



**Federal Energy Regulatory Commission
March 8, 2007
Technical Conference AD07-2
Merger and Acquisition Review Standards
under FPA Section 203
Statement of
Chairman Joseph T. Kelliher**

"The Energy Policy Act of 2005 (EPAAct 2005) expanded the Commission's authority to review mergers and asset dispositions, granting us authority over holding company mergers and transfers of generation facilities. I supported and advocated for this new regulatory authority, which improves our ability to prevent the accumulation and exercise of generation market power. The EPAAct 2005 merger provisions largely codified the public interest test adopted in the Commission's merger policy statement.

In the rulemaking that implemented our new authority through Order No. 669, the Commission received comments asking us to revisit our merger review policy, particularly the Appendix A analysis which is used to measure horizontal market power. The Commission is holding this technical conference to address concerns that we should consider revising our criteria for analyzing mergers in response to the changed regulatory environment associated with the repeal of the Holding Company Act and the new authority under section 203 that Congress gave the Commission in EPAAct 2005, as well as changes within the industry.

In response to these comments, the Commission committed to hold a technical conference to learn more about these concerns once we had had an opportunity to gain more experience in evaluating section 203 applications using the new authority provided to us by Congress in EPAAct 2005. The Commission today follows through on our commitment to hold a technical conference to learn more about whether there is a need for the Commission to revise its merger review policies.

On December 7, 2006, the Commission held a technical conference that considered, among other things, whether the Commission needs to take additional actions to protect against unlawful cross-subsidization in reviewing section 203 applications.

Today, we invite panelists to share their views on whether the Commission should revise the other factors that it uses in analyzing mergers and dispositions under section 203, namely the transaction's effect on competition, rates and regulation. We also invite panelists to address whether the Commission's current tools for measuring a merger's effect on competition, as described in Appendix A of the Merger Policy Statement and the accompanying merger filing requirements rules, adequately addresses a merger's effect on competition.

We would also appreciate hearing panelist views on whether the extent of coordination, including information exchange, is appropriate between the Commission and others with jurisdiction over utility mergers.

I thank each of our panelists for being here today, and I look forward to hearing your views."