

**Testimony of Commissioner Philip D. Moeller
Federal Energy Regulatory Commission
Before the Committee on Energy and Natural Resources
United States Senate
May 1, 2008**

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today. My statement largely supports the written testimony submitted by Chairman Kelliher concerning our ability to detect and prevent any improper cross-subsidization between regulated utilities and their affiliates.

The Commission has had a long-standing responsibility to prevent utility consumers from paying rates that reflect inappropriate cross-subsidies. In my opinion, the best opportunity for the Commission to discover cross-subsidization is in the ratemaking process. That is, before any costs can be recovered from wholesale customers served under cost-based rates, the Commission reviews those costs to determine if their recovery would be just and reasonable. Costs that result from inappropriate cross-subsidies are not recoverable in rates. While our auditing, enforcement, and merger authority is significant, these measures complement rather than substitute for the rate review that FERC conducts. In addition, the states have responsibility over retail rates, providing them with authority to deny the recovery of amounts representing inappropriate cross-subsidies and other unjust and unreasonable costs.

As far as I have seen, the repeal of PUHCA 1935 has not led to an increase in cross-subsidization. Notwithstanding, our Commission must exercise and is exercising

vigilance in our ratemaking, our merger review, our enforcement processes, and our auditing functions. I also believe that as competitive energy markets mature, cross-subsidization will become less of an issue. In purely competitive markets where there are no captive customers and energy is sold at market-based rates, utilities will not have an incentive to add costs that result in non-competitive prices. However, the markets regulated by the Commission are not purely competitive at this time and thus, not immune from inappropriate cross-subsidization between affiliates. As such, the Commission is, and must, exercise its authority to guard against inappropriate cross-subsidization.

Finally, with regard to the report issued by the Government Accountability Office, I appreciate their efforts to examine this issue. As explained in the Chairman's statement, to some extent we are considering or have already adopted their recommendations. However, in our efforts to continually improve our oversight responsibilities and to provide a more transparent enforcement process, I encourage any comments, suggestions, or criticisms as full compliance with our rules and regulations is my policy goal.

I would be happy to respond to any questions.