

**Federal Energy Regulatory Commission
February 2, 2006 Commission Meeting
Statement of
Chairman Joseph T. Kelliher**

Opening EPO Act Statement

Today, the Commission holds a special meeting to take action on a number of matters relating to implementation of the Energy Policy Act of 2005.

President Bush deserves a lot of credit for the Energy Policy Act. There is little doubt that this important law would not have been enacted but for his determination. He started pushing this bill nearly five years ago, and persisted until it became law. Other Presidents would have abandoned the effort a long time ago. President Bush persisted, and the bill was enacted.

The Energy Policy Act of 2005 had three principal policy goals, in the areas of concern to the Commission. First, it reaffirmed a commitment to competition in wholesale power markets as national policy, the third major federal law in the last 25 years to do so. Second, it strengthened the Commission's regulatory tools, recognizing that effective regulation is necessary to protect the consumer from exploitation and assure fair competition. Third, it provided for development of a stronger energy infrastructure.

The Energy Policy Act gave the Commission significant new responsibilities. It also granted us significant new authority to discharge these responsibilities.

In my view, the Energy Policy Act of 2005 is the most important energy law enacted in decades, and represents the most significant change in Commission authority since the New Deal. This new law gives us the regulatory tools to respond to changes in electricity and gas markets since the 1930s. It gives us stronger regulatory tools to prevent exercise of market power in electricity markets, prevent manipulation of electricity and gas markets, and assure the smooth workings of electricity and gas markets. It gives the Commission robust enforcement and civil penalty authority, something we sorely lacked. It gives us the major new responsibility to establish and enforce electric reliability standards for the bulk power system. We have taken on these new duties and authorities with a sense of purpose, mindful of the public trust they entail and dedicated to meeting these obligations within the time allotted by Congress.

The Commission is implementing the Energy Policy Act in a timely manner. I believe we are the only federal agency with significant implementation responsibility that has met or exceeded every statutory milestone in the law. We have met or exceeded every deadline Congress set for us. One of the tasks Congress gave us was to implement repeal of the Public Utility Holding Company Act of 1935, a 70-year-old law, transfer their records to the Commission, and implement a new law in its place – the Public Utility Holding Company Act of 2005 – all in a four month period. We met that deadline.

Since the EPO Act was signed into law six months ago, and including the actions we are taking today, the Commission has completed 10 notices of proposed rulemakings, six final rules, four reports to Congress (including one joint report with the Department of Energy that will be sent to Congress shortly); and entered into a memorandum of understanding with the Commodity Futures Trading Commission. Out of the six rules, I would like to mention that the PUHCA

1935 repeal as well as our expanded corporate authority will become effective next week. In the development of the six final rules, the Commission staff reviewed roughly 5,000 pages of comments. We held four technical conferences relating to implementation of the Energy Policy Act, and held the first joint board meetings in decades. We have worked closely with other federal agencies on implementation of various provisions of the new law.

Our success in effectively implementing the Energy Policy Act is due to a number of factors. First, we had an excellent plan. Right after the law was enacted, I asked staff whether any of the deadlines were manifestly unattainable. If so, we should inform Congress immediately rather than wait for the eleventh hour. Staff responded that the deadlines were aggressive, but attainable. I instructed them to develop a plan, and they developed a detailed implementation plan that reads like a train timetable. Virtually every week, two or three actions had to occur, either internally or externally, to stay on schedule. Some actions slipped, others advanced, but in the end we met the deadlines.

We had strong management of that plan. The credit here must go to Cynthia Marlette, the director our Energy Policy Act implementation effort. It is one thing to have a plan, it is another to execute effectively. Cyndy did just that.

I was fortunate to share this responsibility with my colleagues, Nora Brownell and Sudeen Kelly, who have been dedicated to the task of implementing the Energy Policy Act in a timely and effective manner. Economic regulatory bodies typically are composed of multi-member commissions in order to assure diversity of views. I assure you that occurred over the past six months. My colleagues consistently improved our product, and I am thankful for their efforts and skill.

But in the end, the key to successful implementation of the Energy Policy Act was the complete professionalism of the Commission staff. The staff threw themselves into this effort. The various teams were each composed of staff from as many as three different program offices; nonetheless, they functioned together smoothly. The performance of the Commission staff over the past six months has been superb.

We have not yet fully completed implementation of the Energy Policy Act. Some of the required actions have twelve-month deadlines, others eighteen months, still others four years. However, today marks the completion of our implementation of the lion's share of our Energy Policy Act responsibilities.

Implementation of the Energy Policy Act is a huge undertaking, and it may be tempting to think that with the issuance of the last final rule our work will have ended. But, in a larger sense, it will have only just begun. The Energy Policy Act permanently changed the role that the Commission plays in energy markets. If you consider our reliability responsibility, our real work only begins with issuance of a final rule. After then, we will have to review one or more applications for certification as the Electric Reliability Organizations, examine more than 90 proposed North American reliability standards, review a pro forma delegation agreement, consider individual delegation agreements, examine a host of regional reliability standards, and oversee the effective enforcement of reliability standards. From that perspective, issuing the reliability final rule is not the end, it is only the end of the beginning for the Commission.

The Energy Policy Act represents a vote of confidence in the Commission. Congress gave us a tall task. Our actions to date prove we are worthy of that confidence.

We have been dedicated to faithfully executing the law, in the manner Congress intended. I think that is reflected in the decisions we have made, and are poised to make today.

I want to recognize the hard work of the members of the House and Senate who led this effort, particularly Chairman Barton, Chairman Domenici, Senator Bingaman, and Representative Dingell. I want to praise the Congressional staff who labored on the Energy Policy Act. Some of the staff who worked on this bill join us today.

This bill was a long time in the making. The electricity provisions have roots that go back nearly ten years. There were many versions of the legislation over the years. I am thankful that the final version was the best of the lot.

This bill was so long in the making that I actually worked on early versions of it. Seven years ago, I was a counsel to the House Energy and Commerce Committee working on electricity legislation. Now I am privileged to be in a position to help implement this new law.

My colleagues and I have approached this task with the full knowledge that if we do our job well, the rules we issue may well stay in place for years. We also recognize that if we do our jobs poorly, those rules may also stay in place for years. For that reason, we have been dedicated to getting the rules right from the beginning.