FY 2009 CONGRESSIONAL PERFORMANCE BUDGET REQUEST

FEDERAL ENERGY REGULATORY COMMISSION
FEBRUARY 2008

Joseph T. Kelliher
Chairman

Federal Energy Regulatory Commission

Strategic Plan FY 2006 – FY 2011

Mission

Regulate and oversee energy industries in the economic, environmental, and safety interests of the American public.

Vision

Abundant, reliable energy in a fair competitive market.

Guiding Principles that Strengthen the Commission's Overall Performance

To fulfill its Mission, the Federal Energy Regulatory Commission commits to…

Organizational Excellence

Use resources efficiently and effectively to achieve its strategic priorities.

Due Process & Transparency

Complete regulatory proceedings in an open and fair manner, consistent with established regulations.

Regulatory Certainty

Provide regulatory certainty through consistent Commission approaches and actions.

Stakeholder Involvement

Ensure that interested parties are informed and provided an appropriate opportunity to participate in Commission proceedings.

Timeliness

Act on regulatory matters in an expeditious manner.

Goal 1: Energy Infrastructure
Promote the Development of a Strong Energy Infrastructure

Objective A: Stimulate Appropriate Infrastructure Development

- Resolve regulatory and other challenges to needed development
- Encourage investment and effect timely cost recovery

Objective B: Maintain a Reliable and Safe Infrastructure

- Assure reliability of interstate transmission grid
- Protect safety at LNG and hydropower facilities
- Incorporate environmental considerations into Commission decisions

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Support Competitive Markets

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- Employ best practices in market rules
- Reduce barriers to trade between markets and among regions

Objective B: Prevent Accumulation and Exercise of Market Power

- Assure proposed mergers and acquisitions are in the public interest
- Address market power in jurisdictional wholesale markets

Goal 3: Enforcement
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- Identify and remedy problems with structure and operations in energy markets

Objective B: Provide Firm but Fair Enforcement

- Establish clear and fair processes
- Conduct investigations promptly and impose penalties where appropriate
- Encourage self-policing and -reporting of violations

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Overview of the Document

In accordance with the Office of Management and Budget (OMB) guidance, the Commission's Strategic Plan identifies and aligns its strategic objectives and related activities with its three program goals. The first three chapters of this budget request contain a discussion of the objectives and projected performance measurements to meet each of these three goals. Also included in each of the first three chapters is a resource allocation table for each objective. Our performance plan for fiscal year (FY) 2009 is presented as an integral part of these chapters. Chapter 4 details other Commission initiatives that support all of our goals and objectives. A series of appendices provide further details.

A guiding principles section in the Strategic Plan highlights the five principles that are underlying values impacting the Commission's work on a daily basis. These principles are described in the Introduction section of this budget request.

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INTRODUCTION

Budget Request: $273,400,000 and 1,465 FTEs

The Federal Energy Regulatory Commission (FERC or the Commission) requests funding of $273,400,000 and 1,465 full-time equivalents (FTE) for FY 2009. The increase of 65 FTEs in FY 2009 will support the Commission's reliability and enforcement efforts as well as its continued implementation of other authorities resulting from the Energy Policy Act of 2005 (EPAct 2005).

Resources by Program

(Dollars in Thousands)

Program	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request	% (+/-) FY 2008 to FY 2009
Energy Infrastructure Funding FTEs	181,750 991	201,976 1,075	211,782 1,126	4.9% 4.7%
Competitive Markets Funding FTEs	31,994 159	26,881 151	26,973 150	0.3% -0.7%
Enforcement Funding FTEs	11,177 153	31,568 174	34,645 189	9.7% 8.6%
Total Budget Funding FTEs	**$224,921 1,303**	**$260,425 1,400**	**$273,400 1,465**	**5.0% 4.6%**

Full Cost Recovery

The Commission recovers the full cost of its operations through annual charges and filing fees assessed on the industries it regulates as authorized by the Federal Power Act (FPA) and the Omnibus Budget Reconciliation Act of 1986. The Commission deposits this revenue into the Treasury as a direct offset to its appropriation, resulting in no net appropriation.

Full Cost Recovery	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Appropriation	$221,902	$260,425	$273,400
Offsetting Collections	($221,902)	($260,425)	($273,400)
Net Appropriation	**$0**	**$0**	**$0**

(Dollars in Thousands)

Overview of the Commission

The Commission is an independent regulatory agency within the U.S. Department of Energy (DOE). The Commission's function is to oversee major aspects of the Nation's electric, natural gas, hydroelectric, and oil pipeline industries.

The Commission was created through the Department of Energy Organization Act on October 1, 1977. At that time, the Federal Power Commission (FPC), the Commission's predecessor that was established in 1920, was abolished and the Commission inherited most of the FPC's regulatory mission. The following paragraphs will highlight the Commission's federal statutory authority, with a more comprehensive listing available in Appendix A.

Mission
Regulate and oversee energy industries in the economic, environmental, and safety interests of the American public.

Vision
Abundant, reliable energy in a fair competitive market.

Hydropower regulation, the oldest area of the Commission's jurisdiction, began with the FPC's regulation of non-federal hydroelectric generation in 1920 and includes authorizing the construction of projects in interstate commerce and overseeing their operation and safety.

Since 1935, the Commission has regulated certain electric industry activities under the FPA. Under FPA sections 205 and 206, the Commission ensures that the rates, terms and conditions of sales for resale of electric energy in interstate commerce and of transmission service in interstate commerce by public utilities are just, reasonable, and not unduly discriminatory or preferential. Under FPA section 203, as amended by EPAct 2005, the Commission reviews mergers and acquisitions, and certain other corporate transactions involving public utilities and public utility holding companies. Under these FPA sections, the Commission regulates primarily investor-owned utilities. Government-owned utilities (e.g., Tennessee Valley Authority, federal power marketing agencies, and municipal utilities) and most cooperatively-owned utilities are not subject to Commission regulation (with certain exceptions).

Regulation of retail sales and local distribution of electricity are matters left to the states. In addition, the Commission does not have a role in authorizing the construction of new generation facilities (other than non-federal hydroelectric facilities) as regulation of such construction is the responsibility of state and local governments. EPAct 2005 gave the Commission authority to permit the construction or modification of transmission facilities in national interest electric transmission corridors designated by the Secretary of Energy, if certain conditions are met.

A major new grant of authority to the Commission as a result of EPAct 2005 is ensuring the reliability of the bulk power system. The law authorizes the Commission to certify an Electric Reliability Organization (ERO) to establish and enforce mandatory reliability standards for the Nation's bulk power system, subject to Commission approval. In July 2006, the Commission certified the North American Electric Reliability Corporation (NERC) as the ERO and in March 2007 approved the first mandatory and enforceable reliability standards. All owners, users and operators of the bulk power system are subject to the mandatory reliability standards approved by the Commission.

The Commission's role in regulating the natural gas industry is largely defined by the Natural Gas Act (NGA). Under sections 3 and 7 of the NGA, the Commission regulates the construction of new on-shore liquefied natural gas (LNG) import terminals and natural gas pipelines and related facilities. Under sections 4 and 5 of the NGA, it oversees the rates, terms and conditions of certain sales for resale of natural gas in interstate commerce and of the transportation of natural gas in interstate commerce. The Commission's jurisdiction over sales for resale of natural gas is limited by the Natural Gas Policy Act of 1978 (NGPA) and the Wellhead Decontrol Act of 1989. Pipeline siting and construction is authorized by the Commission if found to be required by public convenience and necessity. As with hydropower licensing, the Commission's actions on LNG and pipeline projects typically require consideration of factors under the National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act, the Coastal Zone Management Act and other similar statutes. Regulation of the production and gathering of natural gas, as well as retail sales and local distribution of natural gas, are matters left to the states.

Finally, the Interstate Commerce Act gives the Commission jurisdiction over the rates, terms and conditions of transportation services provided by interstate oil pipelines. The Commission has no authority over the construction of new oil pipelines, or over other aspects of the industry such as production, refining or wholesale or retail sales of oil.

Guarding the Consumer

The Commission is charged with regulating the electric and natural gas industries under the FPA and NGA, laws that were written in the 1930s. These 1930-era laws have undergone important reforms, most recently, in EPAct 2005, which, among other things, gave the Commission new reliability oversight authority. The Commission's electric regulatory responsibilities also include portions of the Public Utility Regulatory Policies Act of 1978 (as modified by EPAct 2005) and the Public Utility Holding Company Act of 2005 (PUHCA 2005) (adopted in EPAct 2005).

> *"Of the Commission's primary task there is no doubt, however, and that is to guard the consumer from exploitation by non-competitive electric power companies."*
>
> *NAACP vs. Federal Power Commission*

Nevertheless, the FPA and NGA remain the Commission's core statutory responsibilities with respect to guarding the consumer. The central charge of the Commission in the area of electric regulation, expressed in the 30-year-old quote to the left, is the same today – protecting wholesale power and transmission customers from unjust and unreasonable rates and from undue discrimination and preference. With respect to natural gas regulation, the Commission is charged with the same duty – protecting gas pipeline shippers from unjust and unreasonable rates and from undue discrimination and preference. In carrying out these duties, the Commission relies on both regulation and competition.

> *"The two principal institutions of social control in a private enterprise economy are competition and direct regulation. Rarely do we rely on either of these exclusively; no competitive markets are totally unregulated, and no public utilities are free of some elements of rivalry. The proper object of search, in each instance, is the best possible mixture of the two."*
>
> *Alfred Kahn, Economics of Regulation*

Despite perceptions to the contrary, deregulation has never been the Commission's policy with respect to electric utilities or natural gas pipelines. While the Commission has encouraged competitive wholesale markets, competitive markets are not completely unregulated. The notion that a regulatory agency must choose between relying on regulation or competition is false, as markets subject to the Commission's jurisdiction are governed by both competition and regulation.

Developing the best possible mixture of reliance on competition and regulation is exactly what the Commission has been doing over the past decade, particularly in the area of electric regulation. In wholesale power markets, Commission policies have promoted effective competition as a means to ensure just and reasonable rates. The Commission first pursued this goal in the 1980s by authorizing wholesale power sales at market-based rates, rather than cost-based rates. This marked a fundamental change in Commission policy, with the objective of developing markets in which competition encourages investment in electric power infrastructure in a manner that is efficient and protects customers.

Recognizing that competition is a means to an end, reasonable wholesale prices, and not an end unto itself, the Commission did not end regulation. Rather, public utilities that are authorized to make power sales at market-based rates, for example, continue to be subject to Commission regulation.

The Commission also has promoted effective competition in wholesale power and natural gas markets by issuing orders establishing rules for open access gas transportation and electric transmission. Open access transportation in gas markets was completed in 1992 with the adoption of Order No. 636. The Commission began to impose electric open access transmission requirements in market-based rate cases and mergers in the 1980s. In 1996, Order No. 888 extended the open access transmission requirements to all jurisdictional public utilities. In 2007, Order No. 890 strengthened the requirements of Order No. 888 through increased transparency to address and remedy opportunities for undue discrimination. Over time, the natural gas and electric industries transformed from companies using their monopoly-owned transportation and transmission facilities to supply all the needs of their own wholesale customers, to companies providing competing suppliers and wholesale customers with open and non-discriminatory access to their facilities, under Commission-approved tariffs. The foundation for today's wholesale gas and electric energy markets lies in the reliance on open-access transportation and transmission service. This allows independent suppliers to compete for gas and electric energy sales and to offer market choices for customers.

The Commission has also promoted development of regional transmission organizations (RTOs), independent transmission system operators (ISOs), and independent transmission companies (ITCs). Operating as independent providers of electric transmission service, these organizations are not affiliated with energy market participants and thus have no incentive to discriminate in the provision of transmission service. They operate the electric transmission grid in a certain state or region, thereby eliminating rate pancaking and providing for regional planning. All RTOs and ISOs also now run energy markets.

The Commission's policies have resulted in significant new entry of electric generation capacity by independent power producers. At the same time, investment in electric transmission infrastructure has not kept pace, resulting in increased transmission congestion in some regions. This is of concern because transmission congestion results in higher energy prices. The Commission's new requirements in Order No. 890 for coordinated, open and transparent planning should facilitate the planning and expansion of the transmission system and address congestion and other customer concerns.

The Commission monitors wholesale power and natural gas markets to ensure that its policies mitigate market power, and toward that end, has reformed many of its rules in recent years. Since 2001, the Commission has modified its use of regulatory tools to prevent the exercise of market power by focusing on its electric generation market power policies. Initially through its Market Behavior Rules and later through the implementation of EPAct 2005, the Commission strengthened its reporting requirements (Order Nos. 2001 and 652) and acted to prohibit, among other things, market manipulation. Provisions of EPAct 2005 broadly prohibit fraud in jurisdictional energy market transactions. The Commission has implemented these provisions by adopting new electric and natural gas market anti-manipulation rules in Order No. 670. In 2004, the Commission bolstered its electric generation market power test by issuing improved interim market power screens and in June 2007 issued Order No. 697 adopting new rules governing when a seller can charge market-based rates.

The Commission also continues to be vigilant regarding electric transmission market power. In February 2007, in Order No. 890, the Commission amended its regulations and the *pro forma* open access transmission tariff adopted in Order No. 888 to ensure that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory or preferential. Although Order No. 888 was successful in many important respects, the need to reform the *pro forma* open access transmission tariff became increasingly apparent. For example, in 1999, the Commission held, in adopting Order No. 2000, that the *pro forma* open access transmission tariff could not fully remedy undue discrimination because transmission providers retained both the incentive and the ability to discriminate against third parties, particularly in areas where the *pro forma* open access transmission tariff left the transmission provider with significant discretion. The Commission made a similar finding in Order No. 2003, again holding that opportunities for undue discrimination continue to exist in areas where the *pro forma* open access transmission tariff leaves transmission providers with substantial discretion.

In addition to these reforms, the Commission has other new regulatory tools to protect the consumer. Because of the dramatic changes that have occurred in the electric and natural gas industries over the past 25 years, the Commission needed these new regulatory tools to discharge its historical duties to protect consumers against unjust and unreasonable rates and undue discrimination and preference. In particular, EPAct 2005 expanded the Commission's authority to review electric utility mergers and electric generation facility acquisitions and granted the Commission authority to impose significant civil penalties. The Commission will exercise this new civil penalty authority to prevent the exercise of market power. The Commission began to exercise this new authority in January 2007 when it entered into settlements with five companies providing for a total of $22.5 million in penalties. It continued to issue settlements involving payments of civil penalties in 2007, for a total of twelve settlements and $39.8 million in civil penalties.

Finally, EPAct 2005 authorized the Commission to facilitate transparency of price and availability in wholesale electric and gas commodity, transmission, and transportation markets. To achieve this, the Commission was permitted to issue rules to obtain and disseminate price and availability information to market participants and the public. The Commission took action in April 2007 by issuing a notice of proposed rulemaking. In December 2007, the Commission issued a final rule for market participants to report annually their annual volume of physical natural gas transactions and the use of published price indices in those transactions. Also in December 2007, the Commission issued a second notice of proposed rulemaking for certain pipelines to add or to start posting their natural gas flow information to provide a more complete picture of natural gas supply and demand throughout the United States. The Commission continues to monitor industry progress on market transparency and stands ready to use its statutory transparency authority as necessary.

Energy Infrastructure that Serves the Nation's Needs

The Commission has an important role in the development of a strong energy infrastructure which is critical to the health of the U.S. economy. Nearly two-thirds of the energy consumed by the United States is transported by pipelines, most of which are regulated by the Commission. This network of pipelines transports oil, petroleum products, and natural gas to meet the needs of our economy. The Commission's rate policies, consistently applied to transportation infrastructure projects in electric, natural gas and oil pipeline markets, must give investors confidence that they will have an opportunity to recover their investments, and must provide reasonable rates for electric, natural gas and oil customers as well.

To meet the growing demand for natural gas, the Commission must respond quickly to the Nation's need to expand existing, or construct new, pipelines and related facilities. Once natural gas reserves are located and developed, the Commission's role is to evaluate proposals to expand or construct interstate pipelines, enabling companies to bring those supplies to the market. Similarly, the timely review of LNG terminal projects to ensure their safe construction and operation is crucial to support the Nation's need for additional gas supplies.

In that role, among others, the Commission has been extremely effective over the years as the timeline for approving major pipeline projects has steadily decreased. The average time to complete the Commission's certificate process for a major pipeline project, including environmental review, is now approximately nine months. Pre-filing allows the environmental review process to begin earlier in the project review and allows the public, governmental agencies, and other entities to get involved at a time when fundamental decisions are made. This opens the lines of communication earlier in the project review process so that problems can be avoided later.

One project approved in FY 2007 in the Southeastern United States is a prime example of what the Commission has been able to accomplish through the pre-filing process. The project consisted of 172 miles of 42-inch-diameter pipeline across Texas and Louisiana using new right-of-way, and the construction of two new compressor stations. This project was designed to provide much needed capacity for transporting rapidly developing gas supplies in the Barnett Shale and Bossier Sand production areas. The pre-filing process was determined to be the best way to meet the aggressive in-service schedule requested by the company.

The environmental analysis for this project determined that it:

- would affect about 2,500 acres, including 130 acres of wetland;
- would cross 110 perennial waterbodies (3 of which are listed on the National and state inventories due to their scenic qualities) and 136 intermittent streams; and
- could affect 6 federally-listed and 25 state-listed endangered or threatened species or their habitat.

During the pre-filing process the company adopted 34 route variations to address environmental and landowner concerns. In the environmental impact statement (EIS), the Commission staff evaluated three major route alternatives, and seven route variations, two of which were recommended for inclusion in the Commission order to reduce wetland impacts.

Through the efforts of the Commission staff, and the cooperation of other agencies and the company, the environmental review was completed, and the Commission issued a certificate in less than eight months. The company was able to comply with the 38 environmental conditions included in the Commission's order, complete construction in less than seven months, and place the project into service in May 2007.

Although the processes are more effective and efficient than in the past, the Commission will continue to search for ways to reduce the processing time for applications, including removing impediments to the process. This, in turn, will lend greater certainty to the certification process and to those investing in a project.

The Commission also regulates natural gas storage projects. Natural gas storage capacity has remained relatively static for many years while demand has increased. Between 1998 and 2003, gas storage capacity expanded only 1.4 percent while demand rose 24 percent. The volatility of natural gas prices rose sharply during this period. To ensure adequate supplies during peak demand periods, the Commission is encouraging the development of new natural gas storage capacity. In June 2006, the Commission, responding to EPAct 2005, issued a final rule reforming the Commission's pricing policies for natural gas storage. The rule provides further incentive for the development of new natural gas storage capacity to ensure access to storage services at just and reasonable rates while at the same time ensuring that adequate storage capacity will be available to meet anticipated market demand.

The Commission's role in assuring a strong electricity infrastructure extends to: setting rates for both wholesale power sales and transmission in interstate commerce; ensuring opportunity for cost recovery and additional investment in generation and transmission facilities; and assuring the reliability of the bulk power system.

Transmission capacity per megawatt (MW) of peak demand declined during much of the past three decades, prompting the Commission to consider pricing policies to encourage the construction of new transmission facilities. After the Commission initiated a proceeding on these policies, Congress amended the FPA, through EPAct 2005, to require the Commission, within one year of enactment of the new statute, to establish incentive-based rate treatments for transmission. In July 2006, pursuant to this new directive, the Commission issued Order No. 679 to increase investment in transmission infrastructure, promote reliability, and lower costs for consumers by reducing transmission congestion. The final rule allows companies to seek, among other things:

- incentive rates of return on equity for new investment in transmission facilities;
- full recovery of prudently incurred transmission-related construction work in progress costs in rate base; and
- full recovery of prudently incurred pre-commercial operations costs.

The Commission has also adopted a number of reforms in Order No. 890 to improve the development of transmission infrastructure. For example, the Commission amended its *pro forma* open access transmission tariff to require coordinated, open, and transparent transmission planning on both a sub-regional and regional level. Order No. 890 adopted a congestion study principle to ensure that the transmission planning process encompasses both reliability and economic considerations. As a result, customers may request studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources (e.g., wind developers) and loads on an aggregated or regional basis, without assigning cost responsibility for those investments or otherwise determining whether they should be implemented.

In addition, EPAct 2005 amended the FPA to grant the Commission, for the first time, authority to site electric transmission facilities under certain conditions. While this new authority is more limited than the Commission's natural gas pipeline siting authority, it should help lower the regulatory barriers to necessary investment in the transmission grid. In November 2006, in Order No. 689, the Commission adopted rules to implement this new authority in accordance with the specific criteria established in EPAct 2005.

In addition to its role in developing a strong energy infrastructure, the Commission now has the responsibility of assuring the reliability of the bulk power system through oversight of the ERO and approval and enforcement of reliability standards. This new regulatory authority is important to the Nation's energy infrastructure, and therefore, its economy and security.

The EPAct 2005 reliability provisions require Commission participation in several areas, including:

- oversight of the ERO, ensuring compliance of the more than 1,500 entities subject to the mandatory and enforceable reliability standards and investigation of major incidents on the bulk power system;
- development of as many as 50 new or modified reliability standards each year;
- oversight of the critically important areas of cyber and physical security; and
- reports and assessments of the adequacy and reliability of the bulk-power system.

The Commission has moved quickly to implement the reliability provisions of EPAct 2005 and put into place the essential elements, namely:

- creation of a new Office of Electric Reliability and reorganization of the Office of Markets, Tariffs and Rates into the Office of Energy Market Regulation to organize technical staff efforts;
- establishment of the Office of Enforcement to organize oversight of all compliance work, including adherence to reliability standards;
- certification of an ERO;
- approval of agreements governing the delegation of the ERO's enforcement responsibilities to eight regional entities; and
- approval of 83 mandatory and enforceable reliability standards, effective in June 2007.

While these accomplishments are significant, the Commission's work with respect to reliability has just begun and will become significantly more complex. With mandatory reliability standards in place, the Commission began overseeing and ensuring the enforcement of these standards. In addition, the Commission will engage in the ERO's processes to develop new reliability standards. The Commission anticipates significant increases in the volume and complexity of work in FYs 2008 and 2009 that must be done in order to achieve the goals of EPAct 2005, particularly with respect to ERO oversight, cyber security, ongoing reliability standards development and enforcement. The Commission is adjusting to meet its new responsibilities and remains steadfast in its commitment to protecting and improving the reliability and security of the nation's bulk power system.

Another ongoing critical issue for all consumers is the assurance that there exist plans and procedures to address disruptions to energy services that may be caused by extreme weather, terrorism or some other national disaster. In August 2006, the Commission revised its regulations to better monitor and assess the physical state of the interstate natural gas pipeline system and gas storage infrastructure when damage causes service disruptions. The final rule requires jurisdictional natural gas companies to report to the Commission damage to their facilities and service disruptions that occur when a natural disaster or other cause results in a reduction in pipeline throughput or storage deliverability. The Commission also remains committed to giving priority to processing any filings made for the recovery of extraordinary expenditures to safeguard the reliability and security of the Nation's energy transportation systems and energy supply infrastructure.

Guiding Principles that Strengthen the Commission's Overall Performance

Five principles guide the Commission as it exercises its jurisdiction under its governing statutes. Whether the Commission is adjudicating a rate filing, ruling on an application, or developing a new policy, it strives to meet these principles as a means of ensuring that each of its actions is consistent with the public interest.

- *Organizational Excellence*. Above all, the Commission strives to use its resources efficiently and effectively to achieve its strategic priorities. This includes its human resources. The Commission performs targeted recruiting and hiring and has developed a markets-oriented training curriculum for entry-level as well as experienced staff. The Commission also makes efficient use of its information technology to receive filings, produce reports and orders, and maintain data repositories. The Commission tracks the activities of its staff to ensure that they are directed at meeting the Commission's strategic goals and objectives.

- *Due Process and Transparency*. Paramount in all of its proceedings is the Commission's determination to be open and fair to all participants. Filings are publicly accessible through the Commission's website, and filings to change rates, terms and conditions of service are announced by way of public notice published in the Federal Register. Material issues of fact are resolved through hearings governed by due process rules; the Commission also encourages the use of alternative dispute resolution procedures, which provide for more informal public participation in resolution of a proceeding. The Commission often holds public conferences at which it receives input from members of the public on controversial issues of national importance. Finally, many of the Commission's major decisions are discussed and announced at meetings that are open to the public and also are webcast at no charge on its website.

- *Regulatory Certainty*. In each of the thousands of orders, opinions and reports issued by the Commission each year, the Commission strives to provide regulatory certainty through consistent approaches and actions. Without an assurance that the Commission's policies will be internally consistent and applied consistently, investors may be unwilling to bear the risks associated with investing in critical energy infrastructure. Where it is appropriate, the Commission provides generic direction to industry participants in the form of guidance orders, policy statements or rulemakings, to avoid the uncertainty present in case-by-case adjudications. The Commission also has adopted market rules designed to help prevent the exercise of market power and market abuse, to provide a more stable marketplace, and create an environment that will attract needed investment capital.

- *Stakeholder Involvement.* The Commission conducts regular outreach to ensure that interested persons have an appropriate opportunity to contribute to the performance of the Commission's responsibilities. The Commission also organizes technical conferences and workshops designed to explain and explore issues related to the development and implementation of its policies. In FY 2007, the Commission met with state and federal regulators, industry officials, and the public to discuss electric market and reliability issues. Outreach in FY 2007 engaged stakeholders on issues such as open access in electric markets, issues related to competition in power markets, operations among and between wholesale electric and gas markets, electric utility and holding company mergers and prevention of cross-subsidization by captive utility customers, demand response, cost-allocation for transmission system upgrades, the Commission's enforcement efforts, and mandatory reliability standards for the bulk power system. Finally, in processing hydropower and gas facility applications, the Commission conducts an extensive collaborative pre-filing process, during which it receives input from a multitude of stakeholders including citizen groups, environmental organizations, tribal interests, and local, state and federal resource agencies. The Commission has adopted a similar pre-filing process for resolution of transmission siting applications.

- *Timeliness.* The Commission's goal is to reach an appropriate resolution of each proceeding in an expeditious manner. Toward that end, the Commission has steadily decreased the time it takes to act on proposed projects, such as LNG import terminals, gas storage facilities, and interstate natural gas pipelines. It has done so without compromising its environmental protection and public participation responsibilities. The Commission also sets and tracks compliance with goals for timely resolution of filings for cost recovery, new services or changes to existing services, as well decisions on initial decisions, complaints, and FPA section 203 applications.

CHAPTER 1: ENERGY INFRASTRUCTURE

Promote the Development of a Strong Energy Infrastructure

Total Resources for Energy Infrastructure Program

(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$181,750**	**$201,976**	**$211,782**
Program	152,190	169,314	178,225
Support	29,560	32,662	33,557
FTEs	**991**	**1,075**	**1,126**
Program	805	884	931
Support	186	191	195

Introduction

Competitive and reliable energy markets require a strong infrastructure. The Commission must encourage rapid, flexible infrastructure construction to meet market and operational demands. Adequate infrastructure helps make competitive markets work by:

- improving reliability;
- improving customer access to low-cost resources; and
- allowing customers to choose between multiple supply sources.

The Commission promotes the development of a strong energy infrastructure through effective regulation including pricing policies and operating procedures. Pricing policies and operating procedures influence the level of infrastructure investment, the amount and timing of infrastructure siting, and efficiency of infrastructure operations. Additional EPAct 2005 authorities will help the Commission continue toward the achievement of this goal.

As discussed in the upcoming chapter, many of the requested resources will go towards supporting the Commission's goal of stimulating appropriate infrastructure development and maintaining a reliable and safe infrastructure. Specifically, the Commission's request of an additional 47

FTEs for the reliability program will achieve the EPAct 2005 goals related to ERO oversight, cyber security and ongoing reliability standards development.

Allocation of Energy Infrastructure Resources
Objective A: Stimulate Appropriate Infrastructure Development
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$132,822**	**$131,938**	**$132,142**
Program	111,304	110,242	110,977
Support	21,518	21,696	21,165
FTEs	**721**	**714**	**710**
Program	586	587	587
Support	135	127	123

Objective A: Stimulate Appropriate Infrastructure Development

Nearly two-thirds of the energy consumed by the United States is transported by pipelines, many of which are regulated by the Commission. This network of pipelines transports oil, petroleum products, and natural gas to meet the needs of our businesses and economy. Rising electric power demand highlights the critical need for appropriately stimulating infrastructure development.

The Commission has an important role in the development of a strong energy infrastructure that operates effectively and reliably. The Commission's rate policies, consistently applied to transportation infrastructure projects in electric, natural gas and oil pipeline markets, must give investors confidence that they will have an opportunity to recover their investments, and must provide reasonable rates for electric, natural gas and oil customers as well.

In pursuit of this objective, the Commission will:

- resolve regulatory and other challenges to needed development; and
- encourage investment and effect timely cost recovery.

Objective A Strategy 1

Resolve Regulatory and Other Challenges to Needed Development

The Commission's timely identification and resolution of regulatory and other challenges will help lead to the regulatory certainty that is essential to stimulating appropriate infrastructure development.

The Commission is responsible for authorizing LNG facilities, certificating interstate natural gas pipelines and storage projects, permitting in certain circumstances electric transmission lines in National interest electric transmission corridors, and licensing non-federal hydropower projects. Throughout all of these application processes, the Commission's goal is to reduce the time it takes to review projects without compromising its environmental protection and public participation responsibilities.

Reconciling competing interests remains a significant challenge to needed development. The Commission believes that competing interests are best addressed openly and early in the application process. The Commission encourages, and sometimes requires, project proponents to engage in early involvement with state and federal agencies, Indian tribes, and the public. It also provides technical, legal, and alternative dispute resolution assistance to support the parties' efforts to resolve issues before they file with the Commission.

Interconnection. The goals of the Commission's interconnection policy, which is found in Order Nos. 2003 and 2006, are to encourage investment in generation and transmission infrastructure and reduce opportunities for transmission owners to favor affiliated generation while protecting reliability and ensuring that rates are just and reasonable. This policy establishes standardized interconnection procedures and agreements for connecting both large and small generators to the electric transmission grid. It also provides a set of comprehensive queue management procedures.

In December 2007, the Commission convened a technical conference to learn more about developing issues in some regions concerning the significant numbers of generation facilities pending in interconnection queues. Some of these projects are part of the surge in the development of renewable generation.

Recognizing the unique characteristics of location constrained resources (such as wind generation), the Commission in April 2007 approved a proposal by the California Independent System Operator Corporation (CAISO) to address the difficulties faced by generation developers seeking to interconnect such resources. The Commission's action acknowledges that the difficulties faced by generation developers seeking to interconnect location constrained resources are real and distinguishable from those faced by other generation developers. The Commission is concerned that these difficulties may thwart the development of infrastructure. The CAISO proposal initially rolls in the costs of interconnection facilities for location constrained resources to be shared among all users of the system through the transmission revenue requirement of the transmission owner that constructs the facility. Each generator that interconnects would be responsible for paying its pro rata share of the going-forward cost of the added facility. All users of the transmission grid would pay the costs of any unsubscribed portion of the added facility until the facility is fully subscribed. To be eligible for this rate treatment, the interconnection facility must be approved in the CAISO's transmission planning process as providing needed system benefits. Once the facility is constructed, generators of any fuel type would be eligible to interconnect and contract for unsubscribed capacity, consistent with the Commission's open access requirements.

This application of its interconnection policy is one example of the Commission's commitment to address regulatory challenges to development. The Commission anticipates it will receive other proposals similar to CAISO's to review in FY 2009 and beyond.

Electric Transmission Siting. EPAct 2005 added a new section 216 to the FPA, which provided the Commission with electric transmission siting authority in national interest electric transmission corridors designated by DOE. Two national corridors, one located in the Southwest and the other in the mid-Atlantic region were designated by DOE in October 2007. The Commission's siting authority applies in certain identified circumstances, for example, when a state does not have authority to act or has withheld approval for more than one year.

Toward that end, the Commission in November 2006 adopted rules in Order No. 689 specifying the form and content of applications seeking Commission action. In May 2007, the Commission denied requests for rehearing. The Commission has established a transmission siting group to evaluate the anticipated applications.

Electric transmission siting cases will undoubtedly be contentious and complex. While the Commission has hired additional staff for this purpose, in some instances it may be necessary to acquire contract expertise to assist in the development of the record upon which Commission decisions will be based.

Transmission Planning. Order No. 890, issued in February 2007, increases the ability of customers to access new generating resources and promotes efficient utilization of transmission by, among other things, requiring an open, transparent, and coordinated transmission planning process. Transmission planning is a critical component of the Commission's open access policy. Having an open and transparent process helps eliminate opportunities for discriminatory treatment and provides customers with information and studies that will help them decide whether potential upgrades or other investments could reduce congestion or enable integration of new resources. Order No. 890 also requires that, where demand resources are capable of meeting the needs identified in a transmission planning process, they should be permitted to participate on a comparable basis.

The planning processes of Order No. 890 are not intended in any way to infringe upon state authority regarding integrated resource planning. Indeed, the Commission believes that the transparency provided in an open regional transmission planning process can provide useful information which will help states coordinate transmission and generation siting decisions, allow state consideration of regional resource adequacy requirements, facilitate state consideration of demand response and load management programs, and address other factors states may wish to consider.

In April 2007, the Commission approved a rate schedule for ColumbiaGrid to coordinate transmission planning and expansion among its Northwest member utilities, municipalities, and the Bonneville Power Administration. The planning agreement supports competitive markets, increases coordination and transparency, and has the potential to improve reliability, operational efficiency, and transmission investment by providing for expansion of the transmission grid in the Northwest.

Long-Term Transmission Rights. In July 2006, the Commission issued Order No. 681 which provides guidelines for long-term firm transmission rights consistent with the requirements of EPAct 2005 in the markets of PJM Interconnection (PJM), Midwest Independent Transmission System Operator (Midwest ISO), CAISO, New York Independent System Operator (NYISO) and ISO New England (ISO-NE). These guidelines will allow for increased long-term transmission price certainty in the organized electricity markets and help encourage new investments and other long-term power supply arrangements. Specifically, they provide increased certainty about the congestion cost risks of long-term transmission service in organized electricity markets and so help load-serving entities and other market participants support new investments and other long-term power supply arrangements. In 2007, the Commission issued orders on long-term transmission rights plans in PJM and Midwest ISO.

LNG Facilities. LNG is seen as key to offsetting declining domestic natural gas production and reducing energy price volatility during peak demand periods. In 2003, the Commission changed its regulatory approach to the development of onshore LNG terminals with its determination on the Hackberry LNG Project that it would not impose open access requirements on LNG terminals. As a result of this policy, the Commission provided financial certainty for companies looking to invest the billions of dollars often required to develop LNG facilities. Since issuance of that policy decision, there has been a continued movement to develop LNG facilities.

During FY 2007, the Commission reviewed applications for 2 new peak-shaving LNG facilities, 11 new LNG import terminals, and 2 terminal expansions. Of those 15 projects, 13 were engaged in the Commission's pre-filing process. In FY 2007, the Commission approved two new import terminals, the expansion of one existing terminal, and one peak-shaving facility; the others remain pending.

The number of applications for LNG terminal projects has resulted in the Commission's need for technical and contractor support to conduct cryogenic and seismic design reviews, safety studies, and inspections. In FY 2007, about $650,000 was spent on contracts for cryogenic and seismic reviews and inspections. The timely review of these facilities is crucial to support the Nation's need for additional gas supplies.

Natural Gas Pipelines. A strong natural gas pipeline infrastructure is critical for the reliability of the Nation's energy supply and for competitive market development. To meet the growing demand for natural gas, the Commission must respond quickly to proposals to expand and construct needed pipelines and related facilities. It has moved to reduce the time it takes to approve projects without compromising its environmental protection and public participation responsibilities.

In October 2006, the Commission acted to strengthen the Nation's natural gas infrastructure by approving a final rule which expanded the scope of blanket certificate eligibility for natural gas infrastructure projects and raised the limits for project costs. The revised regulations will thus allow interstate natural gas pipelines to employ the streamlined blanket certificate procedures for larger projects and for a wider variety of projects, thereby increasing efficiencies and decreasing time and costs associated with the construction and maintenance of the Nation's natural gas infrastructure.

In December 2006, the Commission approved the Northeast-07 Project, a $1.04 billion interstate natural gas pipeline project that will deliver much needed gas supplies to the New York City metropolitan area. In addition, in April 2007, the Commission approved the Rockies Express -West interstate pipeline project, one of the largest greenfield projects the Commission has certificated in recent years. The Rockies Express -West project promises to bring reliable and affordable gas supplies to U.S.

consumers while helping to address the disparity in prices for producers in the Rocky Mountain region.

For major pipeline projects requiring an EIS (excluding LNG take-away pipelines which are evaluated in conjunction with their respective LNG terminal projects), the Commission's average certificate processing time was approximately nine months in FY 2007.

The natural gas industry has continued its increased use of the Commission's pre-filing process, which involves completing a substantial portion of the environmental review and identifying significant non-environmental issues prior to the filing of an application. In FY 2007, over 84 percent of the major projects (including both large gas pipelines and LNG projects) used the pre-filing process. While the pre-filing process remains voluntary for natural gas pipelines, an applicant choosing to use the process must follow the regulations set forth in Order No. 665.

The Commission has additional responsibilities for coordinating pipeline project NEPA work as a result of EPAct 2005. The law amended section 15 of the NGA to designate the Commission as the lead agency for coordinating all federal authorizations and for the purpose of complying with NEPA. In November 2006 the Commission issued Order No. 687, establishing the procedures for scheduling federal authorizations and for the maintenance of a consolidated record.

The Commission continues to prepare to meet its responsibilities in the authorization process for an Alaskan Natural Gas Pipeline Project. The Commission has met with the Office of the Federal Coordinator for an Alaskan Natural Gas Pipeline Project, communicated with federal and state agencies and other stakeholders, and toured potential pipeline routes.

EPAct 2005 requires the Commission submit a report to Congress every 180 days until the pipeline commences operations. The report must discuss the progress made in licensing and construction and also identify issues hindering progress. Accordingly, reports were issued in February and July 2006 and January and August 2007.

Natural Gas Storage Projects. Additional storage facilities will continue to provide storage services needed to help balance the Gulf Coast region's anticipated growth in supply, the change in operations associated with energy infrastructure damage, and the anticipated new volumes of imported LNG. Furthermore, storage capacity from high-deliverability salt cavern gas storage facilities will continue to play a crucial role in backstopping the pipelines by acting as a substitute for upstream pipeline capacity and flowing gas supply. This storage capacity will mitigate adverse effects of pipeline compressor outages or other outages due to severe weather events and reduce the impact of other temporary capacity constraints which can all cause natural gas price spikes and require costly fuel switching.

In FY 2007, the Commission authorized 18 storage projects resulting in 6,484 million cubic feet (MMcf) of peak day deliverability and 178 billion cubic feet (Bcf) of storage capacity. In addition, 7 other storage projects representing 5,699 MMcf of peak day deliverability and 479 Bcf of storage capacity are currently under analysis. Furthermore, 12 additional storage projects representing 3,615 MMcf of peak day deliverability and 120 Bcf of storage capacity are projected to be filed within the next 5 years.

Hydropower Projects. Hydropower is an important component of the Nation's energy portfolio and supports efficient, competitive electric markets by providing low-cost energy reserves and ancillary services. Hydropower projects also provide other public benefits such as increased water supply, recreation, economic development, and flood control while minimizing adverse impacts on environmental resources.

The Commission has authorized construction and operation of over 1,600 hydropower projects, encompassing approximately 2,500 dams and impoundments and the associated lakes and reservoirs. The workload in these areas is increasing due to the number of relicense applications that will be filed with the Commission through FY 2016 for large-scale projects. These applications are for projects that are among the largest under the Commission’s jurisdiction, having a combined capacity of almost 13,000 MW and representing 23 percent of the Nation’s non-federal hydropower capacity. Of the 112 projects that will be up for relicensing during this period, 31 projects have an installed capacity of over 100 MW, and of those projects, 7 have an installed capacity greater than 500 MW. There has also been a moderate increase in the number of applications filed for original license due to the incentives contained in EPAct 2005, as well as rising energy costs and the interest in renewable energy.

Integrated Licensing Process. In an effort to increase the efficiency of the hydroelectric licensing process, which involves a multitude of stakeholders including citizen groups, environmental organizations, tribal interests, and local, state, and federal resource agencies, the Commission developed the Integrated Licensing Process (ILP). The default licensing process since July 2005, the ILP’s ultimate goal is to establish an efficient, predictable, and timely licensing process that develops a record sufficient for the Commission to take final action. To achieve the goals of the ILP, Commission staff is fully engaged in the pre-filing portion of the process to help stakeholders define the scope of the licensing process along with the type and number of studies that are undertaken. The first four relicense applications prepared using the ILP, PPL Montana’s Mystic Lake Project

No. 2301, Georgia Power Co.'s Morgan Falls Project No. 2237, Public Service Company of New Hampshire's Canaan Project No. 7528, and Pacific Gas and Electric Co.'s DeSabla-Centerville Project No. 803, were filed with the Commission. One of these projects, Mystic Lake, received a license in December 2007 (approximately one year after filing). The remaining three projects are being processed expeditiously and are expected to be ready for final Commission action within the target time-frame for the ILP (16 to 18 months from filing).

In FYs 2008 and 2009, the Commission will be involved in the pre-filing process for a total of 46 relicense ILPs and 28 original license ILPs. While the Commission is investing additional resources in the pre-filing phase of the ILP, a return on this investment is expected once the applications are filed in 2008 and the anticipated level of effort in the post-filing phase is reduced.

Expanding Hydropower Development. In 2007, the Commission received a number of proposals to develop both conventional hydropower generated at existing dams and non-conventional power generated at facilities using the kinetic energy of tidal currents and wave action (ocean energy). During FY 2007, the Commission authorized 11 MW of additional capacity at existing licensed hydropower projects.
In November 2006, the Commission received the first license application for a wave energy hydropower project from Finavera Renewables, Inc. The Makah Bay Offshore Wave Energy Project is proposed for Makah Bay in Clallam County, Washington. Part of the project would be located on lands of the Makah Nation Indian Reservation. The project would consist of 4 buoys moored 1.9 nautical miles offshore in the Olympic Coast National Marine Sanctuary. Together, the buoys would generate up to one MW, with an average of about 200 kilowatts (kW), through relative motion created by waves, which drives an internal pump that would force pressurized water through a closed-loop hose and a turbine. The Commission staff issued an environmental assessment in May 2007 and the Commission issued a five-year conditional license for the project in December 2007.

In the tidal hydropower arena, Commission staff has been working with Verdant Power, LLC, a permit holder seeking to develop a license application for the Roosevelt Island Tidal Energy Hydropower Project. The project ultimately would consist of as many as 150 free-flowing turbine generator units (about 10 MW total), located below the water surface in the East River in Queens County, New York.

In July 2007, Reedsport Ocean Power Technologies, LLC (OPT) filed a notice of intent, a preliminary application document, and a request to use the traditional licensing process for an original 50-year license to construct and operate the 2.1-MW Reedsport OPT Wave Park Project

No.12713 to be located in Oregon state territorial waters about 3 miles off the coast near Reedsport, in Douglas County, Oregon. The project would consist of 14 power buoys (with internal generating equipment) anchored to the seabed and deployed in an array of 3 to 4 rows oriented parallel to the coast line, a 2.3-mile-long submarine transmission cable, and a 4.5 mile-long transmission line. In August 2007, the Commission issued a letter granting OPT's request for authorization to use the traditional licensing process in preparing a license application for the proposed Reedsport Project. The Commission anticipates OPT will file its license application in FY 2008.

In addition, the Commission has been proactive in addressing the issues unique to this nascent industry. In 2005, as activity in the field of new hydropower technologies began to increase, the Commission formed a committee of technical and legal staff to initiate research on the regulatory, environmental, and developmental aspects of these new technologies. In December 2006, the Commission hosted a technical conference to discuss the status of new technologies in hydroelectric generation from ocean waves, tides, and currents and from free-flowing rivers, and to explore the environmental, financial, and regulatory issues pertaining to the development of these technologies. Conference participants included ocean energy developers and consultants, trade associations, representatives from state and federal agencies, non-governmental organizations, and members of the public. Following the conference, the Commission solicited and received written comments from the participants.

Based on some of these comments, the Commission issued a notice of inquiry in February 2007 to address the increasing number of preliminary permit applications that have been filed for projects proposing to use wave, current, tidal, and instream new technology (hydrokinetics) to generate electricity. This notice solicited public comments on three options for treating these types of applications and implemented an interim "strict scrutiny" policy for processing the applications. Under "strict scrutiny" the Commission attempted to restrict site banking by limiting the size of project boundaries and requesting information concerning the applicant's proposed technology and its capabilities to carry out any studies under a permit. In addition, the Commission will closely monitor permits that are issued and will consider canceling a permit if the permittee does not make sufficient progress towards development of the project.

In addition, to facilitate the testing of these new hydropower technologies and/or to determine appropriate sites, Commission staff developed a six month process for short-term licenses (five years) of small-scale (five MW or less) pilot projects. In October 2007, the Commission hosted a second technical conference in Portland, Oregon seeking feedback on the proposed process from representatives from industry, state and federal agencies, non-governmental organizations, Native American tribes, and members of the public. The Commission solicited comments from the conference participants and is currently evaluating them to determine whether changes are needed to better accommodate pilot projects.

In November 2007, the Commission issued a new Policy Statement with respect to the issuance of licenses for hydrokinetic projects. In the Policy Statement, the Commission concluded that, in appropriate cases, where the Commission has completed its processing of license applications for hydrokinetic projects, but where other authorizations required under federal law have not yet been received, it will issue conditioned licenses for hydrokinetic projects, predicated on the license being precluded from commencing construction until the necessary authorizations are received. The Commission sought comment on this Policy Statement and is considering the comments received.

Tribal Relations. The Commission continues to ensure that Indian tribes are engaged in the hydropower licensing process. Early consultation has begun for relicensing cases due to be filed with the Commission over the next three years. As of November 2007, the Commission has met and consulted with 87 tribes for 15 projects. Since early stakeholder involvement increases the effectiveness of the licensing process, the Commission plans to continue investing resources in FYs 2008 and 2009 to ensure the early participation of tribes in the upcoming licensing and relicensing cases.

Commission Meetings and Reports. During FY 2007, numerous studies were performed and numerous presentations were made at Commission meetings and at public conferences that highlighted issues involving the Nation's energy infrastructure, particularly in the areas of natural gas and electricity.

The Commission continued to contribute infrastructure expertise to DOE's effort in the Security and Prosperity Partnership between the United States, Canada, and Mexico through participation in Partnership meetings, including leading an LNG panel at a natural gas workshop.
The Commission continues to plan, organize, and participate in the triennial trilateral meetings between senior staff of the Commission, the National Energy Board of Canada, and the Energy Regulatory Commission of Mexico. These meetings facilitate discussions of developing issues that have cross-border implications as well as those issues that might inform or educate the other agencies.

Objective A
Strategy 2

Encourage Investment and Effect Timely Cost Recovery

Electric transmission and natural gas and oil pipelines' rates and cost recovery mechanisms are set out in tariffs filed with and approved by the Commission. For investors to invest in electric transmission facilities and natural gas and oil pipelines, they need to know with sufficient certainty how and when they will have the opportunity to recover their costs. Thus, the Commission must establish and consistently apply policies that provide a fair opportunity for cost recovery. Without such assurances, investors will face greater risks resulting in higher costs, companies will find it more difficult to obtain financing for jurisdictional facilities, and fewer energy projects will be constructed. That in turn will undermine the adequacy and reliability of energy services.

The Commission will encourage investment and effect timely cost recovery by:

- applying pricing policies that encourage investment, including incentive rates and innovative rate design;
- establishing and consistently applying policies that permit timely cost recovery; and
- establishing reasonable accounting, reporting, and record retention requirements.

Pricing Policies. The Commission seeks to apply pricing policies that encourage investment in energy infrastructure.

Natural Gas Storage Pricing. In June 2006, the Commission issued a final rule to mitigate natural gas price volatility by encouraging the development of natural gas storage capacity. The final rule provides two approaches for developers of natural gas storage facilities to seek authorization to charge market-based rates. The first approach includes a broadened definition of the relevant product market for storage that would include, to the extent they can be shown to be good substitutes for storage, available pipeline capacity, local gas production and LNG terminals. The second approach, which implements EPAct 2005 provisions, would allow an applicant to request the authority to charge market-based rates even if a lack of market power has not been demonstrated, in circumstances where market-based rates are in the public interest and necessary to encourage the construction of storage capacity in the area needing storage service, and customers are adequately protected. In November 2006, Northern Natural was the first interstate storage provider to receive a Commission determination that it had met the requirements of the latter approach and thus was allowed to charge market-based rates.

The Commission has addressed a petition for a rulemaking to examine, among other issues, granting pricing preferences for anchor shippers, those who provide contractual support for a new pipeline project at the early stage of project development. The Commission issued a final rule in October 2006 clarifying that a natural gas company is not necessarily engaged in an unduly discriminatory practice if it charges different customers different rates for the same service based on the date the customers commit to the service, provided potential shippers have a fair opportunity to sign up for the service. In conjunction with its certification of the Rockies Express-West project, the Commission specifically approved a rate differential for foundation and anchor shippers in recognition of the additional financial risks they assumed by contracting for capacity early in the development of this project.

Electric Transmission Pricing Reform. Consistent with a directive in EPAct 2005, the Commission issued Order No. 679 to offer incentives for potential investors to build more electric transmission facilities. Order No. 679, as clarified on rehearing in December 2006 and again in April 2007, seeks to ensure investment in the Nation's aging transmission infrastructure, promote electric power reliability, and lower costs for consumers by reducing transmission congestion. The final rule identifies specific incentives the Commission will consider based on a case-by-case analysis of individual transmission proposals.

Incentives for traditional utilities and for stand-alone transmission companies include:

- allowing deferred cost recovery;
- accelerating the recovery of depreciation expense;
- providing a rate of return on equity (ROE) sufficient to attract new investment;
- providing a higher ROE for utilities that join transmission organizations;
- allowing recovery in rate base of 100 percent of prudently incurred transmission-related construction work in progress (CWIP) costs in order to increase cash flow;
- expensing prudently incurred pre-commercial operation costs instead of capitalizing them, allowing for immediate cash flow for the utility; and
- allowing recovery of all prudently incurred development costs in cases where construction of facilities may be abandoned or canceled due to circumstances beyond the control of the utility.

Simultaneously with the issuance of Order No. 679, the Commission also granted two petitions for declaratory orders requesting approval of transmission investment incentive rates for American Electric Power Company (AEP) and Allegheny Energy Inc. (Allegheny). Both requests were for large transmission projects proposed for the Mid-Atlantic regional power grid operated by PJM.

In the AEP proceeding, parallel with Order No. 679, the Commission conditionally approved proposed incentive rates for a new 765-kilovolt (kV), 550-mile transmission line that would extend from West Virginia to New Jersey. The approved incentives include an ROE set at the high end of the zone of reasonableness, recovery of CWIP costs, and the ability to expense and recover the costs AEP incurs during the pre-construction and pre-operating period.

In the Allegheny proceeding, parallel with Order No. 679, the Commission granted incentive rates. Allegheny proposes to construct a 500-kV transmission line within the PJM region. The proposed line would extend from southwestern Pennsylvania to Virginia. As in the AEP proposal, the approved incentives include an ROE at the high end of the zone of reasonableness, recovery of CWIP costs, and the ability to expense and recover pre-construction and pre-operating costs.

Subsequently, in February 2007, the Commission conditionally granted transmission rate incentives for Duquesne Light Company, to allow it to recover costs connected with a proposed $184 million transmission expansion project in western Pennsylvania. Duquesne plans to build a new high-voltage transmission line to enhance the reliability of transmission service in the Pittsburgh area. The company also plans to increase the capacity of two existing underground transmission lines. The entire project is targeted for completion in 2009.

That same month, Baltimore Gas & Electric Company requested transmission rate incentives for a number of transmission projects in Maryland. In July 2007, the Commission authorized BG&E's request for a 50-basis point incentive for RTO participation and a 100-basis point incentive for 2 baseline projects. At that time, the Commission denied the company's proposal to include 100 percent CWIP in rate base and set a technical conference to further determine whether certain other projects satisfied the "nexus" test of Order No. 679. In a November 2007 order, the Commission approved a 100-basis point ROE incentive for these other facilities, which were designed to improve the reliability and safety of BG&E facilities.

In November 2007, the Commission approved a request for incentive rate treatment from Southern California Edison (SCE) for three proposed transmission projects in California and Arizona. SCE proposed to build three projects: the Devers-Palo Verde II (DPV2) Project, which consists of the construction of 2 major transmission lines; the Tehachapi Project, which consists of more than 200 miles of 500 kV transmission line, approximately 10 miles of 220 kV transmission line and 3 new substation facilities aimed at accessing renewable resources; and the Rancho Vista Project, which includes a proposed new 500 kV substation. The Commission approved CWIP and abandoned-plant cost incentives and allowed an ROE adder of 125 basis points each for the Devers-Palo Verde 2 and Tehachapi transmission projects and of 75 basis points for the Rancho Vista substation. The Commission expects to review and act upon a significant number of such rate proposals in FY 2008 and beyond.

***Cost Allocation for Transmission Upgrades*.** To encourage investment, the Commission must address who will pay for needed transmission expansion and upgrades. Without a sufficiently detailed, authorized methodology for cost allocation, rates are often re-litigated every time a new project is proposed, and this discourages investors.

The Commission encourages RTOs and ISOs to develop transmission cost allocation policies that attract needed investment and have significant support from a broad cross-section of stakeholders. Such policies, known up front, can have a significant positive effect on investment decisions. Since FY 2006, the Commission has devoted substantial resources to reviewing cost allocation plans for new transmission investment.

Proposals filed by RTOs and ISOs have raised questions about whether costs should be shared broadly or assigned more narrowly to those who benefit from a particular project. A review of some of the various cost allocation methods that have been approved recently and are in effect in several regions illustrate the complexity of the issues.

Two traditional rate designs are *license plate rates* and *postage stamp rates.* Under license plate rates, the RTO's footprint is segregated into a number of transmission pricing zones, typically based on the service boundaries of individual transmission owners or groups of transmission owners. Customers taking transmission service for delivery to load within the RTO pay a rate based on the embedded cost of the transmission facilities in the transmission pricing zone where the load is located, and in return receive access to the entire regional grid. Under a postage stamp rate design, all customers taking transmission service for delivery to load within the RTO pay the same rate, reflecting the average embedded costs of transmission facilities throughout the RTO.

In March 2007, the Commission issued two orders on cost allocation in the Midwest. In the first decision, the Commission reaffirmed its November 2006 decision that allocating 20 percent of the costs of high-voltage "baseline reliability projects" on a system-wide basis through a postage-stamp charge, and allocating the remaining 80 percent to the three Midwest ISO planning sub-regions through an engineering analysis, was just and reasonable.

In the second decision, the Commission accepted Midwest ISO's proposed cost allocation for “regionally beneficial projects;” these projects are new economic upgrades that meet specific criteria. The Commission found reasonable the proposed cost allocation for “regionally beneficial projects,” assigning 20 percent of the costs on a so-called postage stamp basis across the entire Midwest ISO region, and assigning the remaining 80 percent among the three Midwest ISO planning subregions based on an assessment of benefits, consistent with Order No. 890 as well as prior cases where the Commission concluded beneficiaries of proposed upgrades have a responsibility to contribute to the costs of those upgrades. The Commission required certain revisions to ensure beneficiaries of transmission upgrades proportionally carried the new expansion costs.

In April 2007, the Commission approved in part a cost allocation plan for PJM that largely uses a license-plate design for existing transmission facilities, and that assigns the costs of most new investments to those who most directly benefit from them. For new facilities below 500 kV, the Commission accepted PJM’s basic approach of assigning the costs of such facilities under a “beneficiaries pay” method. However, it ordered PJM to propose a specific methodology for determining who the beneficiaries of such lower voltage new transmission are, so as to avoid protracted project-by-project litigation of the cost allocation method. The order also directed that the cost of new facilities at or above 500 kV be allocated on a postage-stamp basis to all loads within the PJM footprint. There are several important benefits to this cost allocation. Among them is that the approved cost allocation methodology recognizes the very broad regional benefits of transmission facilities at 500 kV and above by granting them a single postage stamp rate that will spread their costs broadly. Moreover, these backbone facilities, which this cost allocation will facilitate, help the market by bringing generation buyers and sellers together over large regions.

The CAISO is transitioning over a 10 year period to a region-wide per kilowatt hour (kWh) charge for facilities that are 200 kV and above and under the operational control of the CAISO. The CAISO is accomplishing this by having, for each year of the 10 year period, 10 percent more of each Participating Transmission Owner’s transmission revenue requirement (and 100 percent of the revenue requirement associated with new facilities) recovered in a single CAISO grid-wide per kWh charge. The remaining part of this revenue requirement is recovered through one of three sub-regional charges. Thus, for calendar year 2007, the seventh year of the transition, 70 percent of the transmission revenue requirement is recovered in a regional rate, and the remaining 30 percent is recovered in a sub-region-specific rate.

In addition to addressing cost allocation on a case by case basis as proposals are filed, the Commission will continue to work with industry, state regulators, and customers to develop appropriate regional transmission pricing policies and to ensure that cost allocation plans result in rates that are just, reasonable, and not unduly discriminatory and preferential. Where the Commission and state regulators share an interest concerning regional transmission pricing, the Commission can initiate and work through collaborative forums with the National Association of Regulatory Utility Commissioners (NARUC). The NARUC-FERC Dialogue on Demand Response and the NARUC-FERC Competitive Procurement Collaborative can serve as models for addressing these shared interests. In this manner, the Commission will continue to help encourage investment in transmission infrastructure.

Merchant Transmission and Non-Traditional Transmission Projects. In contrast to traditional rate-based transmission facilities, merchant transmission projects are transmission projects where the developer bears the risk of cost recovery. Merchant transmission projects play a useful role in expanding alternatives for customers and meeting reliability needs, as demonstrated by the success of the 330 MW Cross-Sound Cable project which connects Long Island to Connecticut. The 660 MW Neptune project began service in the summer of 2007, and now connects New Jersey with Long Island.

The Commission uses ten criteria for evaluating merchant transmission projects and rates. Among other things, the Commission requires that the capacity be made available through an open season, that the transmission rights be transferable in the secondary market, and that the facilities be operated under the control of an ISO or RTO. These criteria ensure an adequate incentive for investment while also ensuring that rates are just, reasonable, and not unduly discriminatory or preferential.
The Commission continues to work to facilitate non-traditional transmission projects. For example, in July 2006, the Commission accepted a Montana Alberta Tie, Ltd. (MATL) rate proposal to sell transmission rights at negotiated rates and conditionally accepted a corresponding open access transmission tariff for a new 190-mile, 230 kV alternating current transmission line running from Lethbridge, Alberta, Canada to Great Falls, Montana, United States. The proposed transmission line, which is expected to be in service in 2008, would connect NorthWestern Energy's transmission system in Montana with the Alberta Interconnected Electrical System, operated by the Alberta Electric System Operator (Alberta ESO). Additionally, MATL will enable generation to tie directly into the project and access both markets. In May 2007, the Commission accepted a revised open access transmission tariff for the project.

Linden VFT, LLC (Linden) is a new Delaware limited liability company that was formed for a proposed non-traditional transmission project. It will be 15 percent owned by East Coast Power, L.L.C. (East Coast Power) and 85 percent owned by Aircraft Services Corporation (ASC). ASC is an indirect, wholly-owned subsidiary of General Electric Capital Corporation. In February 2007, Linden requested authority under FPA section 205 to sell transmission rights on its proposed transmission project at negotiated rates. Linden's transmission project differs from the merchant transmission projects previously addressed by the Commission in that, as a part of its project, Linden proposes to increase the capacity on an existing underwater transmission line between New Jersey and New York City and to charge negotiated rates for the incremental capacity. By using a new variable frequency transformer line, Linden will be able to increase capacity with minimal environmental impact. In April 2007, the Commission authorized Linden to charge negotiated rates. Linden expects to have the project in service in 2009.

In addition to encouraging merchant transmission projects, the Commission also encourages other types of non-traditional transmission projects. For example, in FY 2007, the Commission granted a petition for declaratory order in which it found that New England Independent Transmission Company, LLC's "Green Line" project, a 660 MW high voltage direct current underwater transmission line that will stretch approximately 140 miles to connect the coast of Maine with the city of Boston, meets certain criteria under the ISO-NE open access transmission tariff. The sponsor of the Green Line project intends to offer the capacity of its proposed facility to meet the long-term needs of ISO-NE. Unlike other merchant transmission projects, where the project developers assume all of the risks of the project, the Green Line sponsors will be guaranteed their costs if (and only if) their proposal is accepted by ISO-NE. The sponsor of the project anticipates that the Green Line will relieve congestion and provide cost savings to customers in the ISO-NE market. The Green Line project is expected to begin commercial operations in 2013.

The Commission will continue to further refine its policies to facilitate, as appropriate, opportunities for sponsors of merchant as well as non-traditional transmission projects.

Cost Recovery Policies. The measures the Commission is undertaking to provide timely cost recovery of investments in infrastructure also provide reasonable rates and greater rate certainty for customers. Electric utility customers and gas and oil pipeline ratepayers need reasonable assurance of the transportation costs they can expect to face, that these costs will be fair, and that they will continue to have nondiscriminatory access to transportation services. The Commission will continue to ensure that terms and conditions of service promote reliable open access for all customers.

In July 2006, the Commission granted the essential elements of a Colonial Pipeline Company (Colonial) petition for a cost recovery methodology and granted other assurances with regard to a proposed mainline pipeline expansion designed to assure the reliable transportation of refined petroleum products from the Gulf Coast region to growing demand in numerous eastern markets. Specifically, Colonial proposed to expand its system by adding a 36-inch diameter pipeline from Baton Rouge, Louisiana to Atlanta, Georgia. The 500-mile, $1 billion, pipeline expansion would have a nominal capacity of 800,000 barrels per day, which amounts to a 30 percent increase in Colonial's system capacity. Colonial proposed to recover the expansion costs through a uniform rate component applied equally to all barrels that originate at Gulf Coast origins and are delivered to destinations beyond Baton Rouge, Louisiana. In May 2007, the Commission denied a request for rehearing of the appropriateness of a uniform rate component.

In cost-of-service ratemaking, the Commission aims to allow a fair profit, after taxes, ascertained after taking into account a variety of factors, such as the risks of the business and the necessity of attracting capital. The return on equity necessary to attract investors is measured by the return an investor could obtain from investments having commensurate risks. The basic regulatory premise that a utility must earn a comparable return refers to the after tax return to the investor, regardless of the business' form of ownership. However, natural gas and oil pipeline firms are increasingly organized as Master Limited Partnerships (MLPs). The Commission believes this trend will likely continue in the increasingly entrepreneurial energy sector and affect the Commission's rate making.

In October 2006, the Commission increased the return awarded by an administrative law judge in the Kern River Gas Transmission rate case and looked closely at its traditional discounted cash flow (DCF) analysis for determining return on equity in light of the emergence of MLPs in the natural gas pipeline area. While the Commission traditionally had not allowed MLPs to be included in the proxy groups used in DCF calculations, it made clear in the Kern River case that it was open to doing so in the future.

In July 2007, the Commission proposed additional regulatory guidance on the inclusion of MLPs in the proxy groups used to decide the return on equity of natural gas and oil pipelines. Specifically, the Commission proposed to allow inclusion of MLPs in a proxy group but to cap the dividend used in the DCF analysis at the pipeline's reported earnings. The Commission would determine which MLPs and corporations should be included in the natural gas or oil proxy group on a case by case basis. However, participants in these cases should include as much information as possible regarding the business profile of the firms they propose to include in the proxy group.

The Commission is currently reviewing comments on the proposed policy change, including alternative proposals for determining a representative proxy group. The Commission solicited additional comments solely on the issue of MLP growth rates and scheduled a technical conference for January 2008.

Another important aspect of the Commission's cost recovery policy is allowing natural gas pipelines to use selective discounting, which supports competitive natural gas transportation. The Commission has found that negotiated rates can serve as an effective means to reduce rates to shippers. For example, Algonquin Gas Transmission LLC filed negotiated rate agreements covering most of the firm shippers on its system. The negotiated rate agreements, filed to effectuate limited-term rate reductions, provided for rate reductions from Algonquin's existing recourse rates under firm rate schedules. The Commission accepted the negotiated rate agreements finding that they provided rate reductions without the time and expense of litigation. The Commission also required that Algonquin Gas Transmission LLC offer negotiated rates to all current and future similarly situated shippers.

The Commission also issued an order in *Dominion Transmission, Inc.*, clarifying procedures to be used when a pipeline has negotiated a general settlement with customers even though a rate change was not previously submitted and pending before the Commission. Specifically, if a pipeline seeks approval of an agreement for a change to be made in its rates, terms and conditions before making a section 4 tariff filing, the pipeline should simply file, pursuant to section 385.207(a)(5) of the Commission's regulations, a petition for approval of the agreement, along with *pro forma* tariff sheets showing how the agreement would be implemented. The order encouraged pipelines to reach timely settlements in order to avoid costly and lengthy litigation. The order also indicated that the Commission will act expeditiously on such proposals to ensure any reduced rates are implemented as quickly as possible. This helps achieve timely cost recovery and illustrates one further way in which the Commission implements its strategy and uses its resources efficiently and effectively to achieve its strategic goals. In FY 2006, the Commission approved uncontested section 4 rate settlements for Colorado Interstate Gas Company and Tuscarora Gas Transmission Company under these new procedures.

In October 2007, the Commission issued a notice of inquiry seeking comments on its policy regarding the in-kind recovery of fuel and lost and unaccounted-for gas by natural gas pipeline companies. Current policy provides two options for recovering these costs and pipelines follow a variety of practices in these matters. The Commission is seeking comments on whether it should change its current policy.

Hydropower Facilities. EPAct 2005 included incentives, such as tax credits, to promote the development of nonfederal hydropower at existing dams (for capacity that will go on line by December 31, 2008). This tax credit should promote an increase in infrastructure through the construction of generating facilities at non-hydropower dams and the addition of new facilities at existing hydro projects. Similar incentives, when first introduced in the early 1980s, resulted in a substantial increase in the number of hydropower development proposals at existing dams throughout the country. EPAct 2005 authorized incentive payments to non-federal dam owners who add generating devices to existing dams or conduits for 10 years at 1.8 cents per kWh, and a one-time incentive payment of up to 10 percent of the cost of improvements up to $750,000 for non-federal hydroelectric projects which make capital improvements that increase efficiency by at least 3 percent. A further increase in the number of license applications for original projects is expected. With the development of the ILP, the Commission is strategically positioned to assist potential applicants early on in the application process to discern the economic and environmental feasibility of a particular project. In addition, the ILP allows the Commission to complete the licensing process in an expedited manner and at less cost.

EPAct 2005 also authorized a tax credit for incremental production gains from efficiency improvements or capital additions to existing hydroelectric facilities placed in service after the passage of EPAct 2005 but before January 1, 2009. This tax credit is available only if the Commission makes the facility-specific certification required by EPAct 2005. In December 2005, Commission staff issued instructions explaining the information it will need to evaluate and certify such incremental increases in generation. This guidance has prompted the development of additional waterpower capacity to be placed in service prior to the expiration of the tax credit on January 1, 2009. Since the passage of EPAct 2005, the Commission has certified 132,260 MW-hours of incremental production gains from efficiency improvements.

EPAct 2005 also amended the process of licensing hydroelectric facilities in a manner that could promote hydropower development. Under prior law, the U.S. Departments of the Interior, Commerce, or Agriculture could attach a mandatory condition to a hydroelectric license and the licensee and the Commission were required to accept the condition. Under EPAct 2005, licensees or other participants may offer an alternative to the mandatory license condition and such alternative must be accepted if the relevant department determines that it will either cost significantly less or will result in improved operation of the project. In considering such alternatives, the relevant department must document that it gave "equal consideration" to the effects of the mandatory conditions on a variety of factors, such as energy supply, distribution, cost, use, flood control, navigation, water supply, and environmental quality. At the time the amended process was implemented, there were 15 projects outside of the timeline to offer an alternative; however, their licenses had not yet been issued. Individual schedules were developed for these "transition" projects. Fourteen of the 15 transition projects and all of the subsequent projects that chose to use the alternative condition provision of EPAct 2005 have completed their procedures. Action on the single remaining transition project, Condit Project No. 2342, has been deferred pending final action on PacifiCorps' surrender application for the project. Thus far, only two projects have gone to trial and an additional two projects (without trials) failed to settle all the alternative conditions.

Accounting, Reporting, and Record Retention Requirements. Understanding the role of transportation in energy markets requires accurate, complete, and timely financial information. These needs are met for jurisdictional companies through the Commission's Uniform System of Accounts and program of periodic public financial reporting. In addition, the Electric Quarterly Report (EQR) collects transaction information for short- and long-term power sales from public utilities, including power marketers, which provides transparency for market-based and cost-based power sales for the most recent calendar quarter.

As part of the Commission's ongoing effort in identifying emerging trends and issues affecting jurisdictional entities, it is continuing to update its accounting and financial reporting requirements to enhance transparency and improve how the economic consequences of transactions and events are measured and reported. New quarterly financial reporting requirements for public utilities and licensees, natural gas companies, and oil pipeline companies provide more timely, transparent, relevant, and understandable financial information. In February 2007, following extensive outreach efforts, the Commission issued a notice of inquiry seeking to assess whether its financial forms continue to collect relevant financial information critical to the Commission's jurisdictional activities in a changing regulatory environment. The Commission received 50 formal comments and reply comments from filers, industry associations, state regulators and other users of the information reported in the forms. In September 2007, the Commission issued a notice of proposed rulemaking proposing changes to Form 2, the reporting requirement for interstate natural gas companies.

In two other actions in February 2007, the Commission ordered 14 companies to explain why they had not filed various financial forms or required certified public accountant reports and eliminated respondents' ability to designate data required to be reported in the forms as "privileged" through the Commission's electronic submission software. The actions were taken to ensure Commission and public access to information needed for Commission oversight activities and to protect consumers.

In an effort to improve the quality of information reported in the EQR, the Commission has issued an order adopting an EQR data dictionary. This common set of definitions of EQR terms and values is expected to provide the Commission and public with more consistent, reliable, and understandable information related to the contracts and transactions reported in the form. Furthermore, a common EQR language should result in greater consistency and thus greater regulatory certainty for entities responsible for filing the EQR.

Finally, the Commission provided guidance to the industry on how jurisdictional entities should implement new accounting standards in the areas of employee postretirement benefits and income taxes for Commission accounting and reporting purposes. The new standards and guidance will improve financial reporting and ensure that all entities account for and report these transactions to the Commission in a uniform manner.

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Resolve Regulatory and Other Challenges to Needed Development		
Timeliness of processing complete filings containing amendments to non-independent electric transmission provider OATTs	100% processed by statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Issue Alaska Gas Pipeline Reports to Congress	Issue Reports in February and August 2009	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases with no precedential issues completed	➢ 90% of unprotested cases within 159 days of filing ➢ 90% of protested cases within 304 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases of first impression or containing larger policy implications completed	90% within 365 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases requiring a major environmental assessment or environmental impact statement completed	90% within 480 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of NEPA documents completed for projects utilizing the pre-filing processes	85% within 8 months of determining a pipeline or LNG facility application complete	Office of Energy Projects / Office of the General Counsel
Percentage of qualifying LNG plants inspected during ongoing construction activity	90% of plants inspected every 8 weeks	Office of Energy Projects

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of ILP pre-filing study plan determinations completed	75% within 30 days of applicant filing revised study plan for Commission approval	Office of Energy Projects / Office of the General Counsel
Percentage of infrastructure studies completed	➢ 95% for regional and issue-based infrastructure conferences ➢ 95% for Commission- and Congressional-directed studies	Office of Energy Projects
Percentage of electric transmission siting cases completed	90% within 365 days of filing	Office of Energy Projects / Office of the General Counsel

Encourage Investment and Effect Timely Cost Recovery		
Timeliness of processing complete applications for incentive rates	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 80% of declaratory orders filed for Commission action within 180 days of filing date or by applicant's requested date, whichever is later.	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cost recovery cases (including prudently-incurred expenses to safeguard and enhance the reliability, security and safety of the energy infrastructure)	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 90% of rate inserts for certificate cases processed within 30 days prior to lead office's target date for completion of pipeline certificate case ➢ 85% of cases that were set for hearing filed for Commission action within 12 months of briefs opposing exceptions	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of verification of EQR submissions	Within 10 business days of filing due date	Office of Enforcement
Percentage of Accounting Inserts completed for inclusion in merit orders on cost recovery proposals for new gas pipeline infrastructure	95%	Office of Enforcement
Percentage of financial accounting filings completed timely	75% within 60 days of filing date	Office of Enforcement
Percentage of reporting requirement filings completed timely	75% within 60 days of filing date	Office of Enforcement

Allocation of Energy Infrastructure Resources
Objective B: Maintain a Reliable and Safe Infrastructure
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$48,928**	**$70,038**	**$79,640**
Program	40,886	59,072	67,248
Support	8,042	10,966	12,392
FTEs	**270**	**361**	**416**
Program	219	297	344
Support	51	64	72

Objective B: Maintain a Reliable and Safe Infrastructure

The Nation's energy infrastructure must be reliable and safe in serving energy customers. The Commission works closely with the ERO, federal, state and local agencies to:

- assure the reliability of interstate transmission grids;
- protect safety at LNG and hydropower facilities; and
- incorporate environmental considerations into Commission decisions.

Objective B Strategy 1

Assure Reliability of Interstate Transmission Grid

The Nation's electric transmission grid is an extremely complex network operated by some 127 balancing authorities delivering more than 750,000 MW of power. It includes over 150,000 miles of power lines that cross the boundaries of different utilities, states, Canada, and Mexico. When a generator or transmission facility fails, it can have widespread effects and must be addressed by multiple electricity balancing authorities that must quickly share information and coordinate their efforts to isolate or fix the failure. Given the economy's dependence on a reliable supply of electricity, it is critical for the industry to have clear, unambiguous, mandatory, and enforceable reliability standards and secure communications and control technology. The Commission has had a significantly increased need for highly trained staff that understands the engineering and operational complexities of the bulk power system and the related mandatory reliability standards and enforcement procedures for violation of the standards.

The Commission anticipates its already increased need for highly trained staff will continue to grow through FY 2009. This growth is the result of new requirements and responsibilities promulgated through the enactment of EPAct 2005 and the demand for staff with practical understanding of power systems engineering and reliability standards. The number of entities to whom the new mandatory and enforceable reliability standards apply is driving competition not only for experienced engineers but also for compliance experts. The increased program request of 47 FTEs and $8.2 million will allow the Commission to meet these needs.

As described more fully below, the Commission's work to implement these responsibilities will focus on:

- ensuring the consistent application of pricing policies for transmission projects to address reliability needs, as discussed in the preceding objective;
- overseeing the development of mandatory and enforceable reliability standards to protect the bulk-power system;
- enforcing the reliability standards and investigating instances of non-compliance with those standards;
- addressing and improving infrastructure security;
- participating in the development of reports and assessments of the reliability program; and
- coordinating electric reliability efforts with Canada and Mexico.

Electric Reliability. In February 2006, the Commission finalized new rules on the certification of an ERO and the procedures for the establishment, approval, and enforcement of mandatory electric reliability standards.

In July 2006, the Commission certified NERC as the ERO and accepted, with some modifications and clarifications, NERC's proposed governance structure, funding, reliability standards development process, enforcement program, and *pro forma* Regional Entity delegation agreement. As the ERO, NERC is responsible for developing mandatory electric reliability standards, subject to Commission approval and oversight. Through the delegation agreements the Commission approved in April 2007, NERC delegates enforcement powers to eight Regional Entities that will directly monitor compliance with Commission-approved mandatory electric reliability standards and assess penalties for violations of these standards. The reliability standards apply to all users, owners, and operators of the bulk power system. As the ERO, NERC coordinates the activities of the Regional Entities to ensure consistent enforcement across the grid. NERC itself retains enforcement powers, subject to Commission review. When appropriate, the Commission will use its own enforcement authority under the FPA to assure compliance with reliability standards. Thus, the Commission will rely on the Regional Entities and the ERO for front-line reliability standards enforcement, but will itself be the ultimate enforcer of reliability. Congress required this independent government oversight of compliance with reliability standards in EPAct 2005. The Commission's independent oversight of standard violation investigations has proven essential both before and after the enactment of EPAct 2005 in August 2005. For example, the month EPAct 2005 was enacted, there were electric power blackouts to portions of Los Angeles that affected 500,000 customers. The Commission reviewed the NERC and Regional Entity investigations for both rigor and consistency across the Nation. This presents the Commission with an increased need for additional experienced resources.

The reliability standards development process requires the ERO to develop reliability standards through an open and inclusive process which involves extensive consultation and coordination among the Commission, the ERO, and electric market participants. In addition to calling for the development of new standards, the Commission can either accept, call for modifications of, or remand the proposed standards.

As part of its application to become the ERO, NERC submitted a petition for Commission approval of 102 proposed reliability standards. In March 2007, the Commission approved as mandatory 83 electric reliability standards. These standards address critical utility and grid operations and practices and the numerous aspects of monitoring, coordination, communication, and emergency situations needed to ensure reliability. Although these 83 standards went into effect in June 2007, the Commission directed the ERO to modify and resubmit 56 of the 83 reliability standards. In addition, 24 standards are still pending until further information is provided by NERC.

In addition to the original proposed reliability standards, NERC has submitted additional standards for the Commission's review. In August 2006, NERC submitted eight standards related to cyber security including such issues as critical cyber asset identification, security management controls, physical security of critical cyber assets, and recovery plans for critical cyber assets. In December 2006, the Commission released a preliminary staff assessment of these eight standards, providing observations and identifying concerns. Interested parties subsequently filed comments in response to the preliminary staff assessment. In July 2007, in light of the preliminary staff assessment and the responsive comments, the Commission issued a notice of proposed rulemaking to approve these eight standards, but also proposed modifications of these eight standards to address Commission concerns.

In March 2007, NERC submitted eight regional reliability standards proposed by the Western Electricity Coordinating Council (WECC) for the Western Interconnection. In June 2007, the Commission approved the standards as mandatory and enforceable, but also directed WECC to address certain shortcomings in the standards by developing modified standards.

Commission staff will periodically audit the ERO for compliance with its statutory and regulatory criteria for maintaining certification and its performance in enforcing the reliability standards. Commission staff will also participate with the ERO in its auditing of the Regional Entities. The Regional Entities will oversee users, owners, and operators of the bulk power system as well as investigate reliability incidents (e.g., facility outages or blackouts) and allegations of non-compliance with the reliability standards. The Commission will also independently investigate reliability incidents and periodically audit users, owners or operators for compliance with the reliability standards.

To further ensure reliability, Commission staff currently participates with NERC on approximately 30 “readiness evaluations” per year. These evaluations assess the readiness of reliability coordinators, balancing authorities, and transmission operators to operate the bulk power system reliably. They also serve to identify best practices and opportunities for improvement.

In 2007, the Commission built an onsite Reliability Monitoring Center to monitor the status of the bulk-power system. The monitoring will provide near real-time access to system conditions of RTOs, ISOs, and the Electric Reliability Council of Texas, as well as system data from the southeast through Oak Ridge National Laboratory. This near real-time access will allow for timely identification of major incidents that impact the reliability of the bulk-power system, more timely communication of incidents to the Commission, and quicker formulation and implementation of needed responses.

Regulation of the ERO and the adoption and enforcement of mandatory reliability standards is a new responsibility for the Commission. As discussed previously, the oversight and auditing of the ERO and its actions will be an increasingly significant source of work for the Commission through FY 2009. The issues can be extremely complex and will undoubtedly be time consuming, requiring extensive outreach and education. While new efforts will always be necessary in the continuously evolving energy environment, the Commission’s immediate efforts will focus on overseeing and auditing the ERO and its actions, refining procedures and standards, and developing rules to further enhance the reliability of the bulk-power system. To complete this work, the Commission has been hiring, and will continue to hire, additional staff to accomplish these tasks. In some instances, it may also be necessary for the Commission to acquire contract expertise.

Electric Infrastructure Security. The Commission works with other agencies and with the industry on a number of fronts to address and improve cyber and physical security and information exchange within the industry. The Commission continues to communicate and collaborate with the Department of Homeland Security (DHS), DOE, the Nuclear Regulatory Commission (NRC), and NERC, among others. The scope and confidentiality of this work varies from undertaking studies to assessing risk. Many of these activities will lead to the development or modification of ERO reliability standards. This multi-agency approach to ensuring the cyber security of the bulk-power systems requires significant and timely coordination by individuals with specialized expertise. The Commission anticipates it will require additional resources to address these issues through FY 2009.

The Commission has been implementing and will continue to encourage innovative approaches to system security and reliability that will improve the ability of the transmission grid to withstand and quickly recover from a terrorist attack. For example, the Commission has authorized an innovative agreement among electric utilities put forth by the Edison Electric Institute establishing a Spare Transformer Equipment Program designed to increase the industry's inventory and availability of spare electric transformers. This agreement will help maintain the integrity of the nation's transmission system in the event of a future terrorist strike by providing participating utilities immediate access to a pool of spare transformers and, thus, dramatically reducing the length of an outage resulting from an attack. The Commission has encouraged participating utilities to expand the scope of the program to include other emergency situations such as natural disasters.

As part of its electric infrastructure security work, the Commission has begun an information exchange with the NRC. In April 2006, the two regulatory agencies met to discuss and promote interactions on matters relating to the reliability of the bulk power system and the operation of United States commercial nuclear power plants. In January 2007, the two agencies met again to consider ways to align processes.

The Commission took other significant steps to ensure the reliability of the interstate transmission grid:

- In August 2006, the Commission directed its staff to hold a technical conference on proposed tariff revisions that featured a new adequate ramp capability (ARC) procedure. As the first step for dealing with shortage conditions, Midwest ISO can invoke ARC, which involves temporary use of up to 50 percent of spinning reserves, to be restored within one hour. In January 2007, the Commission issued an order conditionally accepting the proposal. It called ARC "an appropriate extension" of Midwest ISO's existing authority to address shortage conditions and said it will allow the grid operator "to manage short-term conditions that threaten supply/demand imbalances."

- In January 2007, the Commission accepted for filing, without modification or suspension and as a jurisdictional rate schedule, a cooperative protocol among PJM, NYISO and ISO-NE. The protocol is designed to ensure the operation of the Hydro-Quebec/New England Power Pool Phase II transmission tie (Phase II Tie) in a manner that protects reliability throughout the three ISOs/RTOs' control areas. While the nominal transfer capacity between New England and Canada on the Phase II Tie is approximately 2,000 MW, joint reliability studies indicated that the loss of the Phase II Tie under certain conditions could cause the bulk power system in the Northeast and Mid-Atlantic regions to experience instability, uncontrolled separation, or cascading outages.

  The ISOs/RTOs are required by NERC reliability standards to operate their control areas to respect Interconnection Reliability Operating Limits. The protocol is the means by which the three ISOs/RTOs fulfill this reliability obligation.

- In May 2007, the Commission issued a final rule to ensure qualifying facilities (QFs) are subject to mandatory reliability rules. The final rule clarifies that QFs are not, as a class, exempt from compliance with mandatory reliability standards under FPA section 215. The Commission found no meaningful distinction between QF and non-QF generators that would warrant automatic exemption of QFs from reliability standards.

- In May 2007, the Commission approved the assignment of over 700 Violation Risk Factors for NERC's Version 0 and Version 1 reliability standards. A Violation Risk Factor associates the violation of a Reliability Standard requirement with its potential impact on the reliability of the bulk power system and is a factor in determining monetary penalties. The Commission also modified 28 of the proposed Violation Risk Factor assignments and directed NERC to submit a compliance filing explaining the rationale for assigning certain risk factor levels in approximately 75 other instances.

- Also in May 2007, the Commission accepted tariff revisions filed by NYISO to compensate dual-fuel generators for their fuel costs when they are required to burn oil by a local reliability rule known as I-R3, the "Minimum Oil Burn Rule."

- In July 2007, the Commission issued the Small Entity Compliance Guide to assist small entities (small businesses, small organizations and small governmental jurisdictions) to comply with the Commission's mandatory reliability standards;

- In August 2007, the Commission proposed to approve three reliability standards, which set requirements for the development of system operating limits of the Bulk-Power System for use in the planning and operation horizons.

- In September 2007, the Commission held a technical conference to explore issues associated with cost recovery of penalties for reliability standard violations assessed against ISOs and RTOs.

- In October 2007, the Commission conditionally accepted the FY 2008 business plan and U.S.-based budget for the NERC and the Nation's eight Regional Entities. This action approved an $82.6 million funding requirement for the U.S.-based operations of NERC and the Regional Entities. Roughly $22.8 million is for NERC, $59.4 million is for the Regional Entities and $404,035 is for the Western Interconnection Regional Advisory Body. These actions will assure that NERC and the Regional Entities have adequate funding to perform the important task of developing strong reliability standards and helping to enforce reliability standards made mandatory by the Commission.

International Coordination on Electric Reliability in North America. The U.S.-Canada Bilateral Electric Reliability Working Group, which now includes representatives from Mexico as observers, held public conferences in FYs 2005 and 2006 on the transition to an international ERO and the cross-border implications of reliability standards development and enforcement. Regulators from Canada, Mexico, and the U.S. met twice in FY 2007 to discuss progress and concerns with respect to reliability standards development and enforcement. The Commission will continue its efforts to closely coordinate with Canadian and Mexican regulatory authorities to address ERO reliability standards and other cross-border reliability issues.

Objective B
Strategy 2

Protect Safety at LNG and Hydropower Facilities

The Commission is responsible for the safety of LNG and non-federal hydropower facilities throughout the entire life cycle of a project: design review, construction, and operation. The Commission also has a limited regulatory role in the safety of natural gas pipelines and storage projects.

LNG Facilities. Under section 3 of the NGA, the Commission reviews applications for the siting, construction, and operation of LNG import terminals. As part of its review, the Commission performs a detailed review of safety and security issues, in coordination with the U.S. Coast

Guard, which has jurisdiction over offshore LNG facilities, and the U.S. Department of Transportation (DOT), which has jurisdiction over onshore LNG facilities, related to the proposed site as well as any alternative sites that are under consideration. In addition to the Commission's filing requirements, LNG project applicants also are required to comply with DOT's criteria for design and construction of LNG facilities.

In November 2007, pursuant to a directive in section 3 of the NGA, as amended by EPAct 2005, the Commission completed a memorandum of understanding (MOU) with the U.S. Department of Defense to coordinate and consult on the siting, construction, expansion, and/or operation of LNG facilities that may affect activities of an active military installation. If the Commission determines there would be an effect, it will obtain concurrence prior to authorizing the facilities.

The Commission continued to work closely with the U.S. Coast Guard in FY 2007 to help it refine its guidance for the preparation and review of a waterway suitability assessment. The two also are working to ensure that environmental impacts of U.S. Coast Guard actions related to LNG facilities and tanker transit are adequately addressed in the EIS.

In any order authorizing an LNG terminal, the Commission will require the development of an emergency response plan which must include a cost-sharing framework for the applicant and state and local authorities. While developing the plan, the applicant must consult with the U.S. Coast Guard, and state and local authorities. The Commission must review and approve the plans prior to giving approval to start construction of an LNG import terminal.

Hydropower Facilities. The Commission has authorized the construction and operation of over 1,600 non-federal hydroelectric projects. To protect life, health, and property, the Commission works to ensure the safety of the approximately 2,500 dam structures included in these Commission-authorized projects. During FY 2007, the Commission continued its potential failure modes analysis and performance-monitoring program, and refined the newly-formed technical resource groups to apply the best dam safety expertise to the most difficult dam safety issues in an effective and efficient manner.

The goal of performance monitoring is to use appropriate instrumentation to detect and measure physical changes in the structure before dam safety problems develop. The program includes procedures and criteria for dam owners that:

- identify risk reduction opportunities;
- identify the most significant potential failure modes;
- develop dam operating procedures; and

- focus instrumentation, monitoring, and inspection programs on providing information on failure modes that present the greatest risk to the safety of the dam.

This program is providing exceptional methods to better identify and solve dam safety issues, and has improved coordination, abilities, and trust among all stakeholders. Full rollout of this program will be completed in FY 2008. Potential failure modes analyses will be conducted by the dam owner, independent consultant, and Commission staff at the next-scheduled independent consultant inspection. At the end of FY 2007, approximately 80 percent of the required dams had undergone this new analysis. During FY 2008, the Commission is transitioning from the initial work of identifying potential failure modes to an emphasis on performance monitoring and the assessment of resulting data. In FY 2009, the Commission will work with federal and state agencies on earthquake analyses and additional guidance on state-of-the-practice safety issues. There have been incidents of malfunction of various remote control operations at Army Corps of Engineers, Bureau of Reclamation and Commission projects. These experiences raise the need for a national cooperative assessment of remote control equipment at dams, in which the Commission will be heavily involved.

The Commission has developed a security program that helps protect hydropower projects and safeguards this portion of the Nation's infrastructure. During FY 2007, the Commission focused closely on security issues and further developed the hydropower security program by:

- conducting three workshops on dam site security and emergency action planning;
- providing significant contributions to DHS on dam security and criticality of dams;
- continuing to work with DHS and the Federal Bureau of Investigation to coordinate a national security response at dams;
- leading interagency coordination on federal infrastructure security at dams;
- continuing coordination efforts between Commission-jurisdictional dam owners and law enforcement and emergency management agencies; and
- coordinating with various federal and state dam safety agencies, Federal Emergency Management Agency and DHS, and providing industry guidance on the format and content of disaster recovery plans for hydropower projects.

These efforts have better prepared the hydropower industry and the Commission to keep dams safe and secure, and to respond quickly and successfully to any safety threats. In FYs 2008 and 2009, the Commission will further improve its security program by ensuring that jurisdictional dam owners/operators have proper cyber and supervisory control and data acquisition security, continuity of operations (disaster recovery) plans, and emergency action plans.

The Commission took several actions in response to the December 2005 overtopping and breach of the Taum Sauk Pumped Storage Project's upper reservoir dike, near Lesterville, Missouri. Commission staff conducted an intensive investigation of the events surrounding this incident. The Commission also convened an expert panel of engineering consultants to evaluate and oversee the forensic evaluation and the design of the project repair. Throughout the process, Commission staff has been working closely with the licensees, the engineering consultants, and the State of Missouri's dam safety and environmental agencies. In August 2007, the Commission authorized Ameren UE to start reconstructing the upper reservoir. Commission staff will be actively engaged in this reconstruction during FYs 2008 and 2009.

Commission staff quickly applied the lessons learned at Taum Sauk to other pumped storage projects by conducting a technical review of the operations and controls of the jurisdictional pumped storage projects. The review was followed up with a workshop of all pumped storage project owners in FY 2007 and a collaborative group of pumped storage project representatives, engineering consultants, other federal agencies, and Commission staff was formed to develop pumped storage technical guidance.

Natural Gas Pipelines and Storage Facilities. Under section 7 of the NGA, the Commission reviews applications for the construction and operation of natural gas pipelines. In its application review, the Commission ensures that the applicant has certified that it will comply with DOT safety standards. The Commission has no jurisdiction over pipeline safety or security, but actively works with other agencies with direct safety and security responsibilities.

The Commission acts as the lead federal agency for the siting and authorization of jurisdictional natural gas storage facilities as these facilities are integral to the interstate natural gas pipeline systems engaged in the transportation of gas in interstate commerce. In this initial authorization phase, the Commission also approves the expansion, acquisition, or abandonment of these facilities as required by the public interest.

Further, for underground gas storage facilities, the Commission historically has played a limited role regarding the safety of these facilities. Routinely, the Commission requires that storage developers supply certain safety related information up until the time that the certificated storage volumes have been achieved, which could take a year or more, depending on the type and size of the storage project.

Critical Energy Infrastructure Information. The Commission continues the efforts it began in Order No. 630 to restrict access to critical energy infrastructure information (CEII) while still providing information needed by the public to participate in siting and other proceedings. From April 2003 through December 2007, the Commission received approximately 1,550 CEII requests and granted most of the requests. As provided in Order No. 630, the Commission continually monitors and evaluates the effectiveness of the CEII process. To that end, in October 2007, the Commission issued a final rule in Order No. 702 narrowing the definition of CEII, providing for annual certification for repeat requesters of CEII, modifying the Commission's process to allow the CEII Coordinator to respond to CEII requests by letter, eliminating as a category of documents the non-internet public designation, and making several other changes designed to make the process more efficient.

Objective B
Strategy 3

Incorporate Environmental Considerations into Commission Decisions

Natural gas projects and hydropower projects have environmental impacts that can be mitigated with appropriate measures. The Commission is committed to satisfying environmental concerns through cost-effective mitigation of environmental impacts, while also seeking to avoid construction delays. Commission licenses include terms and conditions that are designed to mitigate possible environmental impacts of project construction and operation, and to provide opportunities to enhance the public's use of the available resources. The Commission monitors these terms and conditions for compliance throughout the term of the license.

Natural Gas Projects. The Commission requires environmental measures in certificates and authorizations, inspects natural gas facilities for adherence to prescribed environmental mitigation measures, and demonstrates its commitment to expedited project reviews and addressing landowner concerns when performing NEPA reviews.

In FY 2007, the Commission continued to offer training sessions on compliance with Commission regulations and certificate conditions. In addition to helping certificate applicants, the well-attended sessions are also valuable to Commission staff. The comments and questions from the sessions help the Commission monitor the clarity and effectiveness of certificate conditions.

The Commission continues to promote the use of the third-party compliance monitoring program for environmental compliance. The program establishes a full-time on-site presence during the construction and restoration of major projects; gives the Commission staff immediate access to information regarding field conditions and the ability to respond quickly to requests from landowners and construction contractors; and gives the industry more flexibility to react to changing or unanticipated construction conditions. This program has resulted in substantial benefits for the Commission and the natural gas industry, and has increased industry's awareness of environmental compliance.

Hydropower Projects. Hydropower licenses include requirements that are designed to protect, mitigate and enhance the environmental resources of project areas. These requirements address water quality, land use management, endangered species, recreation, cultural resources and fish habitat and passage, among other resources. In many cases, measures to protect, mitigate and enhance the environmental resources of project areas are proposed in settlement agreements filed with the Commission. For hydropower licensing cases, settlement agreements continue to increase in number. The Commission encourages parties to develop settlements that are consistent with the Commission's responsibilities under the FPA so that the Commission can include agreed-upon provisions in licenses.

In FY 2007, the Commission issued several licenses that included significant environmental measures agreed to by the signatories and set forth in the agreements, including:

- a settlement signed by 22 stakeholders for the 21-MW El Dorado Project, located on the South Fork of the American River and its tributaries in El Dorado, Alpine, and Amador counties, California. The settlement addressed the following issues: flow regimes and lake levels for project development, channel stabilization, monitoring measures, protective fish measures, wildlife and sensitive plant protective measures, noxious weed control, public information services, recreational enhancements, visual resource protection, road and trail access, and facility management;

- a settlement signed by five stakeholder groups for the 176.2-MW Osage Hydroelectric Project, located on the Osage River, in Benton, Camden, Miller, and Morgan Counties, Missouri. The settlement was designed to: address flooding and erosion along the lower Osage River; protect and/or enhance fish, mussel, and wildlife resources including their habitat; enhance water quality and recreational opportunities; improve management of project lands; protect cultural resources and historic properties; and prescribe adaptive management procedures to address on-going resource protection needs;

- a settlement signed by ten stakeholder groups for the 48-MW Lake Chelan Hydroelectric Project No. 637 located on the Chelan River, near the City of Chelan, in Chelan County, Washington. The settlement addressed: erosion control, disposal of large woody debris, restoration of survey monuments, fishery protection and enhancement, stabilized lake levels, protection and enhancement of wildlife habitat cultural resource protection; recreation and fishways; and

- a settlement signed by 14 stakeholder groups for the 2,755.5-MW Niagara Project No. 2216, located on the Niagara River, in Niagara County, New York. Key issues associated with relicensing this project and addressed by the settlement are: water level fluctuations, groundwater transport, shoreline erosion, and power allocation.

The Commission continues to experience a significant increase in post-licensing and compliance workload related to the increase in the number of new licenses issued. Since 2000, the Commission has issued over 226 licenses and exemptions. These authorizations contain numerous requirements that are associated with, among other things, state water quality certificates, mandatory 4(e) terms and conditions, biological opinions for endangered and threatened species protection and complex settlement agreements, in addition to the Commission's own requirements. The new requirements have resulted in increased filing of plans and reports, many involving aquatic issues, technical fisheries issues, engineering issues, land use and shoreline management issues, and capacity-related license amendment applications. These filings often require quick review for adequacy and implementation. The Commission expects this post-licensing compliance trend to continue during FYs 2008 and 2009.

During FY 2007, the Commission authorized 74 MW of additional capacity at existing projects. Amendments to licenses were issued to:

- Erie Boulevard Hydropower for the Hudson River Hydroelectric Project No. 2482 on the Hudson River, in New York, which increased the project capacity from 73.2 to 83.86 MW, and included measures to protect the aquatic resources due to the proposed addition of new turbines and runner upgrades. The license amendment order revised the flow that will be released through the new minimum flow turbine, and required erosion and sediment control plans and stream flow and water level monitoring plans;

- American Municipal Power-Ohio for the Cannelton Project No. 10228 on the Ohio River, in Kentucky, which increased the project capacity from 79.8 MW to 84 MW, and included significant measures to protect aquatic resources, endangered species and terrestrial resources;

- Idaho Power Company for the Shoshone Falls Project No. 2778 on the Snake River in Idaho, which increased the project capacity from 11.875 MW to 60.875 MW, and included significant measures to protect terrestrial and aquatic resources and aesthetic qualities of Shoshone Falls;

- Orange Cove Irrigation District for the Fishwater Release Hydroelectric Project No. 11068 at the Friant Dam on the San Joaquin River in California, which increased the project capacity from 0.51 MW to 2.31 MW, and included requirements for the licensee to file a water quality monitoring program, and consult with the State Historic Preservation Officer and Tribes on protection of archeological and historic resources;

- Erie Boulevard Hydropower for the Lower Raquette River Hydroelectric Project No. 2330 on the Raquette River in New York, which increased the capacity of the project from 12.0 MW to 18.0 MW. The amendment included requirements for the licensee to file a stream flow and water level monitoring plan, as required by section 401 certification, a design and installation plan for upstream eel passage, an accelerated schedule for installation of trash racks at the Norwood development, and the installation of eel passage at the four project developments and the licensee's Yaleville Project; and

- Duke Energy for the Ninety-Nine Islands Project No. 2331, located on the Broad River, in South Carolina, which increased the project capacity from 18 MW to 20 MW.

Additionally, numerous post-licensing environmental mitigation measures were approved in FY 2007 including:

- The design of a $60 million selective water withdrawal facility which will allow for the reintroduction of anadromous salmon and steelhead trout upstream of the Pelton-Round Butte Project No. 2030 in Oregon. The facility will collect downstream migrating fish for transport below the project into the Deschutes River that will enable these fish to continue migration to the ocean; and

- A fish passage plan to provide for the safe and effective downstream migration of anadromous blueback herring at the Crescent Project No. 4678 in New York to minimize mortalities of downstream migrants that had been occurring at the project with no passage facilities in place.

The Commission also granted 100 preliminary permits authorizing feasibility studies for 444 hydrokinetic projects with a total potential capacity of about 3,000 MW and 56 conventional projects with a total potential capacity of about 6,000 MW.

The Commission continues to receive an increasing number of land and water use development applications that involve contested, complex issues related to water quality, navigation hazards, aesthetics, and erosion around licensed lakes and reservoirs. The Commission expects the same trend to continue, as the public leisure demands continue to grow on lakes and reservoirs. The Commission has issued a guidance manual for shoreline management, and continues to hold land resources management and development workshops in the affected regions of the country. The Commission also conducts workshops on noxious plants to exchange scientific information and improve coordination among licensees, federal and state resource agencies, and noxious plant experts on effective control and eradication methods to be used in licensed lakes and reservoirs.

The Commission will monitor compliance through its environmental inspection program to ensure that resource protection measures, designed to maintain environmental quality at hydropower projects, are constructed and implemented according to license requirements. The Commission's compliance assistance program comprising environmental inspections, building partnerships, engaging in collaborative problem solving, and delivering guidance ensures effective license compliance and resource protection. In FY 2007, Commission staff inspected 125 projects and completed over 200 investigations into allegations of environmental non-compliance. The Commission expects to conduct a similar number of inspections and investigations in FYs 2008 and 2009.

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Assure Reliability of Interstate Transmission Grid		
Timely approval of ERO/RE budgets and business plans	Complete by November 1, 2008	Office of Electric Reliability
Timeliness of processing proposed reliability standards	75% of filed proposed reliability standards are remanded or approved within 18 months, unless found incomplete	Office of Electric Reliability / Office of the General Counsel
Review the performance of the ERO	Complete within 12 months of the submission by the ERO of an assessment of its performance	Office of Electric Reliability
Number of ERO Regional Entity compliance audits in which FERC participates	At least one in each of the eight regions	Office of Electric Reliability
Percentage of ERO / industry reliability readiness evaluations of Reliability Coordinators in which FERC participates	75%	Office of Electric Reliability
Percentage of load served, included in ERO / industry reliability readiness evaluations, in which FERC participates	35%	Office of Electric Reliability

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of ERO penalty action rulings reviewed or tolled to prevent inappropriate rulings from going into effect by default	100%	Office of Enforcement / Office of Electric Reliability
Assess Notices of Alleged Violation and Sanction received from the ERO	Review 60% of Notices of Alleged Violation and Sanction received from ERO within two weeks of receipt for appropriateness of sanction	Office of Enforcement
Timeliness of reporting to the Commission on ERO and Regional Entity audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of ERO and Regional Entity audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Protect Safety at LNG and Hydropower Facilities		
Percentage of high- and significant-hazard-potential dams inspected annually	90%	Office of Energy Projects
Percentage of high- and significant-hazard-potential dams that either meet all current structural safety standards or are undergoing investigation or remediation	90%	Office of Energy Projects
Percentage of LNG peak-shaving facilities inspected biennially	90%	Office of Energy Projects
Percentage of LNG import terminals inspected annually	90%	Office of Energy Projects
Percentage of qualifying dams that either comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s)	90%	Office of Energy Projects
Control access to Critical Energy Infrastructure Information	No instances of improper access or improper denial affecting national security or Commission proceedings	Office of the General Counsel
Incorporate Environmental Considerations into Commission Decisions		
Percentage of final inspection reports completed	75% within 4 months of inspection	Office of Energy Projects

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Timeliness of issuing environmental licensing requirements	Licensing responsibility letters sent within 60 days of license issuance date	Office of Energy Projects / Office of the General Counsel
Percentage of final NEPA documents issued for ALP/TLP cases: ➢ with settlement agreements ➢ without settlement agreements	➢ 75% within 12 months of settlement filing date ➢ 75% within 24 months of REA date	Office of Energy Projects / Office of the General Counsel
Percentage of qualifying, major, onshore-pipeline projects inspected during ongoing construction activity	90% of projects inspected at least once every four weeks	Office of Energy Projects

CHAPTER 2: COMPETITIVE MARKETS

Support Competitive Markets

Total Resources for Competitive Markets Program

(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$31,994**	**$26,881**	**$26,973**
Program	27,251	22,290	22,494
Support	4,743	4,591	4,479
FTEs	**159**	**151**	**150**
Program	129	124	124
Support	30	27	26

Introduction

The Commission continues to develop rules that encourage fair and effective competitive markets and prevent the accumulation and exercise of market power. To prevent the accumulation and exercise of market power, the Commission:

- assures proposed mergers and acquisitions are in the public interest; and
- addresses market power in jurisdictional wholesale markets.

The Commission is charged by statute with ensuring that prices in jurisdictional energy markets remain just and reasonable and not unduly discriminatory or preferential. One way the Commission does this is by promoting the transparency of information and operations in energy markets. As discussed more fully below, this in turn relies on Commission rules being effective at encouraging fair and efficient competitive markets. The Commission will accomplish this primarily through:

- its rate and corporate reviews under sections 203, 205, and 206 of the FPA;
- its rate review under sections 4 and 5 of the NGA;
- its rate review under the Interstate Commerce Act; and

- EPAct 2005 amendments to the FPA and NGA related to market operations, including new transparency and anti-manipulation provisions.

Key Commission initiatives supporting the continued development of competitive electric markets are:

- implementation of Order No. 890, and in particular transmission planning;
- approval of incentives under Order No. 679 to strengthen the bulk power system; and
- establishment of final rules concerning electric market based rates.

The Commission anticipates the continued development of competitive markets will increasingly require consideration of the effects of its decisions on demand response, energy efficiency, distributed generation, renewable energy, greenhouse gas emissions and advanced technologies. As a result, the Commission has established the Energy Innovations Sector in the *Office of Energy Market Regulation* to supply the Commission with expertise on emerging energy issues.

Allocation of Competitive Market Resources
Objective A: Develop Rules that Encourage Fair and Efficient Competitive Markets
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$22,925**	**$19,244**	**$19,312**
Program	19,541	15,964	16,112
Support	3,384	3,280	3,200
FTEs	**113**	**108**	**107**
Program	92	89	89
Support	21	19	18

Objective A: Develop Rules that Encourage Fair and Efficient Competitive Markets

Commission rules encourage fair and efficient wholesale competitive markets by preventing the accumulation and exercise of market power and promoting transparency of competitive electric and gas markets.

The Commission's work related to this objective will use the strategies of:

- continuing to evaluate and make improvements in jurisdictional competitive wholesale markets; and
- reducing barriers to trade between market regions.

Objective A Strategy 1

Employ Best Practices in Market Rules

The Commission recognizes the interrelated nature of the electric and gas markets it regulates and strives to have rules that result in the industries working together as seamlessly as possible so that consumers can secure energy at reasonable prices.

The Commission integrates its regulation of these separate but highly interrelated energy industries, but recognizes that there are significant differences among the electric markets, one of which is structural. The United States does not have a national electricity market, but rather a series of regional electricity markets. Some regions have independent operation of transmission facilities within a state or region and organized energy markets administered by RTOs, ISOs, or ITCs, while others rely on transmission operated by vertically integrated investor-owned utilities. Effective competition can exist under either structure.

The Commission will continue to build policies based on the successes achieved in energy markets. It will also incorporate lessons learned from the creation and sharing of best practices across organized energy markets and the development and use of effective and efficient business rules and practices.

Order No. 890. With the February 2007 issuance of Order No. 890, the Commission amended its regulations and the *pro forma* open access transmission tariff, adopted in Order No. 888, to remedy opportunities for undue discrimination and address deficiencies in the *pro forma* open access transmission tariff that had become increasingly apparent in the ten years since Order No. 888 was issued.

The Commission designed Order No. 890 to: strengthen the *pro forma* open access transmission tariff to ensure that it achieves its original purpose of remedying undue discrimination; provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and increase transparency in the rules applicable to the planning and use of the transmission system. Order No. 890 established a number of compliance requirements with corresponding deadlines, each necessary to achieve its stated goals.

Specifically, the Commission adopted requirements and processes in Order No. 890 to:

- increase non-discriminatory access to the grid by eliminating the wide discretion that transmission providers had in calculating available transfer capability (ATC);
- increase the ability of customers to access new generating resources by requiring an open, transparent and coordinated transmission planning process;
- increase efficient utilization of transmission by eliminating artificial barriers to access the grid;
- facilitate the use of and access to intermittent energy resources;
- acknowledge the role of demand resources in transmission planning and in ancillary services; and
- strengthen compliance and enforcement efforts.

Any proposed practice that is a variation from the express tariff requirements promulgated in Order No. 890 must be consistent with or superior to the revised *pro forma* open access transmission tariff. This approach will ensure that the Commission's rules succeed in providing non-discriminatory access at just and reasonable rates while respecting regional differences and practices already in place and relied upon by customers.

In December 2007, the Commission affirmed its basic determinations in Order No. 890, granting rehearing and clarification regarding certain revisions to its regulations and the *pro forma* open access transmission tariff adopted in Order Nos. 888 and 889 to ensure that transmission services are provided on a basis that is just, reasonable, and not unduly discriminatory. The reforms affirmed in rehearing are designed to: (1) strengthen the *pro forma* open access transmission tariff to ensure that it achieves its original purpose of remedying undue discrimination; (2) provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and (3) increase transparency in the rules applicable to planning and use of the transmission system.

RTO and ISO Market Rules. The Commission is committed to improving the market rules in ISO and RTO markets, consistent with the FPA.

Following are examples of major activities occurring in the RTO and ISO markets.

- The Midwest ISO operates in all or parts of 15 Midwestern states and one Canadian province. In 2005, the Midwest ISO implemented an Open Access Transmission and Energy Markets Tariff under which it operates security-constrained, centrally-dispatched day-ahead and real-time energy markets. The Midwest ISO is advancing several reforms to these markets, including consolidating Balancing Area Authorities, establishing an Ancillary Services market that co-optimizes energy and ancillary services, and developing multi-year financial transmission rights.

- In 2006, PJM and the Midwest ISO filed an informational report informing the Commission of their progress towards a joint and common market and implementation of the PJM/Midwest ISO Joint Operating Agreement. The report concluded that, at this time, the cost of implementing a single dispatch over the combined PJM and Midwest ISO systems could outweigh the associated savings. However, the study nevertheless identified a number of initiatives that are expected to increase the convergence of the two markets and to achieve significant savings. Now that a Joint Operating Agreement is in place, these RTOs have indicated that they will continue to work on such initiatives. PJM and Midwest ISO's continuing joint initiatives are aimed at providing the highest level of inter-regional reliability, delivering the lowest cost energy to the region and a commitment to plan, build and operate the combined PJM and Midwest ISO systems for maximum joint benefit.

- The Southwest Power Pool (SPP), approved to operate within an eight-state region, began operations as an RTO in February 2005. SPP has identified state involvement, capacity and resource adequacy, transmission expansion and balancing authority services for its members as key items on its agenda. The Commission conditionally accepted SPP's transmission cost allocation plan for requested and reliability upgrades, which is intended to encourage investment in transmission expansion throughout SPP. SPP's 2006 Regional Transmission Expansion Plan identified over $1.4 billion in upgrades necessary to maintain reliability over a ten year planning horizon (2006-2016). SPP is also developing a cost allocation proposal for economic upgrades to further its transmission expansion goals. On February 1, 2007, SPP launched an energy imbalance market to provide energy in real-time on a least-cost, bid-based security-constrained economic dispatch basis. This wholesale market is intended to provide for more efficient deployment of generation resources across the SPP region.

- The CAISO, currently operating as a statewide ISO, is in the process of implementing its Market Redesign and Technology Upgrade (MRTU) for its wholesale electricity markets. MRTU is expected to begin in April 2008. The CAISO's proposal provides for a new congestion management system, revises market power mitigation measures, and establishes a financially binding day-ahead energy market that will optimize energy supplies, ancillary services and electricity demand in the day-ahead time frame. Under its proposal, the CAISO will use a full network computer model to accurately depict available capacity and constraints on the CAISO's grid across all market time frames, and will allocate transmission capacity among competing uses using locational marginal pricing.

- In FY 2006, the Commission approved proposals by four jurisdictional vertically-integrated utility systems to contract with independent third parties, to act as their independent transmission service coordinators. Under the proposals, the independent transmission service coordinator will administer various open access transmission tariff-related functions with respect to transmission service provided over the utilities' systems. Generally, the independent coordinator will assume responsibility for, among other things: (1) evaluation and approval of all transmission service requests; (2) calculation of available transmission capability; (3) operation and administration of the Open Access Same-Time Information System (OASIS), which makes information about available transmission capability public and provides a means for requesting transmission service; (4) evaluation, processing and approval of all generation interconnection requests, and performance and/or oversight of related interconnection studies; and (5) coordination of transmission planning. The utility systems with approved proposals are MidAmerican Energy Co., Duke Power, Louisville Gas and Electric Co., and Entergy Services, Inc.

- In April 2006, after finding that PJM's existing capacity obligation rules were unjust and unreasonable, the Commission determined that certain elements of PJM's proposed alternative, the reliability pricing model (RPM), may form the basis for a just and reasonable capacity market. Under RPM, load serving entities can satisfy their capacity obligations not only with generation, but also with existing and planned demand resources. In December 2006, the Commission approved, subject to conditions, a settlement adopting PJM's amended RPM to provide greater incentives for new generation, transmission, and demand response.

- In October 2007, the Commission approved a proposal from ISO-NE and the New England Power Pool to shorten the release of data to three months from the current 180 days. Earlier release of the data is intended to add transparency to the market operations, help the public understand wholesale electricity markets, improve market confidence and allow market participants and state regulators to supplement market monitoring functions.

- In November 2007, the Commission accepted the Midwest ISO compliance plan that will allow continued carve-out of certain grandfathered transmission contracts from the region's energy markets. The Commission approved the continuation beyond February 1, 2008 to preserve the bargains of the contracting parties, and further found that the markets will continue to operate in an efficient and reliable manner with the carve-outs in place.

Release of Capacity on Interstate Natural Gas Pipelines. In November 2007, the Commission proposed rules to promote more efficient natural gas pipeline capacity release markets by easing restrictions on short-term capacity release transactions. The proposal would do this by permanently removing the rate cap on capacity release transactions of one year or less; and facilitating asset management arrangements important to many gas utilities. Asset management arrangements are contractual relationships where a party agrees to manage gas supply and delivery arrangements, including transportation and storage capacity, for another party.

The proposed rule would exempt capacity releases made as part of asset management arrangements from the prohibition against tying the release of capacity with release of capacity on other pipelines, taking assignment of gas purchase obligations, or paying other compensation to the releasing shipper. The proposed rule would also exempt asset management arrangements from the Commission's bidding requirements.

The proposed rule would continue to require asset managers to remain subject to all posting and reporting requirements to ensure full disclosure and transparency for capacity release transactions. It would also require pipelines to continue to provide notice of the released capacity.

The proposed rule should strengthen competition in the secondary capacity release market and improve access to the interstate natural gas pipeline system. As a result, shippers will have more options for how they obtain natural gas supplies, which should benefit gas consumers.

Effective and Efficient Business Rules and Practices. The Commission has encouraged the development of business rules and practices that maximize market efficiency, ease market entry and reduce transaction costs, relying on the North American Energy Standards Board (NAESB) and RTOs and ISOs, where appropriate. The lack of consistent, non-discriminatory business rules can harm competition and lead to higher costs for customers.

Based on the Commission's experience with the natural gas industry and NAESB, the best way to develop business practice standards is for the Commission to provide policy guidance and for industry experts to develop the standards, with the Commission resolving issues those experts cannot agree on, and then codifying the standards through the Commission's notice and comment procedures.

Over the years, the Commission has adopted a large number of NAESB standards as business practices. For example, in electric markets there are OASIS business practice standards, Standards and Communication Protocols, and a Data Dictionary. There are also business practice standards for Coordinating Interchange, Area Control Error Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback, which complement NERC's Reliability Standards.

Similarly, in working with NAESB's Wholesale Gas Quadrant, the Commission has adopted standards implementing the Commission's Standards of Conduct and its gas quality reporting requirements.

NAESB and the Commission have also undertaken efforts that affect both industries including the communication standards that coordinate the scheduling of electric and gas transactions. In June 2007, the Commission issued an order incorporating NAESB's gas-electric communication standards to improve communication between gas and electric industry operators.

Currently, NAESB is in the process of developing business practice standards to implement the Commission's requirements in Order No. 890, including standards that coordinate with ATC-related reliability standards being developed by NERC. The Commission will remain active in its collaborations with NAESB regarding the standards so they remain relevant and contribute to the Commission's objective of fair and efficient competitive markets.

Objective A Strategy 2

Reduce Barriers to Trade Between Markets and Among Regions

The Commission ensures that open access transmission service is available at reasonable prices on a nondiscriminatory basis. This provides the foundation for fair and efficient wholesale energy markets for electricity and natural gas. In exercising its jurisdiction over wholesale markets and transmission and transportation in interstate commerce, the Commission strives to reduce barriers to trade in both gas and electric markets. It also seeks to adopt approaches that are complementary to those of the states in their regulation of retail markets.

Barriers can be caused by differences in approaches by individual service providers within a market. The Commission has supported efforts by industry groups, such as NAESB, to address such differences in operating and business practices by standardizing business practices in both gas and electric markets. The Commission meets with state regulatory commissions and other governmental entities on a variety of market design, reliability, and operational issues as part of its effort to reduce barriers to trade within energy markets. The Commission has met with state regulatory commissions to discuss interactions among neighboring energy markets, cost control, financial transmission right allocations, and the treatment of grandfathered agreements. The Commission also works with stakeholders on issues regarding tariff implementation and market protocol implementation to ensure that Commission rules and policies for gas and electric markets are working.

An example of an intra-market barrier in wholesale gas markets is natural gas quality and interchangeability. The Commission's June 2006 policy statement on this matter delineates five principles the Commission will use as it addresses disputes over gas quality and interchangeability on a case-by-case basis. In April 2007, the Commission clarified its gas quality and interchangeability policy. In refusing to include a mechanism in Florida Gas Transmission's tariff to recover so-called downstream customer costs associated with the introduction of revaporized LNG into gas pipeline systems, the Commission concluded that it should not compensate customers for costs they may incur to blend in supplies that meet approved gas quality standards.

In December 2007, the Commission generally denied rehearing on issues related to the establishment of gas quality and interchangeability standards on the Florida Gas Transmission Co. system to accommodate the introduction of regasified LNG into the system. The Commission affirmed its prior holding that it would not adopt a mechanism for gas users to recover any costs they may incur as a result of the introduction onto the system of LNG that meets approved standards for gas quality and interchangeability. The Commission denied rehearing on all issues except the issue of the appropriate maximum sulfur content of the gas.

In June 2007, the Commission approved a Transwestern Pipeline settlement on gas quality issues that met the policy goal of addressing safety while also maximizing supply.

In July 2007, the Commission rejected a Gulf South Pipeline Company proposal to incorporate new gas quality specifications that were unsupported and not designed to specifically address existing gas quality issues. The rejection was without prejudice to Gulf South filing a new proposal with adequate technical, engineering and operational data to support its claim that, without revision, its current tariff provisions will hinder its ability to make deliveries to downstream interconnects.

In October 2007, the Commission rejected a Northern Natural Gas Company (Northern) proposal for new gas quality specifications finding that Northern failed to support its proposed changes. The Commission confirmed, however, that pipelines making a sufficient technical showing would have an opportunity to modify their tariffs to correct ongoing gas quality problems or make operational adjustments.

In wholesale electric markets, Order No. 890 will make transmission more efficient by eliminating artificial barriers stemming from inconsistency and a lack of transparency. It does so by standardizing the services that transmission providers must make available and increasing the transparency of the information that forms the basis for the provision of service. For example, transmission providers are required to use a consistent method of calculating ATC. The Commission's reform of energy and generator imbalance charges in Order No. 890 removes market entry barriers. These reforms promote market entry and participation of intermittent resources such as wind power, because these resources have limited ability to control their output and thus their incurrence of imbalance charges.

As described more fully in chapter 1, consistency in market rules is also important for reliability. Operating rules in one market should not work against the rules of another. In Order No. 672, the Commission requires that one region's deviations from established reliability standards not adversely affect another region. Collaboration and working together are similarly central to safeguarding reliability. Order No. 672 thus establishes regulations governing conflict resolution between reliability standards and state reliability actions as well as with market rules, orders, tariffs, rate schedules or any agreement accepted, approved, or ordered by the Commission.

Addressing inter-market barriers will continue to be a primary focus of the Commission. Such barriers and inefficiencies result from differences in market rules and designs, operating and scheduling protocols, and other control-area practices that inhibit or preclude the ability to execute transactions that cross organizational boundaries. Significant differences in power products, pricing and market rules between markets can reduce competition between suppliers across the regions. Thus, resolving these issues can lower transaction costs, permit dispatch of lower cost power and, ultimately, lower costs to customers.

In FY 2007, the Commission held two conferences on border utility issues. In particular, in December 2006, the Commission held a conference on operational and commercial issues in the Western Interconnection. Based on the discussions at the technical conference and the written comments subsequently filed by stakeholders, the Commission found that the CAISO MRTU, authorized to begin in 2008, will not create new border utility issues. Importantly, western parties have expressed a commitment to working together to identify and resolve interconnection-wide commercial, operational, and control issues. The Commission thus has required quarterly reports on the identification of such issues and progress on their resolution. WECC is taking the lead to address such border utility issues created by differences in commercial practices among entities operating in the Western Interconnection. Border utility issues previously addressed by the Seams Steering Group-Western Interconnection now will be addressed by various sub-regional working groups and by WECC.

The second conference, held in March 2007, focused on border utility issues in the Eastern Interconnection. The Commission will continue focusing on addressing border utility issues that create the greatest barriers to trade and cause cost shifts. Within the Eastern Interconnection, the Northeast Seams Initiative is intended to harmonize market rules for the purpose of developing larger markets among ISO-NE, NYISO, PJM and the Independent Electric System Operator of Ontario. Midwest ISO and PJM market border utility issues have been and will continue to be addressed though Joint Operating Agreements, as described earlier, and compliance with Commission orders.

Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Employ Best Practices in Rules		
Percentage of initial orders completed on third-party complaints	➢ 75% filed with the Commission within 60 days of the date of the answer or by complainant's requested date, whichever is later ➢ 90% filed with the Commission within 180 days of the date of the answer, or by complainant's requested date, whichever is later	Office of the General Counsel / Office of Energy Market Regulation
Timeliness of review of proposed RTO/ISO market rules	100% by the statutory due date or the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cases that encourage demand response in organized markets	100% of statutory cases processed within statutory deadlines or by the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Industry and state outreach to increase Commission awareness and understanding on emerging energy issues	Participate in and/or facilitate 10 sessions per quarter	Office of Energy Market Regulation
Reduce Barriers to Trade Between Markets and Among Regions		
Timeliness of processing complete filings to reduce or eliminate border utility issues between markets	100% processed by the statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel

Allocation of Competitive Markets Resources
Objective B: Prevent Accumulation and Exercise of Market Power
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**$9,069**	**$7,637**	**$7,661**
Program	7,710	6,326	6,382
Support	1,359	1,311	1,279
FTEs	**46**	**43**	**43**
Program	37	35	35
Support	9	8	8

Objective B: Prevent Accumulation and Exercise of Market Power

Most industries that transition to increased competition witness considerable restructuring, including consolidations of companies within individual segments of the industry. Mergers and other dispositions or acquisitions can bring efficiencies from economies of scale and also can represent the result of successful competition from more effective business models. However, they can also eliminate competitors and can lead to markets that are too concentrated and not fully competitive. In light of emerging market realities, the Commission will prevent accumulation and exercise of market power by:

- assuring proposed mergers, dispositions and acquisitions are in the public interest; and
- addressing market power in jurisdictional wholesale markets.

The Commission thus will safeguard the consumer from consolidations of energy assets that decrease competition and ensure that the rates for electricity in wholesale markets and for transmission services are just and reasonable.

Objective B Strategy 1

Assure Proposed Mergers and Acquisitions are in the Public Interest

The Commission will continue to protect consumers as it exercises its authority over mergers, dispositions and acquisitions of jurisdictional facilities, and other transactions under section 203 as modified by EPAct 2005. Under new authority granted in EPAct 2005, the Commission will now be able to review certain public utility acquisitions of generation-only facilities and certain transactions involving holding companies. It also will ensure that proposed transactions do not result in inappropriate cross-subsidization of non-utility affiliates or encumbrances of utility assets. The Commission will implement the amended section 203 and use its enhanced access to holding company books and records under PUHCA 2005 to further protect consumers in FYs 2008 and 2009 and beyond.

Mergers in the Public Interest. The Commission has issued orders in a number of important cases where it took measures to ensure that consolidations of energy assets did not decrease competition and were consistent with the public interest. In December 2006 and March 2007, the Commission held technical conferences to obtain public input on a variety of issues related to the Commission's corporate policies. These included what additional steps, if any, the Commission should take with respect to protecting customers against inappropriate cross-subsidization in the context of proposed mergers or other corporate transactions, or with respect to its competitive analysis, which was adopted in 1996. Between September 2006 and December 2007, the Commission reviewed and acted on nine proceedings for mergers, acquisitions, transfers, and/or sales of jurisdictional assets. They are as follows:

- the mergers of KeySpan Corp. and National Grid; Peoples Energy and WPS Resources; and Energy East Corporation and the Spanish utility holding company, Iberdrola, S.A.;
- the acquisitions of Michigan Transco Holdings LP by ITC Holdings Corp; NorthWestern Companies by Babcock & Brown Infrastructure Limited; and Duquesne Light Holdings Inc. by an investment consortium led by Macquarie Infrastructure Partners;
- the transfer of jurisdictional assets owned by Oncor Electric Delivery and TXU Wholesale through the acquisition of their parent company, TXU Corp., by Texas Holdings; and
- the sale by Aquila Inc. of its Colorado-based electric utility and its Colorado, Iowa, Kansas and Nebraska natural gas operations to Black Hills Corporation and the merging of Aquila Inc.'s Missouri electric utility assets with Great Plains Energy Inc.

To protect customers as it exercised its authority, the Commission:

- ensured that wholesale power and transmission customers would be held harmless for specific periods of time from certain costs related to some of the mergers, as appropriate;
- required further filings and information when it was necessary for some of the companies who received the authorization if they were planning to (1) make sales from generating resources into submarkets and/or (2) recover merger-related costs through wholesale rates when there is hold harmless committment in place;
- reviewed proposals that raised cross-subsidization issues and acted to prevent them; and

- found in one of the proceedings that the PUHCA 2005 requirement for applicants' and their associate companies' to make their books and records relating to costs available to the Commission and to state regulatory bodies would help prevent any adverse impacts on rates.

One of the nine authorizations – conditional approval of the acquisition of Michigan Transco Holdings LP by ITC Holdings Corp., the parent to independent transmission owner International Transmission Company – marked the first time the Commission authorized the acquisition of a stand-alone transmission company, or "transco," by another transco.

As a result of this work on corporate activities, the Commission safeguarded customers from markets which might have otherwise been adversely affected by:

- the elimination of competitors;
- a material increase in market concentrations in relevant markets;
- the creation or enhancement of vertical market power through the combination of electric generation and transmission assets;
- an increase in the incentive or ability to increase prices or reduce output in a downstream electricity market through control of upstream inputs to electricity generation;
- the creation of barriers to the entry of new generators; and
- harm to horizontal competition in any relevant market.

The Commission will continue to conduct careful analyses of proposed transactions to ensure that they are consistent with the public interest

EPAct 2005 Provisions Improve Access to Financial Information. Prior to EPAct 2005, the Commission did not have jurisdiction over those dispositions of facilities that involved only facilities for the generation of electric energy. However, the Commission received and acted on many applications for the disposition or acquisition of jurisdictional transmission facilities and/or jurisdictional wholesale contracts in conjunction with the transfer of generation facilities.

PUHCA 2005, enacted in conjunction with the new section 203 authorities, provides additional authority to access holding company books and records. The Commission and states may obtain access to the books and records of holding companies, service companies, and other companies in the holding company system when relevant to jurisdictional rates. As illustrated in the Peoples Energy and WPS Resources merger described above, this enhances the ability of the Commission and state regulators to protect captive customers of regulated utilities.

In connection with these additional authorities, the Commission adopted financial accounting, reporting and record retention requirements for centralized service companies operating within holding company systems and providing services to their affiliated public utilities. These requirements provide transparency to the cost of providing these services and protect against unfair cost allocations or cross-subsidization between utility and non-utility business activities. In October 2006, the Commission amended its regulations to provide for electronic filing of the FERC Form 60, the Annual Report for Centralized Service Companies. In connection with this initiative, the Commission developed and made available to respondents electronic submission software that will reduce the cost of data entry and retrieval, reduce the overall reporting burden, allow for more timely analysis and publication of data, and increase data analysis capability. The Commission received 29 FERC Form 60s electronically in May 2007 for the reporting year 2006.

Further Evaluations of PUHCA 2005 and FPA Section 203 Underway. In December 2006 and March 2007, the Commission held technical conferences to assess whether additional exemptions or regulatory actions related to the repeal of Public Utility Holding Company Act of 1935 and amendments to FPA section 203 were necessary. Among other things, the conferences considered the appropriateness of additional blanket authorizations in the context of FPA section 203, whether additional regulatory steps are necessary to protect against inappropriate cross-subsidization or encumbrances of utility assets, and the coordination of state-federal regulatory authorities and customer protections (such as ring-fencing measures) in merger cases.

In July 2007, the Commission took three separate but related actions. The Commission issued a supplemental policy statement on its implementation of FPA section 203. Specifically, the Commission clarified the information that must be provided in future FPA section 203 applications, explained the types of commitments and ring-fencing measures that could be used to address cross-subsidization, clarified the scope of the blanket authorizations available under its regulations, provided further guidance concerning what would constitute a disposition of control of jurisdictional facilities and thus what would necessitate an application, and provided further guidance on the Commission’s merger analysis. The Commission also issued two notices of proposed rulemaking. The first proposed an additional blanket authorization under FPA section 203(a)(1) for a public utility’s disposition of limited voting interests (less than ten percent of the utility’s voting securities) to a holding company, so long as, after the disposition, the holding company and its associate and affiliate companies in aggregate will own less than ten percent of that utility’s voting securities. The second proposed to codify restrictions on transactions between franchised public utilities with captive customers and their market-regulated power sales affiliates and their non-utility affiliates, to protect against affiliate cross-subsidization. Under the proposal, power sales would be allowed only with prior Commission authorization. Sales of non-power goods and services by the franchised public utility to the affiliates would need to be priced at the higher of cost or market. Sales of non-power goods and services by the affiliates to the franchised public utility would need to be capped at market. The single exception to this is sales of non-power goods or services by an affiliated centralized service company would need to be capped at cost.

Objective B
Strategy 2

Address Market Power in Jurisdictional Wholesale Markets

To address market power in jurisdictional wholesale electric energy markets, the Commission considers, most importantly, control of generation and transmission assets. These considerations are important because the opportunity for exercising market power grows when available supply is low relative to demand or when supply is controlled by only a few entities. In such situations, even an otherwise well-functioning market may not produce rates that are just and reasonable. Therefore, consistent with its statutory mandates, the Commission must act to ensure that:

- the open access transmission tariff terms and conditions under which electric transmission service is provided are being applied in a way that is not unduly discriminatory or preferential; and
- other forms of market power are mitigated.

As discussed above and described more fully below, the Commission has issued Order No. 890 to address opportunities for undue discrimination and address deficiencies in the *pro forma* open access transmission tariff that have become apparent over the last decade. It also has made changes in how it guards against the exercise of market power in electric operations as well as in gas storage.

Open Access Transmission Tariff Reform. In 1996, the Commission issued Order No. 888, which required, as a remedy for undue discrimination, that all public utilities provide open access transmission service consistent with the terms and conditions of a *pro forma* open access transmission tariff. It set the foundation upon which to build competitive electric markets. After ten years of experience, the Commission determined that the opportunity to exercise undue discrimination still existed and had to be addressed.

The Commission issued a notice of proposed rulemaking in May 2006 and issued a final rule, Order No. 890, in February 2007. Order No. 890 addresses numerous issues. Chief among them is:

- the calculation of ATC;
- transmission planning; and
- new services to address the need for and availability of larger numbers of intermittent resources.

Calculation of ATC. Order No. 890 increases nondiscriminatory access to the grid by eliminating the wide discretion that transmission providers had previously in calculating ATC. The calculation of ATC is one of the most critical functions under the open access transmission tariff because it determines whether transmission capacity is available and thus whether transmission customers can access alternative power supplies. The Order No. 888 open access transmission tariff did not prescribe how ATC should be calculated because the Commission sought to rely on voluntary industry efforts to develop consistent calculation methods. This voluntary industry effort did not prove successful. Under the new Order No. 890 open access transmission tariff, the Commission now requires public utilities, working through NERC, to develop consistent methodologies for ATC calculation and to publish those methodologies to increase transparency. This important reform eliminates the discretion that previously existed in calculating ATC and ensures that customers are treated fairly in seeking alternative power supplies.

Transmission Planning. Order No. 890 increases the ability of customers to access new generating resources and promotes efficient use of transmission by requiring an open, transparent, and coordinated transmission planning process. Transmission planning is a critical function under the *pro forma* open access transmission tariff because it is the means by which customers consider and access new sources of energy. The Order No. 888 open access transmission tariff provided limited guidance regarding how transmission customers were to be treated in the planning process and provided them very little information on how transmission plans were developed. These deficiencies had become serious, given the substantial need for new infrastructure in this Nation. Order No. 890 remedies these deficiencies by requiring transmission providers to open their transmission planning process to customers, coordinate with customers regarding future plans, and share necessary planning information with customers.

In June 2007, the Commission held technical conferences in Arkansas, Utah, Arizona, and Pennsylvania to facilitate reviews and discussions of transmission planning strawman proposals posted by transmission providers as provided by Order No. 890. In September 2007, the Commission required that all transmission providers submit by December 2007, an Attachment K to their open access transmission tariff incorporating the transmission planning principles and concepts adopted in Order No. 890. In October 2007, the Commission held additional technical conferences in Georgia, Massachusetts and Colorado to discuss the draft Attachment K postings. Approximately 46 Attachment K filings by transmission providers are pending before the Commission.

New Services. By adopting these and other reforms, Order No. 890 facilitates the use of clean energy resources such as wind power. The

Commission has reduced barriers to entry for these generators which contributes to competitive markets by increasing the number of power suppliers and prevents the accumulation and exercise of market power. The conditional firm service that Order No. 890 creates is particularly important to wind resources that can provide significant economic and environmental value. Open and coordinated transmission planning also will enhance the ability of customers to access clean energy resources as part of their future resource portfolio.

Market Power in Wholesale Power Sales. The Commission previously has authorized market-based rates if the seller and its affiliates either do not have an ability to exercise market power in wholesale power markets, or have mitigated the market power they may have. The Commission also previously has considered whether any barriers to entry exist and whether there is evidence of possible affiliate abuse or reciprocal dealing.

The Commission has steadily strengthened its market-based rate test in recent years. The Commission has bolstered reporting requirements, modified the generation market power analysis, and revised and clarified the change-of-status reporting requirement. In addition, the Commission has required a number of entities with existing market-based rate authority to adopt mitigation measures where they have been found to have market power or have accepted a presumption of market power. In other cases, the Commission has revoked market-based rate authority for entities that fail to submit triennial market analyses or EQRs, as required by their authorization.

In June 2007, the Commission issued Order No. 697, amending its regulations governing market-based rates for public utilities. The rule strengthens competitive markets and protects consumers by realigning and strengthening the Commission's previous four-prong analysis into a two-part analysis covering horizontal (generation) market power and vertical (transmission and other barriers to market entry) market power.

Regarding horizontal market power, the Commission modified some of the indicative screens and eliminated the market power analysis exemption for generation constructed after 1996. Order No. 697 allows a seller to use the entire RTO/ISO geographic footprint as the default relevant geographic market if the RTO/ISO has sufficient market structure and a single energy market. However, Order No. 697 strengthens the Commission's market power analysis by requiring a seller to study any submarket the Commission finds to exist as a relevant geographic market.

Regarding vertical market power, the Commission continues to find that an open access transmission tariff on file is necessary to mitigate a seller's transmission market power. The Commission makes clear that violating the open access transmission tariff may be cause for revoking market-based rate authority.

For sellers that do not demonstrate a lack of market power, the Commission will consider appropriate mitigation on a case-by-case basis.

In addition, requirements previously known as the market-based rate code of conduct are codified in the regulations as affiliate restrictions and must be satisfied on an ongoing basis as a condition of obtaining and retaining market-based rate authority. There are no power sales allowed between a franchised public utility with captive customers and any market-regulated power sales affiliates without first obtaining Commission approval.

Order No. 697 also modifies and streamlines the Commission's processes by (1) establishing two categories of market-based rate sellers, requiring large sellers to file triennial market power updates and allowing smaller sellers to file only change in status filings; (2) adopting a regional approach to reviewing updated market power analyses, identifying six regions, two of which will file updates each year; (3) adopting two standardized "required" tariff provisions that all sellers must have in their market-based rate tariffs and other standard tariff provisions that must be included to the extent they are applicable based on the services provided by the seller. In addition, there is a mandatory, uniform format for sellers to show all generation and transmission assets, natural gas intrastate pipelines and gas storage facilities owned by the applicant and its affiliates. This information will help the Commission and market participants know the presence of each corporate family in each market and provide data consistency. Sellers must still file all transactions in EQRs and notify the Commission of any change in status.

In its continuing effort to address potential affiliate abuse between electricity sellers and their transmission provider affiliates, the Commission issued Order No. 2004 on Standards of Conduct. Order No. 2004, which took effect in September 2004, applies to all jurisdictional transmission providers (electric public utilities and natural gas pipelines) and governs the behavior of transmission providers towards their affiliates that compete with non-affiliates for access to transmission capacity and compete in wholesale commodity markets.

On November 17, 2006, the United States Court of Appeals for the District of Columbia vacated Order No. 2004 as it applies to the relationship between natural gas pipelines and their non-marketing affiliates in *National Fuel Gas Supply Corp. v. FERC*, 486 F.3d 831 (D.C.Cir. 2006). The Commission acted promptly to respond to the court decision and to clarify the Standards of Conduct. On January 9, 2007, the Commission issued an interim rule, Order No. 690, that addressed deficiencies identified by the court by revising the Standards of Conduct so they did not apply to non-marketing affiliates of natural gas pipelines. The interim rule was clarified through Order No. 690-A in March 2007. Concurrently, on January 17, 2007, the Commission issued a notice of proposed rulemaking proposing to make permanent the revisions contained in the interim rule. In the notice of proposed rulemaking, the Commission sought comments about the applicability of the Standards of Conduct to non-marketing affiliates of electric utilities. The Commission also proposed changes to the Standards of Conduct to improve the consideration of transmission in electric utilities' integrated resource planning and procurement subject to certain restrictions designed to protect against affiliate abuse. The Commission also conducts ongoing random Standards of Conduct compliance audits and will continue to do so.

New posting requirements for OASIS were also established by Order No. 890, including:

- relevant ATC data and models;
- metrics related to transmission requests that are approved and rejected;
- all business rules, practices and standards related to transmission services provided under their open access transmission tariffs; and
- requests for designation of a new network resource and to terminate the designation of an existing network resource.

Market Power in Gas Storage Operations. As discussed in more detail in chapter 1, EPAct 2005 amended NGA section 4 to authorize the Commission to allow a natural gas company to charge market-based rates for providing storage and storage-related services at storage facilities placed into service after August 8, 2005, subject to appropriate conditions, even if the seller cannot demonstrate that it lacks market power. The final rule, issued in June 2006, provides two approaches for developers of natural gas storage facilities to seek authority to charge market-based rates. The first approach includes a more expansive definition of the relevant product market for storage, and the second approach would implement the new NGA section 4(f) and allow an applicant to request authority to charge market-based rates even if a lack of market power has not been demonstrated. The Commission will be reviewing market-based rate applications filed under these new rules to ensure that customers are adequately protected. In November 2006, the Commission approved for the first time, market-based rates under these new rules. Northern Natural proposed market-based storage rates for Firm Deferred Delivery service that results from a planned expansion of its aquifer field in Redfield, Iowa. In its November order, the Commission granted Northern Natural's petition for a declaratory order finding that, under the facts presented, Northern Natural met the requirements established for market based rates and would be authorized to charge market-based rates to the initial shippers that submitted winning bids and signed agreements. In April

2007, the Commission affirmed its decision and denied rehearing of the November 2006 order.

Competition Workshops. The Commission held two conferences in FY 2007 to examine the state of competition in wholesale power markets. Various topics affecting RTO and ISO regions were discussed at these workshops including the responsiveness of RTOs and ISOs, the level of wholesale prices, the need for long-term contracts, the effectiveness of market monitors, and demand response. The Commission issued an advanced notice of proposed rulemaking in June 2007 and sought public comment on potential reforms to improve operations in organized wholesale power markets, including many of the issues that were discussed at the conferences. The Commission is currently reviewing the comments it has received.

Strategy		
Performance Measurement	**Performance Target**	**Data Source**

Assure Proposed Mergers and Acquisitions are in the Public Interest		
Timeliness of processing complete filings for the disposition, consolidation, or acquisition, under section 203 of the FPA, of jurisdictional facilities (including transactions involving certain transfers of generation facilities and public utility holding company transactions, and issues of cross subsidization or encumbrances of utility assets)	➢ 100% processed within 180 days for non-major dispositions ➢ 100% processed within 360 days for major dispositions	Office of Energy Market Regulation / Office of the General Counsel

Address Market Power in Jurisdictional Wholesale Markets		
Timeliness of processing initial electric market-based rate filings	100% processed within 60 days of the filing date of a complete application or by applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Revise and clarify Standards of Conduct	Issue Final Rule by December 31, 2008	Office of Enforcement

CHAPTER 3: ENFORCEMENT

Prevent Market Manipulation

Total Resources for Enforcement Program
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**11,177**	**31,568**	**34,645**
Program	6,614	26,279	29,017
Support	4,563	5,289	5,628
FTEs	**153**	**174**	**189**
Program	124	143	156
Support	29	31	33

Introduction

Competitive energy markets can succeed only when competition is combined with effective regulation. The Commission has adjusted its regulatory policies to meet the dramatic changes that have occurred in both the natural gas and electricity industries. While the core legal duties of the Commission have not changed, to guard against unjust and unreasonable rates and undue discrimination and preference, the means of discharging this duty have evolved over time. The Commission ordered the unbundling of natural gas sales and transportation in a series of landmark orders, which proved to be an unqualified success. In the wake of these orders, the Commission witnessed a surge of activity by interstate natural gas pipelines, as they sought to restructure the way they did business and interconnected to new markets. As a result, market areas are now served by more pipelines and there is more competition for shippers' business, who themselves have seen their number of choices increase. Overall, the cost of gas transportation has fallen while throughput has risen.

With respect to wholesale power sales, the Commission used to prevent the exercise of market power by setting rates for each individual seller under cost-based regulation. Today, the Commission permits market-based rates for most sellers and increasingly sets rules of general applicability that govern an entire market. As a result of this regulatory approach change, it is even more important for the Commission to enforce compliance with its regulations and orders, and to monitor market power to ensure that market-based rates remain just and reasonable.

The Commission seeks to detect violations quickly, publicize misconduct where appropriate, and take prompt action to prevent future misconduct. The Commission can identify violations by many methods, including review of market information required to be filed by market participants; investigation of significant price spikes or market anomalies; periodic audits of compliance with Commission tariffs, rules and regulations; referrals from RTO and ISO market monitors; tips and complaints from the public and market participants; and self-reports of violations by companies. (The Commission's Enforcement Policy Statement issued in October 2005 encourages companies to self-report violations to mitigate remedies). It is important that the Commission understands market dynamics, detects problems or issues in energy markets early, prevents violations of its rules, and enforces compliance with the laws under its jurisdiction. Perhaps most important, the Commission needs to ensure that utilities subject to its jurisdiction have effective internal monitoring and compliance programs in place to help assure that they are following established Commission rules and regulations. Commission oversight must then provide an independent and external check to ensure that the compliance programs of jurisdictional utilities are adequate. Further, the Commission periodically audits utilities' compliance with the Commission's rules, regulations, and statutory requirements.

"The Energy Policy Act of 2005 permanently changed the Commission. It outlawed market manipulation in power and gas markets, gave us responsibility to assure reliability of the electric grid, and gave us meaningful enforcement tools that we badly needed. Congress entrusted the Commission with substantial civil penalty authority, and we are using that penalty authority firmly and fairly to sanction wrongdoing and to encourage compliance. We are now an enforcement agency capable of very effective oversight, and are dedicated to becoming a preeminent enforcement agency."

Joseph T. Kelliher
FERC Chairman

The Commission's two main objectives in meeting its goal of preventing market manipulation are:

- provide vigilant oversight; and
- provide firm but fair enforcement.

Each year the Commission performs investigations and conducts audits for noncompliance with the laws and regulations under its jurisdiction. While these actions help to deter violations from occurring in the first place, the Commission takes even greater steps on a variety of fronts to reduce the probability that violations will occur, and detect problems before they become severe or widespread. To prevent market participants and regulated entities from unknowingly violating the Commission's rules, the Commission works with stakeholders to explain the intent and requirements of its rules and the laws it administers.

The Commission's enforcement tools were greatly reinforced when EPAct 2005 conferred expanded authority, which provided, for the first time, penalty authority for violations of the NGA and all of Part II of the FPA. It further provided or increased (for violations of the NGPA) the level of penalties to $1 million each day for the duration of the violation. Penalties of this magnitude also are applicable, pursuant to EPAct 2005 amendments to the FPA and NGA, to any entity (not just traditionally jurisdictional companies) who manipulates wholesale natural gas or electric markets by engaging in fraud or deceit in connection with jurisdictional transactions. Armed with this expanded authority, the Commission will create an even stronger and more effective compliance and enforcement program to protect the public interest.

To perform its additional responsibilities resulting from EPAct 2005, the Office of Enforcement will require additional resources in FY 2009 of 13 FTEs. Among many other tasks, the Commission must periodically audit the ERO for ongoing compliance with the statutory and regulatory criteria for both certification and the ERO's performance in enforcing reliability standards. The ERO will audit each Regional Entity to ensure it is adequately carrying out its responsibilities. However, the Commission retains the authority, and indeed has the responsibility to participate in any ERO compliance audit of a Regional Entity or conduct its own compliance audit. The Commission will also have a role in auditing the ERO and the Regional Entities' budgets, filed annually with the Commission. The ERO will likely audit one-third of the Regional Entities each year with limited to medium involvement required by the Office of Enforcement.

In addition to these duties, the Commission will investigate incidents and allegations of non-compliance with the reliability standards. If violations are uncovered in any of these inquiries, the Commission will lead reliability-centered investigations and develop legally-sufficient cases for possible litigation. The Commission's new reliability staff will be necessary for these investigations because of their technical expertise, familiarity with reliability standards, and experience in the industry. The reliability staff will play a substantial role in these investigations as technical advisors, possible expert witnesses, and investigators.

Approximately 12 reliability-related, Commission-initiated, and/or complaint-driven audits are expected per year. An appropriate number of reliability incident-driven investigations (such as the rolling blackouts in California, Colorado, and Texas in the last 24 month period) and other investigations into possible violations of reliability standards are also expected.

The Commission is currently developing the rules which ultimately will form the basis for these auditing and investigative activities. However, the Commission currently does not have auditors or investigators solely performing these new functions. The additional resources requested will allow staff to work specifically on these new responsibilities without compromising other Commission efforts.

Allocation of Enforcement Resources
Objective A: Provide Vigilant Oversight
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**3,612**	**9,283**	**9,340**
Program	2,146	7,726	7,821
Support	1,466	1,557	1,519
FTEs	**49**	**51**	**51**
Program	40	42	42
Support	9	9	9

Objective A: Provide Vigilant Oversight

Energy markets are complex and change rapidly. When problems develop in energy markets without a remedy, they can seriously affect millions of customers. Therefore, a key part of the Commission's market-oriented approach to the natural gas and electric power industries is to identify potential problems quickly and to address them before they become severe.

Objective A Strategy 1

Identify and Remedy Problems with Structure and Operations in Energy Markets

To accomplish this objective, the Commission has developed a comprehensive program of energy market oversight. To support the energy market oversight program, the Commission acquires and processes large amounts of energy market information. Energy market oversight and information are an integral part of the overall Office of Enforcement. Issues that market oversight identifies quickly feed into investigations and audits, as appropriate.

Identifying Problems through Energy Market Oversight. Market oversight is the core of the Commission's efforts to identify problems in energy markets. The energy market oversight program reviews all key markets daily to detect both suspicious behavior by individual market participants and problems with market rules or operations that significantly affect outcomes. Understanding the scope of this program requires knowing which markets the Commission monitors and how it goes about tracking them.

Markets Monitored by the Commission. The market oversight program focuses most closely on the Commission's most direct concerns, wholesale physical markets for natural gas and electric power and associated transmission markets. For natural gas, the Commission's oversight includes examining detailed prices, price differences among different points on the grid, use of the interstate natural gas pipeline grid, supply of natural gas (both production and imports, including LNG), demand levels, storage activity, and, where possible, trading patterns. By observing all these aspects of the natural gas industry, the Commission can detect longer-term problems (for example, potentially tight markets a season ahead) and short-term market anomalies (for example, unusual trading patterns or price differences that are not consistent with pipeline usage).

For electric power, market oversight includes examining detailed prices, price differences geographically and over time, use of the transmission network, generation levels, overall demand levels, and, where possible, trading patterns. In RTO and ISO markets, the Commission works closely with market monitoring units to ensure comprehensive coverage of all activity in those markets. Staff in the Market Monitor Relations Branch focus on working with the Market Monitors in the Commission-approved RTOs and ISOs as well as those approved by the Commission outside of the organized markets (e.g. in the context of a major merger between electric utilities). Market oversight for electric power allows the Commission to detect longer-term problems (for example, infrastructure deficiencies) and short-term market anomalies (for example, unexplained price or trading patterns).

The oversight program also closely examines connections between natural gas and electric markets. In many cases, natural gas is the marginal fuel for electric power; often the price of electric power closely tracks the gas price. Electric generation also is frequently the marginal use for natural gas, so that electric usage can strongly affect natural gas prices. The Commission's market oversight program examines detailed interactions between the two industries to detect any possible problems as soon as possible.

Finally, many other markets affect the operation of the physical electric power and natural gas markets. As a result, the Commission's market oversight program reviews related markets every day, including:

- Financial markets for electric power and natural gas. These markets give market players many ways to manage the large risks involved in all energy markets. But problems can and do develop in the interface between physical and financial markets.

- Generation inputs. These include fuel (coal and oil as well as natural gas) and emissions credits. One can only assess the meaning of prices in power markets in relation to prices in related input markets.

- Long-term financial markets. A crucial question for both natural gas and electric power is the ability of the industries to invest in new infrastructure when needed. The market oversight program tracks long-term investments in the industries, along with related financial markets.

- International markets. The United States and Canada form a tightly integrated continental energy market. Market oversight tracks developments in Canada that may affect the United States. It also tracks the growing natural gas market in the Atlantic Basin between Europe and North America.

How the Commission Monitors Markets. The Commission's market oversight program employs a series of staff experts on various natural gas and electric power markets. The centerpiece of the program is a daily meeting in which oversight staff review developments in all relevant markets for the previous day. The meeting follows a standard format to ensure that all key markets are covered, but analysts are encouraged to bring up any additional issues they have observed. Since the various markets are highly interconnected, the daily staff meeting allows all the analysts to see how developments in one market are affecting the others.

Each daily meeting identifies any market anomalies that require further explanation, both unusual participant behavior in the previous day's markets and anomalous patterns that repeat themselves over time. Individual analysts follow up on these items, either resolving them or flagging them for further work. This further work can include short studies, the development of new analytic tools, or reporting to other parts of the Commission for further action. Representatives of the Division of Investigations and the Division of Audits periodically attend daily meetings. This allows the investigations and audits staff to stay current with market developments that may affect current investigations and audits as well as giving a first indication of issues that may come up in the future. Under the Commission's rules and practices, the investigations and audit staff can initiate a preliminary non-public investigation or commence an audit based on information gleaned from market oversight activities.

Periodically through the year, the market oversight program also considers trends over longer time frames. These longer-term examinations of energy markets build on the insights gained in the daily oversight meetings. The Commission's experience shows that only intensive involvement in day-to-day energy markets allows a strong understanding of longer-term issues.

Remedying Potential Market Problems. The market oversight program reports its findings to other groups that are charged to address the problems identified. The key forms of reporting are to the senior management of the Office of Enforcement, to other relevant offices within the Commission, to the Commission itself, and to the public.

Reports to the senior management of the Office of Enforcement. In the first instance, market oversight is an integral part of the Commission's overall Enforcement program. Market oversight, therefore, reports any potential problems with market participant behavior to the senior staff of the Office, which then decides which problems to refer for investigation (by the Division of Investigations) or audit (by the Division of Audits). These investigations and audits then address serious market participant problems in the most appropriate way.

Reports to other Commission Offices. The Office of Enforcement ensures compliance with existing rules and operations. When market oversight observes potential problems with current practices, it reports its results to those offices in the Commission that can develop Commission orders to change existing tariffs or issue new Commission rules.

Reports to the Commission and the Public. Market oversight reports all of its major findings to the Commission itself, as well as to the affected staff offices. In January 2007, the Commission opened a Market Oversight section on its website. This website includes a comprehensive set of graphical reports on regional and national natural gas and electric markets, along with reports on key related issues (e.g., fuels used in electric power and emissions allowance markets). It also includes the compilations of information used in monthly conference calls with state regulators, market oversight reports to the Commission and other longer term reports. Updates to the website are made monthly. Key reports to the Commission and the public include:

- Weekly reports to the Commission. These document major developments found during the week's daily meetings. They also describe any issues reported to other Commission staff.

- Twice a year, a seasonal assessment analyzes potential problems in the coming peak season (either heating or cooling season) to alert both the Commission and the public as to areas that need continuing attention.

- Annual reports on overall market performance. In the past, the Commission has issued annual State of the Market reports with detailed data for many energy markets and overall analysis of how well the markets are working.

Energy Market Information. Both natural gas and electric power are traded at many sites around the country, each with its own price and volume behavior. Prices and market conditions change frequently, every five minutes for many power markets. As a result, energy markets generate vast quantities of raw data. The energy market oversight program requires information support that includes:

- acquiring large volumes of data to reflect ongoing market conditions;
- validating the data to ensure that it is accurate and pertinent to the issues being addressed;
- processing the data so that meaningful patterns become apparent; despite the large volume of data that can easily become overwhelming; and
- developing a real-time information capability to address rapidly developing situations and emergencies.

The Commission's energy market information capability addresses all of these areas.

The Commission obtains a large quantity of publicly-available information on all the markets it oversees. Most of these data come from commercial information providers, and is the same information available to market participants. It also uses the EQR, a record of every power sale by jurisdictional electric companies.

The Commission validates information primarily by trying to use it to understand markets. Experience shows that when data are not accurate or pertinent, they come into conflict with other data sources. By observing discrepancies among data sources, the Commission can assess the quality of the information it obtains from all sources. This is a key reason that analysts must share their insights widely – the daily meeting frequently uncovers information issues that are then resolved. As a result, the information available for future oversight continually improves over time.

The Commission's market oversight staff works hard to visualize market information to show important patterns. A stream of prices by itself is almost meaningless. The Commission detects important patterns by, for example, comparing related prices with each other, developing geographic pictures of how markets inter-relate, developing timelines of important incidents plotted against price changes, and creating threshold values for further consideration. All of these efforts result in data interpretation tools that the Commission then automates. The result is to let analysts spend as much time as possible looking at important aspects of the markets, rather than simply poring over lists of numbers.

The Market Monitoring Center (MMC), where Commission staff can access most of the real-time and other data subscribed to from information providers, is a hub of data collecting and analysis for Commission research staff and a "must-visit" for foreign and domestic visitors engaged in or contemplating monitoring their energy markets. In FY 2007, more than 50 groups were briefed on the MMC functions and operations by Commission staff. These groups included more than 515 individuals from more than 30 countries. Staff from the U.S. Congress, state commissions, federal agencies, and other energy-related agencies and organizations were also given tours of the MMC in conjunction with appropriate briefings.

In April 2007, the Commission acted to implement the transparency provisions of section 316 of EPAct by proposing new rules to improve transparency in natural gas markets. In December 2007, the Commission issued a final rule for market participants to report annually their annual volume of physical natural gas transactions and the pricing methods used in those transactions. Also in December 2007, the Commission issued a second notice of proposed rulemaking for interstate and major, non-interstate pipelines to post daily the capacity, scheduled flow volumes and actual flow volumes for major receipt and delivery points. This information would provide a more complete picture of natural gas supply and demand throughout the United States.

The Commission continues to address transparency issues in wholesale electric markets. It collects basic information about all jurisdictional electric transactions in the EQR and makes this information available to the public. RTOs and ISOs report a wide variety of market-related information, including both day-ahead and real-time prices, in near real-time. In its final rule reforming the open access transmission tariff, the Commission increased the transparency of a transmission provider's transmission planning, its calculations of ATC, and its business rules and practices. Going forward, the Commission is considering transparency in wholesale electric markets in the broader context of competition in those markets.

In FY 2007, the Commission increased its interactions with state and federal energy agencies by instituting the Research in Market Oversight (RIMO) program. Under this program, representatives from state and federal government agencies come to the Commission for a week to research an energy market issue of importance in partnership with the Commission's Market Oversight staff. The first RIMO project in April 2007 saw five representatives from Wyoming (including three aides to the Governor) study the effect of natural gas pipeline grid prices paid to Wyoming producers. In early June 2007, a staff member of the California Public Utilities Commission studied episodes of high prices in various Regional Transmission Organizations. In late June 2007, three staff members of the Public Utilities Commission of Ohio spent a week testing and improving modeling techniques they use to analyze power markets in their state. The fourth RIMO group, staff from the Environmental Protection Agency's Clean Air Markets Division, arrived in early December 2007, to study market connections between electric, natural gas, coal and emissions markets. Staff from the Missouri Public Service Commission is planning to participate in the RIMO program in January 2008. The Commission anticipates hosting at least four RIMO projects each year.

The RIMO program complements an ongoing program in which the Commission makes available to state energy agencies information on energy markets including prices and supplies of natural gas and electric power, and related developments including LNG facilities planned and under construction, coal and oil market fundamentals, weather implications and an analysis of observed changes over the month. The program provides for a monthly regional phone discussion open to representatives of various state regulatory agencies. The discussion covers other energy issues that the regional agencies wish to discuss. This outreach program started out modestly and has now grown to over 40 participating state and federal agencies, 5 regional energy organizations and British Columbia.

Strategy		
Performance Measure	**Target**	**Data Source**
Identify and remedy problems with structure and operations in energy markets		
Regular monitoring of natural gas and electric markets with significant issues of market structure and operations identified	Weekly reporting of significant issues of market structure and operations	Office of Enforcement
Timeliness of actions on significant issues identified by regular monitoring of natural gas and electric markets	Within 6 months of completed report	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Fully implement the Research in Market Oversight (RIMO) program	Perform at least four RIMO projects per year	Office of Enforcement

Allocation of Enforcement Resources
Objective B: Provide Firm but Fair Enforcement
(Dollars in Thousands)

	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
Funding	**7,565**	**22,285**	**25,305**
Program	4,468	18,553	21,196
Support	3,097	3,732	4,109
FTEs	**104**	**123**	**138**
Program	84	101	114
Support	20	22	24

Objective B: Provide Firm but Fair Enforcement

EPAct 2005 greatly expanded the Commission's enforcement authority to enable the agency to penalize electric and natural gas companies where penalties were unavailable before and to police market manipulation by any entity and gave the Commission vast new authority to oversee the reliability of the interstate electricity grid. The Commission's request includes an additional 13 FTEs and $2.6 million for the enforcement program to handle these increased responsibilities.

In light of the new authorities granted the Commission by EPAct 2005, the Commission has taken a number of steps to craft a cohesive approach to enforcement, built around the central theme that Commission enforcement actions will be firm but fair. This basic approach to enforcement was explained in the *Policy Statement on Enforcement*, which outlined factors the Commission will consider when assessing civil penalties or developing remedies for violations of the statutes, orders, rules and regulations the Commission administers. The Policy Statement provides comprehensive guidance, consistent with the enforcement practices of other federal agencies, to entities subject to the jurisdiction of the Commission.

The Policy Statement also identifies factors to be weighed in determining the seriousness of the violation, and indicates what consideration will be given for mitigating factors, such as adopting strong internal compliance programs, voluntarily reporting violations, and cooperating with staff investigations. The Commission is committed to using the full range of remedies available including civil penalties, disgorgement of unjust profits, or conditioning, revocation, or suspension of authorizations, but to exercise discretion to apply such penalties and remedies in a fair, reasonable, and appropriate manner.

In addition to the Policy Statement, the Commission has codified important rules, including the prohibition of energy market manipulation and the revision and codification of the Market Behavior Rules. The Commission has provided greater due process to industry, including providing a no-action letter process and increasing the opportunities for companies to resolve disputed matters during the course of an audit. Thus, while placing entities on notice that the Commission's rules and regulations will be enforced vigorously and even-handedly, the Commission also has provided more transparency about the rules it enforces and greater opportunities for entities to seek guidance about how the rules apply to them.

Objective B Strategy 1

Establish Clear and Fair Processes

In EPAct 2005, Congress amended the NGA and FPA to prohibit the use of manipulative or deceptive devices or contrivances by any entity in connection with the purchase or sale of electric energy, natural gas, or transmission or transportation services subject to the jurisdiction of the Commission. The Commission provided guidance to the industry on how it intends to use its new authority in the *Policy Statement on Enforcement.* In this Policy Statement, the Commission emphasized it will be firm but fair in enforcement actions, and that companies will be given credit for proactive programs to assure compliance with the Commission's rules, regulations, and orders.

In addition, the Commission issued a final rule in new Part 1c of the Commission's regulations adopting new regulations to implement the statutory anti-manipulation authority. The new rules are modeled on Rule 10b-5 of the Securities and Exchange Commission, and make it unlawful for any entity, directly or indirectly, (1) to use or employ any device, scheme, or artifice to defraud, (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit.

Following the adoption of the new anti-manipulation rule, the Commission in Order No. 674 revised its Market Behavior Rules by rescinding Market Behavior Rule 2 as no longer necessary and codified Market Behavior Rules 1, 3, 4, and 5 in Part 35 of the Commission's regulations. Market Behavior Rule 6 was also rescinded as duplicative of existing requirements.

In addition, the Commission amended its regulations in Parts 41, 158, 286, and 349 to give additional rights to companies undergoing an operational audit, such that they can contest proposed audit findings at the staff level before final action by the Commission. The Commission also adopted a no-action letter process to permit market participants to seek advice on whether staff would recommend action against specific transactions in light of the anti-manipulation rules, Market Behavior Rules, or Standards of Conduct.

Another enforcement responsibility under new section 215 of the FPA is the Commission's authority to enforce reliability standards. The Commission is responsible for reviewing enforcement actions taken by the ERO, a self-regulatory organization. It is difficult to estimate how many enforcement actions the ERO will take and how many of these would be reviewed by the Commission. However, the Commission is also authorized to initiate enforcement action on its own motion, which is a new enforcement responsibility for the Commission. Additional resources in this area will be critical so that the Commission is poised to take action when necessary and provide a strong presence in the reliability standards enforcement area.

In November of 2007, two years after the issuance of the Policy Statement on Enforcement, the Commission held a public conference on enforcement policy to provide interested persons an opportunity to comment on the implementation of the Commission's new penalty, anti-manipulation, and electric reliability authorities. More than 1,900 persons attended or observed the conference and several participants submitted proposed changes in Commission enforcement practices. Post-conference comments were encouraged and the Commission intends to seriously consider all comments and proposals.

In addition to the activities above, the Commission has continued its operational and financial audit program. In FY 2007, the Commission completed 68 audits of energy companies, including 3 audits that were considered for further investigative actions. The audited companies included public utilities, natural gas pipelines and storage companies, and oil pipelines. The audits focused on compliance with post-EPAct financial securities orders, open access transmission tariff, interconnection rules, gas tariff, wholesale fuel adjustment clause tariff, standards of conduct and code of conduct compliance, cash management programs, electronic quarterly reporting, OASIS and gas websites, Uniform System of Accounts, market-based rate authority, and other blanket authorization and filing requirements of the Commission.

The audits resulted in a variety of remedial actions. Among them were requirements for companies to conduct periodic internal audits related to the areas of noncompliance, to make refunds, to make correcting accounting entries, to file tariff revisions, and to create and implement stringent compliance plans. These compliance plans required the creation of robust organizational, procedural, and process remedies.

The Commission's audit staff monitored a public utility's successful completion of a new $25 million construction project to alleviate congestion on the transmission system. Specifically, the public utility increased transmission capacity to alleviate congestion on the Iowa-Illinois border and in Central Iowa. This increased transmission capacity benefited many entities in the Midwest, including a number of municipal electricity providers.

Moreover, two Commission audits resulted in a public utility (1) paying $1 million in refunds for fuel costs improperly recovered from wholesale energy customers in fuel adjustment clause billings and (2) reducing utility assets by $14 million to correct an overstatement in its balance sheet stemming from accounting practices that did not comply with the Commission's regulations.

Audit staff also provided technical analysis on some major investigations and played an integral role on several general Commission activities including: the ERO rulemaking and budget proposal, the open access transmission tariff reform rulemaking, and the PUHCA rulemaking on accounting, reporting, and records retention requirements.

Audit staff is currently conducting audits related to: holding companies' compliance with PUHCA requirements, ERO and Regional Entities' compliance with Commission orders and regulation related to enforcement of reliability standards, sellers of wholesale energy compliance with the conditions of their market-based rate authority (MBRA), and jurisdictional utilities' compliance with their open access transmission tariff.

PUHCA Audits. The objectives of the PUHCA audits are to ensure compliance with the PUHCA 2005 reporting and record retention requirements, ensure that the centralized service company's sale or other provision of non-power goods and services to regulated public utilities or natural gas companies is in compliance with Commission orders and the PUHCA 2005 Uniform System of Accounts and record retention requirements, and ensure that the regulated entities' purchases and accounting of non–power goods and services supplied by centralized service companies are in compliance with the Uniform System of Accounts.

Reliability Audits. Throughout 2006 and the early part of 2007, the Commission worked to implement FPA section 215, a new provision added by EPAct 2005 which establishes a system of mandatory, enforceable bulk power system reliability standards under the

Commission's oversight. The Commission has certified an ERO, approved mandatory reliability standards as well as a compliance monitoring and enforcement program (CMEP) to enforce those standards, and accepted delegation agreements to allow Regional Entities to conduct much of the CMEP. The Commission will audit the ERO and Regional Entities' compliance with the processes, practices, and procedures that implement the CMEP and related reporting requirements. Audit staff is also actively participating in various other Commission and industry efforts related to reliability.

The MBRA and Open Access Transmission Tariff Audits. These audits will address compliance with new rules and regulations coming out of the Commission's recently completed rulemaking. The MBRA audits will assess compliance with certain areas of the revised standards prescribed in Order No. 697, Market-Based Rates For Wholesale Sales Of Electric Energy, Capacity And Ancillary Services By Public Utilities, including restrictions on certain transactions with affiliates. Meanwhile, the open access transmission audits will determine compliance with the new and clarified requirements coming out of the Commission's Order No. 890. Specifically, the audits will determine whether transmission providers are making the appropriate amount of transmission service available to third-parties consistent with good utility practice and are posting all the information required by Order No. 890 to ensure transparency of transmission service offerings.

Objective B Strategy 2

Conduct Investigations Promptly and Impose Penalties Where Appropriate

In competitive markets, participants constantly seek new profit opportunities, but some participants may violate rules or manipulate markets to reap unjust profits. To protect customers, the Commission seeks to detect statutory or rule violations by thoroughly investigating observed market anomalies, complaints, and referrals from RTOs and ISOs. The Commission's investigations focus on possible market manipulation, undue discrimination or affiliate abuses, violations of rules and tariffs, and referrals of misconduct in organized markets. Investigations involve matters such as bidding practices by generators in organized markets, whether generation resources have been withheld in contravention of market rules, compliance with Commission Standards of Conduct requirements, unlawful sharing of transmission information with trading affiliates, trading intended to manipulate market prices, and compliance with hydroelectric project rules and license conditions

Once the Commission identifies violations, it applies remedies to mitigate the effects of the violations, requires disgorgement of unjust profits where appropriate, imposes civil penalties or other sanctions when available under existing laws, and requires compliance plans to prevent future violations. Findings in particular cases can also serve as the basis for changes in regulations to address market power or manipulation issues. With the passage of EPAct 2005, the Commission was granted enhanced civil penalty authority and a clear mandate to prevent market manipulation. The Commission now has authority to impose civil penalties of up to $1 million per day per violation for violations of rules, regulations, and orders under the NGA and all of Part II of the FPA, and up to $1 million per day per violation of the NGPA.

Since the beginning of FY 2007, the Commission has completed 45 investigations focusing on possible instances of market power and manipulation, undue discrimination or affiliate abuses, violations of rules and tariffs, orders, hydropower requirements, and license or certificate conditions. Notably, the Commission issued an order on October 2, 2006, completing action on an investigation concerning the breach of an upper reservoir of the Taum Sauk hydroelectric project in Missouri. The Commission approved a record hydropower settlement of $15 million, including a $10 million civil penalty and a $5 million fund to provide enhancements to the project area over and above remediation of the damages from the breach. On January 18, 2007, the Commission approved settlements in five matters that had been under investigation. The settlements imposed a total of $22.5 million in civil penalties, the first use of the expanded civil penalty authority provided to the Commission by EPAct 2005. The penalties ranged from $10 million for multiple violations by an electric utility of its open access transmission tariff and the Commission’s Standards of Conduct to $500,000 for a violation of the Market Behavior Rules by an electric utility that misrepresented a generating unit’s availability.

Subsequently, the Commission issued orders on March 3, May 9, and May 21, 2007 approving settlements in 7 additional matters, imposing an additional $17.3 million in civil penalties. Four of the orders provided for penalties ranging from $300,000 to $7 million for self-reported violations of the Commission’s natural gas capacity release program. Specifically, the violations included violations of posting and bidding rules, the “shipper-must-have-title” requirement, and the prohibition on buy/sell transactions. The other three orders provided for penalties from $500,000 for failure to obtain Commission authorization prior to entering into jurisdictional transactions, to $2 million for violation of a Commission order.

On July 26, 2007, the Commission for the first time used its new enforcement authority to prosecute market manipulation when it issued show cause orders that made preliminary findings of market manipulation and proposed civil penalties totaling $458 million in two investigations involving traders’ unlawful actions in natural gas markets.

In addition, the Enforcement Hotline is a mechanism whereby industry participants provide information to the Commission that may result in investigations. During FY 2007, the Enforcement Hotline received 421 calls.

Finally, the Commission has increased its cooperation and sharing of information with federal agencies having responsibility for regulation of energy companies, including conducting joint investigations with other agencies, such as the Commodity Futures Trading Commission and the U.S. Department of Justice. Pursuant to EPAct 2005, the Commission and the Commodity Futures Trading Commission executed an MOU relating to sharing information on October 12, 2005 and are exchanging enforcement information on a regular basis pursuant to the MOU.

Objective B Strategy 3

Encourage Self-policing and -reporting of Violations

The Commission has taken various steps to improve the self-reporting of violations and the ability of companies to obtain clarification of their obligations under Commission rules and regulations. These initiatives involve providing more information and guidance on audit, investigation, and compliance matters, including compliance with the Standards of Conduct. As a result of these initiatives, the Commission:

- issued a *Policy Statement on Enforcement*, which set forth the considerations the Commission will take into account in assessing civil penalties, such as whether a company self-reported the violation and whether the company had a compliance program in effect;
- issued orders establishing a no-action letter process;
- issued Order No. 670 to implement the prohibition on market manipulation in EPAct 2005 as new Part 1c of the Commission's regulations;
- issued an order in Docket No. EL06-16-000 rescinding Market Behavior Rules 2 and 6 in light of the new anti-manipulation rule issued in Order No. 670;
- issued Order No. 673 to codify the remaining Market Behavior Rules in Part 35 of the Commission's regulations;
- issued Order No. 675 to provide additional due process to entities that are subject to operational audits under Parts 41, 158, 286, and 349 of the Commission's regulations in the event they contest any of the findings in the audit report;
- posted a comparison of rules and key enforcement documents to provide clarity to market participants; and
- made information available on its web page that explains the audit process, including answers to frequently asked questions regarding the Standards of Conduct.

Self-reports began immediately after the issuance of the *Policy Statement on Enforcement*. As of November 2007, the Commission has received 77 self-reports of violations of various Commission orders, rules, or regulations. In many cases companies took self-corrective action before making the self-report, and 45 self-reports involving less serious matters have been closed without further action by the Commission, upon a showing by the company that it is now in compliance. In more serious matters, the Commission has imposed civil penalties for the violations that were self-reported, but in determining the penalty amount, gave significant credit to the company for having self-reported. The Commission encourages companies to instill a strong culture of compliance in their organizations, and to self-report violations promptly and fully.

It is incumbent upon the Commission to ensure that its market, reliability, and other regulatory rules are clear, enforceable and fully understood by the jurisdictional entities that we regulate. However, the obligation to comply with those regulations, rules and standards lies with the regulated entity. Therefore, it is important that regulated entities have a rigorous internal compliance program that provides them with the tools, processes, and high-level management support to identify problems or areas of non-compliance and to report such problems to the Commission. The Commission needs to work with its regulated entities to help them develop and maintain good compliance procedures such that any necessary enforcement actions by the Commission (including penalties or sanctions) are a regulatory tool of last resort – invoked only when the compliance process has failed.

Strategy		
Performance Measure	**Target**	**Data Source**
Establish clear and fair processes		
Apply current clear and fair processes to investigations during the fiscal year	Provide recommendations to the Commission for each proposed remedy and penalty with clear and consistent criteria	Office of Enforcement
Timeliness of reporting to the Commission on operational audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of operational audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Timeliness of reporting to the Commission on financial audits	Within 120 days of the Commencement Letter	Office of Enforcement

Strategy		
Performance Measure	**Target**	**Data Source**
Percentage of financial audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Conduct investigations promptly and impose penalties where appropriate		
Timeliness of initiating or deciding action on MMU referrals	80% acted on within 30 days	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Percentage of enforcement investigations not involving market manipulation issues completed	75% within one year of initiation	Office of Enforcement
Percentage of market manipulation enforcement investigations completed	75% within two years of initiation	Office of Enforcement
Percentage of Hotline calls resolved	70% within 2 weeks of initial contact	Office of Enforcement
Encourage self-policing and -reporting of violations		
Percentage of regulated entities audited to ensure internal compliance programs and processes are in place	85% of regulated entities included in annual audit plan	Office of Enforcement
Process complete requests for “No Action”	Within 60 days of receipt of final request	Office of Enforcement/ Office of the General Counsel / Office of Energy Market Regulation
Timeliness of reporting on compliance issues raised by regulated entities	Reports completed monthly	Office of Enforcement

CHAPTER 4: Initiatives Supporting All Goals and Objectives

The Commission has initiatives underway and processes in place to support its three strategic goals and the President's Management Agenda. These activities, including alternative dispute resolution and litigation, human capital management, agency resources, and information technology help the Commission work more effectively both within and across program areas. The Commission also relies on various methods to communicate our policies and actions to the public. Open lines of communication with affected parties are critical for effective functioning of the Commission's operations.

Alternative Dispute Resolution and Litigation

The Commission encourages parties to use alternative dispute resolution (ADR) whenever appropriate to resolve conflicts. Indeed, the Commission's Dispute Resolution Service (DRS) is among a handful of progressive organizations in the federal government that: (1) assist parties in using interest-based ADR to prevent and resolve energy and environmental-related conflicts, (2) build capacity for ADR within and outside the Commission, and (3) monitor the cost-effectiveness of energy-related ADR in the field of conflict resolution. The DRS integrates its third-party neutral functions with the Commission's five guiding principles of organizational excellence, due process and transparency, regulatory certainty, stakeholder involvement and timeliness. The DRS is taking steps to ensure that ADR is applied appropriately, more systematically, and as early as possible, to prevent and resolve energy and environmental-related conflicts in natural gas, hydropower, and electric proceedings and environmental processes.

The DRS is building more capacity for ADR in all energy sectors within and outside the Commission through outreach, education and training. The DRS staff continues to improve its own ADR skills and qualifications in an evolving field. At the same time, the DRS trains Commission staff and outside entities upon request on ADR and tools for conflict prevention and collaborative problem solving. Finally, the DRS regularly evaluates the effectiveness of ADR in terms of performance, outcomes, cost avoidance and other benefits to the public.

The Commission has also been actively involved in efforts to improve the use of alternative dispute and conflict resolution on a government-wide basis. The Commission submitted extensive information on its programs in the following reports.

First Annual ECR Report to OMB and Council on Environmental Quality. In December 2006, the Commission issued its first annual report to OMB and the Council on Environmental Quality per a joint policy memo directing agencies to increase the effective use of and build institutional capacity for Environmental Conflict Resolution (ECR). ECR is third-party assisted conflict resolution and collaborative problem-solving. The Commission's Offices of General Counsel, Energy Projects, and Enforcement, as well as the Dispute Resolution Service collaborated on the report and identified four priority environmental areas under the Commission's purview in which ECR will continue to be helpful:

- hydropower licensing and re-licensing applications;
- natural gas facility certificate applications;
- LNG facility applications; and
- electric transmission permit applications.

The Commission also committed to increasing the institutional capacity and effectiveness of ECR by:

- aligning the plan for implementation of ECR with the Commission's three strategic goals;
- investing and building support for ECR by having full time dispute resolution specialists, other Commission staff trained in ADR skill sets for collaborative problem-solving, and joint agency partnership initiatives; and
- measuring the performance and benefits of ECR through periodic program evaluation.

Report to the President on the Use and Results of ADR. On April 27, 2007, the U.S. Attorney General submitted to the President the Report for the President on the Use and Results of Alternative Dispute Resolution in the Executive Branch of the Federal Government. The report is a product of the Interagency Alternative Dispute Resolution Working Group, of which the Commission is an active member. The report provides a comprehensive look at the increased use of ADR at agencies throughout the federal government in the areas of civil enforcement and regulatory matters, claims against the government, contracts and procurement, and in the workplace. The report attempts to measure and evaluate that growth and also to provide a blueprint to maximize the potential of ADR in the future. The Commission's efforts to encourage and apply ADR are highlighted throughout the report and demonstrate the Commission's leadership among federal agencies to encourage settlements and alternative approaches to conflict resolution. This has positioned the

Commission at the forefront of ADR efforts, not just in the civil enforcement and regulatory arena, but throughout the federal government.

In some cases, however, the formal litigation process is necessary. This is especially true when it is important to establish the exact facts of a case in open proceedings. The openness of the process can also promote credibility in important cases.

The Commission's Office of Administrative Litigation is responsible in contested cases to guard the consumer from exploitation by ensuring customers are charged just and reasonable rates and protected from undue preferences. Just and reasonable rates, terms and conditions of service derived from cases set for trial:

- provide appropriate incentives for the energy industry to develop infrastructure, as well as sufficient compensation to maintain existing infrastructure in a reliable and safe manner;
- benefit the consumer by encouraging competition (in the case of market-based rates) or by insuring that ratepayers pay no more than the legitimate costs of providing energy, plus a fair return on investment (in the case of cost-based rates);
- ensure that the rules under which each provider, and each industry in general, operates are fair and nondiscriminatory; and
- act as a deterrent to market manipulation.

Rates that reflect well-conceived rate design and cost allocation schemes, and terms and conditions of service that are comprehensive and fully transparent, can help to eliminate the incentive as well as the opportunity to game markets.

Since litigation can be costly and time-consuming, the Commission requires litigants to conform to specified time limits, depending upon the complexity of the issues. Thus, the Commission's litigation staff and its Administrative Law Judges guide the efficient handling of the unique, complex issues that arise in a pro-competitive environment, and speed their resolution. At the same time, the Commission is mindful that settlements are, by far, preferable to litigation, because they resolve cases much quicker than litigation, and avoid the expense and uncertainty of litigation. Furthermore, all parties are generally more satisfied with the results of a mutual agreement than with a litigated outcome.

To this end, Office of Administrative Litigation trial lawyers and expert witnesses serve as representatives of the public interest. Thus, their input is often crucial in assisting competing parties to view the facts in a constructive manner and to better understand the likely outcome of an issue under Commission precedent. In addition, the Commission's administrative law judges may serve as settlement judges or mediators, thereby offering the parties greater access to the means of settlement which, in turn, allows them to exercise greater control over the outcomes.

Below are examples of benefits obtained though uncontested settlements certified in FY 2007.

Consumer protection

- Settlements certified in FY 2007 cases set for hearing produced over $129 million in immediate refunds and over $724 million in future annual savings to ratepayers.
- Moratoriums (e.g., 3-year, 4-year) in several cases preclude new rate increases and/or complaints, thereby increasing rate certainty.
- Several settlements contained “come-back” provisions requiring the regulated entity to make a rate filing within a set period, thus ensuring that rates will continue to reflect current costs.
- Settlements improved transparency of gas pipeline billings, especially relating to pass through of fuel costs.
- Several settlements implemented audit, discovery, dispute resolution, complaint and subject-to-refund provisions to ensure that companies will bear the burden of justifying all of the costs they seek to pass through their formula rates, and to protect customers by affording them procedures through which they can determine the accuracy of the costs being flowed-through.
- Settlements protected wholesale ratepayers, and ultimately retail ratepayers, from the adverse effects of affiliate abuse and code of conduct violations.
- Settlements protected wholesale customers, and ultimately retail ratepayers, by mitigating ill effects arising from flawed auction and request for proposal processes.

Reliable, efficient and safe infrastructure

- Settlements of many reactive power and reliability must-run cases (e.g., PJM, MISO, ISO-NE) have helped to ensure the stability of the transmission grid and reduce administrative burdens on RTOs.
- Several settlements resulted in updated, clarified, and improved interconnection service agreements.
- Several settlements obtained rollover rights balanced with system reliability needs.

Infrastructure development

- Settlement resolved significant rate and other issues to allow development of Cove Point LNG facility to move forward.
- Several settlements resolved issues related to who pays for network upgrades, and how much.
- Settlements preserved incentives for merchant transmission investment by maintaining the incremental financial transmission rights that are produced when transmission facilities are installed.

Protecting Wholesale Competition and Preventing Market Manipulation

- Settlements have mitigated adverse effects of Code of Conduct violations thereby protecting the development of competitive markets.
- Contracts among affiliate entities have been modified through settlements to mitigate the potential for affiliate abuse thereby assuring compliance with the Commission's standards for affiliate transactions.
- Issues relating to cost-based rates instituted in lieu of market-based rates have been settled thereby ensuring that the potential for the exercise of market power by some entities has been eliminated.

Performance Measure	Performance Target	Data Source
Number of ADR requests and referrals addressed by the Dispute Resolution Service	Increase number over FY 2004	Dispute Resolution Service
Percentage of mediated or facilitated case that achieve partial or complete consensual agreement	75%	Dispute Resolution Service
Favorable Dispute Resolution Service customer satisfaction for casework and outreach	80% customer satisfaction rate	Dispute Resolution Service
Number of outreach events (e.g., trainings, workshops, and presentations) to promote the use of dispute resolution skills	Increase number over FY 2004	Dispute Resolution Service
Of ADR processes concluded, percentage that resulted in savings of time and/or money over traditional processes	75%	Dispute Resolution Services
Percentage of cases set for hearing that achieve partial or complete consensual agreement	75%	Office of Administrative Litigation / Office of Administrative Law Judges

Communication

The Commission's policies and actions have a widespread effect on the industries it regulates as well as the general public. Therefore, it is imperative that the Commission provides clear and timely information to all stakeholders, legislators, and regulators, federal and state alike, and any groups affected by agency actions.

Providing information to Congress, other federal agencies, states, industry, media and citizens groups, is an important part of the Commission's communications plan. This outreach initiative is supported through Senate and House liaisons, intergovernmental and public affairs specialists, a press corps, and staff that respond to Freedom of Information Act and CEII requests.

On the last day of 2007, the President signed into law certain changes to the Freedom of Information Act. These changes will require, among other things, quicker responses by agencies to many such requests. As a result, staffing for such work may need to increase.

A consistent outreach effort to public officials is supported through a clear message concerning the Commission's position on various issues it faces, timely responses to correspondence and other inquiries, and testimony before Congress. In its outreach to industry, the Commission organizes technical conferences and workshops to explain and explore issues related to the development and implementation of its policies and rulemakings.

Traditional communication efforts to announce and reinforce the Commission's messages such as press releases, press conferences, and interviews with agency officials are very valuable. Also, the Commission recognizes the importance of the internet and has used its internet website (www.ferc.gov) to help educate citizens and stakeholders and facilitate their participation in the Commission's decision making processes.

In addition to these national efforts, the Commission routinely hosts delegations from over 50 countries each year, and staff will on occasion travel to participate in international conferences and meetings with foreign officials.

Overall, the Commission must provide a strong and consistent message to all stakeholders through effective communication.

Performance Measurement	Performance Target	Data Source
Ensure timely and effective communication to all stakeholders	➢ Issue 95% of press releases for important agency actions within 1 hour of action being taken ➢ Post 95% of important and time-sensitive agency actions on the Commission's internet website within 1 hour of issuance ➢ Provide an initial and complete response to 70% of inquiries at the time of the receipt of the request ➢ Develop webpages within the assigned timeframe to enhance and support the Commission's initiatives and goals	Office of External Affairs

Performance Measurement	Performance Target	Data Source
Enhance communication with National and International groups	➢ Provide responses to 95% of Congressional inquiries and briefing requests by the date requested or by 10 business days from the date of the request ➢ Provide email notification of significant Commission actions to Congress within 1 to 2 business days of the underlying action along with briefing offers where appropriate ➢ Provide timely and effective briefings to members of Congress and State Officials within the timeframe requested and initiate at least three briefings on top priority issues within timeframe appropriate to effect that issue ➢ Provide email notification of outreach efforts (i.e., panel discussions, workshops, conferences or other forums) to State Officials and Governors within 3 business days ➢ Respond to 80% of international delegation meetings requests within 3 business days of rendering a decision	Office of External Affairs

Human Capital

The Commission's Human Capital Plan outlines workforce initiatives that will assist in achieving organizational excellence. The Plan highlights activities supporting recruiting and hiring, training, and retaining employees as well as the development of accountability measures in Human Capital Management.

With high numbers of retirements anticipated over the next several years, along with new work requirements emanating from the EPAct 2005, an aggressive outreach and recruitment program continues to be a hallmark of the Commission's human resource activities. New skill sets in the field of reliability also will be a major focus of the Commission's recruitment efforts.

It is essential that new employees are trained to meet the emerging demands of the energy industry. The training opportunities provided will allow employees to review, understand, and enforce the new industry standards that are currently being written. Additionally, the Commission is implementing a leadership development program that will allow new leaders to meet the challenge of the Commission's strategic goals.

The Commission recognizes the value of maintaining experienced, hard-working employees that contribute significantly to its mission. In FY 2007, the Commission received full certification for its Senior Executive Service Performance Management System. The Commission will continue to link performance and accomplishments with strategic goals and objectives so that employees who make significant contributions towards achieving those goals are rewarded.

Performance Measurement	Performance Target	Data Source
Maintain an effective recruiting program	➢ Increase retention rate of new hires over FY 2008 ➢ Hire 20% of interns into permanent positions ➢ Implement a formal mid-career recruiting program by December 31, 2008	Office of the Executive Director
Implement employee development programs	➢ Launch competency based training program for mainstream occupations ➢ Develop competency based training for all occupations	Office of the Executive Director
Maintain an effective performance management system	➢ All employees and managers receive training annually ➢ Provide feedback to managers to ensure ratings reflect meaningful distinctions between performance ➢ High achievers are rewarded appropriately	Office of the Executive Director
Ensure appropriate representation of women and minorities at all levels within the organization	Increase over FY 2008 baseline	Office of the Executive Director

Agency Resources

The Commission continues to enhance its internal processes, produce reliable financial reports, and further budget and performance integration. The Commission achieves these objectives by focusing, in part, on effective internal controls, aligning Commission activities and costs to strategic goals and objectives, and supporting the President's Management Agenda.

In September 2007, the Commission completed its review of internal controls over financial reporting in place as of June 30, 2007. As required by OMB Circular A-123, *Management's Responsibility for Internal Control*, the Commission reviewed its general information technology, financial system application, and financial process controls. Through these efforts, the Commission was able to provide reasonable assurance that its controls over financial reporting prevented material misstatement of the balances purported in its financial statements.

The Commission's sound internal control environment enables the preparation of financial statements which present fairly, in all material respects, its financial position. In November 2007, the Commission received its 14th consecutive unqualified audit opinion expressed on its financial statements. External auditors supported the assertions made by Commission management relative to controls over financial reporting and did not identify any material weakness or significant deficiencies. The Commission will continue to use its internal control review process to identify opportunities to enhance the existing control environment and dedicate greater focus on the qualitative aspects of management controls that facilitate the accomplishment of the Commission's program objectives.

In staying on the path laid out by the President's Management Agenda, the Commission continues to use its Business Plan to align all Commission activities to its strategic goals and objectives. The Business Plan provides the Commission with the capability to track actual FTE usage at an aggregate activity level by strategic goal and objective. In line with the President's Management Agenda initiative to improve budget and performance integration, this reporting capability provides a basis for the linkage of budget and performance information. The Commission further used this capability to allocate its budget dollars and related expenditures against its strategic objectives in the FY 2009 Performance Budget Request.

In support of the President's Management Agenda eGovernment initiatives, the Commission continued to automate its financial process to support internal and external customers. In June 2007, the Commission issued $184 million in billings to regulated entities via the Department of Treasury's Pay.gov system. Electronic issuance of the Commission's annual charge assessment eliminated the time and expense associated with previous delivery methods. The effective delivery of electronic invoices directly to the appropriate personnel within each regulated entity facilitated the collection of over 99 percent of these charges by their established due dates.

Additionally, in August 2007, the Commission enhanced its new web-based travel system (GovTrip) by integrating it with the Commission's financial management system. This integration allowed the Commission to seamlessly integrate the travel business process with the related financial management requirements and realize the full vision of the government-wide e-Travel Services initiative.

Performance Measurement	Performance Target	Data Source
Maintain reliable financial management systems which generate accurate and timely financial information to support operating, budget, and policy decisions	➢ Unqualified audit opinion on financial statements ➢ Unqualified assurance assertion on internal controls	Office of the Executive Director
Manage acquisitions in accordance with federal requirements and ensure process provides for the efficient use of Commission resources	➢ 25% of total procurement dollars awarded to small, women-owned, and minority businesses ➢ 100% of qualified procurements are performanced-based	Office of the Executive Director

Information Technology

The Commission continues to align its information technology (IT) to support the agency's goals more effectively and efficiently.

A competitive energy industry requires reliable and timely information in useful electronic formats. To meet this challenge, the Commission is constantly improving the stability, reliability, and security of its IT infrastructure and data repositories.

In support of the President's Management Agenda, the FERC Online Project is reducing time and costs for customers to make filings and for the Commission to receive and process those filings. In FY 2008, the Commission will continue to improve FERC Online eFiling capabilities to cover additional documents submitted in Commission proceedings – including complex documents, those containing CEII and privileged material and those with fee requirements. The most cost effective solution for eLibrary technology refreshment and/or outsourcing will be implemented in FYs 2008 and 2009. The Commission will continue to actively participate in federal eGovernment initiatives.

In FY 2007, the Commission implemented the second phase of its agency-wide FERC Online Activity Tracking Management System for improved workload tracking and business planning. The phased implementation will continue into FYs 2008 and 2009.

To deal with the possibility of disruptions to agency operations, the Commission continues to improve its Continuity of Operations Planning and test its disaster recovery procedures. In addition, in FYs 2008 and

2009 the Commission will complete an Alternate Computing Facility to provide business continuity and disaster recovery capabilities. This target environment will introduce tiered based storage, enhanced data protection, and data archiving. This will ensure the availability and reliability of office automation support systems. In FYs 2008 and 2009, the Commission will continue to upgrade its operations and maintenance capabilities through server consolidation, configuration management through implementation of the National Institute of Standards and Technology workstation configuration template, and computer security and privacy programs using the Homeland Security Presidential Directive 12 and Internet Protocol version 6.

In carrying out all of these activities, the Commission will continue to refine its compliance with the Federal Information Security Management Act and other applicable OMB and National Institute of Standards and Technology guidance.

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APPENDIX A

STATUTORY AUTHORITY

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Statutory Authority

Below is a listing of federal statutes applicable to the Commission. Links to these statutes are available on the Commission's website at www.ferc.gov under Legal Resources.

General, Electric, Hydropower Statutes

- Federal Power Act
- Energy Policy Act of 2005
- Energy Policy Act of 1992
- Power Plant & Industrial Fuel Use Act
- Department of Energy Organization Act
- Electric Consumers Protection Act (ECPA)
- Electronic Freedom of Information Act of 1996
- Public Utility Holding Company Act of 1935 (PUHCA)
- Public Utility Regulatory Policies Act of 1978 (PURPA)
- Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)
- Information Technology Management Reform Act of 1996 (ITMRA/Clinger-Cohen Act)

Natural Gas Statutes

- Natural Gas Act
- Natural Gas Policy Act of 1978
- Alaska Natural Gas Pipeline Act of 2004
- Alaska Natural Gas Transportation Act of 1976
- Outer Continental Shelf Lands Act of 1978 (OCSLA)
- Natural Gas Wellhead Decontrol Act of 1989 (NGWDA)

Oil Statutes

- Interstate Commerce Act
- Oil Pipeline Regulatory Reform

Environmental and Other Statutes

- Clean Air Act
- Clean Water Act
- Rivers and Harbors Act
- Endangered Species Act
- Wild and Scenic Rivers Act
- Coastal Zone Management Act
- National Historic Preservation Act
- Fish and Wildlife Coordination Act
- National Environmental Policy Act (NEPA)

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APPENDIX B

ACRONYM GLOSSARY

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Acronym	Full Description
ADR	alternative dispute resolution
ARC	adequate ramp capability
ATC	available transfer capability
Bcf	billion cubic feet
CAISO	California Independent System Operator
CEII	critical energy infrastructure information
CMEP	compliance monitoring and enforcement program
CWIP	construction work in progress
DCF	discounted cash flow
DHS	U.S. Department of Homeland Security
DOE	U.S. Department of Energy
DOT	U.S. Department of Transportation
DRS	Dispute Resolution Service
EIS	Environmental Impact Statement
EPAct 2005	Energy Policy Act of 2005
EQR	Electric Quarterly Report
ERO	Electric Reliability Organization
ECR	environmental conflict resolution
FPA	Federal Power Act
FPC	Federal Power Commission
FTE	full-time equivalent
FY	fiscal year
ILP	integrated licensing process
ISO	independent transmission system operator
ISO-NE	ISO New England
IT	information technology

Acronym	Full Description
ITC	independent transmission company
kV	kilovolt
kW	kilowatt
kWh	kilowatt hour
LNG	liquefied natural gas
MBRA	market-based rate authority
Midwest ISO	Midwest Independent Transmission System Operator
MLP	Master Limited Partnership
MMC	Market Monitoring Center
MMcf	million cubic feet
MOU	memorandum of understanding
MRTU	Market Redesign and Technology Upgrade
MW	megawatt
NARUC	National Association of Regulatory Utility Commissioners
NAESB	North American Energy Standards Board
NEPA	National Environmental Policy Act of 1969
NERC[1]	North American Electric Reliability Council or North American Electric Reliability Corporation
NGA	Natural Gas Act
NGPA	Natural Gas Policy Act of 1978
NRC	Nuclear Regulatory Commission
NYISO	New York Independent System Operator
OASIS	Open Access Same-Time Information System
OMB	Office of Management and Budget
PJM	PJM Interconnection

[1] The North American Electric Reliability Corporation is the certified ERO. However, the entity is still in transition from the North American Electric Reliability Council to the North American Electric Reliability Corporation. Therefore, thus far, the Council has been filing documents with the Commission on behalf of the Corporation.

Acronym	Full Description
PUHCA 2005	Public Utility Holding Company Act of 2005
QF	qualifying facility
RIMO	Research in Market Oversight
ROE	return on equity
RPM	reliability pricing model
RTO	regional transmission organization
SPP	Southwest Power Pool
WECC	Western Electricity Coordinating Council

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APPENDIX C

PROPOSED APPROPRIATION LANGUAGE

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Proposed Appropriation Language

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $3,000); [$260,425,000] *$273,400,000* to remain available until expended: *Provided,* That notwithstanding any other provision of law, not to exceed [$260,425,000] *$273,400,000* of revenues from fees and annual charges, and other services and collections in fiscal year [2008] *2009* shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year [2008] *2009* so as to result in a final fiscal year [2008] *2009* appropriation from the General Fund estimated at not more than $0.

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APPENDIX D

WORKLOAD TABLES

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This appendix shows the portion of the Commission's work that can be objectively counted by workload category in energy markets and energy projects.

COMMISSION WORKLOAD[2]	FY 2006 Actual	FY 2007 Estimate			FY 2008 Estimate			FY 2009 Estimate		
Pipeline Certificates	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Construction Activity	37	83	58	62	112	112	62	100	112	50
Prior Notice & Abandonments	0	42	32	10	50	48	12	50	50	12
Compliance Filings & Reports	62	276	247	91	275	271	95	275	271	99
Environmental Analysis	74	126	141	59	152	164	47	152	164	35
Compliance & Safety Inspections	0	482	482	0	500	500	0	500	500	0
LNG Inspections	0	11	11	0	12	12	0	13	13	0
Rehearings	22	55	56	21	30	24	27	30	24	33
Complaints	0	5	4	1	2	2	1	3	3	1
Declaratory Orders	0	1	1	0	2	2	0	2	2	0
Remands	1	3	1	3	1	3	1	1	1	1
Dispute Resolution Services	2	12	12	2	10	10	2	10	9	3

Hydropower Licensing	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Original Licenses	13	3	2	14	6	5	15	9	5	19
Relicenses	59	12	14	57	12	20	49	8	15	42
5 MW Exemptions	2	2	1	3	3	2	4	4	2	6
Rehearings	21	48	65	4	35	36	3	35	36	2
Declaratory Orders	0	0	0	0	1	1	0	1	1	0
Remands	1	0	0	1	0	1	0	0	0	0
Cases Set for Hearing	0	0	0	0	0	0	0	0	0	0
Dispute Resolution Services	6	2	8	0	4	3	1	6	5	2

Project Compliance and Administration	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Amendments	100	2,193	2,144	149	2,000	1,850	299	2,000	1,850	449
Jurisdiction	4	9	12	1	10	10	1	10	10	1
Federal Lands	0	166	166	0	45	45	0	45	45	0
Headwater Benefits	26	134	156	4	120	120	4	120	120	4
Compliance	129	552	572	109	325	325	109	325	325	109
Surrenders, Transfers	26	53	71	8	45	45	8	45	50	3
Conduit Exemptions	1	0	1	0	4	4	0	4	4	0
Environmental Inspections And Assistance	0	125	125	0	125	125	0	125	125	0
Preliminary Permits	92	270	144	218	100	90	228	50	90	188
Rehearings	3	18	7	14	4	15	3	14	15	2
Complaints	3	0	2	1	0	1	0	1	1	0
Dispute Resolution Services	3	6	8	1	5	5	1	7	6	2

[2] Key: R = Receipts; C = Completed; P = Pending at year-end.

COMMISSION WORKLOAD[2]	FY 2006 Actual	FY 2007 Estimate			FY 2008 Estimate			FY 2009 Estimate		
Dam Safety and Inspections	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Operations Inspections[3]	1,202	1,354	1,309	1,247	1,360	1,426	1,181	1,437	1,436	1,182
Prelicense Inspections	7	8	10	5	7	7	5	8	8	5
Construction Inspections	68	128	124	72	154	151	75	159	156	78
Exemption Inspections	194	259	240	213	258	257	214	287	280	221
Special Inspections	79	141	159	61	113	114	60	113	113	60
Engineering Evaluation & Studies	1,138	6,106	5,930	1,314	6,094	6,043	1,365	6,094	6,040	1,419
Part 12 Reviews	149	186	105	230	227	218	239	238	230	247
Dam Safety Reviews	15	36	30	21	36	36	21	36	36	21
EAP Tests – Functions	41	55	64	32	54	54	32	52	52	32
EAP Tests – Table Top	10	53	57	6	39	39	6	54	54	6
Potential Failure Modes Analysis	172	224	242	154	342	342	154	329	329	154
Rates and Tariffs	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Gas Certificates & Rate Evaluations	67	84	87	64	85	90	59	85	90	54
Market-Based Rates	538	1,449	1,584	403	1,450	1,575	278	1,450	1,550	178
Dispute Resolution Services (Electric)	6	30	34	2	30	28	4	35	35	4
Rehearings (Electric)	304	300	278	326	300	300	326	300	300	326
Complaints (Electric)	27	51	47	31	45	47	29	45	47	27
Declaratory Orders (Electric)	17	31	25	23	25	25	23	25	25	23
Remands (Electric)	9	20	5	24	5	20	9	5	9	5
Negotiated Rates	29	363	356	36	360	360	36	360	360	36
Cost-Based Rates	242	1,864	1,830	276	1,850	1,840	286	1,850	1,840	296
Service Terms and Conditions	44	317	280	81	300	300	81	300	310	71
Dispute Resolution Services (Gas)	2	3	4	1	5	5	1	8	7	2
Rehearings (Gas)	30	37	25	42	40	50	32	40	35	37
Complaints (Gas)	1	6	3	4	2	3	3	3	3	3
Declaratory Orders (Gas)	2	2	3	1	1	2	0	1	1	0
Remands (Gas)	6	2	6	2	2	2	2	2	2	2
RTO, ISO, & Transco Filings	28	115	113	30	115	115	30	110	115	25
Compliance Certificate Rat	491	802	722	571	800	825	546	800	825	521
Compliance Refund Reports	96	92	91	97	90	95	92	90	95	87
Dispute Resolution Services (Oil)	0	0	0	0	0	0	0	0	0	0
Rehearings (Oil)	48	24	15	57	20	40	37	15	40	12
Complaints (Oil)	6	22	8	20	10	20	10	10	10	10
Declaratory Orders (Oil)	0	2	0	2	2	4	0	2	2	0
Remands (Oil)	0	4	0	4	2	4	2	2	3	1

[3] Includes about 50 inspections per fiscal year for DOE and NRC.

COMMISSION WORKLOAD[2]	FY 2006 Actual	FY 2007 Estimate			FY 2008 Estimate			FY 2009 Estimate		
Corporate Applications	**P**	**R**	**C**	**P**	**R**	**C**	**P**	**R**	**C**	**P**
Interlocking Positions	82	897	909	70	675	685	60	575	585	50
Mergers	4	9	10	3	10	10	3	10	10	3
Asset Acquisitions or Dispositions	26	142	145	23	145	145	23	145	145	23
Cogeneration/Small Power Producers (QF)	6	734	206	534	700	1,230	4	700	700	4
Compliance & Other Corporate Filings	26	131	120	37	130	135	32	130	135	27
Dispute Resolution Services	0	0	0	0	0	0	0	0	0	0

Electric Grid Reliability	P	R	C	P	R	C	P	R	C	P
Reliability Standards	115	11	115	11	27	11	27	49	26	50
Commission-Directed Revised or New Standards	0	0	0	0	41	0	41	48	41	48
Reliability Filings by EOR/RE	1	43	33	11	20	26	5	20	20	5
Reliability Readiness Reviews	0	26	26	0	21	21	0	20	20	0
Standards Compliance Audits	0	0	0	0	10	8	2	15	14	3
Incident Investigations	1	5	2	4	12	9	7	12	10	9

Legal Matters	P	R	C	P	R	C	P	R	C	P
Cases Set for Hearing	89	76	100	65	100	100	65	100	100	65
Dispute Resolution Services (Outreach)[4]	37	55	81	11	60	58	13	60	60	13
Settlement Judge Proceedings	45	49	54	40	75	75	40	75	75	40
Appellate Review	150	115	110	155	120	115	160	125	125	160
Audits	15	65	68	12	96	98	10	80	80	10
Accounting	90	190	273	7	190	187	10	190	187	13

[4] In light of the value the Commission places on persistent and ongoing DRS outreach activities, it is likely that the workload figures in this category will either remain steady or increase over time.

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APPENDIX E

RESOURCE REQUEST BY INDUSTRY

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RESOURCE REQUEST BY INDUSTRY

Funding

(Dollars in Thousands)

Industry	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request	% (+/-) FY 2008 to FY 2009
Electric Power	$108,407	$131,147	$143,050	9.1%
Natural Gas & Oil Pipelines	$62,615	$67,994	$68,650	1.0%
Hydropower	$53,899	$61,284	$61,700	0.7%
TOTAL	**$224,921**	**$260,425**	**$273,400**	**5.0%**

FTEs

Industry	FY 2007 Actual	FY 2008 Estimate	FY 2009 Request	% (+/-) FY 2008 to FY 2009
Electric Power	635	717	779	8.6%
Natural Gas & Oil Pipelines	363	369	371	0.5%
Hydropower	305	314	315	0.3%
TOTAL	**1,303**	**1,400**	**1,465**	**4.6%**

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APPENDIX F

OBJECT CLASS TABLE

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Object Class Summary

(Dollars in Thousands)

Obligations		FY 2007 Actual	FY 2008 Estimate	FY 2009 Request
11.9	Personnel Compensation	$130,097	$145,804	$156,541
12.1	Benefits	32,180	35,346	39,043
13.0	Benefits for Former Personnel	4	10	10
Total, Personnel Compensation & Benefits		$162,281	$181,160	$195,594
21.0	Travel and Transportation of Persons	2,768	3,837	4,164
22.0	Transportation of Things	(1)	1	1
23.1	Rental Payments to GSA	19,797	20,570	20,870
23.2	Rental Payments to Others	650	547	569
23.3	Communications, Utilities & Misc. Charges	1,506	2,253	2,294
24.0	Printing and Reproduction	3,009	2,235	2,340
25.0	Other Services	31,076	41,684	39,305
25.1	Advisory and Assistance	4,748	8,037	7,699
25.2	Non-Federal	5,014	5,982	6,194
25.3	Federal	744	801	840
25.4	Operation & Maintenance of Facilities	1,640	1,775	1,569
25.7	Operation & Maintenance of Equipment	18,930	25,089	23,003
26.0	Supplies and Materials	939	981	1,000
31.0	Equipment	2,786	7,083	7,189
41.0	Grants, Subsidies & Contributions	23	49	49
42.0	Insurance Claims and Indemnities	87	25	25
Total, Obligations		**$224,921**	**$260,425**	**$273,400**
Application of Prior Years' Budget Authority		(3,019)	0	0
Appropriation		$221,902	$260,425	$273,400
Offsetting Collections		(221,902)	(260,425)	(273,400)
Net Appropriation		**$0**	**$0**	**$0**

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APPENDIX G

COMPARATIVE PERFORMANCE MEASUREMENT DATA

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Performance Measurements for Energy Infrastructure, FY 2004 – FY 2009

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Inspect each major onshore pipeline project at least once every four weeks during ongoing construction activity	100% of qualifying projects inspected per established schedule	All three major onshore projects were inspected at least once every four weeks.
Percentage of relicense filings based upon ALP's	25% of all relicense cases using ALP	45% of the relicense applications filed during FY 2004 used ALP.
Complete implementation process of Large Generator Interconnection Policies	By year end, process 90% of all compliance tariff filings submitted by July 31	89% of the 87 compliance tariff filings were completed by the end of FY 2004. The remainder involve cases where additional time was needed to evaluate protests and unique compliance issues, and will be completed by the end of first quarter of FY 2005. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Implement generic policy on Small Generator Interconnection	Issue final rule	Although the Commission expected to issue a final rule by the end of FY 2004, we delayed development and issuance in response to ongoing stakeholder activity to reach a consensus on important technical and legal issues. The extension for stakeholders to submit additional comments will ensure broad industry consensus on the final rule. This, in turn, will speed the ability to implement the requirements of the final rule we now plan to issue in FY 2005. These procedures and agreements, when issued, will provide certainty about the costs market participants will bear and the terms and conditions that will affect interconnection to the electric transmission system thereby hastening the interconnection process.
Percentage of pipeline certificate cases completed in specified time frames	85% of cases completed within the following time frames: ➢ unprotested cases that involve no precedential issues, 159 days ➢ protested cases that involve no precedential issues, 304 days ➢ cases of first impression or containing larger policy implications, 365 days ➢ cases requiring a major environmental assessment or environmental impact statement, 480 days	85% of the cases were completed in: ➢ 111 days for unprotested cases that involve no precedential issues; ➢ 190 days for protested cases that involve no precedential issues; ➢ 217 days for cases of first impression or containing larger policy implications; ➢ 448 days for cases requiring a major environmental assessment or environmental impact statement.
Percentage of final NEPA documents, required for hydropower license applications filed after FY 2002, completed within specified time frames	75% of final NEPA documents prepared for licenses approved within the following time frames: ➢ ALP case, less than 16 months ➢ TLP case, less than 24 months	➢ 83% of final NEPA documents were issued within 16 months of the date ALP license applications were deemed complete. ➢ 100% of final NEPA documents were issued within 24 months of the date TLP license applications were deemed complete.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Percent of final NEPA documents based upon comprehensive settlement agreements completed within specified time frames	75% of final NEPA documents prepared for final comprehensive license settlement agreements are completed within 12 months	100% of final NEPA documents were issued within 12 months of the date final settlement agreements were filed with the Commission.
Statutory cases by workload category	All cases competed by statutory action date	Over 99.6% of the 2,900 statutory cases were completed by the required date. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Establish clear cost recovery process for transmission investment in each region	Allow flexibility to ensure utilities or pipelines have sufficient revenue stream to recover investment costs and provide rate certainty for customers	The Commission approved over 100 applications, including 42 in the Western U.S. alone, that ensured rate recovery for utilities and provided additional rate certainty to customers. The Commission also approved 11 applications filed under NGA section 311 to establish rates for interstate gas transportation services provided over intrastate and Hinshaw pipeline systems and another 11 applications by Western U.S. interstate pipelines to establish rate recovery for additional gas infrastructure investment. In the liquefied natural gas (LNG) industry, the Commission provided significant investment recovery certainty by issuing orders establishing initial rates for three proposed LNG import terminal facility projects: ➢ Tractebel Calypso; ➢ AES Ocean Express; and ➢ Trunkline LNG.
Process qualifying facilities workload (regulatory cases)	100% of cases processed by regulatory deadline	100% of QF certification or re-certification applications were completed within the regulatory 90-day time frame prescribed in 18 CFR § 292.207(b)(3)(i).
Evaluate and improve the effectiveness of required environmental enhancement and mitigation measures in hydropower licenses	➢ Conduct 5 site visits ➢ Hold 2 outreach meetings with stakeholders ➢ Disseminate 2 environmental effectiveness reports	➢ 100% completed ➢ 100% completed ➢ Disseminated two reports
Update and add new chapters to the Engineering Guidelines, as appropriate	Issue new or revised Engineering Guidelines chapters, as appropriate	Although no updates or new chapters were added, the Commission developed substantial portions of two new chapters that will be issued in FY 2005: ➢ Seismicity; and ➢ Penstock and Water Conveyance Facilities.
Update the FERC Security Program for Hydropower projects as appropriate	Make program changes as appropriate	Although no security program changes were made, the Commission continued to coordinate with DHS and other Federal dam owners to ensure the adequacy of the current program.
Percentage of high- and significant-hazard-potential dams inspected annually	100% of high- and significant-hazard-potential dams inspected annually	100% of high- and significant-hazard potential dams were inspected.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Percentage of high- and significant-hazard-potential dams meeting all current structural safety standards	Percentage of high- and significant-hazard-potential dams meeting all current structural safety standards remains uniformly high	95% of high- and significant-hazard-potential dams met all current structural safety standards.
Percentage of high- and significant-hazard-potential dams in compliance with EAP requirements	100% of qualifying dams in compliance with EAP requirements	99.8% of qualifying dams were in compliance with EAP requirements. The two dams that were not in compliance (because of overdue EAP filings) were promptly issued non-compliance letters and are being closely monitored to bring them back into compliance as soon as possible.
Recovery of companies' prudently incurred costs to safeguard the reliability and security of energy transportation and supply infrastructure	Timely processing of filings seeking recovery of security and safety costs in jurisdictional rates by statutory action date	All 17 oil pipeline applications to either establish or revise security cost recovery mechanisms or charges were processed within the 30-day statutory period. In addition, both of the gas pipeline applications to recover security-related costs as part of a general rate increase were processed by statutory action date.
	Encourage innovative proposals to recover prudently incurred security costs	Commission staff has met, and continues to meet, with industry representatives, such as the Association of Oil Pipe Lines, to develop innovative recovery methods that reflect the diversity of rate designs, services and system configurations of companies that have identified a need for additional security measures.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Percentage of pipeline certificate cases completed in specified time frames	85% of cases completed within the following time frames: ➢ unprotested cases that involve no precedential issues, 159 days ➢ protested cases that involve no precedential issues, 304 days ➢ cases of first impression or containing larger policy implications, 365 days ➢ cases requiring a major environmental assessment or environmental impact statement, 480 days	Target Met. During FY 2005, the following percentages of cases were completed within the stated targets: ➢ 93% ➢ 100% ➢ 100% ➢ 89%.
Inspect each major onshore pipeline project at least once every four weeks during ongoing construction activity	100% of qualifying projects inspected per established schedule	Target Met. During FY 2005, 100% of qualifying projects were inspected per the established schedule.
Time to complete NEPA Prefiling Process	8 months after a complete application is filed	Target Met. During FY 2005, 100% of applications completed the NEPA Prefiling Process within the stated target.
Percentage of relicense filings based upon alternative licensing process (ALP)	25% of all relicense cases using ALP	Target Met. During FY 2005, 39% of relicense cases used the ALP.
Yearly increase in the percentage of hydropower projects using the ILP pre-filing process	25%	Target Met. Due in large part to staff outreach efforts, the percentage of hydropower projects using the ILP increased by 450% during FY 2005.
Average processing times for hydropower relicensing	Additional 5% reduction each year	Target Met. During FY 2005, the average processing time for hydropower relicensing reduced by 5.5%.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Percentage of final NEPA documents, required for hydropower license applications filed after FY 2002, completed within specified time frames	75% of final NEPA documents prepared for licenses approved within the following time frames: ➢ ALP case, less than 16 months ➢ Traditional case, less than 24 months	Target Met. 100% of final NEPA documents were prepared within the stated targets for both the ALP and TLP cases during FY 2005.
Percent of final NEPA documents based upon comprehensive settlement agreements completed within specified time frames	75% of final NEPA documents prepared for final comprehensive license settlement agreements are completed within 12 months	Target Met. 92% of final NEPA documents were completed within 12 months during FY 2005.
Reduction in the number of barriers to entry for new generators and reduction in the potential for undue discrimination against new generators, by streamlining and standardizing interconnection terms and conditions in non-independent transmission provider tariffs	75% of all open access transmission tariffs will have standard generator interconnection procedures in compliance with Order No. 2003 (and small generator final rule) by the end of FY 2005	Target Met. During FY 2005, the Commission completed 96.9% (31 of 32) of the open access transmission tariff compliance filings received, which also have standard generator interconnection procedures that comply with Order No. 2003. *Note:* Filings required under Order No. 2006 (small generator final rule) were not reflected in these results since they are contingent upon the issuance of the final rule on electronic tariff filing, which was not completed by the end of FY 2005.
Effectiveness of regional planning processes in each region of the country	Establish benchmarks assessing how well each region is meeting the necessary criteria for regional planning, which includes: ➢ an open and inclusive process for stakeholder involvement ➢ objective cost allocation criteria ➢ equal opportunity for a variety of technologies ➢ a process to reduce congestion	Target Met. In March 2005, benchmarks that meet the stated targets were developed and presented to the RTO and ISO Boards of Directors during a meeting at the Commission.
Timeliness of processing requests for cost recovery, new services, or changes to existing services	100% of all cases processed by statutory action date	Target Not Met. Almost 99.9% of the more than 3,000 statutory cases were completed by the statutory action date. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Timeliness of Commission Opinions, to provide ratepayers with regulatory certainty with respect to rates set for hearing	85% of all Commission Opinions issued within 12 months of Briefs Opposing Exceptions to Initial Decisions on rates set for hearing	Target Met. During FY 2005, 100% of Commission Opinions were issued within 12 months of the Briefs Opposing Exceptions to Initial Decisions on rates set for hearing.
Timeliness of resolving cost recovery proposals for new infrastructure, to provide investors with regulatory certainty	85% of all merits orders accepting, modifying, or rejecting timely filed proposals, including time for hearing, ADR, or settlement judge participation, issued by date requested by applicant to meet its construction/financing schedule	Target Met. During FY 2005, The Commission issued 95% of the 224 merits orders to resolve cost recovery proposals for new infrastructure by requested date or, in the case of gas pipeline certificate applications, contributed rate inserts to allow timely completion.
Implementation of rate flexibility or incentives to encourage needed additions to energy infrastructure	Increase in the number of innovative or flexible rate designs in effect, by approving rate proposals or issuing policy statements providing rate flexibility or incentives needed for infrastructure additions	Target Met. During FY 2005, the Commission approved several rate proposals and issued a policy statement on independent transmission companies, which collectively accomplished the stated targets.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Enhance reliability oversight by creating a new reliability division	Division operational by end of fiscal year	Target met. The Commission's Reliability Division was operational in October 2004.
Timeliness of processing proposals to recover prudently incurred costs to safeguard the security and safety of energy transportation and supply infrastructure	100% of all filings, including innovative proposals, seeking recovery of security and safety costs in jurisdictional rates processed by statutory action date	Target Met. The Commission processed 100% of the fourteen oil pipeline and three gas pipeline filings by the statutory action date.
Participation with NERC in reliability readiness reviews over next 3 years to ensure grid reliability	One-third of the Nation's control areas reviewed with NERC annually	Target Met. During FY 2005, the Commission participated in 35 of the 44 NERC scheduled control area audits, which exceeds one-third of the Nation's approximately 100 control areas. This result is based on an estimate since NERC continues to re-define what constitutes a "control area." In future years, the Commission is no longer basing its performance on the number of "control areas," but rather on "load capacity."
Timeliness of processing proposals to recover prudently incurred costs to improve the reliability of the transmission grid	100% of all filings, including innovative proposals, seeking recovery of reliability costs in transmission rates processed by the statutory action date	Target Not Met. The Commission processed 99.7% (313 out of 314) of these filings by the statutory action date during FY 2005. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Clarity and enforceability of reliability rules, with effective penalties for non-compliance	Assess each region's reliability rules and penalties to determine whether they specify reliability violations and include enforceable and effective penalties	Target met. After assessing the reliability rules of the six existing RTOs/ISOs in various regions of the country, the Commission determined that the rules specify reliability violations and include enforceable and effective penalties.
	Require each new RTO or ISO to address reliability considerations prior to becoming operational	Target Met. Prior to becoming operational, each of the six existing RTOs/ISOs addressed reliability considerations.
Evaluate the effectiveness of Commission required resources protection measures, and disseminate information on the results.	Conduct a workshop and disseminate one report on the results of the evaluation.	Target Met. During FY 2005, the Commission conducted a workshop on shoreline management and issued a report on its evaluation of recreation mitigation effectiveness.
Maintain environmental quality at hydropower projects.	Resource protection measures constructed and implemented according to license requirements.	Target Met. Environmental inspections during FY 2005 indicated that all resource protection measures at inspected projects were constructed and implemented according to license articles.
Enhance dam safety	100% of high- and significant-hazard-potential dams inspected annually	Target Met. During FY 2005, the following percentage of dams met the stated targets: ➢ 100% ➢ 95% ➢ 100%
	Percentage of high- and significant-hazard-potential dams meeting all current structural safety standards remains uniformly high	
	100% of qualifying dams in compliance with EAP requirements	

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Number of instances of improved regulation to facilitate security and emergency response	Number of specific measures (e.g., number of security surcharge requests approved and gas allocation principles set)	Target Met. During FY 2005, the Commission improved regulation to facilitate security and emergency responses by: ➢ approving all security surcharge requests received from oil pipelines; ➢ approving recovery of software costs to meet security requirements for an electric public utility; ➢ approving surcharges to recover capital costs (including costs to enhance security) for two natural gas pipelines; and ➢ issuing notices in response to Hurricanes Katrina and Rita, waiving certain reporting requirements and non-statutory deadlines for specified periods.
Timely handling of CEII without disrupting requesters' participation rights in other proceedings	No requester's failure to obtain CEII in a timely manner will affect requester's ability to participate effectively in a proceeding	Target Met. The Commission received no complaints from requesters regarding their ability to participate effectively in a proceeding during FY 2005.
Prevent unauthorized access to security-related documents	No instances of unauthorized access to security-related documents	Target Met. During FY 2005, the Commission did not have an instance of unauthorized access to security-related documents reported.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Develop strategic plan and timeline for transmission line siting group	By August 31, 2006	Target Met. The strategic plan and timeline were in place by August 31, 2006. Steps have been taken to establish a transmission line siting group including: the issuance of a Notice of Proposed Rulemaking to establish the necessary rules and regulations to process applications filed with the Commission and posting openings to fill these essential positions.
Issue final rules on mandatory pre-filing process for LNG terminal proposals	Within 60 days of enactment of EPAct 2005	Target Met. The Commission issued regulations on the mandatory pre-filing process for LNG terminal proposals within 60 days of the enactment of EPAct 2005. The Pre-Filing Rule was issued on October 7, 2005 in Docket No. RM 05-31-000, Order 665; the effective date of the rule was November 17, 2005.
Complete MOU with Secretary of Defense on coordination of LNG facilities affecting active military installations	By March 31, 2006	Target Not Met. Both DoD contacts retired or were transferred during negotiations. A new DoD contact was assigned in July 2006 and negotiations are underway again. This did not impact operations.
Issue reports to Congress on Alaska Natural Gas Pipeline	Reports issued in February 2006 and August 2006	Target Met. Reports issued February 1 and July 10, 2006.
Establish rules for transmission infrastructure incentives	Issue rules by August 8, 2006	Target Met. Docket No. RM06-4-000; Final Rule, Order No. 679, "Promoting Transmission Investment through Pricing Reform," issued July 20, 2006.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Identify requirements for establishing a communications system with transmission owners and RTOs on status of transmission lines	Issue report to Congress by February 4, 2006	Target Met. Report entitled "Steps to Establish a Transmission Monitoring System for Transmission Owners and Operators within the Eastern and Western Interconnections," submitted to Congress on February 2, 2006.
Establish process to review ERO proposed initial reliability standards	By March 31, 2006	Target Met. Developed a rulemaking process and timeline for addressing the initial reliability standards; the process and timeline were approved by the Commission in March 2006.
Issue report to Congress on operator training	By December 31, 2005	Target Not Met. Although a comprehensive study of the current state of control room operator training across the bulk power system of the United States was completed in early December, the report has not yet been sent to Congress. The Commission is currently involved in a comprehensive rulemaking related to ERO reliability standards which will include standards related to operator training. This did not negatively impact operations.y
Percentage of qualifying, major, onshore-pipeline projects inspected during ongoing construction activity	100% of projects inspected at least once every four weeks	100%
Percentage of pipeline certificate cases with no precedential issues completed	➢ 90% of unprotested cases within 159 days of filing ➢ 90% of protested cases within 304 days of filing	➢ 94% ➢ 100%
Percentage of pipeline certificate cases of first impression or containing larger policy implications completed	90% within one year of filing	100%
Percentage of pipeline certificate cases requiring a major environmental assessment or environmental impact statement completed	90% within 18 months of filing	100%
Percentage of qualifying LNG plants inspected during ongoing construction activity	100% of plants inspected at least once every eight weeks	100%
Percentage of LNG import terminals inspected	100% inspected annually	100%
Percentage of LNG peak-shaving terminals inspected	50% inspected annually	50%
Percentage of ILP pre-filing notices for NOI/PAD and initial scoping document issued	85% within 60 days of NOI/PAD filing	100%
Percentage of ILP pre-filing scoping meetings and site visits completed	85% within 90 days of NOI/PAD filing	100%
Percentage of ILP pre-filing study plan determinations completed	85% within 315 days of NOI/PAD filing	100%
Percentage of final NEPA documents issued for ALP/TLP cases with settlement agreements	85% within 12 months	94%

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of final NEPA documents issued for ALP/TLP cases without settlement agreements	85% within 24 months	94%
Percentage of non-independent transmission provider open access transmission tariffs that have standard generator interconnection procedures in compliance with Order No. 2003 and small generator final rule	75% by September 30, 2006	Target Met. 100% compliance with Order No. 2006, "Standardization of Small Generator Interconnection Agreements and Procedures," issued May 12, 2005, was established through language contained in paragraph 544 of the Final Rule, as follows: "On the effective date of this Final Rule…the OATTs [open access transmission tariffs] of all non-independent Transmission Providers are deemed revised to include the Final Rule SGIP [Standard Generator Interconnection Procedures] and SGIA [Standard Generator Interconnection Agreement]." In accordance with other language in the same paragraph, no further amendment to include the SGIP and SGIA in a Transmission Provider's OATT is required until compliance is due in the Commission's pending rulemaking on Electronic Tariff Filings. Compliance with Order No. 2003 (large generator rule) was completed and reported on during FY 2005 (see previous results).
Percentage of cases for cost recovery, new services, or changes to existing services processed	➢ 100% of NGA section 4 cases in 30 days ➢ 100% of FPA section 205 cases in 60 days	Target Met. 100% of the more than 3,350 statutory cases were completed by the statutory action date.
Percentage of rate cases set for hearing completed according to the established schedule	➢ 75% of Track I cases in 29.5 weeks ➢ 75% of Track II cases in 47 weeks ➢ 75% of Track III cases in 63 weeks	➢ There were no Track I cases ➢ 90% of Track II cases in 47 weeks ➢ 94% of Track III cases in 63 weeks
Percentage of rate cases set for hearing that achieve partial or complete consensual agreement	75%	78%
Percentage of Commission Opinions issued once Briefs Opposing Exceptions to Initial Decisions are filed	90% within 12 months	Target met. 100% (10 of 10) Initial Decisions processed within 12 months of Briefs Opposing Exceptions.
Percentage of merit orders accepting, modifying, or rejecting timely filed cost recovery proposals for new infrastructure submitted (including time for hearing, ADR, or settlement judge participation)	95% by applicant request date	Target Met. 96% of the 120 merit orders to resolve cost recovery proposals for new infrastructure were issued by statutory or requested date as applicable. In the case of gas pipeline certificate applications, contributed rate inserts to allow timely completion.
Timeliness of issuing environmental licensing requirements	Licensing responsibility letters sent within 45 business days of license issuance date	Target Met. All licensing responsibility letters were issued within 45 days of license issuances.
Percentage of NEPA documents completed for projects utilizing the pre-filing processes	85% within 8 months of determining a pipeline or LNG facility application complete	100%

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Participation in NERC / industry reliability readiness reviews	➢ 100% of the Reliability Coordinators ➢ Large entities which represent 80% of the load served by all entities reviewed by NERC	Target Met. FERC participated in 100% of NERC's Reliability Coordinator reviews (5 of 5), and participated in 22 readiness reviews of large entities which represent 94.5% (125,503 MW) of the load served by all entities reviewed by NERC (132,796 MW).
Issue final rule on Electric Reliability Organization (ERO) certification and mandatory reliability standards enforcement	Rules issued by February 4, 2006	Target Met. Docket No. RM05-30-000; Final Rule, Order No. 672, "Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards," issued February 3, 2006.
Percentage of new RTOs or ISOs performing reliability functions included in Orders No. 2000 or No. 888, respectively	100%	No new RTOs or ISOs were established during the performance period.
Percentage of merit orders accepting, modifying, or rejecting timely filed proposals to recover prudently incurred reliability costs submitted (including time for hearing, ADR, or settlement judge participation)	95% by applicant request date	Target Met. 100% of the 394 merit orders to resolve cost recovery proposals for reliability were issued by statutory or requested date, as applicable.
Percentage of merit orders accepting, modifying, or rejecting timely filed proposals to recover prudently incurred safety and security costs submitted (including time for hearing, ADR, or settlement judge participation)	95% by applicant request date	Target Met. 100% of the 20 relevant filings (i.e., oil pipelines) were completed by the statutory action date.
Percentage of high- and significant-hazard-potential dams inspected annually	100%	100%
Percentage of high- and significant-hazard-potential dams that either meet all current structural safety standards or are undergoing investigation or remediation	100%	100%
Percentage of qualifying dams that either comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s)	100%	100%
Number of instances of unauthorized access to Critical Energy Infrastructure Information (CEII)	No instances	Target met. No instances.
Number of complaints from CEII requesters on inability to participate in a proceeding due to failure to obtain CEII in a timely manner	None	Target met. None.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Resolve Regulatory and Other Challenges to Needed Development		
Issue Alaska Gas Pipeline Reports to Congress	Issue Reports in February and August 2007	Target Met. Reports were issued on January 31 and August 15, 2007.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of pipeline certificate cases with no precedential issues completed	➢ 90% of unprotested cases within 159 days of filing ➢ 90% of protested cases within 304 days of filing	Targets Met. ➢ 98% of unprotested cases were completed within 159 days of filing. ➢ 100% of protested cases were completed within 304 days of filing.
Percentage of pipeline certificate cases of first impression or containing larger policy implications completed	90% within 365 days of filing	Target Met. 100% of cases of first impression or larger policy implications were completed within 365 days of filing.
Percentage of pipeline certificate cases requiring a major environmental assessment or environmental impact statement completed	90% within 480 days of filing	Target Met. 94% of cases requiring a major environmental assessment or environmental impact statement were completed within 480 days of filing.
Percentage of qualifying LNG plants inspected during ongoing construction activity	100% of plants inspected every 8 weeks	Target Met. 100% of qualifying LNG plants (6 of 6) where construction was occurring were inspected at least every 8 weeks.
Percentage of ILP pre-filing study plan determinations completed	85% within 150 days of applicant's filing of the proposed study plan	Target Met. 90% (9 out 10) ILP pre-filing study plan determinations were completed within 150 days of applicant's filing of the proposed study plan.
Percentage of infrastructure studies completed	➢ 100% for regional and issue-based infrastructure conferences ➢ 100% for Commission- and Congressional-directed studies	Targets Met. ➢ 100% of infrastructure studies completed for regional and issue-based conference. ➢ 100% of infrastructure studies completed for Commission- and Congressional-directed studies.
Percentage of NEPA documents completed for projects utilizing the pre-filing processes	85% within 8 months of determining a pipeline or LNG facility application complete	Target Met. Of the 18 projects that utilized the pre-filing process, 100% had final NEPA documents within 8 months of filing a complete application.
Timeliness of filings processed containing amendments to non-independent electric transmission provider OATTs	Within 60 days of filing date or applicants' requested date, whichever is later	Target Met. All 126 amendments to non-RTO/ISO OATTs completed within 60-day statutory timeframe.
Encourage Investment and Effect Timely Cost Recovery		
Timeliness of applications processed for incentive rates under section 205 of the FPA	Processed by the statutory deadline for rate filings or the applicants' requested date, whichever is later	Target Met. 100% of the 11 statutory incentive rates cases were processed within statutory timeframes.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Process cost recovery cases within reasonable timeframes (including prudently-incurred expenses to safeguard and enhance the reliability, security and safety of the energy infrastructure)	➢ 100% of statutory cases addressed by Commission order within statutory deadlines ➢ 95% of certificate cases within 12 months or applicants' requested date, whichever is later ➢ 90% of cases set for hearing within 12 months of briefs opposing exceptions	Targets Met. ➢ 100% of all 3,164 statutory items, including cost recovery cases, were completed within statutory due dates. ➢ In certificate work, 97%, or 60 of 62 cases requiring rate inserts, were completed timely. Even in the cases that were unavoidably delayed—one due to Coast Guard involvement in approving LNG facility, and the other subject to environmental issues because the company did not use the NEPA pre-filing process—the rate analyses were provided to the lead Office within the required time period. ➢ 100% issued within 12 months.
Establish price volatility baseline	By September 30, 2007	Not Applicable. The Commission proposed to establish a price volatility baseline. The first step in this process was to determine what information was available and reasonable to collect. In FY 2007, staff reviewed available price data and concluded that a price volatility baseline was not feasible. Because of the lack of available data, this performance measure has been discontinued. Program performance was not negatively impacted as a result of not establishing a price volatility baseline.
Establish out-of-merit dispatch baseline	By September 30, 2007	Not Applicable. The Commission proposed to establish an out-of-merit dispatch baseline. The first step in this process was to determine what information was available and reasonable to collect. In FY 2007, staff contacted transmission operators and found that their data is inconsistent across transmission systems and does not allow for meaningful analyses to establish this baseline. Because of the lack of consistent data, this performance measure has been discontinued. Program performance was not negatively impacted as a result of not establishing an out-of-merit dispatch baseline.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Assure Reliability of Interstate Transmission Grid		
Percentage of proposed reliability standards reviewed	100%	Target Met. Docket No. RM06-16-000; Final Rule, Order No. 693, "Mandatory Reliability Standards for the Bulk-Power System," issued March 16, 2007, in which the Commission approved 83 of 107 proposed Reliability Standards, and directed significant improvements to 56 of those standards. The Commission also required submission of further information in order to evaluate the adequacy of the remaining 24 standards. The initial 83 standards became mandatory and enforceable on June 18, 2007. In addition, the Commission approved 8 regional standards in Docket No. RM07-11-000; "Order Approving Regional Reliability Standards for the Western Interconnection and Directing Modifications," issued June 8, 2007.
Develop procedures to review the performance of the ERO	Complete by March 31, 2007	Target Met. Procedures were outlined in Docket No. RM05-30-000; Final Rule, Order No. 672, "Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards," issued February 3, 2006.
Percentage of NERC / industry reliability readiness reviews of Reliability Coordinators in which FERC participates	100%	Target Met. FERC participated in all 4 of NERC's Reliability Coordinator reviews.
Percentage of load served, included in NERC / industry reliability readiness reviews, in which FERC participates	50%	Target Met. FERC participated in 22 readiness reviews of large entities which represent just over 80% (332,244 MW) of the load served by all entities reviewed by NERC (414,101 MW).
Percentage of ERO penalty action rulings reviewed to prevent inappropriate rulings from going into effect by default	100%	No activity, as the standards only became mandatory on June 18, 2007, and no ERO proposed penalties were filed in FY 2007.
Protect Safety at LNG and Hydropower Facilities		
Percentage of high- and significant-hazard-potential dams inspected annually	100%	Target Met. 100% of all high and significant hazard-potential dams were inspected annually.
Percentage of high- and significant-hazard-potential dams that either meet all current structural safety standards or are undergoing investigation or remediation	100%	Target Met. 100% of all high- and significant-hazard potential dams meet current structural standards or are undergoing investigation or remediation.
Percentage inspected annually: ➢ LNG import terminals ➢ LNG peak-shaving facilities	➢ 100% ➢ 50%	Targets Met. ➢ All 5 of the operating LNG import terminals were inspected. ➢6 of the 12 peak-shaving facilities were inspected.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of LNG facilities that meet all current safety standards or are subject of a compliance letter	100%	Target Met. 100% of LNG facilities met all current safety standards or were subject to a compliance letter.
Percentage of EIS documents that contain sections addressing safety for Hydropower Projects, LNG Facilities, Gas Pipeline Projects and Storage Facilities	100%	Target Met. 100% of EIS documents contain sections relating to safety for Hydropower Projects, LNG Facilities, Gas Pipeline Projects and Storage Facilities.
Control access to Critical Energy Infrastructure Information	No instances of improper access or improper denial affecting national security or Commission proceedings	Target met. No instances.
Percentage of qualifying dams that either comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s)	100%	Target Met. 100% of qualifying dams comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s).
Percentage of LNG facility authorizations that incorporate consultation with all appropriate agencies on security related matters	100%	Target Met. 100% of LNG facility authorizations incorporate consultation with all appropriate agencies on security related matters.

Incorporate Environmental Considerations into Commission Decisions		
Percentage of final NEPA documents issued for ALP/TLP cases: ➢ with settlement agreements ➢ without settlement agreements	➢ 85% within 12 months ➢ 85% within 24 months	Targets Met. ➢ 100% of final NEPA documents (5 of 5) were issued <u>within 12 months</u> for ALP/TLP cases with settlement agreements. ➢ 100% of final NEPA documents (16 of 16) were issued <u>within 24 months</u> for ALP/TLP cases without settlement agreements.
Timeliness of issuing environmental licensing requirements	Licensing responsibility letters sent within 45 business days of license issuance date	Target Met. All licensing responsibility letters were sent out within 45 business days of license issuance date.
Percentage of qualifying, major, onshore-pipeline projects inspected during ongoing construction activity	100% of projects inspected at least once every four weeks	Target Met. Of the 30 pipeline projects under active construction in FY 2007, 100% were inspected at least once every four weeks.

Goal 1 FY 2008		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Resolve Regulatory and Other Challenges to Needed Development		
Timeliness of processing complete filings containing amendments to non-independent electric transmission provider OATTs	100% processed by statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Issue Alaska Gas Pipeline Reports to Congress	Issue Reports in February and August 2008	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases with no precedential issues completed	➢ 90% of unprotested cases within 159 days of filing ➢ 90% of protested cases within 304 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases of first impression or containing larger policy implications completed	90% within 365 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases requiring a major environmental assessment or environmental impact statement completed	90% within 480 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of NEPA documents completed for projects utilizing the pre-filing processes	85% within 8 months of determining a pipeline or LNG facility application complete	Office of Energy Projects / Office of the General Counsel
Percentage of qualifying LNG plants inspected during ongoing construction activity	90% of plants inspected every 8 weeks	Office of Energy Projects
Percentage of ILP pre-filing study plan determinations completed	75% within 30 days of applicant filing revised study plan for Commission approval	Office of Energy Projects / Office of the General Counsel
Percentage of infrastructure studies completed	➢ 95% for regional and issue-based infrastructure conferences ➢ 95% for Commission- and Congressional-directed studies	Office of Energy Projects

Goal 1 FY 2008		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**

Encourage Investment and Effect Timely Cost Recovery		
Timeliness of processing complete applications for incentive rates	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 80% of declaratory orders filed for Commission action within 180 days of filing date or by applicant's requested date, whichever is later.	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cost recovery cases (including prudently-incurred expenses to safeguard and enhance the reliability, security and safety of the energy infrastructure)	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 90% of rate inserts for certificate cases processed within 30 days prior to lead office's target date for completion of pipeline certificate case ➢ 85% of cases that were set for hearing filed for Commission action within 12 months of briefs opposing exceptions	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of verification of EQR submissions	Within 10 business days of filing due date	Office of Enforcement
Percentage of Accounting Inserts completed for inclusion in merit orders on cost recovery proposals for new gas pipeline infrastructure	95%	Office of Enforcement
Percentage of financial accounting filings completed timely	75% within 60 days of filing date	Office of Enforcement
Percentage of reporting requirement filings completed timely	75% within 60 days of filing date	Office of Enforcement

Assure Reliability of Interstate Transmission Grid		
Timely approval of ERO/RE budgets and business plans	Complete by November 1, 2007	Office of Electric Reliability
Timeliness of processing proposed reliability standards	75% of filed proposed reliability standards are remanded or approved within 18 months, unless found incomplete	Office of Electric Reliability / Office of the General Counsel
Review the performance of the ERO	Complete within 12 months of the submission by the ERO of an assessment of its performance	Office of Electric Reliability
Percentage of ERO / industry reliability readiness evaluations of Reliability Coordinators in which FERC participates	75%	Office of Electric Reliability
Percentage of load served, included in ERO / industry reliability readiness evaluations, in which FERC participates	35%	Office of Electric Reliability

Goal 1 FY 2008		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of ERO penalty action rulings reviewed or tolled to prevent inappropriate rulings from going into effect by default	100%	Office of Enforcement / Office of Electric Reliability
Protect Safety at LNG and Hydropower Facilities		
Percentage of high- and significant-hazard-potential dams inspected annually	90%	Office of Energy Projects
Percentage of high- and significant-hazard-potential dams that either meet all current structural safety standards or are undergoing investigation or remediation	90%	Office of Energy Projects
Percentage of LNG import terminals inspected annually	90%	Office of Energy Projects
Percentage of LNG peak-shaving facilities inspected biennially	90%	Office of Energy Projects
Percentage of LNG facilities that meet all current safety standards or are subject of a compliance letter	100%	Office of Energy Projects
Percentage of qualifying dams that either comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s)	90%	Office of Energy Projects
Control access to Critical Energy Infrastructure Information	No instances of improper access or improper denial affecting national security or Commission proceedings	Office of the General Counsel
Incorporate Environmental Considerations into Commission Decisions		
Timeliness of issuing environmental licensing requirements	Licensing responsibility letters sent within 60 business days of license issuance date	Office of Energy Projects / Office of the General Counsel
Percentage of final NEPA documents issued for ALP/TLP cases: ➢ with settlement agreements ➢ without settlement agreements	➢ 75% within 12 months of settlement filing date ➢ 75% within 24 months of REA date	Office of Energy Projects / Office of the General Counsel

Goal 1 FY 2008		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of qualifying, major, onshore-pipeline projects inspected during ongoing construction activity	90% of projects inspected at least once every four weeks	Office of Energy Projects

Goal 1 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Resolve Regulatory and Other Challenges to Needed Development		
Timeliness of processing complete filings containing amendments to non-independent electric transmission provider OATTs	100% processed by statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Issue Alaska Gas Pipeline Reports to Congress	Issue Reports in February and August 2009	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases with no precedential issues completed	➢ 90% of unprotested cases within 159 days of filing ➢ 90% of protested cases within 304 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases of first impression or containing larger policy implications completed	90% within 365 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of pipeline certificate cases requiring a major environmental assessment or environmental impact statement completed	90% within 480 days of filing	Office of Energy Projects / Office of the General Counsel
Percentage of NEPA documents completed for projects utilizing the pre-filing processes	85% within 8 months of determining a pipeline or LNG facility application complete	Office of Energy Projects / Office of the General Counsel
Percentage of qualifying LNG plants inspected during ongoing construction activity	90% of plants inspected every 8 weeks	Office of Energy Projects
Percentage of ILP pre-filing study plan determinations completed	75% within 30 days of applicant filing revised study plan for Commission approval	Office of Energy Projects / Office of the General Counsel

Goal 1 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of infrastructure studies completed	➢ 95% for regional and issue-based infrastructure conferences ➢ 95% for Commission- and Congressional-directed studies	Office of Energy Projects
Percentage of electric transmission siting cases completed	90% within 365 days of filing	Office of Energy Projects / Office of the General Counsel

Encourage Investment and Effect Timely Cost Recovery		
Timeliness of processing complete applications for incentive rates	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 80% of declaratory orders filed for Commission action within 180 days of filing date or by applicant's requested date, whichever is later.	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cost recovery cases (including prudently-incurred expenses to safeguard and enhance the reliability, security and safety of the energy infrastructure)	➢ 100% of statutory cases processed within statutory deadlines or by applicant's requested date, whichever is later ➢ 90% of rate inserts for certificate cases processed within 30 days prior to lead office's target date for completion of pipeline certificate case ➢ 85% of cases that were set for hearing filed for Commission action within 12 months of briefs opposing exceptions	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of verification of EQR submissions	Within 10 business days of filing due date	Office of Enforcement
Percentage of Accounting Inserts completed for inclusion in merit orders on cost recovery proposals for new gas pipeline infrastructure	95%	Office of Enforcement
Percentage of financial accounting filings completed timely	75% within 60 days of filing date	Office of Enforcement
Percentage of reporting requirement filings completed timely	75% within 60 days of filing date	Office of Enforcement

Assure Reliability of Interstate Transmission Grid		
Timely approval of ERO/RE budgets and business plans	Complete by November 1, 2008	Office of Electric Reliability
Timeliness of processing proposed reliability standards	75% of filed proposed reliability standards are remanded or approved within 18 months, unless found incomplete	Office of Electric Reliability / Office of the General Counsel

Goal 1 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Review the performance of the ERO	Complete within 12 months of the submission by the ERO of an assessment of its performance	Office of Electric Reliability
Number of ERO Regional Entity compliance audits in which FERC participates	At least one in each of the eight regions	Office of Electric Reliability
Percentage of ERO / industry reliability readiness evaluations of Reliability Coordinators in which FERC participates	75%	Office of Electric Reliability
Percentage of load served, included in ERO / industry reliability readiness evaluations, in which FERC participates	35%	Office of Electric Reliability
Percentage of ERO penalty action rulings reviewed or tolled to prevent inappropriate rulings from going into effect by default	100%	Office of Enforcement / Office of Electric Reliability
Assess Notices of Alleged Violation and Sanction received from the ERO	Review 60% of Notices of Alleged Violation and Sanction received from ERO within two weeks of receipt for appropriateness of sanction	Office of Enforcement
Timeliness of reporting to the Commission on ERO and Regional Entity audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of ERO and Regional Entity audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Protect Safety at LNG and Hydropower Facilities		
Percentage of high- and significant-hazard-potential dams inspected annually	90%	Office of Energy Projects
Percentage of high- and significant-hazard-potential dams that either meet all current structural safety standards or are undergoing investigation or remediation	90%	Office of Energy Projects
Percentage of LNG peak-shaving facilities inspected biennially	90%	Office of Energy Projects

Goal 1 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of LNG import terminals inspected annually	90%	Office of Energy Projects
Percentage of qualifying dams that either comply with EAP requirements or are conducting follow-up action(s) on outstanding item(s)	90%	Office of Energy Projects
Control access to Critical Energy Infrastructure Information	No instances of improper access or improper denial affecting national security or Commission proceedings	Office of the General Counsel
Incorporate Environmental Considerations into Commission Decisions		
Percentage of final inspection reports completed	75% within 4 months of inspection	Office of Energy Projects
Timeliness of issuing environmental licensing requirements	Licensing responsibility letters sent within 60 days of license issuance date	Office of Energy Projects / Office of the General Counsel
Percentage of final NEPA documents issued for ALP/TLP cases: ➢ with settlement agreements ➢ without settlement agreements	➢ 75% within 12 months of settlement filing date ➢ 75% within 24 months of REA date	Office of Energy Projects / Office of the General Counsel
Percentage of qualifying, major, onshore-pipeline projects inspected during ongoing construction activity	90% of projects inspected at least once every four weeks	Office of Energy Projects

Performance Measurements for Competitive Markets, FY 2004 – FY 2009

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Timely processing of filings to establish RTOs, ISOs, or Independent Transmission Companies (ITCs)	All filings processed within 6 months of filing, or before applicants' proposed effective date (whichever is later)	All three proposals to establish or expand an RTO that were filed in FY 2004 were processed within six months. In addition, three more electric utilities (First Energy, Ameren, and Northern Indiana Public Service) were added to the Midwest ISO in advance of the requested action dates.
Timely processing of proposed rulemakings adopting consensus industry-wide business practice and reliability standards (North American Energy Standards Board (NAESB) and North American Electric Reliability Council (NERC))	Non-controversial rulemakings completed within 9 months and controversial rulemakings completed within 12 months	In February 2004, the Commission issued a Notice of Proposed Rulemaking to adopt creditworthiness business practice standards developed by NAESB, as well as other standards developed by the Commission. The final rule for this controversial rulemaking is scheduled to be issued within the target 12-month time frame.
Establish cost-effective elements of the wholesale electric market platform within 3 years of RTO/ISO approval	For each approved RTO or ISO, additional wholesale market platform elements will be added: ➢ Regional independent grid operation; ➢ Regional transmission planning process; ➢ Fair cost allocation for existing and new transmission; ➢ Market monitoring and market power mitigation; ➢ Spot markets to meet customers' real-time energy needs; ➢ Transparency and efficiency in congestion management; ➢ Firm transmission rights; and ➢ Resource adequacy approaches.	The Commission approved new, or redesigned, cost-effective market elements for each of the six approved RTOs or ISOs, enhancing market operations efficiency.
Facilitate construction of electric infrastructure by providing investor confidence of probable cost recovery	Issue Final Policy Statement, "Pricing Policy for Efficient Operation and Expansion of Transmission Grid"	As the Commission considers whether additional incentives may induce a more effective infrastructure response, a final policy statement has not been issued. However, the Commission in effect accomplished this measure by approving incentives – similar to those suggested in the proposed policy statement – in individual cases where companies have formed RTOs.
Encourage State representatives to establish multi-state regional organizations (e.g., Regional State Committees (RSCs))	Meet at least annually with state representatives in each region	The Commission hosted and/or participated in numerous meetings with state representatives from each region with existing RTOs or ISOs.
Advance well-functioning markets that deliver the benefits of competition	Complete revisions to interim market-based ratemaking policy	In orders issued in AEP Power Marketing, Inc., et al., 107 FERC & 61,018 (2004), order on rehearing 108 FERC 61,026 (2004), the Commission adopted a new interim generation market power analysis to be applied to market-based rate applications.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
All markets have in place rules that permit and encourage qualified demand response participation on an equal basis with supply	All RTOs and ISOs have rules, permitting demand response participation in RTO/ISO-controlled markets, in place and approved by the Commission within 1 year of commencing day-ahead markets	ISO NE, NY ISO and PJM RTO have market rules permitting, and operate, demand response programs that allow customers and load serving entities to participate (bid) in energy and capacity markets. In addition, enhancements to the market rules and demand response programs are in development or have already been filed with the Commission. On August 6, 2004, the Commission accepted a demand response mechanism framework as part of the Midwest ISO's open access transmission tariff. Although the Commission required further specification of certain aspects of the mechanism, the revisions will be filed well in advance of the March 1, 2005, date the Midwest ISO is scheduled to commence its day-ahead market. The CA ISO, through its Participating Load Program (Supplemental and Ancillary Services), manages a demand response program that allows loads to participate as price-responsive demand in the CA ISO Non-Spinning Reserves, Replacement Reserves, and Supplemental Energy markets.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Establishment of cost-effective elements of market design	Within 3 years of commencement of operation, approved RTO or ISO will implement, if cost effective: ➢ regional independent grid operation ➢ regional transmission planning process ➢ fair cost allocation for existing and new transmission ➢ market monitoring and market power mitigation ➢ spot markets to meet customers' real-time energy needs ➢ transparency and efficiency in congestion management ➢ firm transmission rights ➢ resource adequacy approaches	Target Not Met. Although Midwest ISO planned to start its energy markets on December 1, 2004 (within three years of receiving RTO status), the Commission approved a four-month delay to permit additional time for software testing and market participant training. The updated April 1, 2005 date was met.
Elimination of multiple, or "pancaked," transmission rates through the implementation of new rate designs to promote efficient trade across RTO and utility boundaries	The elimination of multiple charges for transmission service between PJM and Midwest ISO	Target Met. Effective December 1, 2004, the Commission established hearing procedures and accepted filings to eliminate through and out rates from the combined Midwest ISO and PJM regions for service commencing on or after April 1, 2004. In addition, the Commission established a December 1, 2004 through April 1, 2006 transition period for the collection of lost revenues resulting from the elimination of the regional through and out rates based on the Seams Elimination Charge Adjustment (SECA) methodology. At the end of the transition period, the through and out rates will be eliminated for all transactions under the open access transmission tariffs.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Transition existing regulatory constructs into competitive markets	Approval of an energy market that minimizes cost shifts while preserving existing contractual rights and creating efficiency gains	Target Met. As mentioned in the previous performance result, Midwest ISO commenced operation of its regional energy markets on April 1, 2005, in accordance with the terms of its recently approved Transmission and Energy Markets Tariff. The markets are designed to provide for an optimal dispatch of all generation resources within the region based on a security constrained economic dispatch which will enable Midwest ISO to ensure that all load requirements in its region are met reliably and efficiently. In addition, the Commission approved a California ISO proposal to resolve existing transmission contract rights. The proposal removed a major impediment to completion and implementation of California ISO's market redesign by specifying scheduling rights under the contracts and holding the contract holders financially harmless from congestion costs.
Timeliness of processing filings to establish RTOs, ISOs, or Independent Transmission Companies (ITCs)	75% of all filings processed within 6 months of filing, or before applicant's proposed effective date (whichever is later)	Target Met. The initial applications for both Southwest Power Pool (SPP) and ISO-New England (ISO-NE) were processed within six months of filing. These were the only applications processed in FY 2005.
Existence of RTO/ISO rules that encourage qualified demand response participation on an equal basis with supply options	All RTOs and ISOs have rules that do not inhibit demand response participation in RTO/ISO-controlled markets within 1 year of commencing day-ahead markets	Not applicable. During FY 2005, no RTO/ISO-controlled market was within one-year of its day-ahead markets commencing date.
Demonstrable improvements in regional competitive market structures	In any region of the country at least one of the following will occur: ➢ addition of a new or expansion of an existing RTO ➢ adoption by an RTO of additional market-oriented features, programs or rules ➢ in regions primarily without RTOs, an increase in the degree of transmission independence (ownership or control) from generation ➢ increase in the amount of competitive solicitation for supply ➢ improvement of open access tariff to reduce entry barriers of foster competition	Target Met. During FY 2005, the Commission accomplished several of the stated targets, including: ➢ the expansion of PJM; ➢ adding SPP and ISO-NE as RTOs; ➢ accepting new ISO-NE operating agreements; and ➢ the adoption of multiple rule and/or tariff revisions within several RTOs/ISOs.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Movement toward competitive markets in each region, including greater interregional coordination of broader, more efficient, and non-discriminatory energy markets	Increase in: ➢ coordination of joint operating agreements between RTOs or an RTO and neighboring non-member utilities ➢ new, independent regional transmission providers ➢ new product markets within RTOs or ISOs ➢ RTO membership through the integration of the transmission facilities of additional transmission owners	Target Met. During FY 2005, Midwest ISO and PJM entered into a Joint Operating Agreement (JOA) to coordinate the market-to-market operations between the entities pending implementation of the joint and common market which is under development. In addition to the JOA, the Commission conditionally accepted a utility-to-utility interconnection agreement between Indiana Michigan Power Company, a PJM transmission owner, and Northern Indiana Public Service Company, a Midwest ISO transmission owner. Lastly, Midwest ISO also entered into joint operating and/or coordination agreements with Southwest Power Pool (SPP), Mid-Continent Area Power Pool (MAPP), Tennessee Valley Authority (TVA), and Manitoba-Hydro to coordinate market-to-nonmarket seams resulting from the start of its energy markets. In New England, the Commission accepted a transmission operating agreement between ISO-NE and Maine Electric Power Company (MEPCO) in which MEPCO granted ISO-NE authority to operate its 345 kV intertie between Central Maine Power Company and Bangor Hydro Electric Company, thus integrating MEPCO into the New England Control Area.
Timeliness of processing market-based rate filings to advance well-functioning markets that deliver the benefits of competition	100% of all market-based ratemaking filings processed within statutory deadline	Target Met. During FY 2005, 100% of the 434 market-based ratemaking filings were completed by the statutory deadline.
Percentage of market-based rates triennial review cases resolved	Resolve 80% of triennial review cases using the new generation market power screens within 1 year of the order on rehearing on the new screens	Target Met. During FY 2005, over 98% (342 out of 346) of market-based rates triennial review cases were completed.
Timeliness of corporate application orders	100% of all section 203 applications processed within 90 days of the date comments are filed	Target Not Met. During FY 2005, over 99% (124 out of 125) of the section 203 corporate applications were processed by the target completion date. The remaining application was completed in 93 days with the delay due to the applicant’s failure to file the required concurrent petition for declaratory order. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Frequency of meetings with multi-state regional organizations (Regional State Committees) to resolve regional policy and planning issues	Participate in at least one meeting annually with multi-state organizations established for each approved RTO/ISO	Target Met. The Commission hosted and/or participated in numerous meetings with state representatives from each region.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Frequency of meetings to support development of robust customer demand-side participation in energy markets	In areas where there is no opportunity for robust customer demand-side participation in energy markets, meet with appropriate state commission officials at least annually to discuss demand response issues	Target Met. In June 2005, the Commission co-sponsored a National Town Meeting on Demand Response, which included state participation and live web casts to state commissions throughout the U.S. In addition, the Commission conducted a September 2005 technical conference with California state officials.
Timeliness of processing proposed rulemakings adopting industry-wide business practice standards (North American Energy Standards Board (NAESB)) and proposed rulemakings related to reliability	Non-controversial rulemakings completed within 9 months of receipt of NAESB proposal, and controversial rulemakings completed within 12 months	Target Met. During FY 2005, the Commission completed three important actions that met the stated targets, including: ➢ issuing a final rule adopting the Wholesale Gas Quadrant's Version 1.7 business practice standards (within 4½ months of being proposed); ➢ issuing a NOPR which proposes criteria for the establishment of an Electric Reliability Organization (ERO) to enforce reliability standards under the regulatory review and oversight of the Commission; and ➢ issuing a policy statement on creditworthiness standards that reiterates policies articulated in recent cases decided by the Commission.
Removal of barriers to entry into wholesale power markets for renewable energy resources	Approval of tariff provisions, both for transmission and generator interconnection, that grant all energy sources an opportunity to compete in the wholesale market	Target Met. During FY 2005, both the Small Generator Interconnection and the Wind Generation final rules were issued. In addition, the wind tariff services NOPR (Imbalance Provisions for Intermittent Resources) was issued.
Provide timely resolution of third-party complaints	Issue initial order on 80% of all third-party complaints within 60 days of filing and 90% of all requests meeting fast-track requirements within prescribed time frame	Target Not Met. During FY 2005, 50% (30 of 60) of initial orders were issued within 60 days. The reasons for the difference include: ➢ extension requests by the parties; ➢ complainants withdrawal of complaints; ➢ deferral requests by the parties to pursue settlement; and ➢ the 60^{th} day falling on a weekend or holiday. This performance target was set at an approximate level, and the deviation from that level, while not slight, had no effect on overall program performance.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Review and propose revisions to OASIS standards	By June 30, 2006	Target Met. Docket No. RM05-5-000; Final Rule, Order No. 676, "Standards for Business Practices and Communication Protocols for Public Utilities," issued April 25, 2006.
Assess demand response	Issue annual report by August 8, 2006	Target Met. Staff report, "Assessment of Demand Response & Advanced Metering" (Docket No. AD-06-2-000) was delivered to Congress on August 4, 2006.

<table>
<tr><th colspan="3">FY 2006</th></tr>
<tr><th>Performance Measurement</th><th>Performance Target</th><th>Data Source</th></tr>
<tr><td>Issue final rule to implement PUHCA provisions of EPAct 2005</td><td>By January 31, 2006</td><td>Target Met. Final rule was issued on December 8, 2005.</td></tr>
<tr><td>Issue rules governing market manipulation in electricity and gas markets</td><td>By September 30, 2006</td><td>Target Met. The final rule (Order 670) was issued January 19, 2006 and an order denying rehearing was issued March 22, 2006 in Docket Nos. RM06-3, et al., Final Rule Prohibiting Energy Market Manipulation.</td></tr>
<tr><td>Movement toward competitive markets in each region, including greater interregional coordination of broader, more efficient, and non-discriminatory energy markets</td><td>Increase in:
➢ new, independent regional transmission providers
➢ coordination between RTOs or between RTOs and neighboring non-member utilities</td><td>Target Met. Some examples:
➢ In order to create a more seamless administration between the tariffs of the Midwest ISO's energy markets and the non-market operations of Mid-Continent Area Power Pool's (MAPP) members that do not belong to the Midwest ISO, the Commission approved MAPP's proposal to conform its Available Transfer Capability (ATC) calculation methodologies to provisions of the Seams Operating Agreement between MAPP and the Midwest ISO.
➢ The Commission approved proposed revisions to the SPP/Midwest ISO Joint Operating Agreement (JOA) and to the Congestion Management Process (CMP) which is incorporated in the JOA to align them more closely with the JOA and CMP of the Midwest ISO/PJM.
➢ Action was taken on Midwest ISO and PJM and their respective transmission owners' proposed revisions to the JOA for allocating to customers in each RTO the cost of new transmission facilities that are built in one RTO but provide benefits to customers in the other RTO (the so-called cross-border facilities).</td></tr>
<tr><td>Increased presence at RTOs, to improve relationships with and knowledge of existing RTOs</td><td>Creation and staffing of an office at any new RTO within 6 months of commencement of operations (including establishment of virtual office processes)</td><td>No new RTOs were established during the performance period. All existing RTOs have either staff on location or a virtual office process in effect.</td></tr>
<tr><td>Percentage of filings to establish RTOs, ISOs, or Independent Transmission Companies (ITCs) processed</td><td>100% completed within 6 months of filing or before applicants' proposed effective date (whichever is later)</td><td>No filings were received to establish new RTOs, ISOs, or ITCs during the performance period.</td></tr>
<tr><td>RTO / ISO establishment of cost-effective market design elements per Order No. 2000</td><td>Within three years of commencement of operation, each approved RTO or ISO will implement (if cost effective):
➢ firm transmission rights
➢ resource adequacy approaches
➢ regional independent grid operation
➢ regional transmission planning process
➢ appropriate market monitoring and market power mitigation
➢ transparency and efficiency in congestion management
➢ spot markets to meet customers' real-time energy needs
➢ fair cost allocation for existing and new transmission</td><td>Target Met. With the exception of Southwest Power Pool (SPP), all RTOs/ISOs (PJM, ISO-NE, NY-ISO, Midwest ISO, and CAISO) have been operational over 3 years and all have implemented cost-effective market design elements.

SPP has been operating as an RTO since November 1, 2004, and has received authorization during FY 2006 to commence a real-time energy imbalance market, as well as having received approvals for its market monitoring and mitigation plans.</td></tr>
</table>

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Demonstrable improvements in regional competitive market transparency and independence	In each region of the country, there will be: ➢ RTO adoption of additional market-oriented features, programs or rules ➢ improvement of open access tariff to reduce entry barriers or eliminate undue discrimination ➢ increase in the degree of transmission independence (ownership or control) from generation in regions primarily without RTOs	Target Met. During FY 2006, the Commission acted on a number of proceedings related to improving competitive market transparency and independence. Some actions by the Commission will have nationwide impact. In May 2006, the Commission issued a notice of proposed rulemaking (NOPR) proposing amendments to its regulations and the *pro forma* OATT to ensure that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory or preferential. The NOPR aims to strengthen the OATT and address deficiencies that have become apparent since its adoption 10 years ago, particularly in the areas of available transfer capability calculation and transmission planning. In addition, the Commission approved four proposals by vertically integrated utilities (Duke, MidAmerican, Entergy, and Louisville Gas & Electric) to contract with an independent entity to serve as the independent coordinator of transmission (ICT). The ICT performs oversight over these utilities' transmission systems, including authority to administer utilities' OATT. Other actions taken on proceedings related to establishing new or revised market rules, rule changes in RTOs, and increased transmission independence were region-specific. For example: <u>East</u> In the New England area, the Commission issued an order accepting a proposal filed by ISO-NE and NEPOOL which included, most significantly, the addition of a locational component to the existing Forward Reserve Market and the coordination and optimization of pricing of energy and reserves in real time to be effective October 1, 2006, or later date. In addition, the Commission approved a contested settlement that provided an alternative to the Locational Installed Capacity mechanism called the Forward Capacity Market (FCM). The Commission found that the FCM, in conjunction with an interim mechanism, will provide the revenues needed by generators to preserve reliability in New England. The Commission also found that the forward looking nature of the FCM will provide appropriate price signals to investors when new infrastructure resources are necessary with sufficient lead time to allow that infrastructure to be put in place before reliability is sacrificed. (Continue on next page)

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
(continued from previous page) Demonstrable improvements in regional competitive market transparency and independence	(continued from previous page) In each region of the country, there will be: ➢ RTO adoption of additional market-oriented features, programs or rules ➢ improvement of open access tariff to reduce entry barriers or eliminate undue discrimination ➢ increase in the degree of transmission independence (ownership or control) from generation in regions primarily without RTOs	(Continued from previous page) With respect to the PJM area, the Commission issued an initial order on PJM's proposed reliability pricing model (RPM) designed to replace its existing capacity obligation rules. The Commission found the existing capacity rules to be unjust and unreasonable to ensure energy resources to meet reliability responsibilities, and established further procedures to resolve the remaining issues. At the same time, the Commission encouraged the parties to continue to seek a negotiated resolution, and offered the Commission's settlement judge procedures to facilitate these discussions. <u>Central</u> For the Midwest ISO region, the Commission approved the continuation of mitigation in Broad Constrained Areas; action on proposed revisions to real-time revenues sufficiency guarantee (RSG) payments; approval of revised rules defining less-than-seasonal financial transmission right (FTR) entitlements for network resources; approval of contractual arrangements related to the market monitor and balancing authorities; as well as offering guidance on Midwest ISO's future plans to implement ancillary service markets and an energy-only market. For the SPP region, the Commission provided guidance and approvals related to SPP's proposal to establish a real-time energy imbalance market. Regarding revisions to the OATT, the Commission approved various revisions to the Midwest ISO's creditworthiness provisions, reactive power requirements, as well as changes to the Midwest ISO *pro forma* interconnection agreement which reflect improvements or regional variations needed based upon its operational experience, including new pricing provisions. <u>West</u> In September 2006, the Commission conditionally approved the CAISO Market Redesign and Technology Upgrade (MRTU) market reforms and enhancements, such as a financially binding day-ahead market and more effective congestion management system. Elements of MRTU are intended to fix market design flaws, enhance reliability, better protect wholesale customers from price volatility and gaming, incorporate price-responsive demand in the markets, and encourage construction of new resources.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of section 203 applications processed	98% completed within 90 days of the comments filing date	Target Met. 100% of the 145 section 203 corporate filings were processed by target completion dates in FY 2006.
Issue final rule on RTO and ISO accounting to improve oversight of RTO and ISO costs	By January 31, 2006	Target met. A final order on RTO accounting and financial reporting was issued on December 16, 2005 in Docket RM04-12-000, Order No. 668.
Percentage of market-based rate filings processed	100% of new filings within 60 days of filing date	Target Met. 100% of the 534 market-based rate filings were completed by the targeted deadline in FY 2006.
Percentage of competitive energy markets and market institution cases set for hearing completed according to the established schedule	➢ 75% of Track I cases in 29.5 weeks ➢ 75% of Track II cases in 47 weeks ➢ 75% of Track III cases in 63 weeks	➢ There were no Track I cases ➢ 87% of Track II cases in 47 weeks ➢ There were no Track III cases
Percentage of competitive energy markets and market institution cases set for hearing that achieve partial or complete consensual agreement	75%	100%
Percentage of applications filed by RTOs and ISOs to revise market rules to not inhibit demand response processed	100% within statutory deadlines	Target Met. The Commission processed all 5 filings involving demand response enhancements within the statutory deadlines: ➢ PJM submitted agreements to enhance demand response in the PJM region in a number of ways, including allowing demand resources to participate in PJM's ancillary services market by bidding into the PJM reserve markets. ➢ ISO-NE's Ancillary Services Market (ASM) Phase II will include measures allowing the owners of demand resources to bid their resources directly into the energy and reserve markets on an equal footing with generating resources. This change will establish the supporting market infrastructure that is needed to develop fully the potential for demand participation in the wholesale markets. ➢ NYISO's filing eliminated the sunset dates for NYISO's Day-Ahead Demand Response Program and its Emergency Demand Response Program. ➢ ISO-NE's proposal to establish a demand response reserve pilot program to test whether certain resources can reliably provide 30-minute and 10-minute Operating Reserve services. ➢ CAISO's MRTU tariff provides loads with demand response capability the opportunity to participate in the CAISO day-ahead, real-time, and ancillary services markets under comparable terms as supply.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Support development of robust customer demand-side participation in energy markets in areas where it does not exist	Meet at least annually to discuss demand response issues with appropriate state commission officials	Target Met. Held technical conference on demand response in January 2006, where state representatives, including several state commissioners from all regions of the U.S., participated on panels. Met with NARUC officials in January 2006 to discuss Commission demand response report and seek their assistance in the FERC demand response and advanced metering survey. Met in April 2006 with Midwestern state officials, primarily Illinois Commissioners, on the development of a regional demand response initiative. Discussed demand response report with state officials and Commissioners at various events including the NARUC Winter Meeting in February 2006 and an EPRI Summer Seminar on Energy Efficiency and End-Use Technologies in August 2006.
Percentage of proposed NAESB business practice standards rulemakings completed	➢ 100% of non-controversial rulemakings within 9 months ➢ 100% of controversial rulemakings within 12 months	Target Met. During FY 2006, the Commission issued a final rule adopting the Wholesale Electric Quadrant's controversial first set of business practice and communication standards within 12 months of receiving NAESB's complete proposal. Docket No. RM05-5-000; Final Rule, Order No. 676, "Standards for Business Practices and Communication Protocols for Public Utilities," was issued April 25, 2006.
Percentage of initial orders completed on third-party complaints	➢ 80% within 60 days ➢ 95% within 180 days	➢ 60-day target not met. 49% (28 of 57 {1 projected}) issued within 60 days. This was an internal deadline, not statutorily based, and did not have a negative impact on operations. 180-day target met. 95% (49 {1 projected} of 51 {1 projected}) issued within 180 days.
Percentage of initial orders completed on fast track third-party complaints	90% within prescribed time frame	Target Met. One filing was received and completed on time.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Employ Best Practices In Market Rules		
Timeliness of review of proposed market rules	By the statutory due date or the applicants' requested date, whichever is later	Target Met. All 358 filings from PJM, ISO-NE, NYISO, NEPOOL, SPP, Midwest ISO, and California ISO were acted on by statutory due dates.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of proposed NAESB business practice standards rulemakings completed	➢ 100% of unopposed rulemakings within 9 months ➢ 100% of all rulemakings within 12 months	Targets Met. The Commission issued two NAESB business practice standards rulemakings during the fiscal year, both completed within 9 months of issuance of the notice of proposed rulemaking, as follows: Docket No. RM05-5-003; NOPR issued February 20, 2007; Final Rule, Order No. 676-B, "Standards for Business Practices and Communication Protocols for Public Utilities," issued April 19, 2007; and Docket Nos. RM96-1-027 and RM05-5-001; NOPR issued October 25, 2006; Final Rule, Order 698, "Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities," issued June 25, 2007.
Timeliness of applications processed on requests to encourage demand response in organized markets	Within 60 days of filing date or applicants' requested date, whichever is later	Target Met. All 15 filings were acted on within 60-day statutory due dates.
Reduce Barriers to Trade Between Markets and Among Regions		
Timeliness of review of filings to reduce or eliminate seams between organized markets	By the statutory due date or the applicants' requested date, whichever is later	Target Met. All 10 filings dealing with seams issues were completed by statutory due dates. In addition, two major orders were issued related to the California ISO's Market Redesign Technology Update (MRTU) addressing seams issues between CAISO and neighboring systems in the Western Interconnect. A technical conference was held on December 15, 2006, in Phoenix, Arizona, to address these western seams issues; and on March 29, 2007, a second conference was held in Washington, DC, to address eastern seams issues.
Assure Proposed Mergers and Acquisition Are in the Public Interest		
Percentage of merger authorizations upheld by the courts	90%	Target met. 100% of merger authorizations have been upheld by the courts.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of merged applicants reporting on compliance with merger conditions imposed by the Commission	100%	Target Met. 100% of the 9 merger applicants reported on compliance, *if* or *as* applicable, with the four types of conditions—summary, notice of consummation, proposed accounting entries, and additional conditions—imposed by the Commission. It should be noted that most of the "additional" conditions only require compliance in the event that the merger applicants subsequently take some specific action. For example, in 5 of the 9 mergers, the Commission imposed a "hold-harmless" condition, requiring that if the applicants seek to recover merger-related costs through jurisdictional rates, they must show offsetting merger-related cost savings. As of yet, none of the applicants have sought to recover any merger-related costs, so they haven't needed to make a compliance filing.
Timeliness of processing applications for the disposition, consolidation, or acquisition under section 203 of the FPA, of jurisdictional facilities (including transactions involving certain transfers of generation facilities and public utility holding company transactions, and issues of cross subsidization or encumbrances of utility assets)	➢ Within 180 days for non-major mergers ➢ Within 360 days for major mergers	Targets Met. ➢ 100% of the 100 non-major dispositions were completed within 180 days. ➢ 100% of the 9 major merger cases were completed within 360 days.
Address Market Power in Jurisdictional Wholesale Markets		
Revise open access transmission tariff	Issue final rule by June 30, 2007	Target Met. Docket Nos. RM05-17-000 and RM05-25-000; Final Rule, Order 890, "Preventing Undue Discrimination and Preference in Transmission Service," issued February 16, 2007.
Timeliness of processing initial market-based rate filings	Within 60 days of filing date or by applicant's requested date, whichever is later	Target Met. 100% of the 167 initial market-based rate applications were completed by the established target date.
Develop generation market power screens for electric market based rates	Issue final rule by June 30, 2007	Target Met. Docket No. RM04-7-000; Final Rule, Order 697, "Market-Based Rates for Wholesale Sales Of Electric Energy, Capacity And Ancillary Services By Public Utilities," issued June 21, 2007.
Act timely on complaints	80% within 60 days or, for fast-track cases only, within the designated timeframe	Target not met; 78%. The performance goal was set at an approximate target level, and the deviation from that level is slight. There was no effect on overall program or activity performance.

Performance Measurement	Performance Target	Data Source
Goal 2 FY 2008		
Strategy		
Employ Best Practices in Rules		
Percentage of initial orders completed on third-party complaints	➢ 75% filed with the Commission within 60 days of the date of the answer or by complainant's requested date, whichever is later ➢ 90% filed with the Commission within 180 days of the date of the answer, or by complainant's requested date, whichever is later	Office of the General Counsel / Office of Energy Market Regulation
Timeliness of review of proposed RTO/ISO market rules	100% by the statutory due date or the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Percentage of proposed NAESB business practice standards rulemakings completed	100% of all proposed rulemakings within 12 months of receipt of comments	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cases that encourage demand response in organized markets	100% of statutory cases processed within statutory deadlines, or by the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Industry and state outreach to increase Commission awareness and understanding on emerging energy issues	Participate in and/or facilitate 10 sessions per quarter	Office of Energy Market Regulation
Reduce Barriers to Trade Between Markets and Among Regions		
Timeliness of processing complete filings to reduce or eliminate border utility issues between markets	100% processed by the statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Assure Proposed Mergers and Acquisitions are in the Public Interest		
Timeliness of processing complete filings for the disposition, consolidation, or acquisition, under section 203 of the FPA, of jurisdictional facilities (including transactions involving certain transfers of generation facilities and public utility holding company transactions, and issues of cross subsidization or encumbrances of utility assets)	➢ 100% processed within 180 days for non-major dispositions ➢ 100% processed within 360 days for major dispositions	Office of Energy Market Regulation / Office of the General Counsel

Goal 2 FY 2008		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Address Market Power in Jurisdictional Wholesale Markets		
Timeliness of processing initial electric market-based rate filings	100% processed within 60 days of the filing date of a complete application or by applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel

Goal 2 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Employ Best Practices in Rules		
Percentage of initial orders completed on third-party complaints	➢ 75% filed with the Commission within 60 days of the date of the answer or by complainant's requested date, whichever is later ➢ 90% filed with the Commission within 180 days of the date of the answer, or by complainant's requested date, whichever is later	Office of the General Counsel / Office of Energy Market Regulation
Timeliness of review of proposed RTO/ISO market rules	100% by the statutory due date or the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Timeliness of processing cases that encourage demand response in organized markets	100% of statutory cases processed within statutory deadlines or by the applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Industry and state outreach to increase Commission awareness and understanding on emerging energy issues	Participate in and/or facilitate 10 sessions per quarter	Office of Energy Market Regulation
Reduce Barriers to Trade Between Markets and Among Regions		
Timeliness of processing complete filings to reduce or eliminate border utility issues between markets	100% processed by the statutory due date or applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel

Goal 2 FY 2009		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Assure Proposed Mergers and Acquisitions are in the Public Interest		
Timeliness of processing complete filings for the disposition, consolidation, or acquisition, under section 203 of the FPA, of jurisdictional facilities (including transactions involving certain transfers of generation facilities and public utility holding company transactions, and issues of cross subsidization or encumbrances of utility assets)	➢ 100% processed within 180 days for non-major dispositions ➢ 100% processed within 360 days for major dispositions	Office of Energy Market Regulation / Office of the General Counsel
Address Market Power in Jurisdictional Wholesale Markets		
Timeliness of processing initial electric market-based rate filings	100% processed within 60 days of the filing date of a complete application or by applicant's requested date, whichever is later	Office of Energy Market Regulation / Office of the General Counsel
Revise and clarify Standards of Conduct	Issue Final Rule by December 31, 2008	Office of Enforcement

Performance Measurements for Enforcement, FY 2004 – FY 2009

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Enhance institutional capability for overseeing energy markets	Improve metrics/indicators of gas and electric market performance measures	Staff developed standard performance metrics for all RTO/ISO markets that, beginning in calendar year 2004, became a part of the annual reporting done by the market monitoring units of each RTO/ISO. Additionally, a Daily Scorecard of metrics is posted on the Commission's intranet indicating daily gas and electric prices, weather, and gas futures.
Development of market expertise	30% of OMOI staff have energy market experience gained through direct activity in those markets.	30% of OMOI staff have gained energy market expertise by engaging in energy market activities such as: ➢ attending RTO/ISO conferences and workshops; ➢ participating in monthly conference calls with MMUs; ➢ attending weekly OMOI oversight meetings on energy markets; and ➢ attending training sessions.
Track Performance of Natural Gas and Electric Markets	Issue Market Surveillance Reports to the Commission twice each month	In accordance with the change in the Commission Meeting schedule – from once every two weeks to once every three weeks – the Surveillance Report schedule changed from twice each month to 16 times each year – once every three weeks not including August. Therefore, the 16 Surveillance Reports that were completed, in effect, accomplish this measure's original intent. In addition, these reports were redacted and presented to Commission staff and multiple external stakeholders, including state public utilities.
Assess Performance of Natural Gas and Electric Markets	Publish regular summer and winter Seasonal Market Assessments, State of the Market Reports, and other reports as conditions warrant.	➢ The Winter Energy Market Assessment, published in November 2003, reported on the upcoming winter heating season. ➢ The State of the Markets Report, published in January 2004, analyzed the state of the energy markets for an 18-month span. ➢ The Summer Energy Market Assessment, published in June 2004, reported on the upcoming summer cooling season. ➢ The Commission also published, in May 2004, the results of an investigation into the January 2004 New England gas price spike.
Timeliness of corporate application orders	Process all section 203 applications within 90 days of the date comments are filed	➢ 98% (158 out of 162) of the section 203 corporate applications were completed by the target completion date. The four applications that were not completed within a 90-day period raised fundamental policy issues and protests that required additional time to evaluate. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Timeliness of industry wide financial audits	Complete 90% of audits within 120 days	➢ 88% of the financial audits (22 out of 25) that were opened and closed this fiscal year were completed within the 120 day timeframe. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Timeliness of Hotline call resolutions	Resolve 80% within 1 week of initial contact	72% of all Hotline matters were resolved within 2 weeks of initial contact. Although the target called for most resolutions to occur in 1 week, Hotline information is only collected on a bi-weekly basis. Future performance measures were previously revised to account for this process change. In addition, this performance target was set at an approximate level, and the deviation from that level is slight.
Timeliness of formal complaint resolutions	Complete 80% within target time frames for various paths for resolution of complaints as specified by the Commission	➢ Issued three initial decisions on complaints set for hearing, all within the established deadlines. ➢ The Commission also handled eight additional complaints, though no targets were set for their completion due to their complexity. Of those eight: ➢ four were settled; ➢ two were returned to the Commission for further action or set for hearing before a judge; ➢ one was dismissed; and ➢ one was withdrawn.
Percentage of processes that achieve consensual agreements	Maintain at or increase levels achieved in FY 2001	**OALJ/OAL:** Of the 113 cases closed in FY 2004, 29 cases were terminated by initial decision, leaving 84 cases where ADR was used. Of those 84 cases, settlement was achieved in 90% (76) of the cases. This was greater than the 80% rate achieved in FY 2001. **DRS:** Of the 24 cases[5] that were completed in FY 2004, 86% (21) of the cases achieved settlement. This was slightly less than the 90% rate achieved in FY 2001. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.

[5] This includes 9 cases that began prior to FY 2004 but were completed in FY 2004, but does not include simple inquiries about ADR (8), cases in which persons eventually said they were not interested in trying ADR or ADR was determined to be inappropriate (10), or ongoing cases (12).

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Number of requests and referrals for ADR services	Maintain at or increase levels achieved in FY 2001	There were 54 requests or active cases in FY 2004, 2 more than in FY 2001. This number includes simple inquiries about ADR, cases in which persons eventually indicated that they were not interested in using ADR or ADR was deemed inappropriate, and cases that are ongoing into FY 2005.
Percentage of customers satisfied with ADR processes	85%	86% of the cases (21 out of 24) that were completed in FY 2004 achieved settlement.
Percentage of cases in time frames ➢ ADR processes completed ➢ litigated cases reaching initial decision	➢ 20% of ADR cases within 60 days ➢ 30% of ADR cases within 100 days ➢ 75% of ADR cases within 150 days ➢ 100% of ADR cases within 200 days ➢ 95% of simple litigated cases within 206 days ➢ 95% of complex litigated cases within 329 days ➢ 95% of exceptionally complex cases within 441 days ➢ 95% of regular complaints within 60 days	**ADR Cases[6] – OALJ/OAL:** 76 cases were successfully completed through the use of ADR: ➢ 4 of the 76 cases (5%) were completed in < 60 days; ➢ 13 of the 76 cases (17%) were completed in < 100 days; ➢ 20 of the 76 cases (26%) were completed in < 150 days; ➢ 36 of the 76 cases (47%) were completed in < 200 days; and ➢ 40 cases (53%) were completed in > 200 days. **ADR Cases[6] - DRS:** 24 cases were successfully completed through the use of ADR: ➢ 9 of the 24 cases (37%) were completed in < 60 days; ➢ 12 of the 24 cases (50%) were completed in < 100 days; ➢ 14 of the 24 cases (58%) were completed in < 150 days; ➢ 16 of the 24 cases (67%) were completed in < 200 days; and ➢ 8 cases (37%) were completed in > 200 days. **Litigated Cases – OALJ/OAL:** ➢ Track I Cases: No Track I cases during FY 2004. ➢ Track II Cases: FY 2004 Average processing time was 324 days. ➢ Track III Cases: FY 2004 Average processing time was 448 days. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance. **Regular Complaints – OGC:** 95%

[6] As the results show, the performance targets for ADR cases are unrealistic. These cases are very complex, multi-party, multi-issue cases that involve lengthy, often heated, negotiations over hotly contested issues and/or millions of dollars. Given the Commission's success rate, we do not feel that the deviation from the target level had an adverse affect on the overall performance of this program. Future targets for this performance measure will be reviewed and/or revised.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Enhance institutional capability for overseeing energy markets	The Electronic Quarterly Report of electric transactions will be fully functional. The Commission will identify further key data requirements needed to analyze energy markets.	Target Met. In addition to the fully functional Electric Quarterly Report (EQR) for electric transactions, the Commission also identified several key data requirements to analyze energy markets via its Market Monitoring Center (e.g. Dow Jones' real time data, Genscape's alert system data, U.S. Waterborne LNG Report, NE Power Data, CERA's energy advisory service, CoalDat, and AirDaily).
Development of market expertise	MMUs will produce standardized market metrics. The Commission will use standard metrics developed by the MMUs to develop a balanced scorecard to determine how well energy markets are working	Target Met. During FY 2005, the Commission completed the development of 13 standardized market metrics and used those metrics to analyze and report on how well the energy markets are working in the State of the Markets report and the MMU Metrics paper.
Enhance the Commission's and public's understanding of energy markets	Issue Market Surveillance Reports to the Commission in conjunction with the Commission's public meeting schedule. Publish Market Assessments, State of the Market Reports, and other reports as conditions warrant.	Target Met. In conjunction with the Commission's public meeting schedule, fifteen Market Surveillance Reports were completed in FY 2005. In addition, the Commission published a Winter and Summer Seasonal Assessment Report (November 2004 and May 2005, respectively) along with its June 2005 State of the Markets report.
Identify and remedy market problems	Provide analysis and recommendations on major market problems.	Target Met. During FY 2005, analysis and recommendations on major market problems were provided at Closed Commission meetings via Market Surveillance Reports. The problems included EIA's storage reporting process, major weather disturbances (e.g., Hurricanes Katrina and Rita), and pre-summer markets issues in California and the West.
Timeliness of industry wide financial audits	Complete 90% of audits within 120 days	Target Not Met. During FY 2005, none of the financial audits were completed within the 120 day targeted timeframe. This was due to the increasing complexities and management oversight of the audits, and due to a stricter interpretation of the audit timeframe (e.g., total days under audit as opposed to audit field-work days). In future years, this target has been narrowed to require a report to the Commission within 120 days of the audit Commencement Letter.
Timeliness of Hotline call resolutions	Close 60% within 2 weeks of initial contact	Target Met. During FY 2005, 74% of Hotline calls were closed within 2 weeks of initial contact.
Timely resolution of allegations of market misconduct	Resolution within established timeframes for FERC investigations and litigation, as posted on the Commission internet site	Target Met. Of the 5 cases under this performance measure in FY 2005, three cases were settled; one case is pending Commission consideration of the global Enron proceeding; and one case terminated by initial decision within the established timeframe, which varies from case-to-case based on the outlook of the Chief Judge and the Commission.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Number of major rule violations for a particular set of business practices	None or Few	Target Not Met. During FY 2005, the Commission conducted 29 investigations, eight of which were settled. Although this result did not meet the "None or few" target, the performance measure and target do not reflect the true goal of the Commission's enforcement function, which is to investigate and remedy violations of the Commission's statutes, orders, and regulations. While the Commission acknowledges that "deterrence" is an important part of enforcement, we do not believe it is reasonable to assume that no violations will occur. In future years, this measure has been removed and replaced with better performance measures and targets to evaluate the enforcement function.
Number of requests and referrals for ADR services	Maintain at or increase levels achieved in FY 2004	Target Met. The 65 requests or active cases in FY 2005 represented a 20.4% increase over the 54 logged in FY 2004.
Percentage of processes that achieve consensual agreements	Maintain at or increase levels achieved in FY 2004	Target Met. The Administrative Law area maintained their FY 2004 success rate as 90.2% of cases achieved settlement in FY 2005. DRS increased their FY 2004 success rate as 95.8% of cases achieved settlement in FY 2005.
Timeliness of formal complaint resolutions	Complete 80% within target time frames for various paths for resolution of complaints as specified by the Commission	Target Met. During FY 2005, all three of the Commission's initial decisions on complaints were completed within the specified deadlines, which vary from case-to-case based on the outlook of the Chief Judge and the Commission. Of the six additional complaints the Commission handled during FY 2005, three were settled, two were withdrawn, and one was returned to the Commission for further action.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Reduce duplicative information requests through coordination with CFTC	50% reduction by September 30, 2006	Target met. Investigations coordinated with CFTC on all known cases of joint interest and there were no known duplicative information requests.
Timeliness of verification of EQR submissions	Within 10 business days of submission	Target met. Verified within 10 business days.
Review EQR submissions for completeness and contact companies that make up at least 80% of reported revenue for incomplete submissions	Within 10 business days of submission	Target met. Contacted 100% of companies in the EQR database that had filed incomplete submissions within 10 business days of filing deadline.
Conduct follow up reviews of companies that make up at least 80% of reported revenue on exercise of market power or market manipulation	Within 60 days of final submission	Target Met. Conducted follow-up reviews of EQR filers that make up at least 80% of reported revenue for the third quarter of 2005 for market manipulation or exercise of market power within 60 days of final submission.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Timeliness of reporting to Commission on important market events	Analysis complete within 60 days of event	Target Met. Provided the Commission with seven presentations at open Commission meetings, 26 Weekly Market Reviews beginning in April 2006 reviewing weekly market developments and performance, and seven end-of-day summaries on market conditions during heat waves in the summer of 2006.
Percentage of Hotline calls resolved	60% within 2 weeks of initial contact	Target Met. Since October 1, 2005, 80% of hotline calls were resolved within two weeks of initial contact.
Percentage of non-environmental, non-tribal ADR processes (agreed to by parties) concluded	75% within 120 days (convening and process)	Target Met. The DRS completed 25 cases in FY 2006 that were non-environmental and non-tribal, and in which the parties agreed to pursue an ADR process. Of these, 22 were completed within 120 days after being referred the DRS (88%)
Number of ADR requests and referrals to the Dispute Resolution Service	Minimum number of requests and referrals equal to FY 2004	Target Met. The DRS addressed 70 new requests or ongoing cases from a previous year, involving gas, electric, hydroelectric, oil, and pipeline matters. This represents a 29.6% increase over FY 2004
Favorable Dispute Resolution Service customer satisfaction	80% customer satisfaction rate	Target Met. For training given by DRS, customer satisfaction rate was 89%. For casework concluded in FY 2006, all participants who completed evaluations gave the DRS staff favorable comments, for a satisfaction rate of 100%.
Percentage of market manipulation cases set for hearing completed according to the established schedule	➢ 75% of Track I cases in 29.5 weeks ➢ 75% of Track II cases in 47 weeks ➢ 75% of Track III cases in 63 weeks	There were no Track I, II, or III cases
Percentage of market manipulation cases set for hearing that achieve partial or complete consensual agreement	75%	100%
Timeliness of reporting to the Commission on operational audits	85% reported to the Commission within 120 days of Commencement Letter	Target Met. Since the beginning of the rating year, 100% of operational audits were reported to the Commission within 120 days of Commencement Letters.
Percentage of operational audit recommendations issued and implemented	85%	Target Met. 100% of operational audit recommendations have been issued and implemented.
Timeliness of reporting to the Commission on financial audits	85% reported to the Commission within 120 days of Commencement Letter	Target Met. Since the beginning of the rating year, 100% of financial audits were reported to the Commission within 120 days of Commencement Letters.
Percentage of financial audit recommendations issued and implemented	85%	Target Met. 100% of financial audit recommendations have been issued and implemented.
Timeliness of reporting to the Commission on Standards of Conduct compliance audits	85% reported to the Commission within 120 days of Commencement Letter	No Standards of Conduct compliance audits were initiated during FY 2006.
Percentage of Enforcement investigations completed	75% within one year	Target Met. From October 1, 2005 to the present, 88% of cases were closed within one year (84% within 9 months and 60% within 6 months).

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Identify and Remedy Problems with Structure and Operations In Energy Markets		
Timeliness of verification of EQR submissions	Within 10 business days of submission	Target met. 100% verification within 10 business days.
Evaluate and improve the usefulness of EQR data	➢ Issue a data dictionary for all undefined fields with restricted entries ➢ Review the current EQR data structure and develop written recommendations for improvements	Targets met. Issued Final Order in Docket No. RM01-8-006 on September 24, 2007 which defined all EQR fields and improved EQR data structure.
Number of RTO and ISO MMU performance metrics	Increase over FY 2006	Target met. One new RTO and ISO MMU performance metric was developed in FY2007 (increasing the number of performance metrics from 11 in FY 2006 to 12 in FY 2007).
Timeliness of initiating or deciding action on MMU referrals	80% acted on within 30 days	Target met. 100% acted on within 30 days.
Percentage of organized markets reviewed and market structure and operations problems or deficiencies identified	100% reviewed and reports completed identifying market problems or deficiencies, if any, and recommended solutions	Target met. 100% of organized markets reviewed in daily oversight meetings, including all RTO/ISO markets, NYMEX, ICE and other relevant markets. Results of continuing review communicated to Commissioners via Weekly Reports and to the public via the Market Oversight website and the State of the Markets Report. Seven major structure and operations problems were identified.
Timeliness of actions on problems or discrepancies identified in reviews of organized markets	With 6 months of completed report	Target met. Addressed all seven identified issues within six months of identification. Issues included: prices over $400 in West, lack of transparency for intrastate pipelines, lack of transparency for natural gas sales and purchases, need to clarify role of MMUs in RTOs, PJM/MISO transmission issues, CenterPoint data reporting, and Rockies Gas Prices.
Publish annual assessment of infrastructure and market conditions for each region	Complete by June 30, 2007	Target met. The State of the Markets Report was completed in February 2007 and detailed market and infrastructure issues for the country as a whole. In addition the Seasonal Assessment was published for electric power on May 17, 2007, specifically addressing summer 2007 and the new Market Oversight website provides updates and detailed information for each region on a monthly basis.
Establish Clear and Fair Processes		
Improve Forensic Audits and Investigations information technology tools	Implement capability to search e-mails and voice recordings by June 30, 2007	Target met. The capability to search voice recordings was implemented beginning in September 2006 and the capability to search e-mails was implemented beginning in August 2006.
Improve Forensic Audits and Investigations capabilities	90% of enforcement and compliance staff participate in forensics training and interviewing skills by June 30, 2007	Target met. 95% of enforcement and compliance staff received training on forensic interviewing and auditing. Classes were held in August 2005 and May 2006.

FY 2007		
Strategy		
Performance Measurement	**Performance Target**	**Data Source**
Timeliness of reporting to the Commission on operational audits	100% reported to the Commission within 120 days of Commencement Letter	Target met. 100% of operational audits (24 out of 24 from 10/1/06 – 9/30/07) were reported to the Commission within 120 days of the Commencement Letter.
Percentage of operational audit recommendations issued and implemented	90%	Target met. 100% of operational audit recommendations issued were implemented within 6 months.
Timeliness of reporting to the Commission on financial audits	100% reported to the Commission within 120 days of Commencement Letter	Target met. 100% of financial audits (43 out of 43 from 10/1/06 – 9/30/07) were reported to the Commission within 120 days of the Commencement Letter.
Percentage of financial audit recommendations issued and implemented	90%	Target met. 100% of financial audit recommendations issued were implemented within 6 months.

Conduct Investigations Promptly and Impose Penalties Where Appropriate		
Percentage of enforcement investigations completed	75% within one year of initiation	Target met. 94.8% of investigations were closed within a year of being initiated.
Percentage of Hotline calls resolved	70% within 2 weeks of initial contact	Target met. 75% of Hotline calls were resolved within 2 weeks of initial contact.

Encourage Self-Policing and –Reporting of Violations		
Percentage of regulated entities audited to ensure internal compliance programs and processes are in place	85% of regulated entities included in annual audit plan	Target met. 95% of regulated entities included in the annual audit plan were audited (74 out of 78).
Timeliness of responses to regulated entities seeking guidance and clarification on compliance issues	Within 60 days	Target met. Responded to 100% of regulated entities seeking guidance and clarification on compliance issues within 60 days.
Timeliness of completing recommendations on compliance issues raised by regulated entities	Within 180 days, where Commission action is required	Target met. 100% of recommendations to the Commission (where Commission action was required) were completed within 180 days of completing an investigation originated by a self report.
Timeliness of reporting on compliance issues raised by regulated entities	Reports completed monthly	Target met. The Pending Case Report is issued at the end of each month and reports on compliance issues (i.e., self reports) raised by regulated entities.

Goal 3 FY 2008		
Strategy		
Performance Measure	**Target**	**Data Source**
Identify and remedy problems with structure and operations in energy markets		
Regular monitoring of natural gas and electric markets with significant issues of market structure and operations identified	Weekly reporting of significant issues of market structure and operations	Office of Enforcement

Goal 3 FY 2008		
Strategy		
Performance Measure	**Target**	**Data Source**
Timeliness of actions on significant issues identified by regular monitoring of natural gas and electric markets	Within 6 months of completed report	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Complete transition of consolidated reporting to a web strategy	Complete by June 30, 2008	Office of Enforcement
Establish clear and fair processes		
Apply current clear and fair processes to investigations during the fiscal year	Provide recommendations to the Commission for each proposed remedy and penalty with clear and consistent criteria	Office of Enforcement
Develop and provide further guidance to the industry on FERC's expanded penalty authority	By September 30, 2008	Office of Enforcement
Timeliness of reporting to the Commission on operational audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of operational audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Timeliness of reporting to the Commission on financial audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of financial audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Conduct investigations promptly and impose penalties where appropriate		
Timeliness of initiating or deciding action on MMU referrals	80% acted on within 30 days	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Percentage of enforcement investigations not including market manipulation issues completed	75% within one year of initiation	Office of Enforcement
Percentage of market manipulation enforcement investigations completed	75% within two years of initiation	Office of Enforcement
Percentage of Hotline calls resolved	70% within 2 weeks of initial contact	Office of Enforcement

Goal 3 FY 2008		
Strategy		
Performance Measure	**Target**	**Data Source**
Encourage self-policing and -reporting of violations		
Percentage of regulated entities audited to ensure internal compliance programs and processes are in place	85% of regulated entities included in annual audit plan	Office of Enforcement
Process complete requests for "No Action"	Within 60 days of receipt of final request	Office of Enforcement / Office of the General Counsel / Office of Energy Market Regulation
Timeliness of reporting on compliance issues raised by regulated entities	Reports completed monthly	Office of Enforcement

Goal 3 FY 2009		
Strategy		
Performance Measure	**Target**	**Data Source**
Identify and remedy problems with structure and operations in energy markets		
Regular monitoring of natural gas and electric markets with significant issues of market structure and operations identified	Weekly reporting of significant issues of market structure and operations	Office of Enforcement
Timeliness of actions on significant issues identified by regular monitoring of natural gas and electric markets	Within 6 months of completed report	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Fully implement the Research in Market Oversight (RIMO) program	Perform at least four RIMO projects per year	Office of Enforcement
Establish clear and fair processes		
Apply current clear and fair processes to investigations during the fiscal year	Provide recommendations to the Commission for each proposed remedy and penalty with clear and consistent criteria	Office of Enforcement
Timeliness of reporting to the Commission on operational audits	Within 120 days of the Commencement Letter	Office of Enforcement
Percentage of operational audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Timeliness of reporting to the Commission on financial audits	Within 120 days of the Commencement Letter	Office of Enforcement

Goal 3 FY 2009		
Strategy		
Performance Measure	**Target**	**Data Source**
Percentage of financial audit recommendations issued and implemented	90% within 6 months	Office of Enforcement
Conduct investigations promptly and impose penalties where appropriate		
Timeliness of initiating or deciding action on MMU referrals	80% acted on within 30 days	Office of Enforcement / Office of Energy Market Regulation / Office of the General Counsel
Percentage of enforcement investigations not involving market manipulation issues completed	75% within one year of initiation	Office of Enforcement
Percentage of market manipulation enforcement investigations completed	75% within two years of initiation	Office of Enforcement
Percentage of Hotline calls resolved	70% within 2 weeks of initial contact	Office of Enforcement
Encourage self-policing and -reporting of violations		
Percentage of regulated entities audited to ensure internal compliance programs and processes are in place	85% of regulated entities included in annual audit plan	Office of Enforcement
Process complete requests for “No Action”	Within 60 days of receipt of final request	Office of Enforcement/ Office of the General Counsel / Office of Energy Market Regulation
Timeliness of reporting on compliance issues raised by regulated entities	Reports completed monthly	Office of Enforcement

Performance Measurements for Supporting Initiatives, FY 2004 – FY 2009

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Number of new hires from recruitment program	Attract new talent through targeted recruitment, with 50% at entry levels	66% of all hires were at entry-levels
New staff from summer intern program	Hire 30% of participants into permanent positions	25% of summer interns were hired into permanent positions This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Increase diversity of staff in high grades	Continue increasing diversity in GS-14, GS-15 and SES positions	The net increase of 21 staff into high grade positions included 3 minorities (14%) and 7 women (33%).
Improved executive performance	➢ Implement 360 degree assessment of senior staff ➢ Expand training in leadership and management skills	➢ Completed 360 degree assessments & feedback; ➢ Implemented and completed FERC-wide training for all new supervisors; ➢ Developed a Leadership & Management Development Program; and ➢ Initiated an Executive coaching pilot program.
Mentoring program	Implement FERC-wide mentoring program for all employees	Although still being developed, the program's scheduled completion date is November 2004. This performance target was set for an approximate date, and the deviation from that date is slight. This difference had no effect on overall program performance.
Average IT costs per FTE	Below industry average for Federal agencies	Performance target achieved
Improved Internet Website	99% availability	Performance target achieved
Improved reliability and availability of FERRIS	Increase customer satisfaction 25% over FY 2003	87.5% customer satisfaction rate
Percentage of transactions accepted electronically	95% of transactions accepted electronically	The Commission received 75.7% of qualified documents (25,343 out of 33,469) electronically. Qualified documents represent 57% of the total documents (33,469 out of 59,114) submitted to the Commission in FY 2004. Although we did not meet the target level, the deviation had no effect on overall program performance. Besides submitting transactions electronically, parties have the option to submit transactions via digital media (i.e. CD). In addition, the percentage represents an increase over the FY 2003 result of 53%.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Timeliness of getting public documents online	99% within 24 hours of receipt or issuance	97.3% of public documents were available online within 24 hours of receipt or issuance. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Network availability	99%	Performance target achieved
Desktop reliability	Increase reliability by 5% per year	Performance target achieved
Standard office automation platform and PC rate of refresh	33%	Performance target achieved
Timeliness of virus file updates on servers and workstations	Updates within 24 hours from release by vendors	92% of updates were completed within 24 hours of release. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Implementation of Federal Information Security Management Act (FISMA) for small agencies	95%	Overall, the Commission had a 93% performance rating according to the FISMA OMB metric. According to the Putman scorecard, the Commission had an 84% performance rating and moved from an F to a solid B. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Develop Communications Plan	Increase number of proactive interactions with the Press, Elected Officials, and Industry by 25%	Increased the number of Press releases by 16%, the number of briefings with Elected Officials (i.e. Senate and House of Representatives) by 1%, but decreased the number of Industry interactions by 38%. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Redesign Internet Website	Make internet site more useful and user-friendly	Implemented new features (i.e. Public Event Calendar and Energy Projects Database) that are extremely popular with users.
Engage Stakeholders	Provide 50 presentations to government or other groups of stakeholders	The Commission made a total of 94 presentations – in a variety of forums – to numerous stakeholders throughout FY 2004.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Report Market Conditions	Publish regular summer and winter Seasonal Market Assessments, and other reports as conditions warrant	➢ The Winter Energy Market Assessment, published in November 2003, reported on the upcoming winter heating season. ➢ The State of the Markets Report, published in January 2004, analyzed the state of the energy markets for an 18-month span. ➢ The Summer Energy Market Assessment, published in June 2004, reported on the upcoming summer cooling season. ➢ The Commission also published, in May 2004, the results of an investigation into the January 2004 New England gas price spike.
Discussions with State regulatory bodies on Commission policies and actions	Formal, effective interactions between FERC and state officials on policy issues	The Commission held 23 different meetings with State regulators.
Expand discussions with Canada and Mexico	Formal interaction with Canadian and Mexican regulators on policy issues	The Commission held or participated in 10 different meetings with Canadian and/or Mexican officials on issues related to infrastructure, reliability, and other policy initiatives.
Foster communication with States and Governors on infrastructure	Hold infrastructure conferences in each region	The Commission held one infrastructure conference in the Northeast.
Maintain liaison with market monitors in RTOs and ISOs	Meet at least twice annually with RTO and ISO market monitors	Commission staff meets regularly with market monitors early in the winter heating season (usually in December) and the summer cooling season (usually in June) and also participates in monthly conference calls with RTO/ISO market monitors.
Outreach to stakeholder groups to encourage use of conflict resolution mechanisms	Increase number of outreach opportunities with stakeholders by 25%	The 64 outreach opportunities during FY 2004 represent an 8% increase over FY 2003.
Monitoring of manage-to-budget process	Bi-weekly tracking of office salary levels and quarterly review of salary levels between CFO and Office Directors	Manage-to-budget (MTB) information was tracked and provided to office contacts on a bi-weekly basis. However, ongoing reviews and discussions between the Budget Division, individual office MTB contacts, and the Chief Financial Officer did not necessitate the need for quarterly reviews with Office Directors.
Monitoring of business plan	➢ Clarity of fit between projects, activities, and objectives ➢ Periodic monitoring of completions and adjustments to plan and related resources	➢ In order to better align work and resources between the various goals and objectives of the Commission, several changes were made to the Business Plan in FY 2004. This increased the logical arrangement and clarity of projects and activities within the Commission's goals and objectives. ➢ The Business Plan was updated twice during FY 2004 to adjust workload completions and reflect resource reallocations based on workload priority changes.

FY 2004		
Performance Measurement	**Performance Target**	**Result**
Timeliness of annual charges collections	Collect 98% of outstanding receivables within 45 days of billing	97% of annual charge collections were made within 45 days of billing. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Invoices paid by electronic funds transfer	98%	Over 99% of invoices were paid by electronic funds transfer.
Percentage of payments accomplished without error	98%	Over 99% of payments were accomplished without error.
Accuracy and completeness of annual financial statements	Unqualified opinion	Performance target achieved
Percentage of contracts performance-based	100%	Performance target achieved
Percentage of contracts advertised online	100%	76% of contracts were advertised on-line. The deviation from the performance target is not significant and had no effect on overall program performance. The contracts that were not advertised on-line were sole source contracts for highly technical and specialized personnel primarily in the reliability and dam safety program areas.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Number of new hires from recruitment program	Attract new talent in mainstream occupations through targeted recruitment, with 50% at entry levels	Target Met. 57% of new employees (42 of 74) were hired into mainstream occupations at the entry-level.
New staff from summer intern program	Hire 30% of participants into permanent positions	Target Not Met. 20% (6 0f 29) of interns eligible for conversion were hired into permanent positions. This performance target was set at an approximate level, and the deviation from that level is slight. In light of the increase in the number of entry-level new hires during FY 2005, this difference had no effect on overall program performance.
Increase diversity of staff in high grades	Continue increasing diversity in GS-14, GS-15 and SES positions	Target Met. Overall diversity in grades GS-14 and -15, SES, and equivalent level positions increased from 93 to 95 during FY 2005. This figure includes both women and minorities.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Improved executive/managerial development	Expand training in leadership and management skills by implementing an experienced supervisors leadership program	Target Met. Beginning in June 2005, the Commission launched a Business Acumen Course that was designed for supervisors. The curriculum, which was developed through a series of focus group meetings with SES managers, addresses the linkage between strategic plans, budgets, human capital plans, and operational plans in order to manage performance at both the organizational and individual levels. In August 2005, the first of four Business Acumen Courses were taught. Out of a target audience of 133 non-SES supervisors, 81 or 61% have completed or are enrolled to complete this course.
Improved technical development	Implement second phase of “markets curriculum” for experienced staff	Target Met. From March 2005 to June 2005, a second markets curriculum titled “FERC’s Role in the Energy Markets and Infrastructure” was implemented through a series of four separate modules.
Mentoring program	Implement FERC-wide mentoring programs	Target Not Met. Although a draft mentoring program was prepared in late January 2005, a decision was made to merge the mentoring program with a larger training/developmental program that is being developed in FY 2006. This difference had no effect on overall program performance.
Improved human capital processes	Implement selected human resources flexibilities provided by new SES Pay-for-Performance legislation	Target Met. On April 7, 2005, the Commission received provisional certification to implement SES Pay-for-Performance for calendar year 2005 by demonstrating that our SES performance appraisal system made meaningful distinctions in pay and performance, demonstrated clear alignment to strategic goals, and included good measures of performance for each executive.
Improved employee morale	Conduct baseline FERC-wide employee survey; identify issues and conduct follow-up survey; set improvement targets for follow-up survey in FY 2006	Target Met. Based on the analysis of a baseline Commission-wide employee survey conducted in early FY 2005, specific survey issues were identified and addressed (through action plans) by the Commission and each office. In accordance with a FY 2006 NDAA requirement, a follow-up survey is planned that will address and include those issues identified in the FY 2005 baseline survey (including improvement targets).
Improved services to employees	Successful implementation of payroll services and integration with HR services	Target Met. In March 2005, the Commission successfully migrated its processing of payroll distributions to the National Finance Center. Also in March 2005, the Commission’s Employee Maintenance Helpdesk was established to provide a central point of contact for all human resources and payroll related inquiries.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Average IT costs per FTE	Below industry average for federal agencies	Target Met. The Commission's FY 2005 average IT cost per FTE of $12,154 is below the FY 2005 industry average for federal agencies of $14,590.
Percentage of transactions accepted electronically	95% of transactions accepted electronically	Target Not Met. The Commission received 80.2% of qualified documents (27,934 out of 34,817) electronically. Qualified documents represented about 56% of the total documents submitted to the Commission in FY 2005. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance since parties have the option to submit transactions via digital media (i.e. CD) rather than hard-copy form. In addition, the percentage represents an increase over the FY 2004 result of 75.7%.
Improved reliability and availability of FERRIS	Increase customer satisfaction 25% over FY 2003	Target Met. During FY 2005, customer feedback from the eLibrary Helpdesk showed that 100% of customers felt they received a high quality of service.
Improved Internet Website	99% availability	Target Met. The Commission did not experience a major Internet outage in FY 2005, with average uptime reported at 100% (per contractor FY 2005 self-evaluation reports).
Timeliness of getting public documents online	99% within 24 hours of receipt or issuance	Target Not Met. During FY 2005, 96.6% of all documents presented to the Commission's eLibrary operations staff were published within 24 hours. Of the documents the Commission receives or issues electronically, 99.88% were published within 24 hours. As the volume of electronic filings increases, the current 96.6% will rise. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Network availability	99%	Target Met. The Commission did not experience a major network outage in FY 2005, with average uptime reported at 100% (per contractor FY 2005 self-evaluation reports).
Desktop reliability	Increase reliability by 5% per year	Target Met. Compared to FY 2004, the number of PC breakdowns (or re-images) during FY 2005 reduced by 9.2% from 54 re-images to 49 re-images. With no means to capture positive reliability data (e.g. reliability increases from FY 2004 to FY 2005), the current performance measure and target do not appear in future performance plans.
Standard office automation platform and PC rate of refresh	33%	Target Met. The Commission's FY 2005 upgrade percentage was 37%.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Timeliness of virus file updates on servers and workstations	Updates within 24 hours from release by vendors	Target Met
Implementation of Federal Information Security Management Act (FISMA) for small agencies	95%	Target Met. According to the Putnam scorecard, the measurement used to grade implementation of FISMA, the Commission earned a 100% (or A) rating for FY 2005.
Development of initial enterprise architecture	Complete by October 30, 2004	Target Met. The Commission's IT Enterprise Architecture was completed and in place by October 31, 2004.
Develop Communications Plan	Increase number of proactive interactions with the Press, Elected Officials, and Industry by 25%	Target Met. In FY 2005, the total number of proactive interactions increased by 27.6%.
Redesign Internet Website	Make internet site more useful and user-friendly	Target Met. In addition to several new user-friendly features, the Commission added eleven new project- / initiative-targeted web pages during FY 2005.
Engage Stakeholders	Provide 50 presentations to government or other groups of stakeholders	Target Met. The Commission provided over 70 presentations to government and/or other stakeholder groups during FY 2005.
Discussions with State regulatory bodies on Commission policies and actions	Formal, effective interactions between FERC and state officials on policy issues	Target Met. The Commission participated in 61 different meetings with state officials during FY 2005.
Maintain liaison with market monitors in RTOs and ISOs	Meet at least twice annually with RTO and ISO market monitors	Target Met. The Commission met with RTO and ISO market monitors twice during FY 2005, both at Commission-hosted conferences (December 2004 and July 2005).
Outreach to stakeholder groups to encourage use of conflict resolution mechanisms	Increase number of outreach opportunities with stakeholders by 25%	Target Met. The 83 active projects in FY 2005 represent a 29.7% increase over the 64 projects in FY 2004.
Foster communication with States and Governors on infrastructure	Hold infrastructure conferences in each region	Target Not Met. The Commission held a total of seven infrastructure related conferences during FY 2005 in the Northeast, Western, Appalachian, and Rocky Mountain regions. This performance target was set at an approximate level, and the deviation from that level is slight. The Commission's inability to hold a conference in each region did not have an effect on overall program performance.
Support further discussions with Canada and Mexico	Formal interaction with Canadian and Mexican regulators on policy issues	Target Met. The Commission held or participated in 20 different meetings with Canadian and/or Mexican officials on issues related to infrastructure, reliability, and other policy initiatives during FY 2005.

FY 2005		
Performance Measurement	**Performance Target**	**Result**
Monitoring of manage-to-budget process	Bi-weekly tracking of office salary levels and quarterly review of salary levels between CFO and Office Directors	Target Not Met. Due to the National Finance Center processing of payroll distributions migration in March 2005, bi-weekly tracking information was briefly delayed. In addition, ongoing reviews and discussions between the Budget Division, individual office contacts, and the Chief Financial Officer did not necessitate the need for quarterly reviews with Office Directors. This performance target was set at an approximate level, and the deviation from that level is slight. This difference had no effect on overall program performance.
Monitoring of business plan	➢ Clarity of fit between projects, activities, and objectives ➢ Periodic monitoring of completions and adjustments to plan and related resources	Target Met. Both of the business plan updates that took place during FY 2005 accomplished the stated targets. A final FY 2005 update will be completed during the first week in November.
Timeliness of annual charges collections	Collect 98% of outstanding receivables within 45 days of billing	Target Not Met. The Commission received 92.7% of its annual charge collections within 45 days of billing. This performance target was set at an approximate level, and the deviation from that level is slight. Since the collections during the 45-day period off-set the Commission's FY 2005 appropriation and the Commission received 97.3% of its annual charge collections prior to the end of FY 2005, this difference had no effect on overall program performance,
Invoices paid by electronic funds transfer	98%	Target Met. The Commission paid 99% of its invoices via electronic funds transfer during FY 2005.
Percentage of payments accomplished without error	98%	Target Not Met. The Commission made 97% of its payments without error during FY 2005. This performance target was set at an approximate level, and the deviation from that level is slight. Since all incorrect payments were recovered via internal or Department of Treasury collection actions, this difference had no effect on overall program performance.
Accuracy and completeness of annual financial statements	Unqualified opinion	Target Met. The Commission received an unqualified opinion on its FY 2004 financial statement audit.
Percentage of contracts performance-based	85%	Target Met. Of the 118 procurement actions that required a performance-based statement of work, 100% were awarded as performance-based.
Percentage of contracts advertised online	85%	Target Met. Of the 3 procurement actions eligible for advertising, 100% were advertised online.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of summer interns hired into permanent positions	30%	Target Not Met. 14.3% of summer interns eligible to be rehired accepted offers of permanent employment. Conversions of summer interns have steadily declined since its high in 2003 with 33%. As EPAct of 2005 requirements have evolved, the need for skill sets not represented in the summer intern population has dictated hiring from other sources. This measure is omitted in 2007 and reduced in 2008 to 20%.
Implement entry-level Professional Development Program	Complete by September 30, 2006	Target Met. FERC Entry-Level Retention Program distributed to Program Offices in September 2006.
Percentage of minorities among senior-level positions (GS-14, GS-15, SL, and SES positions)	Increase over FY 2005	Target Met. Percentage of minorities among senior-level positions increased by 1% over FY 2005.
Implement Commission-wide Business Requirements guidelines	Complete by September 30, 2006	Target Met. Commission-wide Business Requirements Guidelines distributed to the Training Council in September 2006
Reliability of IT infrastructure	99% network availability rate	Target Met.
FISMA compliance according to the Putnam scorecard	Grade of “A”	Target Met. FERC received a grade of an "A" based on the Putnam scorecard for its most recent FISMA report which ended September 30, 2006.
Integrate the Business Plan, CPIC process, and IT architecture into the Commission’s Enterprise Architecture	Complete by September 30, 2006	Target Met. DCIO's current CPIC process requires all requests to map to the FERC Business Plan. Pursuant to the CPIC process Information Technology (IT) projects are approved or denied based on a number of criteria one being whether or not it supports the Commission's mission. Approved IT projects generate a Control Board action producing document. The data from the approved CCN is used to update the IT architecture which is entered into the Commission's Enterprise Architecture through the use of the Metis tool.
Percentage of approved IT initiatives with supporting documentation per the Commission's CPIC process	100%	Target Met. The CPIC Investment Review Board approved 21 projects of which all 21 went through the CPIC review process. Therefore, 100% of the approved IT projects went through the CPIC approval process.
Establish earned value management schedule and cost performance indices for all major projects	Complete by September 30, 2006	Target Met. As implemented in FERC Capability Maturity Model Integration level 2 (CMMI-2) policies and procedures, EVM is used to measure progress on major projects and major phases of multi-phased projects.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Develop and implement automated Business plan	Complete by September 30, 2006	Target Not Met. Though Software development for Phase 2 of the Activity and Tracking Management System (ATMS) has been completed, the target was not met because extensive testing of Phase 2 due to integration with other eGovernment systems will push deployment to February 2007. Though Phase 2 will support business plan reporting that is integrated with the HR time reporting system (MAPS), that reporting will depend on requisite information (e.g. proper use of time reporting codes, MAPS data, etc.) input by FERC's program and other offices. And since full automation will require Commission-wide deployment (Phases 3 and 4) and additional reporting requirements definition and software development, the target will not be fully met until ATMS Phase 4. Since manual processes for business planning will remain in place until they are replaced by an automated Business plan, there is no impact on operations or program performance.
Percentage of qualified-procurements that are performance-based	100%	Target Met. Of the 676 actions awarded during the period, a total of 78 actions were identified as performance-based. All 78 of these actions were awarded under performance-based contracts.
Percentage of qualified-procurements that are advertised on-line	100%	Target Met. Of the 676 actions awarded during the period, a total of 4 actions qualified for on-line advertisement, and all 4 actions were advertised on-line with Federal Business Opportunities (fedbizops.)
Percentage of total procurement dollars awarded to small, women-owned, and minority businesses	5% increase over FY 2005	Target Met. In FY 2005, the Commission awarded 22% of its total procurement dollars to small, women-owned and minority businesses. In FY 2006, the Commission awarded 34% of its total procurement dollars to these entities which constitutes a 12% increase over the FY 2005 performance level.
Percentage of invoices paid via electronic funds transfer	99%	Target Met. During FY 2006, the Commission paid 99% of its invoices via EFT.
Percentage of payments in compliance with Prompt Payment Act deadlines	100%	Target Not Met. During FY 2006, the Commission processed 94% of its payments in compliance with Prompt Payment Act deadlines. The primary cause was the Commission's acceptance of invoices during the FY 2006 Continuing Resolution (October - December) which could not be paid. Since January, the Commission has processed 98% of its payments in compliance with Prompt Payment Act deadlines.
Percentage of payments made without error	100%	Target Not Met. During FY 2006, the Commission made 99% of its payments without error. The failure to meet this target did not have an adverse affect on overall program performance.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Timeliness of collecting accounts receivable	90% of invoices collected by due dates	Target Met. During FY 2006, the Commission collected 94% of its invoice balances by the stated due date.
Complete and accurate annual financial statements	Unqualified opinion on audited financial statements	Target Met.
Percentage of filings capable of being received electronically	95%	Target Not Met. 42% of all document types are currently capable of being received electronically. Meeting the target has been delayed because of two primary factors: 1) The Commission has been responsive to industry feedback regarding the most efficient way for tariff filings to be filed electronically and has extended the prototyping and discussion of proposed solutions; and 2) The Commission has delayed to improve infrastructure (supporting database, storage, server, and disaster recovery infrastructure). To mitigate the effects of the delay the Commission encourages the filing of non-eFiling-capable documents on digital media (CD, DVD); routinely accepts non-eFiling-capable documents electronically on an exception basis when requested by filers; and performs OCR and full-text indexing on documents submitted on paper. In addition, the Commission is actively planning and gathering requirements for an eFiling system release that will meet the target. Given the mitigation efforts, there have been no negative impacts on program performance or operations.
Percentage of Commission orders approved during open meetings issued	99% within 5 business days	Target Met. 321 agenda items were approved in open meeting during the rating period. All but 2 were issued within 5 business days.
Percentage of Commission orders approved by notational vote issued	99% within 1 business day of adoption date	Target Not Met. 933 agenda items were approved through the notational process. 40 items were issued after one day of adoption date; these were all issued on the following business day. Percentage is 96%. This is a remarkable accomplishment considering the significant increase in notational items during this appraisal period and the target did not change from last appraisal period. This did not have a negative impact on operations.
Percentage of legally required notices issued	95% within 3 business days of being posted on eLibrary	Target Not Met. This measure includes notices for electric rate filings prepared by the Secretary; notices for other industries are prepared by program offices. Number of electric rate notices during the appraisal period is 2,667. Of these, 632, or 76%, were issued three days after filing was posted on eLibrary. This target was not met due to staff shortages. However, no Commission proceeding or action was negatively affected.

FY 2006		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of press releases on important agency actions issued	95% within 1 hour of order being issued	Target Met. In FY 2006, 90 out of 92 or 97.8% of press releases were issued within 1 hour of action being taken.
Percentage of responses to public inquiries	➢ 60% within 3 business days ➢ 100% within 5 business days	Target Met. In FY 2006, OEA responded to approximately 2,800 public inquiries. Over 90% of these inquiries were responded to within 1 business day of receipt. All public inquiries were responded to within 5 business days.
Percentage of agency actions and time-sensitive content posted on the FERC Internet Website	95% within 1 hour of order being issued	Target Met. In FY 2006, 3,159 of 3,201 or 98.7% of important agency actions were posted on the Commission's internet website within 1 hour of issuance.
Timeliness of notices to NEB (Canada) and CRE (Mexico) of FERC activities pursuant to Memorandum of Understanding	Within 1 business day	Target Met. The NEB and CRE are routinely notified of significant Commission activities that impact their respective countries through emails with summaries and links to these orders within one business day of the order being issued.
Timeliness of regional hearings or conferences email notifications sent to State officials and Governors	Within 1 business day	No regional hearings/conferences took place during the review period.
Submit FY 2005 Annual Report to Congress	Complete by June 30, 2006	Target Not Met. FY 2005 Annual Report has not been sent to Congress. The target was not met due to a significant change in the format of the Annual Report to improve the overall product by making it more targeted to the audience groups. The decision to re-format the Annual Report to track the agency's Strategic Plan resulted in a significantly more time-consuming review process and an extended period for obtaining the content for the Annual Report. There were no negative impacts on operations. The process for the FY 2006 Annual Report has already been initiated and the expectation is that the target will be met.
Submit FY 2005 international exchange and training activity data to U.S. Department of State	Complete by April 1, 2006	Target Met. FY 2005 international exchange and training activity data was sent to the U.S. Department of State in March 2006.
Submit FY 2005 FOIA Annual Report to Department of Justice	Complete by February 1, 2006	Target Met. FY 2005 FOIA Annual Report to the Department of Justice was submitted on January 27, 2006.
Submit FY 2005 Information Quality Agency Annual Report to OMB	Complete by January 1, 2006	Target Met. FY 2005 Information Quality Agency Annual Report was submitted to OMB prior to January 1, 2006.

FY 2007		
Performance Measurement	**Performance Target**	**Data Source**
Develop and implement a competency-based requirements framework	Complete by January 31, 2007	Target Met. Framework developed in January, 2007. Implementation ongoing with mainstream occupations.

FY 2007		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of women and/or minorities among all positions	Increase over FY 2006	Target Met. FY 2007 percentage for women was 52.9%. Increased percentage over FY06 by 8% (FY 2006 - 44.5%). FY 2007 percentage for minority women was 20.6%. Increased percentage over FY06 by 1.1% (FY 2006 – 19.5%).
Improve retention ratio of entry-level new hires	Increase FY 2006 ratio by 10%	Target Met. Retention ration for FY 2007 hires was 100% (FY 2006 percentage was 95%).
Implement workforce planning tools	Complete by September 30, 2007	Target Met. Implemented Hiring Gap Spreadsheet and Personnel Status Report. Continue to prepare and publish the Human Capital Plan.
Timeliness of submitting Fair Act Inventory to OMB per Circular A-76 requirements	Complete by June 30, 2007	Target Met. FY 2007 FAIR Act was submitted to OMB 6/30/07.
Customers are satisfied with the use of eGovernment initiatives to interact with FERC	90%	Target Met. The customer satisfaction level for FERC eGov Services exceeds 96% based on data collected from the external users surveys.
Federal FTE time is mapped through systems to workload and strategic goals and objectives	Fully implemented by September 30, 2007	Target Not met. With the deployment of ATMS Phase 2 in February FY07 the following offices are fully able to map workload to strategic goals and objectives using an enterprise-wide system: OAL, OED, OGC, and OEMR (now OEMR and OER). For the following offices, some divisions are able to map workload to strategic goals and objectives using an enterprise-wide system while other divisions can map workload to strategic goals and objectives but must continue to use legacy, departmental, and/or cuff systems: OEA, OALJ, OE, OEP. Mapping of workload in terms of FTE time requires both a revision of budget reporting codes and development of a report that correlates information in the enterprise-wide workload tracking system with information in the FERC HR system. The complete implementation of all ATMS phases will take longer than planned due to contract staffing reductions from funding shortages under a yearlong FY 2007 continuing resolution and because the effort was underestimated. A detailed plan for ATMS Phase 3 is currently under review and the target may not be fully met in FY 2008.
Align Commission costs to strategic objectives	Complete by September 2007	Target Met. The FY2009 Budget Request has been structured to map both FTEs and the Commissions costs to strategic objectives and was completed on September 10, 2007.
Percentage of vendor payments made by established due dates	99%	Target Not Met. During FY07, the Commission processed 97.1% (1897 out of 1953) of payments in compliance with Prompt Payment Act deadlines. 37 of the 56 late payments did not result in interest begin paid to the vendor. The failure to meet this target did not have an adverse affect on overall program performance.

FY 2007		
Performance Measurement	**Performance Target**	**Data Source**
Percentage of payments made without error	100%	Target Not Met. During FY 2007, the Commission made 99.7% of its payments without error. The failure to meet this target did not have an adverse affect on overall program performance.
Timeliness of collecting accounts receivable that offset the Commission's appropriation	95% collected by due dates	Target met. During FY 2007, the Commission collected 99.5% of its offsetting accounts receivable by their stated due date.
Financial statements that present fairly, in all material aspects, the Commission's financial position	Unqualified audit opinion on FY 2006 financial statements	Target Met. Unqualified opinion received November, 2006
Percentage of transactional case assessments or convening sessions concluded	75% within 20 days	Target Met. DRS completed 100% (41 out of 41) transactional case assessments or convening sessions within 20 days after being referred to the DRS.
Percentage of transactional ADR processes agreed to by parties concluded	75% within 120 days total (convening and process)	Target Met. Dispute Resolution Services completed 34 transactional processes or cases, both environmental and non-environmental in which parties agreed to pursue an ADR process. Of these, 31 were completed within 120 days after being referred to the DRS (91%).
Number of ADR requests and referrals to the Dispute Resolution Service	Increase number over FY 2004 (base year)	Target Met. DRS addressed a total of 79 new requests or ongoing cases from a previous fiscal year involving gas, electric, hydropower, and pipelines. This represents a 46.3 % increase over FY2004, in which there were 54 new requests or ongoing cases.
Favorable Dispute Resolution Service customer satisfaction for casework and outreach	80% customer satisfaction rate	Target Met. The DRS requests customer feedback through evaluations of casework processes, and training sessions. For casework concluded in FY2007, all participants who completed evaluations gave the DRS staff favorable comments, for a satisfaction rate of 100%. In training sessions during FY2007, participant ranking for Course Content averaged 90%, Course Materials averaged 88%, and Instructor Effectiveness averaged 94%.
Number of outreach events (e.g., trainings, workshops, and presentations) to promote the use of dispute resolution skills	Increase number over FY 2004 (base year)	Target Met. There were 65 active outreach projects in FY2007. This represents a 1.6 % increase over 2004 in which there were 64 projects. Note: The projects were both internal and external to FERC.

FY 2007		
Performance Measurement	**Performance Target**	**Data Source**
Ensure timely and effective communication to all stakeholders	➢ Issue 95% of press releases for important agency actions on the same day as the underlining action ➢ Post 95% of important agency actions on the same day as the underlining action ➢ Provide an initial and complete response to 70% of inquiries at the time of the receipt of the request ➢ Develop webpages within the assigned timeframe to enhance and support the Commission's initiatives and goals	Targets Met. ➢ In FY 2007, 80 out of 80 or 100% of press releases were issued within 1 hour of action being taken. ➢ In FY 2007, 3816 of 3820 or 99% of important agency actions were posted on the Commission's internet website within 1 hour of issuance ➢ In FY 2007, the office provided an initial and complete response to 2272 of 2791 or 81% of public inquiries at the time of receipt. ➢ In FY 2007, the Commission developed the following webpages in the assigned timeframe: Market Oversight, Electric Competition, OATT Reform, Blanket Certificates, Transmission Investment, Pipeline, Hydrokinetic Energy, MOU, Policy Statement, Hydro licensing, Annual Charges, Career, Media form, and FOIA form.
Enhance communication with National and International groups	➢ Respond to 50% of Official Congressional correspondence within 10 business days ➢ Provide email notification of significant Commission actions to Congress within 1 to 2 business days of the underlining action along with briefing offers where appropriate ➢ Provide timely and effective briefings to members of Congress ➢ Provide email notification of significant Commission actions to effected State regulatory agencies within 1 to 2 business days of the underlining action ➢ Accommodate visitation requests from delegations from various countries and organizations	Targets Met. ➢ 130 out of 205 pieces of official Congressional correspondence, or 63%, were responded to within 10 business days. ➢ In FY 2007, email notifications to members of Congress were sent out on 340 significant Commission actions within 1 to 2 business days of the underlining action. Briefing offers were made on appropriate items. ➢ In FY 2007, the Commission provided 38 briefings to members of Congress. ➢ In FY 2007, 178 email notifications to State regulatory agencies were sent out on significant Commission actions within 1 to 2 business days of the underlining action. ➢ In FY 2007, OEA hosted 71 visits from 75 countries and organizations.
Percentage of cases set for hearing that achieve partial or complete consensual agreement	75%	Target Met. 88% of cases set for hearing achieved partial or complete consensual agreement.
Percentage of cases set for hearing completed according to the established schedule	➢ 75% of Track I cases in 29.5 weeks ➢ 75% of Track II cases in 47 weeks ➢ 75% of Track III cases in 63 weeks	Targets Met. ➢ There were no Track I cases. ➢ 80% of Track II cases in 47 weeks. ➢ 88% of Track III cases in 63 weeks.
Issue well-reasoned initial decisions, based on facts, law, and Commission policies which are upheld in whole or in part	80% of initial decisions upheld in whole or in part	Target Met. 91% of initial decisions were upheld in whole or in part.

Supporting Initiatives FY 2008		
Performance Measure	**Performance Target**	**Data Source**
Number of ADR requests and referrals addressed by the Dispute Resolution Service	Increase number over FY 2004	Dispute Resolution Service
Percentage of mediated or facilitated case that achieve partial or complete consensual agreement	75%	Dispute Resolution Service
Favorable Dispute Resolution Service customer satisfaction for casework and outreach	80% customer satisfaction rate	Dispute Resolution Service
Number of outreach events (e.g., trainings, workshops, and presentations) to promote the use of dispute resolution skills	Increase number over FY 2004	Dispute Resolution Service
Of ADR processes concluded, percentage that resulted in savings of time and/or money over traditional processes	75%	Dispute Resolution Services
Percentage of cases set for hearing that achieve partial or complete consensual agreement	75%	Office of Administrative Litigation / Office of Administrative Law Judges
Ensure timely and effective communication to all stakeholders	➢ Issue 95% of press releases for important agency actions within 1 hour of action being taken ➢ Post 95% of important and time-sensitive agency actions on the Commission's internet website within 1 hour of issuance ➢ Provide an initial and complete response to 70% of inquiries at the time of the receipt of the request ➢ Develop webpages within the assigned timeframe to enhance and support the Commission's initiatives and goals	Office of External Affairs
Enhance communication with National and International groups	➢ Provide responses to 95% of Congressional inquiries and briefing requests by the date requested or by 10 business days from the date of the request ➢ Provide email notification of significant Commission actions to Congress within 1 to 2 business days of the underlying action along with briefing offers where appropriate ➢ Provide timely and effective briefings to members of Congress and State Officials within the timeframe requested and initiate at least three briefings on top priority issues within timeframe appropriate to effect that issue ➢ Provide email notification of outreach efforts (i.e., panel discussions, workshops, conferences or other forums) to State Officials and Governors within 3 business days ➢ Respond to 80% of international delegation meeting requests within 3 business days of rendering a decision	Office of External Affairs

Supporting Initiatives FY 2008		
Performance Measure	**Performance Target**	**Data Source**
Maintain an effective recruiting program	➢ Recruit at least 3 students each from at least 4 target universities ➢ Increase new hires from recruiting program by 10 over FY 2007 ➢ Hire 20% of interns into permanent positions	Office of the Executive Director
Implement employee development programs	➢ Launch leadership development program ➢ Develop competency based training for mainstream occupations	Office of the Executive Director
Maintain an effective performance management system	➢ All employees receive training annually ➢ Provide feedback to managers to ensure ratings reflect meaningful distinctions between performance ➢ High achievers are rewarded appropriately	Office of the Executive Director
Ensure appropriate representation of women and minorities at all levels within the organization	Increase over FY 2007 baseline	Office of the Executive Director
Maintain reliable financial management systems which generate accurate and timely financial information to support operating, budget, and policy decisions	➢ Unqualified audit opinion on financial statements ➢ Unqualified assurance assertion on internal controls	Office of the Executive Director
Manage acquisitions in accordance with federal requirements and ensure process provides for the efficient use of Commission resources	➢ 25% of total procurement dollars awarded to small, women-owned, and minority businesses ➢ 100% of qualified procurements are performanced-based	Office of the Executive Director
Full implementation of FERC's eGovernment initiatives	Completed by September 30, 2008	Office of the Executive Director

Supporting Initiatives FY 2009		
Performance Measure	**Performance Target**	**Data Source**
Number of ADR requests and referrals addressed by the Dispute Resolution Service	Increase number over FY 2004	Dispute Resolution Service
Percentage of mediated or facilitated case that achieve partial or complete consensual agreement	75%	Dispute Resolution Service
Favorable Dispute Resolution Service customer satisfaction for casework and outreach	80% customer satisfaction rate	Dispute Resolution Service
Number of outreach events (e.g., trainings, workshops, and presentations) to promote the use of dispute resolution skills	Increase number over FY 2004	Dispute Resolution Service
Of ADR processes concluded, percentage that resulted in savings of time and/or money over traditional processes	75%	Dispute Resolution Services
Percentage of cases set for hearing that achieve partial or complete consensual agreement	75%	Office of Administrative Litigation / Office of Administrative Law Judges
Ensure timely and effective communication to all stakeholders	➢ Issue 95% of press releases for important agency actions within 1 hour of action being taken ➢ Post 95% of important and time-	Office of External Affairs

Supporting Initiatives FY 2009		
Performance Measure	**Performance Target**	**Data Source**
	sensitive agency actions on the Commission's internet website within 1 hour of issuance ➢ Provide an initial and complete response to 70% of inquiries at the time of the receipt of the request ➢ Develop webpages within the assigned timeframe to enhance and support the Commission's initiatives and goals	
Enhance communication with National and International groups	➢ Provide responses to 95% of Congressional inquiries and briefing requests by the date requested or by 10 business days from the date of the request ➢ Provide email notification of significant Commission actions to Congress within 1 to 2 business days of the underlying action along with briefing offers where appropriate ➢ Provide timely and effective briefings to members of Congress and State Officials within the timeframe requested and initiate at least three briefings on top priority issues within timeframe appropriate to effect that issue ➢ Provide email notification of outreach efforts (i.e., panel discussions, workshops, conferences or other forums) to State Officials and Governors within 3 business days ➢ Respond to 80% of international delegation meetings requests within 3 business days of rendering a decision	Office of External Affairs
Maintain an effective recruiting program	➢ Increase retention rate of new hires over FY 2008 ➢ Hire 20% of interns into permanent positions ➢ Implement a formal mid-career recruiting program by December 31, 2008	Office of the Executive Director
Implement employee development programs	➢ Launch competency based training program for mainstream occupations ➢ Develop competency based training for all occupations	Office of the Executive Director
Maintain an effective performance management system	➢ All employees and managers receive training annually ➢ Provide feedback to managers to ensure ratings reflect meaningful distinctions between performance ➢ High achievers are rewarded appropriately	Office of the Executive Director
Ensure appropriate representation of women and minorities at all levels within the organization	Increase over FY 2008 baseline	Office of the Executive Director

Supporting Initiatives FY 2009		
Performance Measure	**Performance Target**	**Data Source**
Maintain reliable financial management systems which generate accurate and timely financial information to support operating, budget, and policy decisions	➢ Unqualified audit opinion on financial statements ➢ Unqualified assurance assertion on internal controls	Office of the Executive Director
Manage acquisitions in accordance with federal requirements and ensure process provides for the efficient use of Commission resources	➢ 25% of total procurement dollars awarded to small, women-owned, and minority businesses ➢ 100% of qualified procurements are performanced-based	Office of the Executive Director