Federal Energy Regulatory Commission
October 19, 2006
Open Commission Meeting
Statement of
Commissioner Suedeen Kelly

Item G-1: Kern River Gas Transmission Company (RP04-274-000)

"This Kern River Section 4 rate case raised some interesting and difficult issues and garnered a *lot* of attention in the industry.

This was primarily because of the unusually low 9.34% Return on Equity (or ROE) recommendation from our presiding judge.

In fact, I would say that the industry's reaction was somewhat extreme, verging at times on doomsday hysteria.

The Commission's method of determining an appropriate ROE is based on reasoned analysis and is fully capable of adjusting to changed circumstances.

As a result of the record developed by the presiding judge's hearing in this case, the Commission was able to appropriately reflect such changed circumstances in its method of determining ROE, in order to arrive at a just and reasonable result of 11.2%.

I support that result as just and reasonable and, while it is quite different from the presiding judge's recommendation, I would like to emphasize that our presiding judge did nothing wrong.

She followed the precedent laid down by the Commission over the last 10 to 15 years, which had not changed significantly in much of that period.

However, further consolidation in the pipeline industry, and other issues as described in the order, have changed the playing field sufficiently to warrant adjustments to that precedent and this draft order recognizes that fact and acts on it.

That is a step that the Commission had to take before any presiding judge could.

Having taken that step, I would emphasize that if further adjustments are needed in future rate cases, so long as they are well supported, we stand ready to make those adjustments.

In this case Kern River proposed to include Master Limited Partnerships (or MLPs) in its proxy group and this order rejects that proposal as unsupported because there are significant differences between MLPs and corporations or non-MLP partnerships like Kern River that must be addressed before an appropriate comparison between the two can be made.

Kern Rivers' proposal did not adequately address those differences.

However, the order also provides extensive guidance on these issues so that future applicants proposing to include MLPs in their proxy groups will know what issues they must address in order to gain acceptance.

The draft order is long, because it is detailed, but that is also what makes it so valuable for the industry.

I would encourage industry practitioners to read it cover to cover; thanks to staff's hard work, it is the roadmap for pipeline rate cases for the foreseeable future."