



# FEDERAL ENERGY REGULATORY COMMISSION

October 16, 2008

**Docket No.** PL09-1-000

**Item No.** M-3

**Commissioner Suedeen G. Kelly**

## **Talking Points of Commissioner Suedeen G. Keely on Compliance with Statutes, Regulations, and Orders**

- Since EAct 2005 broadened considerably the Commission's enforcement authority, our goal has been to develop an enforcement program that fosters a culture of compliance, rather than to extract a pound of flesh from wayward companies.
- Today's order is yet another step in reaching this goal, by providing a roadmap for companies to follow to develop effective and meaningful compliance programs.
- The order reflects 3+ years of experience in implementing our EAct 2005 civil penalty authority, as well as the July 2008 workshop, at which we heard from a number of participants on what kind of guidance they would find useful.
- In my view, there are no surprises in this order, nothing startling or unexpected. It's based on the simple—and common sense—premise that companies that develop and carry out rigorous compliance programs are less likely to engage in misconduct. If in spite of all best efforts violations nevertheless occur, penalties may be reduced or even eliminated, particularly if the company immediately fesses up, and takes steps to end the violations and restore injured parties.
- Of course, the converse is equally true, and equally self-evident: an inadequate compliance program may result in more violations, perhaps more serious violations, and we will likely not be as flexible or forgiving in determining appropriate penalties.
- Finally, this order reflects the truism that there is no "one-size-fits-all" approach for companies to build strong compliance programs. As we noted, market participants are in the best position to develop the optimum mix of measures for creating, as Howard Friedman of Deloitte & Touche, one of the participants in our July workshop stated, "an operating environment where you have no compliance surprises."
- Effective compliance programs aren't created overnight—we understand that they require a significant investment in time and effort. Today's order reiterates our commitment to continue to provide guidance, and hold more workshops if needed, to ensure that a culture of compliance is standard operating procedure.