

**Chairman Kelliher on establishing a Clearer "No Action" Letter Process
(Docket No. PL06-4-000)
November 17, 2005**

"Congress gave the Commission significant penalty authority in the Energy Policy Act of 2005. This regulatory tool will help the Commission discharge its historic duty to prevent unjust and unreasonable rates and to prevent undue discrimination or preference.

"The Commission has been careful in the way it proposes to exercise this new authority, as reflected in the Enforcement Policy Statement we approved last month. The Enforcement Policy Statement is drawn from the experience of other agencies, such as the Securities and Exchange Commission, Commodity Futures Trading Commission, and the Justice Department.

"Our purpose is firm, but fair enforcement of our rules and regulations. I want to be clear: the Commission's goal is compliance. We recognize we have a duty to be clear on what the rules are. Compliance should not be elusive, it should not be subjective; it should be objective to the greatest extent possible.

"In a perfect world, the Commission is clear on what the rules are, and there is universal compliance. In a less perfect world, the Commission is clear on what the rules are, there is near-universal compliance, and violations are quickly identified and sanctioned. I do recognize that, in many instances, our rules are not perfectly clear and, in such instances, we must work with industry and the regulated community to resolve ambiguities.

"To this end, the Commission today interprets its regulations to allow the regulated community to obtain staff "no action" letters, effective immediately, with respect to whether staff will recommend the Commission take no enforcement action with respect to certain proposed transactions, practices, or situations that may raise under the Commission's regulations relating to Standards of Conduct, Market-Based Rates, or anti-manipulation rules, when finalized.

"This approach is modeled on the "no action" letter process used by SEC and CFTC.

"The potential risks of failure to comply with the Commission's requirements increased significantly on August 8, 2005, with enactment of EAct. EAct greatly expanded the Commission's civil penalty authority.

"While we intend to exercise our expanded enforcement authority diligently, we also intend to exercise our new authority fairly.

"Our goal is to facilitate compliance and quickly identify and sanction noncompliance. Greater clarity in our rules is necessary to accomplish that goal."