



**Federal Energy Regulatory Commission
June 21, 2007
Open Commission Meeting
Statement of
Chairman Joseph T. Kelliher**

**Item E-3: Wholesale Competition in Regions with Organized Electric Markets
(Docket Nos. AD07-7-000 and RM07-19-000)**

"One of the principal focuses of Commission electric regulatory policy currently is strengthening competition in wholesale power markets. This order proposes a package of important regulatory reforms designed to promote effective competition.

Competition is national policy in wholesale power markets. That was reaffirmed by the Energy Policy Act of 2005, which was the third major federal law in the past 25 years to embrace competition as national policy.

In the wake of the Energy Policy Act, the central question facing the Commission is not whether competition is sound policy. That question has been asked and answered three times by Congress, as recently as two years ago.

The central question is what can the Commission do to make wholesale markets more competitive? We act to answer that question today.

I want to draw the distinction between competition and deregulation. Deregulation is not and has never been Commission policy or federal policy with respect to wholesale power markets. Deregulation is the absence of regulation, and wholesale markets and wholesale power sales have never been unregulated. The character of our regulation has changed, but we never stopped regulating.

It is also important to recognize that the Commission has never relied solely on competition to assure just and reasonable wholesale power prices. Instead, we rely on a mixture of competition and regulation. Today, we propose to change the mixture between competition and regulation with our package of reforms.

The wholesale power market is a dynamic market, subject to rapid and significant changes. For that reason, the Commission must constantly consider changes in regulatory policy in reaction to market changes.

Commission policy must reflect the realities of the markets we regulate. Wholesale power markets are not national, they are regional in nature, and there are significant differences among the regions.

One difference is structural. There are two basic structures, the organized markets and the bilateral markets. These structural differences are likely to persist. I see no reason why the Commission should attempt to impose a preferred market structure on wholesale markets. Both the bilateral and organized market structures can support competitive markets. Organized and bilateral markets have different strengths and weaknesses, but both face challenges.

Competition remains national policy, yet we have different wholesale market structures. To me, that means we have a duty to act to strengthen competitive markets in both the organized and bilateral markets.

Earlier this year, we initiated a high level review of the state of competitive wholesale power markets in both the bilateral and organized markets. We invited the participation of a broad range of experts and stakeholders. We identified the

challenges facing competitive wholesale markets, and reviewed workable solutions that are within the Commission's jurisdiction.

This competition review is a major initiative and a top personal priority. But it is only the latest step in a continuing process of regulatory reform. A few months ago, we took another major step when we reformed the Open Access Transmission Tariff (OATT). The primary goal of OATT reform was to prevent undue discrimination and preference in transmission service. But it had an important secondary goal of promoting competition, especially in bilateral markets.

The package of reforms we propose today concentrate on the organized markets. That is not because we think there are no competitive challenges in the bilateral markets – there are. It is because we are already acting to address those challenges in other proceedings, namely OATT reform and our collaborative efforts with our state colleagues on competitive solicitation and market access. Bilateral markets have their own challenges, in particular transmission access, generation entry, market access, and market transparency.

In this proceeding we propose reforms that address the distinct challenges that face organized markets. We need more effective demand response. The lack of effective demand response results in higher wholesale prices, greater price volatility, and larger generation capacity additions. Competitive wholesale markets require a strong energy infrastructure, and long term contracts are an important tool to achieve and maintain a strong infrastructure. We advance specific proposals in both these areas, and seek comment on a number of key issues.

There is also a need to clarify Commission policies with respect to market monitoring units in the organized markets. Up to this point, the Commission has had a very flexible approach towards market monitoring. We have accumulated enough experience to make decisions and properly define the role of market monitoring units

It is important to recognize that it is the Commission's duty to police wholesale power markets and prevent market manipulation and the exercise of market power. It is our responsibility to prevent unjust and unreasonable rates. In the wake of the Energy Policy Act, we now have enforcement authority to properly police wholesale markets and are exercising that new authority. Market monitors can play an important supporting role as we discharge our legal duties.

The Commission held a conference on April 5 to examine the role and structure of market monitoring units. There was a broad recognition of the need for sufficient independence, as well as the need for accountability. The ANOPR proposes specific reforms to assure adequate independence by market monitoring units. We also propose greater information sharing to state commissions.

Another proposed reform relates to RTO governance and accountability. It is important that RTOs and independent system operators (ISOs) have good governance. The Commission has placed great emphasis on independence by RTO and ISO boards, and there is no doubt RTO boards are now independent of market participants. However, there are persistent questions as to whether members and stakeholders have access to RTO boards, and whether RTO boards and management are sufficiently responsive to the concerns of members and stakeholders.

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In order to address these concerns, the ANOPR proposes to require some form of direct access to RTO boards by members and stakeholders. We do not prescribe the exact form this access may take, and recognize that there is more than one way to assure this access. The ANOPR proposes two approaches that could provide such access, the hybrid board and a board advisory committee composed of member representatives. We seek comment on these approaches. We recognize there is more than one way to assure RTO accountability and are open to other approaches.

While competition remains national policy, we recognize that competitive markets face challenges. My personal view is that competition is the correct policy, and that competition can deliver the greatest benefits to consumers – when combined with effective regulation. We are acting to establish the best possible mixture of regulation and competition on behalf of customers.”