

**Testimony of Commissioner Philip D. Moeller
Federal Energy Regulatory Commission
Before the United States Senate Committee on
Energy and Natural Resources
April 27, 2010**

Chairman Bingaman, Ranking Republican Murkowski, and members of the committee, thank you for considering my nomination today for another term on the Federal Energy Regulatory Commission (FERC). I send heartfelt thanks to Senator Murray from my home state of Washington for her kind words. She introduced me nearly four years ago and I am honored to continue to receive her support. I thank President Obama for nominating me, and I greatly appreciate both Senator McConnell and Senator Murkowski for supporting my nomination to another term. And I extend special thanks to my wife Elizabeth for supporting my career in public service.

In the nearly four years that I have served on the FERC I have voted on over 4500 orders. As with my first day on the commission, I remain motivated to make decisions that benefit and protect consumers through the safe and efficient provision of the energy products and services we regulate.

Working with my colleagues, current Chairman Wellinghoff, Commissioners Spitzer and Norris, former commissioner Kelly, former Chairman Kelliher along with the talented staff at FERC, I have been deeply involved in efforts to better protect consumers through economic and safety regulation, improve energy markets, encourage needed energy infrastructure, and ensure bulk-power system reliability. Much has been done, but more needs to be done. If confirmed for another term, I look forward to the opportunity to continue to serve. In my efforts to keep improving the areas in which we regulate, I have focused on several issues and I expect all of these areas to receive necessary and extensive attention in the next several years.

Hydropower

I hail from the Pacific Northwest, the region that most relies on hydropower to deliver needed energy to consumers. With that background, I have worked to assure that my colleagues have a thorough appreciation of hydropower and the benefits that this resource delivers. All energy sources—including hydropower—exhibit inherent tradeoffs, but traditional hydropower is a mature renewable resource that provides enormous benefits through the over 1600 projects---which includes approximately 2600 dams---that the Commission regulates. The new hydrokinetic technologies that make use of wave, tidal, ocean current, and in-

stream current resources hold the promise of a new generation of benefits. The Commission has worked to enable these technologies to be deployed, but the hydrokinetic industry is still a nascent one that needs attention to develop in an orderly manner while assuring that citizens and the environment are protected.

Reliability

During my term FERC approved the first set of mandatory and enforceable standards intended to enhance the reliability of the nation's bulk-power system. Subsequently we have approved and proposed additional standards. This authority and responsibility emanates from the 2005 Energy Policy Act that this committee developed. Overseeing the implementation of this system of mandatory and enforceable reliability standards by the designated Electric Reliability Organization (NERC) has been a major undertaking. As with any new and comprehensive regulatory regime, there have been plenty of challenges highlighted by the complex nature of these standards. Our efforts have been largely successful in setting the framework for this new and transformative approach toward ensuring consumers have the reliable power they need delivered through the bulk power system. However, the Commission still has a lot to do in the realm of reliability policy---especially in regards to assuring that we focus on short term and long term reliability challenges and implementing cost effective standards that truly improve the reliability of the bulk power system. Cyber security is a major area of our attention, and we are likely to spend additional efforts to clarify the standards in this area, perhaps with more direction from Congress to FERC this session.

Infrastructure

Over the last several years, the nation has dramatically increased its use of natural gas to generate electricity. Because I see this trend continuing in the foreseeable future, a big part of FERC's responsibilities is to ensure that we promote policies that allow safe and sufficient natural gas infrastructure to meet this demand. Consumers have benefitted especially from the new sources of shale gas that have been developed in just the last few years. Domestic production of natural gas increased dramatically in 2007 (by some estimates an 8 percent increase) and again in 2008. The Commission has approved significant new capacity in new pipelines, new gas storage and liquefied natural gas terminals while also providing extensive guidance to entities interested in developing a natural gas pipeline from Alaska. In fact, two proposals to develop an Alaska pipeline are currently in the pre-filing process at the Commission.

Expansion of the nation's electric transmission infrastructure has not been as robust as in the natural gas arena. Some of this is attributable to issues of uncertainty over transmission planning, transmission siting authority and transmission cost allocation. We need to assure that consumers who pay for transmission investments receive benefits from such investments. Our Order 890 (discussed below) is an effort to provide guidance so that additional cost-effective transmission investments can be made. I have made it a priority to promote policies that allow for additional qualified entrants in the transmission field (independent developers, merchant developers, and joint projects) along with more creative approaches such as the "anchor shipper" model often used in the natural gas industry.

Wholesale Electric Markets

Wholesale electricity markets are evolving in different ways and at different paces in various regions throughout the nation. In the last two years alone, most of the organized wholesale markets have expanded in either their membership and/or the scope of products provided. Several examples include: the California market (through the California Independent System Operator) saw the implementation of the long-planned Market Redesign and Technology Update (MRTU) launched in March of last year; the Midwest market (through the Midwest Independent System Operator) saw significant new membership additions and the launch of its ancillary services market; and the Southwest market (through the Southwest Power Pool) expanded with new members from Nebraska, new product launches and SPP has recently proposed a major transmission expansion plan.

During my term FERC implemented Order 890, a comprehensive review and reform of the nation's wholesale transmission markets. One of the major components of Order 890 included regional transmission planning requirements based on specific principles. As with the other issues, significant progress has been made but that progress needs to continue to assure that adequate infrastructure is developed to serve the nation's consumers.

Although in the last year we have witnessed dramatic drops in the price of power—in many areas approximately a fifty percent decrease in price—the Commission still needs to be vigilant in assuring that the benefits of competitive markets flow through to consumers and that these regional market structures are responsive to customer concerns. We are currently undertaking efforts to improve the responsiveness of regional transmission organizations and developing the metrics necessary to evaluate wholesale markets. Another issue we will address in the next year is the best way to compensate demand-side resources in the organized wholesale markets.

Enforcement

Early in my term the Commission first exercised its penalty authority that was authorized by the Energy Policy Act of 2005. To date we have approved 41 settlements, of which 40 involved civil penalties. FERC's enforcement process continues to mature, as our most recent annual enforcement report highlighted the agency's enforcement priorities and relevant case studies. Recently proposed penalty guidelines are an additional effort to provide context and clarity to the entities we regulate. However, FERC needs to continue these recent improvements in our enforcement process to assure that we are firm but fair in providing a transparent process that emphasizes compliance while maintaining the threat of substantial penalties for non-compliance and violations of our rules.

Integration of Variable Generation

Over the last several years the Commission has undertaken efforts to facilitate the integration of variable generation—namely wind power and solar power---onto the electric transmission grid. We have done this by requiring jurisdictional transmission providers to better utilize existing transmission capacity to meet customer needs through “conditional firm” access to the grid; expending considerable time and effort in reforming “queue” policies to hasten clearing the backlog of interconnection requests; and approving transmission cost allocation proposals designed by regions to address particular needs. And as the development of these resources has been quite significant and successful, it has led to new challenges precisely because of the amount of these resources now on the grid.

The Commission will be spending a great deal of time and effort in the near term focusing on these challenges that are present in nearly every region of the nation (with the general exception of the Southeast.) Even in my home region of the Pacific Northwest, the Bonneville Power Administration is struggling with integrating these resources into a system that was not designed or developed with variable generation in mind. In response to this situation, in January we issued a Notice of Inquiry (NOI) on this issue, requesting comments on how the FERC should address a wide range of policy questions. Within the last month, the first round of comments has been submitted in response to our NOI. I am convinced that these challenges are not insurmountable but are extensive and growing in their complexity.

Smart Grid

Congress tasked the Commission with implementing “smart grid” interoperability standards through the Energy Independence and Security Act of 2007. Last year FERC adopted a policy statement with core principles intended to provide guidance for jurisdictional entities pursuing smart grid investments and for those developing the standards through the process coordinated by the National Institute of Standards and Technology (NIST). We expect NIST to deliver a set of interoperability standards to FERC in the near future and to commence a rulemaking on the adoption of standards. When considering such a rulemaking, cyber security of the grid will be my paramount concern.

Although the concept of the “smart grid” can be defined many different ways, its potential to allow two-way communication with consumers has revolutionary and transformative potential in ways that can bring greater efficiencies to our nation’s electric system. However, the transformation will not be immediate and will occur at varying paces throughout the nation. And although many of the policies related to the actual implementation of the smart grid will occur at the state and local levels, we at FERC also need to be aware not to overpromise the benefits of the smart grid to consumers lest there be a backlash that slows the pace of its implementation.

CFTC/FERC Jurisdictional Issues

As this committee is well aware, there is an ongoing debate pertaining to the jurisdictional lines of regulation between the FERC and the Commodity Futures Trading Commission (CFTC) over certain energy-related trading products. As the committee works with the Senate Agriculture Committee to clarify our respective roles, it is my firm belief that consumers will benefit if the two agencies can forge a closer and more productive working relationship. I have worked to bring the staffs and the commissioners of the two agencies together for briefings and meetings to better appreciate the different sets of expertise that each agency can bring to this effort to better protect consumers.

Thank you again for the opportunity to appear before the committee today and I look forward to answering your questions.