance by a more technically comprehensive team.

4           This is an increased effort compared to what is  
5 currently done in our program. Whereas the periodic  
6 inspection excludes the review of the design and the  
7 analysis work and focuses more on the inspection and  
8 operation and maintenance. So this part is actually a  
9 decrease in the effort as compared to current practice. So  
10 the comprehensive assessment addresses really the  
11 recommendations that were provided in the Oroville  
12 Independent Forensic Team Report. It really improves our  
13 ability to detect potential dam safety issues and concerns  
14 as compared to current practice.

15           This alternating cycle is also, and the  
16 associated scope with it, is similar to the dam safety  
17 reviews performed by district federal agencies like the  
18 Bureau of Reclamation and the Army Corps of Engineers and  
19 their dam safety programs.

20           COMMISSIONER McNAMEE: That's very helpful. I  
21 think we will see what the reaction is to those comments,  
22 but I think it's very helpful to have that insight in what  
23 we're proposing that's more comprehensive and a more  
24 efficient way to make sure that we're promoting dam safety.

25           I also would like to see if you can provide some

1 examples of how the owner's dam safety program has succeeded  
2 in raising dam safety awareness by licensees, but also how  
3 the proposed revisions will help improve this.

4 MR. BOYER: Yeah, you know, dam safety is  
5 ultimately the owner's responsibility, as well as their  
6 liability. And FERC performed inspections, and our dam  
7 safety program is not a substitute for an owner's dam safety  
8 program. So the owner's dam safety program guidance that  
9 we've provided has been in place for almost 10 years no. It  
10 includes two really important documents in that program, the  
11 first of which is what we refer to as an "owner's dam safety  
12 program document," and that document outlines an owner's  
13 responsibilities for communications, training, succession,  
14 et cetera.

15 And prior to requiring this document, many dam  
16 owners had not considered many of these topics, or that  
17 these topics really weren't formally documented within their  
18 program. So that this has provided an opportunity to shine  
19 a light on those parts of their existing program that may  
20 need improvement, and we've seen this on many, many  
21 occasions where items have been brought to the attention  
22 through this documentation, through this requirement that  
23 has helped improve the visibility of the dam safety program  
24 not only internally in the issues that needed to be  
25 addressed, but also to their senior management and corporate

1 leaders.

2           The second document that's really vital and  
3 important is an Owner's Dam Safety Audit document. And this  
4 is an external audit process that the guidelines provide for  
5 independent external review of an owner's dam safety program  
6 from others that are experienced in performing these types  
7 of audits.

8           And it could really help owners with potential  
9 blind spots that they haven't previously identified in their  
10 program, or that, you know, should be addressed and helps an  
11 owner to kind of benchmark themselves against other similar  
12 dam owners.

13           And again, we've seen many examples of how this  
14 has helped owners obtain funding internally, where they  
15 might have been struggling to generate the effort and the  
16 need, and the argument, the justification for their  
17 corporate leadership, and these documents have helped  
18 support that kind of assistance.

19           So to date, the ODSP program has been a best  
20 practice through our guidance documents. And because of  
21 this value and the experience that we've realized by this  
22 program, we really believe it should be elevated to this  
23 requirement through regulation.

24           COMMISSIONER McNAMEE: Well that's very helpful,  
25 and I appreciate getting the background of what's being done

1 and why it's being proposed in the NOPR, and I will be  
2 interested to see the comments on it.

3           Once again, I want to thank you and the team for  
4 all the hard work in doing this, but also the hard work that  
5 you all and the members at FERC that are scattered  
6 throughout the country that deal with dam safety, for the  
7 work that they do. And I look forward to hopefully this  
8 moving forward.

9           So thank you very much, Mr. Chairman.

10           MR. BOYER: Thank you.

11           CHAIRMAN CHATTERJEE: Thank you, Commissioner  
12 McNamee. Commissioner Danly.

13           COMMISSIONER DANLY: No, I don't have any  
14 questions. I just want to reiterate how important this is,  
15 and encourage everybody's participation. A subject as  
16 critical as this ends up with the best rules when everybody  
17 who's affected and has an interest and knowledge of the  
18 subject participates fully.

19           Thank you.

20           CHAIRMAN CHATTERJEE: Thank you, Commissioner  
21 Danly. Madam Secretary.

22           SECRETARY BOSE: Thank you, Mr. Chairman. We are  
23 now ready to take a vote on this item, and the vote begins  
24 with Commissioner Danly.

25           COMMISSIONER DANLY: I vote aye.

1 SECRETARY BOSE: Commissioner McNamee.

2 COMMISSIONER McNAMEE: I vote aye.

3 SECRETARY BOSE: Commissioner Glick.

4 COMMISSIONER GLICK: Aye.

5 SECRETARY BOSE: And Chairman Chatterjee.

6 CHAIRMAN CHATTERJEE: I vote aye.

7 SECRETARY BOSE: Thank you. Mr. Chairman, there  
8 are no more discussion and presentation items on this  
9 morning's agenda.

10 CHAIRMAN CHATTERJEE: Thank you, Madam Secretary.

11

12 Before we conclude, I would like to recognize a  
13 few important people here at the Commission. But before I  
14 get to that, I do want to reflect on some additional sad  
15 news. And that is, the recent passing of former FERC  
16 Commissioner Charles Stallone. Those who served with him  
17 note that he was a brilliant economist and was devoted to  
18 competitive markets, and worked to bring open access to gas  
19 and the electric side, and was a true gentleman and scholar.  
20 He recently passed away on Sunday, June 28th. If the folks  
21 will bear with me, I would like to briefly read from his  
22 obituary.

23 "Charles Gary Stallone, 90, of Cape Girardeau,  
24 died Sunday, June 28th. Charles was born in Cape Girardeau  
25 on October 26th, 1929, the son of Douglas Charles Stallone

1 and Lucy Idell Rowe Stallone. He lived in Red Star with his  
2 maternal grandparents. He had fond memories of growing up  
3 with his cousins and numerous aunts and uncles. After  
4 graduating Cape Central High School, he got a job as a  
5 tugboat deck hand. He worked on the Alton Zepher and Emory  
6 T pushing barges up and down the Mississippi River. He  
7 would go on to join the Navy in 1949 where he trained as a  
8 radio operator and served aboard the USS Otterstetter. He  
9 married Marie Hitt at the United Methodist Parsonage in  
10 Benton in 1952. He and Marie moved to Ohio in 1954 where he  
11 worked for TWA Airlines as a radio operator while going to  
12 college. He received a Bachelor of Arts from Butler  
13 University in 1959, a Master of Science from Purdue  
14 University in 1963, and a Ph.D. from Purdue in 1966. He was  
15 an Associate Professor of Economics at Southern Illinois  
16 University until 1977, when he was appointed to the Illinois  
17 Commerce Commission. He served in that capacity until 1984  
18 when he was appointed by President Ronald Reagan to serve as  
19 a Commissioner on the Federal Regulatory Commission. In  
20 1991, he joined the Institute for Public Utilities at  
21 Michigan State University, serving as its Director. Charles  
22 and Marie chose to return to Cape Girardeau in 1994 to live  
23 closer to family. He continued to consult on energy  
24 regulatory matters, traveling to all parts of the world. He  
25 also served on the Board of Directors for New Jersey

1 Resources Corporation, ISO New England, and the Georgia  
2 Transmission Corporation. He and Marie enjoyed their final  
3 years in Cape Girardeau. Even to the end, his favorite  
4 outing was to drive along the Mississippi River hoping to  
5 see a towboat pushing barges."

6 And so sorry to deliver the sad news of the  
7 passing of two former FERC Commissioners, but I am glad that  
8 we have the opportunity to briefly recognize their life and  
9 service here today.

10 Now turning to folks at the Commission, at the  
11 end of July Dan Nowak, the Deputy Director of the Office of  
12 Energy Market Regulation, East Division, is retiring after  
13 42 years of public service.

14 Dan began his career at FERC in November 1978 in  
15 a division created to implement the Natural Gas Policy Act.  
16 He subsequently spent 10 years in the Office of  
17 Administrative Litigation as an expert witness for the  
18 Commission, and then joined the Office of Markets, Tariffs,  
19 and Rates.

20 Since 2000, Dan has been a Group Manager and a  
21 Deputy Director in OEMR-East. Dan is widely recognized as  
22 an expert on open access transmission, cost of service  
23 ratemaking, and return on equity. His deep expertise, and  
24 more notably his kindness and humor, will be sorely missed.

25 Also, at the end of July Joseph Cholka, an



1 economist in OEMR, will retire after 43 years of public  
2 service.

3 Joe began his federal career in 1977 as an  
4 economist at the Federal Trade Commission, and joined FERC's  
5 Office of Economic Policy in 1988. Joe has held positions  
6 throughout the Commission, including the Office of the  
7 Executive Director, the Office of Markets, Tariffs, and  
8 Rates; --

9 (Pause. Sound apparently out.)

10 SECRETARY BOSE: This is the Secretary. We will  
11 hold for the Chairman's return onto the line.

12 (Pause for 1:47 minutes.)

13 CHAIRMAN CHATTERJEE: Hey, I'm back on? Hello?

14 SECRETARY BOSE: Yes, thank you, Mr. Chairman.  
15 We've been holding for you to return to the line. Thank  
16 you.

17 CHAIRMAN CHATTERJEE: Okay, can I resume my  
18 remarks? Am I all set?

19 SECRETARY BOSE: Yes, Mr. Chairman.

20 CHAIRMAN CHATTERJEE: Perfect. Apologies for  
21 that. I accidently disconnected myself. I was mentioning  
22 that Joe brought his sharp mind and quick wit to landmark  
23 developments in the Commission's work, including the  
24 modernization of FERC's Market-Based Rate Program over the  
25 past five years.

1 Joe was always generous with his time and  
2 expertise, serving as a valued coach and mentor to countless  
3 Commission staff over the years.

4 Please join me in congratulating these public  
5 servants for their steadfast leadership and service to their  
6 country and the Commission over the last four decades.

7 Finally, at the end of this month, Anna Cochrane,  
8 the Director of the Office of Energy Markets and Regulation,  
9 will retire after more than 40 years in the energy industry,  
10 including almost 30 years at the Commission.

11 As a nod to Anna's attention to detail, I'll note  
12 that she has actually served here 29 years, 11 months, and  
13 18 days. Anna began her career at FERC in 1979 as a natural  
14 gas pipeline certificate analyst, and then as a natural gas  
15 rate analyst. Anna served as an advisor to Commissioner  
16 Chuck Treyban, breaking ground as the first ever technical  
17 advisor to a Commissioner. Previously, all advisors had  
18 been attorneys.

19 Anna went to the private sector in 1992 to advise  
20 natural gas pipeline companies, including as Vice President  
21 of Federal Government Relations for KN Energy. Anna's  
22 expertise expanded to include electric matters when she  
23 joined the Washington office of CMS Energy and Consumers  
24 Energy.

25 Anna returned to FERC in 2002 as a Group Manager

1 in OEMR's predecessor the Office of Market Tariffs, and  
2 Rates. Anna ascended through the agency's leadership,  
3 serving as the Director of the East Division, the Deputy  
4 Director of the Office of Enforcement; the Deputy Director  
5 of OEMR; and, since July 2017, the Director of OEMR.

6           Throughout her career, Anna has been involved in  
7 many sea changes in the energy industry. The restructuring  
8 of the natural gas industry through Order 636, the push to  
9 reform RTOs, the creation of Forward Capacity Markets in  
10 PJM, and ISO New England; the implementation of the  
11 Commission's new enforcement authority under EPAC-05; and  
12 the development and implementation of Order 1000.

13           Within OEMR, she led the effort to develop the  
14 stand-alone Pipeline Rates Division in 2009, ensuring the  
15 centralization and continuation of the Commission's natural  
16 gas rate expertise.

17           A self-proclaimed rate geek, Anna's knowledge of  
18 the natural gas pipeline industry and cost-of-service  
19 ratemaking has been invaluable to the Commission throughout  
20 her three decades of service. Dedication, integrity, calm  
21 embrace have always been the hallmarks of her leadership.

22           Anna retires to spend more time with her husband,  
23 Ed, granddaughter Dahlia, and horses Ben and Kid, and to  
24 work on her already formidable golf game.

25           I want to express my deep and personal thanks to

1 Anna for her expertise and leadership on so many facets of  
2 the work we do. I am pleased to honor Anna today with the  
3 Chairman's Executive Leadership Award, which we hope to  
4 present to her in person when we are back from full  
5 telework.

6 Anna has been a valued mentor and teacher to many  
7 here in the building. Because of her reliable advice and  
8 sound judgment, multiple Chairmen, Commissioners, and  
9 Commission senior staff have sought her input when making  
10 difficult decisions. I most certainly have.

11 That is a testament to the type of exceptional  
12 public servant Anna has been over her 30 years at the  
13 Commission. Please join me in congratulating Anna Cochrane.

14 With Anna's retirement, I am pleased to announce  
15 that I have named Jette Gebhart as OEMR's new Director.  
16 Jette came to FERC in 2011 as an attorney in the Office of  
17 Enforcement. She served as a legal advisor to Commissioner  
18 Cheryl LaFleur, and then as the agency's Co-Chief of Staff.

19 Jette joined OEMR in 2015 as a senior legal  
20 advisor under Director Jamie Simler, and became Acting  
21 Deputy Director under Anna Cochrane in 2017. Jette was  
22 appointed OEMR Deputy Director by Chairman McIntyre in 2018.  
23 As Co-Chief of Staff, and a member of senior staff, Jette  
24 has advised the Commission on a variety of key policy issues  
25 and industry developments, including generator

1 interconnections, energy storage, and distributed energy  
2 resources, and market power and mergers.

3 She has worked on landmark Commission orders  
4 related to energy market manipulation, the expansion of MISO  
5 into the south, the creation of the Western Energy Imbalance  
6 Market, and the 2017 Tax Cuts and Jobs Act.

7 Jette led efforts to reduce the Commission's case  
8 backlog, and in organizing staff actions during the  
9 no-quorum period and the emergence in the loss of quorum.

10 She also served as the Commission's regulatory  
11 reform officer, leading a comprehensive effort to review the  
12 Commission's regulations and processes in response to  
13 various Executive Orders.

14 Before joining FERC, Jette was an energy  
15 regulatory attorney in private practice, and before that a  
16 legislative assistant in the House of Representatives. She  
17 earned her law degree from the Georgetown University Law  
18 Center, and her undergraduate degree from Wellesley College,  
19 summa cum laude.

20 Her sound advice and leadership has been an asset  
21 to me personally, and to the Commission, and I look forward  
22 to continuing to work with her as she takes on this new  
23 role.

24 So before we conclude, I would like to turn it  
25 over to my colleagues for any closing comments they may

1 have, beginning with Commissioner Glick.

2           COMMISSIONER GLICK: Well thanks, Mr. Chairman.  
3 I first want to congratulate Anna on her retirement. She  
4 has been a leader, as you pointed out, at the Commission for  
5 many years and has taken on many different roles. Through  
6 all these positions, she has developed the expertise and  
7 perspective that has allowed all of us to benefit from her  
8 thoughtful approach to some of the most complicated topics  
9 we have to deal with.

10           Since my time at the Commission, Anna has served  
11 as Director of OEMR over the last three years has been  
12 exemplary and I have enjoyed working with her.

13           Anna, thank you for your public service, for your  
14 leadership with this Commission, and I hope you enjoy your  
15 retirement.

16           At the same time, I also want to congratulate  
17 Jette on being named the new Director of OEMR. I have  
18 enjoyed working both with Anna and Jette over the last  
19 several years, and two words come to mind when you think of  
20 both of them, and that's the word "consummate professional."  
21 Their intimate knowledge of these very difficult markets and  
22 willingness to walk me, and I'm sure the rest of my  
23 colleagues, through it all was very much appreciated. So  
24 congratulations to you both.

25           At the same time, I also want to congratulate Dan

1 and Joseph for their service, over 40 years of service in  
2 the government, which is quite an achievement. Thanks for  
3 all that they have done, that both of you have done.

4           And finally, Mr. Chairman, I just want to join  
5 you in sending out my condolences to the families of former  
6 Commissioners Hall and Stallone. I remember Commissioner  
7 Stallone. When I first graduated law school, I used to work  
8 on some FERC rate cases -- that was before market-based  
9 rates -- and they were extremely boring rate cases, but I  
10 remember Commission Stallone as being extremely bright and  
11 doing a stellar job at that time at the Commission. So I  
12 want to send out my thoughts to his family and also  
13 Commissioner Hall's family at this time.

14           Thank you, Mr. Chairman.

15           CHAIRMAN CHATTERJEE: Thank you. Commissioner  
16 McNamee?

17           COMMISSIONER McNAMEE: Thank you, Mr. Chairman.  
18 Like my colleagues, I want to offer my condolences to  
19 Commissioner Stallone's family, as well as we mentioned  
20 Commissioner Hall. It is always a sad passing of people  
21 which this agency has been built on pass away.

22           I also want to welcome Jennifer Gordon. Even  
23 though it's a virtual welcome and a virtual 11th floor, but  
24 I think you will greatly enjoy the work. And  
25 congratulations on joining Commissioner Glick.

1           I also want to mention Anna. Like my colleagues,  
2 Anna has just been a fantastic resource. She has always  
3 been professional, and I feel very fortunate that during my  
4 time at the Commission I've gotten to work with her. She is  
5 going into retirement, and I wish her the best. The  
6 Commission is going to miss you.

7           At the same time, we are very happy to have Jette  
8 in her new role. She and Anna have been working together,  
9 and I am confident that Jette will continue to provide  
10 excellent advice, as she already has, and I look forward to  
11 working with her in her new role.

12           And like my comrades, I need to acknowledge that  
13 Dan Nowak and Joseph Cholka are going to be retiring. It's  
14 really -- I've said this every time that we've had  
15 retirements of this nature, but it's because I mean it --  
16 the fact that people stay at FERC for 40 years or more is  
17 really incredible. And it's incredible not because of how  
18 much it says about FERC and what a great place it is to  
19 work, but it also says something wonderful about these  
20 people and their dedication to public service. And the  
21 American people are very lucky to have people like them who  
22 are willing to make that service their life's work. And I  
23 thank you for your service, and I hope that you're able to  
24 enjoy the retirement.

25           And with that, thank you, Mr. Chairman.



1                   CHAIRMAN CHATTERJEE: Commissioner Danly?

2                   COMMISSIONER DANLY: I have nothing but to offer  
3 my heartfelt congratulations to Anna. Of course, unlike the  
4 other members of the Commission, I was down in staff with  
5 her for two-and-a-half years, and it was a pleasure getting  
6 to know her. Congratulations, and enjoy a well-earned  
7 retirement.

8                   That's all.

9                   CHAIRMAN CHATTERJEE: Thank you. Thank you,  
10 Madam Secretary. And with that, this meeting is adjourned.

11                   (Whereupon, at 11:58 a.m., Thursday, July 16,  
12 2020, the open meeting of the Commissioners of the Federal  
13 Energy Regulatory Commission was adjourned.)

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## 1 CERTIFICATE OF OFFICIAL REPORTER

2

3 This is to certify that the attached proceeding

4 before the FEDERAL ENERGY REGULATORY COMMISSION in the

5 Matter of:

6 Name of Proceeding:

7 1069th Commission Meeting

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14 Docket No.:

15 Place: Washington, DC

16 Date: Thursday, July 16, 2020

17 were held as herein appears, and that this is the original

18 transcript thereof for the file of the Federal Energy

19 Regulatory Commission, and is a full correct transcription

20 of the proceedings.

21

22

23 Larry Flowers

24 Official Reporter

25