



**Federal Energy Regulatory Commission  
November 16, 2007  
Conference on Enforcement Policy  
AD07-13-000  
Statement of  
Commissioner Philip D. Moeller**

"With the enactment of EAct 2005, Congress gave the Commission new enforcement powers and penalty authority that has significantly changed the nature of this agency. Congress should be commended for passing such a historic policy change, and the hard work of the Commission to implement the new authority should also be recognized. Arguably the impacts of the Western Electricity Crisis of 2000-2001 could have been lessened if the FERC had such enforcement tools to address that situation.

The enforcement program is relatively new, with the first monetary penalties only being assessed earlier this year. This relatively short period limits the historical framework by which actions can be interpreted. However, it should be known that our main objective is to achieve compliance with our existing rules and regulations, as the purpose of penalties is to serve as punishment and as a deterrent to future wrongdoing.

For approximately the last six months – on almost a daily basis and throughout the country – I have heard requests from the energy community for additional context as to how our enforcement process works and what is considered during an investigation. There is a great deal of confusion and uncertainty within the energy community as to our philosophy, our approach, and the workings of our process. Obviously, confusion is not a good condition, especially among the community that is subject to our enforcement actions. As public servants, we owe the energy community a more complete picture of our enforcement process and policies.

I believe that in general, rational people behave in a rational manner. If there is confusion on our enforcement approach, some positive market behavior (such as portfolio management of natural gas capacity) will be curtailed, and the evidence shows that is exactly what is happening. If entities are afraid to even communicate with us on our enforcement approach, the process is not working. And I have heard those allegations too.

After giving a speech in my home state of Washington several weeks ago, another speaker claimed that "we have a FERC now that will fine you a million dollars if you sneeze the wrong way." I defended the agency and its approach on several high profile matters, but there is a widely-held perception – fair or not – that we are too eager to fine entities that are commended for their "exemplary cooperation" in an enforcement action.

EAct 2005 also changed the nature of this agency by giving us authority related to mandatory and enforceable rules on the bulk power grid. In retrospect, it's stunning that it took over 40 years after the Northeast blackout to come to a point where this nation finally has the mandatory rules necessary to enforce reliability of such a critical component of the national economy. As an agency we need to regularly consider our approach to these rules to assure that they are fair and appropriate for the wide array of entities that are considered critical to the nation's bulk power grid.

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I am very supportive of today's conference and look forward to hearing all the perspectives that are presented. No speaker should hold back for fear of appearing weak on the issue of enforcement. This is the time to discuss improvements to our process, including ideas from other enforcement agencies that have decades of enforcement experience.

In advance, I thank today's panelists and our Staff for arranging this conference."