

**Summary of Testimony of
Pat Wood, III
Chairman, Federal Energy Regulatory Commission
Before the Subcommittee on Energy and Air Quality
Of the Committee on Energy and Commerce
United States House of Representatives
May 19, 2004**

The Federal Energy Regulatory Commission has sought to spur investment in energy infrastructure to enhance competition in wholesale energy markets and increase the reliability of service to customers. These efforts have sought to address the fact that investment in the nation's transmission infrastructure has not kept pace with load growth or with customers' desire for greater competition in wholesale power markets.

The Cross-Sound Cable (Cable), a transmission line between Connecticut and Long Island, New York, is an example of a merchant transmission project that expands transmission capacity without the benefit of assured cost recovery from captive ratepayers. Unfortunately, this transmission facility, even though fully built and ready for use, has been used only sporadically over the past two years when required by emergency orders of the U.S. Secretary of Energy. This is because New York supports the operation of the Cable, while Connecticut does not. The parochial view of one State should not be the sole determinant of whether a region's customers receive the economic and reliability benefits of facilities that have already been built.

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I. Introduction and Summary

Thank you for the opportunity to testify on the operation of the Cross-Sound Cable (CSC or Cable). The CSC is an underwater direct current 330 megawatt cable system under Long Island Sound. The CSC connects the New England Power Pool (NEPOOL) regional transmission system in Connecticut to the New York Independent Transmission System Operator (NYISO) transmission system on Long Island, New York. Pursuant to orders by the U.S. Secretary of Energy, the CSC has been used at times over the past two years to transmit power between these two regions. However, the Cable is not in operation currently.

I have testified to this Subcommittee before about the critical role that sufficient energy infrastructure plays in both reliability and in ensuring customer benefits. (Failure of infrastructure development to keep up with customer demands certainly played a central role in the California energy market price spike in 2000-2001). The CSC project is the first operational example of entrepreneurial, risk-bearing transmission that the Federal Energy Regulatory Commission (Commission) has sought to encourage in the post-Energy Policy Act of 1992 electric industry. "Merchant" transmission differs from traditional transmission in that its costs are not recovered through regulated rates, but

through negotiated arrangements between the transmission line owner and the customer. This is important because the risks of merchant transmission are borne by the project's investors, and not captive ratepayers. In 2000, our Commission ruled on the rates, terms and conditions for transmission service over the Cable, and found that the Cable will enhance competition by expanding capacity and trading opportunities between the New England and New York markets. The Commission also found that the Cable will provide economic benefits to electric customers and producers in both markets while imposing no risk or cost on captive customers in any market. The Cable may also provide reliability benefits, particularly at times of electrical shortages. Today, four years after our Commission authorized rates, terms and conditions for the Cable, and after investors and wholesale transmission customers have made the necessary investments to get it built, the Cable is being taken out of operation.

The Cable provides a classic illustration of the interstate nature of the transmission grid. The planning, construction, and operation of the Cable affect both the regional marketplace and regional reliability. Decisions regarding the operation of the Cable underscore the importance of assessing economic and reliability issues from a regional perspective. Building and operating a transmission line can have economic and reliability consequences that go beyond any single State. Therefore, questions about who should pay for those consequences must, of necessity, be considered in ways that fully protect customers and citizens of the affected States.

II. Background

On June 1, 2000, the Commission approved the rates, terms and conditions for transmission service over the Cable (June 1 Order). This was the first time the Commission approved rates, terms and conditions for a merchant transmission project. The June 1 Order contained the findings of economic benefits noted above. The Commission imposed several conditions on its approval. For example, the application included a proposal to hold an “open season” to solicit customers for the Cable, and the Commission imposed conditions to ensure that the open season process was non-discriminatory, fair and transparent.

In June 2002, the Commission accepted, with modifications, NEPOOL’s amendment to its open access transmission tariff to integrate the CSC into the NEPOOL regional transmission system operated and administered by ISO New England (ISO-NE). The Commission said it was “pleased that the parties worked together to meet the challenges facing the development of a new type of entity into the energy market.”

Despite the foregoing, and despite the fact that none of the costs of the CSC are being included in captive Connecticut ratepayers’ rates, units of the Connecticut government have opposed the operation of the Cable. As a result, the Cable has been operated only when authorized by emergency order of the U.S. Secretary of Energy – from August 1, 2002 to October 1, 2002 (to alleviate the emergency supply situation caused by a heat wave), and from August 14, 2003 to May 7, 2004 (to alleviate the post-Blackout disruptions in electric transmission service, as well as provide valuable voltage support and stabilization services for the electric transmission systems in both

New England and New York). The Secretary has issued these orders pursuant to section 202(c) of the Federal Power Act, 16 U.S.C. § 824a(c) (2000) (FPA), and section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7151(b) (2000).

I would note that Connecticut and Long Island are interconnected not only by the Cross-Sound Cable but also by a set of electrical cables known as the “1385 Cables.” The 1385 Cables have been in use for over 30 years. In recent years, they have experienced increasing operational problems. A pending case before the Commission involves a Connecticut utility’s request that the Commission use its authority under section 210 of the FPA to order a New York utility to assist in replacing the 1385 Cables. Among other things, section 210 allows the Commission to issue an order requiring the physical interconnection between two utilities, or such action as may be necessary to make effective any physical interconnection, if, after certain procedures, the Commission determines that such an order is in the public interest and would: “(A) encourage overall conservation of energy or capital, (B) optimize the efficiency of use of facilities and resources, or (C) improve the reliability of any electric utility system ... to which the order applies.” Since the case is pending, I cannot discuss its merits further at this time.

III. Operation of the Cross-Sound Cable

Over the past decade, investment in the nation’s transmission infrastructure has not kept pace with load growth or with customers’ desire for greater competition in wholesale power markets. As a result, transmission congestion and energy price

differentials between regions have increased. Construction of appropriate transmission facilities and other measures that make more transmission capacity available to market participants can yield significant benefits in increased competition and improved reliability. Stand-alone, or merchant, transmission companies have proposed several projects to expand capacity between regions such as New England and New York. The Commission has sought to encourage such projects.

In the case of the CSC, the Commission specifically found that the project would provide economic benefits to customers. The U.S. Secretary of Energy has found that, at least in certain circumstances, the operation of the Cable is needed for reliability purposes. This summer could be one of those circumstances. The Cable is fully built and ready for use. Operation of the Cable is supported by one State and opposed by another, each advocating its own parochial interests.

The authority granted to the U.S Secretary of Energy under FPA section 202(c) has been an important tool for responding to emergency circumstances. Legislation has been proposed that, essentially, would codify the Secretary's most recent order requiring operation of the Cable until Congress legislates otherwise. Operation of the Cable would ensure that the regional benefits of the Cable will flow to customers.

Further, it might be a good time to consider expanding the application of section 202(c) to also include orders requiring the operation of existing facilities whenever such operation is found to be in the public interest, not just in the event of an emergency. The view of one State should not be the sole determinant of whether a region's electrical customers receive the economic and reliability benefits of facilities

that have already been built. In these narrow circumstances, the protection of interstate commerce may warrant a greater federal role.

This suggestion is related to, but separate from, the issue in the pending energy bill of having a federal backstop for siting of significant new interstate power transmission projects. The same conflict that gave rise to that provision of the pending legislation is present in the Cable case, i.e., while the interconnected electricity grid is interstate in nature, each State has the jurisdictional authority to site new transmission lines needed for the region. Therefore, a federal arbiter is needed when States cannot agree on such issues. The national public interest in reliable supplies of energy for all customers at reasonable prices cannot be ignored.

There is also a bigger real-world issue here. The greater New York City electric power marketplace, which also encompasses Long Island, northern New Jersey and southwestern Connecticut, is among the largest load centers in the country. The planning and operation of that regional power grid falls under the management of three separate grid organizations – the NYISO, ISO-NE, and the PJM Interconnection. This split requires a continuous, rigorous coordination effort on many levels – reliability, planning, markets, and fuels. To this end, the Commission is holding another in its series of regional infrastructure conferences on June 3, 2004, to explore the adequacy and development of electric, natural gas, and other energy infrastructure in the Northeast, including New York and New England. I expect that many of the issues addressed in this hearing, plus others from the natural gas industry, will be raised in the day-long conference, which my colleagues and I will lead. I will report on what we hear to this

Subcommittee shortly thereafter.

As always, my colleagues, I and our staff are always available to assist the Subcommittee in any way we can.