



**Federal Energy Regulatory Commission
November 20, 2007
Conference on Enforcement Policy
AD07-13-000
Additional Comment & Questions of
Commissioner Philip D. Moeller**

"Parties filing comments in response to the November 16th Enforcement Policy Conference are encouraged to address the following questions in their comments:

1. Several panelists suggested that the lack of clarity in enforcement may be discouraging self-reporting. If this is correct, the Commission should have enough information to fully understand why this is happening, and what can be done to ensure that a culture of self-reporting is a primary objective of senior management in the industry. I am interested in the types of self-reports that may be discouraged by the lack of clarity in the enforcement policy. In addition, what incentives generally impact an entity's decision to self-report?

2. Some panelists pointed to practices by other agencies that could serve as a model for the Commission's enforcement office. Specifically, entities regulated by the Commission are also subject to the enforcement regimes established by the SEC, EPA, Office of Pipeline Safety (OPS), and the NRC. In addition, the industry white paper also discusses practices at the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corp. (FDIC), and the Food and Drug Administration (FDA). I am interested in whether practices used by those agencies should be considered by the Commission for adoption -- not in general terms, but specifically, and to what benefit.

3. Several panelists raised the issue of a safe harbor, limited "amnesty", or forbearance for past violations, when such violations were unintentional and perhaps only discovered because the industry is now paying more attention to the compliance issue in light of the Commission's new role in enforcement. I am interested in the specific details of any program involving forbearance, especially in relation to how such a program would lead to greater compliance in the future. For instance, a program where reporting requirement violations that are disclosed during a one-time "window period" would not be subject to sanctions or penalties by the Commission; however the Commission could require that the entity engage in some form of remedial and/or prospective action. I am also interested in whether safe harbor or similar programs have resulted in greater compliance at other regulatory agencies."