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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

JUN 23 2017

Re: FOIA No. FY17-75,
Determination Letter

VIA EMAIL AND REGULAR MAIL

On May 25, 2017, you filed a request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a) *as amended by* the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016), and the Federal Energy Regulatory Commission's (Commission) FOIA regulations, specifically 18 C.F.R. § 388.108 (2017). Specifically, you requested a digital/electronic copy of the FERC Congressional Budget Request for the years FY1999, FY2000, FY2001, and FY2002.

A search of the Commission's non-public files identified all four documents, which are released in their entirety. The documents can be found on the enclosed disk.

As provided by the FOIA and 18 C.F.R. §388.110(a)(1) of the Commission's regulations, any appeal from this determination must be filed within 90 days of the date of this letter. The appeal must be in writing, addressed to David L. Morenoff, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal." Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

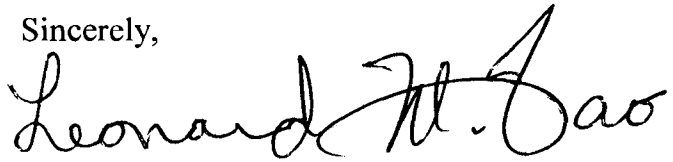
You have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS by mail at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at (301) 837-1996; facsimile at (301) 837-0348; or toll-free

FOIA No. FY17-80

- 2 -

at 1 (877) 684-6448.

Sincerely,

A handwritten signature in black ink, reading "Leonard M. Tao". The signature is fluid and cursive, with the first name "Leonard" being the most prominent.

Leonard Tao

Director

Office of External Affairs

Enclosures

FY 1999 BUDGET REQUEST TO THE CONGRESS



FEDERAL ENERGY REGULATORY COMMISSION

FEBRUARY 1998

**James J. Hoecker
Chairman**

FY 1999 BUDGET REQUEST TO THE CONGRESS



FEDERAL ENERGY REGULATORY COMMISSION

FEBRUARY 1998

**James J. Hoecker
Chairman**

EXECUTIVE SUMMARY

To accomplish its mission and goals in FY 1999, the Federal Energy Regulatory Commission requires 1,377 FTEs and a funding level of \$168,898,000. The Commission's FY 1999 budget is structured in a manner that will implement the Administration's policy to fund discretionary spending with user fees that are offsetting collections. While revenue collected in FY 1999 will continue to offset the Commission's appropriation, the revenue will not be available for obligation in FY 1999. For FY 2000 and subsequent years, budget levels set by appropriations acts will be made available from the previous year's collections retained in this account. In the event of insufficient revenue, a General Fund appropriation will be requested. Any excess funds remaining after appropriation of offsetting collections will be returned to the Treasury.

The Commission's request is summarized in the table below:

Resources by Program (Budget Authority Dollars in Thousands)

Program	FY 1997 Actual	FY 1998 Estimate	FY 1999 Request	% (+/-) FY 1998 to FY 1999
Electric Power				
Funding	\$45,757	\$51,745	\$54,426	5.2%
FTEs	407	455	470	3.3%
Natural Gas and Oil Pipelines				
Funding	\$62,739	\$64,037	\$65,665	2.5%
FTEs	536	533	533	0.0%
Hydropower				
Funding	\$45,367	\$49,838	\$48,807	(2.1%)
FTEs	392	389	374	(3.9%)
Total Budget Authority for Operating Expenses				
Funding	\$153,863	\$165,620	\$168,898	2.0%
FTEs	1,335	1,377	1,377	0.0%
Application of Prior Years' Authority	(\$7,573)	(\$3,479)	\$0	N/A
Budget Authority	\$146,290	\$162,141	\$168,898	4.2%
Offsetting Receipts	(\$146,290)	(\$162,141)	\$0	N/A
Net Budget Authority	\$0	\$0	\$168,898	N/A

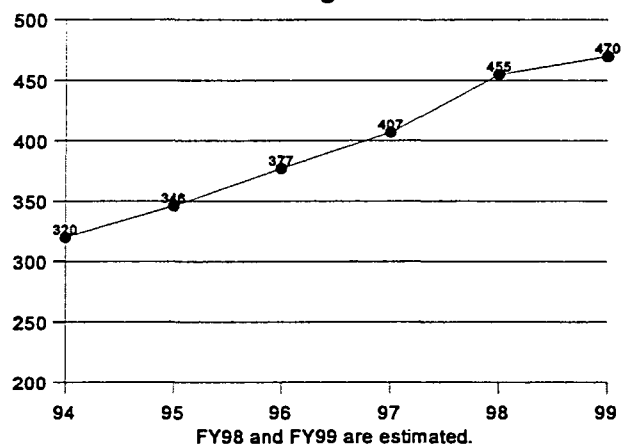
Rationale for Funding Increase. The budget authority requested for FY 1999 is 4.2% higher than the FY 1998 level. However, actual spending will increase by only 2.0%. This difference reflects

the application of available prior years' authority to FY 1998 funding requirements, while the Commission does not anticipate the availability of prior years' authority in FY 1999. Of the increase from FY 1998 spending, \$3.5 million is tied directly to the annual government-wide pay raise, and another \$0.6 million of the increase is attributable to building rent. The Commission reduced the total of all other funding by \$0.8 million. FTEs remain constant from FY 1998, with some shifts between programs.

Specific Request Associated with Electric Restructuring.

The changes created by the new competitive bulk electric power environment — open access transmission, mergers and restructuring, new regional transmission institutions, and state open-access initiatives — will continue exerting pressure on the Commission's electric power resources. To meet the unprecedented demand from the restructuring of the industry, the Commission continues to add resources to the electric power program. Through FY 1999 projected levels, staffing has increased by nearly 50 percent and funding has increased by nearly 70 percent from the FY 1994 levels, while workload nearly tripled over the same period. Indeed, there has been more than a six-fold increase in electric workload since FY 1991.

Electric Program FTEs

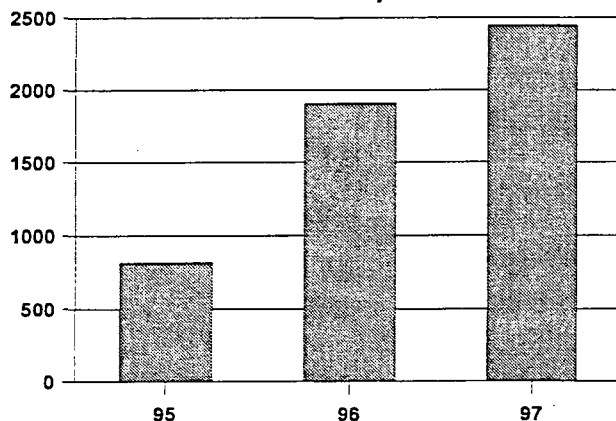


Workload Status of the Natural Gas Program. The natural gas industry is aggressively pursuing new markets and new strategic and structural arrangements to complete the competitive initiatives of Order Nos. 436, 500, and 636. After gaining

operating experience in the restructured environment, the industry is creating a new generation of market issues. Since full implementation of Order No. 636, gas pipeline construction workload has increased considerably. This reflects consistently high numbers of applications as well as increasing complexity of the review process. One major component of this complexity is the increasing size of projects in recent years. Certificate applications are contested vigorously by both competing pipelines and landowners. Other agencies also become involved as historic and wetland properties become involved. Thus, the

Total Miles Authorized

Construction Projects



Commission's resources are strained, making timely action on certificate applications less probable. Such delays are in part due to program cuts, as the Commission recently completed the Congressionally recommended 20 percent reduction in FTEs for the natural gas and oil pipelines program.

Status of the Hydropower Program. The hydropower program will operate with fewer full time staff resources in FY 1999, approximately 4 percent fewer than in FY 1998, and 18 percent fewer than in FY 1995. These staffing reductions are commensurate with a decline in applications for new projects. To continue managing the hydropower program effectively, earlier staff participation and innovative collaborative processes will shorten the processing time for license and relicense applications. Between 2000 and 2010, about 22 percent of licensed projects, representing 37 percent of generating capacity, will expire. Workload will remain high in post-licensing compliance activities because of the large number of recently issued relicenses. Also, almost 70 percent of dams under the Commission's jurisdiction are over 50 years old. To maintain its outstanding record of dam safety, the Commission's dam safety program will shift its emphasis from dam remediation to monitoring.

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INTRODUCTION

The Federal Energy Regulatory Commission regulates, in the public interest, essential interstate aspects of four of the Nation's critical energy industries: electric power, natural gas, oil pipelines, and nonfederal hydroelectric power. The Commission ensures that the rates, terms and conditions of service for the electric power, natural gas, and oil industries are just and reasonable and not unduly discriminatory or preferential, and that licensing, administration, and safety actions for the hydropower industry and other approvals for all four industries are consistent with the public interest. Increasingly, many aspects of the Commission's mission are being met by reliance on developing competitive markets.

As a consequence of changes in the energy marketplace, the Commission is reconsidering the proper role of traditional command-and-control economic regulation. The evolving electric power and natural gas industries, encouraged to be competitive by the Congress and driven by economic and technological developments, are challenging long-held regulatory assumptions and practices. Moreover, heightened environmental concerns have resulted in greater participation by landowners and by other federal, state, and local interests in the Commission's proceedings involving the construction of energy projects. The Commission is committed to promoting competition where feasible, to provide the benefits of competitive commodity markets to consumers of electricity and natural gas.

The move toward competition, which began at the Commission in the mid-1980s, will reduce federal regulation over the commodity portion of energy transactions for natural gas and electricity. To support the transition to competition, a continued role for federal regulation of interstate electric transmission and gas transportation grids will be essential as regulatory agencies identify and address market flaws and dysfunctions and curb the exercise of market power. Competitive commodity markets for both electricity and natural gas will require adjustment to fit the changing conditions in basic energy industries that heretofore have been highly predictable, if not static. With competition comes risk and uncertainty, an arguably greater potential for anticompetitive activity, and a need for

Regulatory Responsibilities of the Commission

In the electric power industry:

- ▶ Transmission and sales for resale of electric energy in interstate commerce at just and reasonable rates;
- ▶ Certification of exempt wholesale generators and qualifying facilities; and
- ▶ Corporate transactions, mergers, and security issues of electric public utilities.

In the natural gas industry:

- ▶ Transportation and sales for resale of natural gas in interstate commerce at just and reasonable rates;
- ▶ Construction and operation of natural gas pipelines; and
- ▶ Oversight of related environmental matters.

In the oil pipelines industry:

- ▶ Transportation of crude oil and petroleum products by pipeline in interstate commerce.

In the hydroelectric industry:

- ▶ Licensing and inspection of nonfederal hydroelectric projects; and
- ▶ Oversight of related environmental matters.

industry and regulators alike to retool their operations. The Commission will continue to address these conditions.

In a regime of competitive commodity markets for natural gas and electric power, the Commission will need to harmonize its policies with those of states and other federal agencies. Electric markets are highly integrated, and distinctions between federal, regional, and state operations will become less relevant. Interagency consultation has always been of key significance with regard to the timely resolution of hydropower licensing cases. Moreover, the increasing convergence of energy markets, especially between gas and electricity, will require greater creativity in regulating gas transportation and electric transmission.

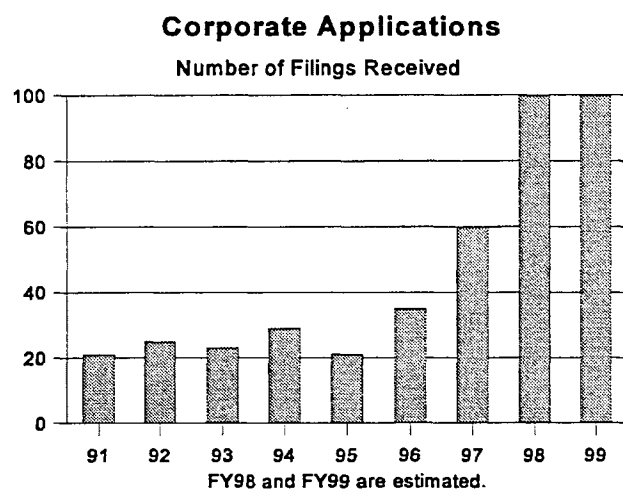
In sum, it will be necessary for the Commission to develop better internal and interagency procedures to meet the needs of the energy industry as it becomes more competitive. The Commission will allocate staff among its major responsibilities to respond to pressing new market needs as they develop. As the needs of regulated industries change, the Commission's approach must also change so that the real benefits of competition to consumers are not delayed. Electronic technologies, improved approaches to handle the problems of increasingly market-responsive energy industries, and prompt environmental reviews will help contribute to creating a form of regulation that responds to the marketplace in real time.

The Commission's Escalating Workload

Electric Power. To deal with the rapidly changing market for electricity, on April 24, 1996, the Commission issued two landmark rules that set in motion the mechanisms to allow wholesale markets for electric power to be open and competitive. Order No. 888 requires all public utilities that own, control, or operate transmission facilities to provide nondiscriminatory open-access transmission services. Order No. 888 also provides utilities the opportunity to seek full recovery of certain "stranded costs," which are those costs that were prudently incurred to serve wholesale customers. Order No. 889 requires nondiscriminatory access to information about transmission facilities, so that the transmission owner cannot use its facilities solely to benefit its own electric power sales.

Order Nos. 888 and 889 signaled an historic change in the way electric transmission services are provided in the Nation. Electric utilities regulated by the Commission can no longer use their control over transmission lines to block competitors who are capable of supplying lower cost power. The orders permit wholesale buyers and sellers of electricity to reach one another. This will result in lower prices and better services for consumers. The Commission anticipates that the restructuring of the electric power industry through these orders will result in significant savings to consumers (up to \$5 billion annually), as well as other benefits such as new products and technological innovations. By giving wholesale buyers and sellers of electricity nondiscriminatory access to transmission lines and information about the availability and price of transmission, the Commission removed a major

obstacle to competition. Open access to transmission is making it possible for electricity suppliers to compete for wholesale customers, who are now able to choose the lowest cost producer of power.



In response to the Commission's open-access rule and the restructuring initiatives of many state utility commissions, many electric utilities are opting to restructure themselves. For example, some electric utilities are merging with other electric utilities or with natural gas pipeline companies. This trend has been increasing in recent years. Also, to isolate unregulated activities from the regulated utility part of their companies, some electric utilities are choosing to reorganize under a holding company structure. The marketplace creates pressure to complete mergers and other corporate reorganizations quickly, and the Commission is committed to a prompt regulatory response. To help expedite

the merger review process, on December 18, 1996, the Commission issued a Merger Policy Statement. This statement revised the factors that will be considered in determining whether a proposed merger is consistent with the public interest, thereby providing merging utilities with more certainty regarding the Commission's review of proposed mergers.

The competitive market produces new kinds of power market entrants, including nontraditional power producers such as power marketers. Power marketers usually do not produce power themselves, but buy and sell power generated by others. While power marketers do not increase the amount of capacity available to meet the needs of consumers, they can increase market efficiency — by matching potential buyers and sellers — to the benefit of all consumers.

In Order No. 888, the Commission encouraged the development of independent system operators (ISOs) as a way to implement the Commission's functional unbundling policy for existing power pools. Properly functioning ISOs will serve the public interest by making the market for electric power more competitive. Similarly, regional transmission groups (RTGs) can provide coordinated regional planning of the transmission system and may also resolve many issues that would otherwise require Commission decisions. In addition, nearly every state is considering some form of retail competition. These initiatives will dramatically alter the structure of the electric industry.

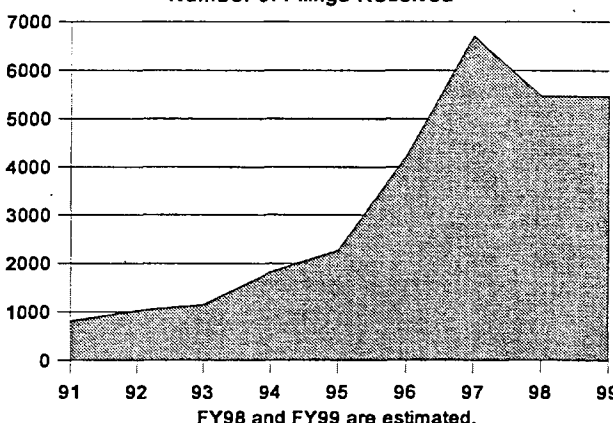
These changes in the electric power industry — open access transmission, mergers and restructuring, the creation of new transmission organizations, and state initiatives — have enormously increased electric workload in recent years. The Commission is experiencing an explosive increase in the number of electric filings as utilities respond to the new competitive era ushered in by the Energy Policy Act (EPAct) and Order Nos. 888 and 889. The Commission received a surge of post-Order

No. 888 filings in FY 1997, raising the number of receipts that year to about 6,700 and increasing the number of electric cases that remain outstanding at the Commission. The already strained staff now has these cases to address along with the continuing high level of filings, which should level off at about 5,500 annually. The Commission is making every effort both to address the new filings and to reduce the pending workload, which is expected to return to normal in FY 1999.

Not only has the number of cases increased significantly, but many filings now require much more staff time and effort than before. Current electric filings raise important and complex issues such as corporate combination or reconfiguration, power pooling arrangements, system reliability, and power systems planning. This staff-intensive nature of the workload also will continue through the foreseeable future, during the transition from cost-based regulation to a more market-oriented environment.

Electric Rate Filings

Number of Filings Received



The tremendous increase in workload attributable to the restructuring of the electric utility industry has not diminished the traditional workload, which includes regulating two basic categories of wholesale electricity sales transactions: requirements sales and coordination transactions. Requirements sales are long-term commitments by suppliers of power to meet all or part of the buyer's load. Coordination transactions include sales or exchanges of electricity between utilities for economic purposes and to enhance reliability. As wholesale buyers respond to competitive opportunities by diversifying sources of supply and signing shorter-term supply contracts, rate applications for both requirements sales and coordination transactions are increasing. The Commission also continues to certify qualifying facilities, make exempt wholesale generator determinations, approve interlocking directorate positions, audit the books of traditional electric utilities, authorize securities issuances, review the rates of the power marketing administrations, review electric utility automatic adjustment clauses, resolve complaints, and act on petitions for declaratory orders. The traditional business of the Commission will continue throughout the industry transition.

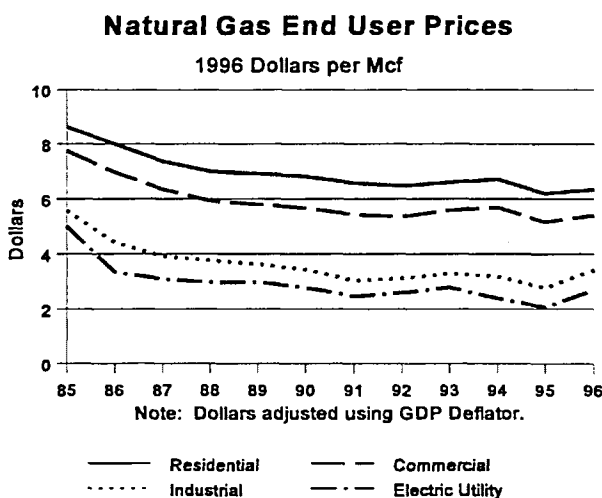
The Commission's role over the next few years is to lead the electric power industry through the revolutionary transition to greater competitiveness and fewer regulatory guarantees, which will also entail a change from one style of regulation based on accounting costs to one which relies on a flourishing competitive market to discipline wholesale generation prices. It is critical that the Commission ensure a fair and orderly transition from regulation to competition. The electric power industry, structured for most of its history as a set of local franchised monopolies, has significant concentrations of generation in the hands of one or a few local companies in many parts of the country. The Commission must monitor the industry and assess whether utilities can exercise

generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition.

In the long term, electric program workload may decrease from the high levels projected for the next several years. Open access, competition, and new institutions such as RTGs and ISOs ultimately should reduce the Commission's traditional electric workload. If applicants can demonstrate lack of market power, the Commission will rely less on cost-based regulation of electric power and more on market-based pricing. But, whatever the workload requirements may be five or more years into the future, it is clear that the Commission needs substantial resources to meet the challenge of fostering the development of a vibrant and fully competitive market for wholesale electricity.

Natural Gas Pipelines. The Commission issued a series of measures (Order Nos. 436, 500, and 636) that opened pipeline transportation to all on equal terms and that eventually resulted in the interstate pipelines relinquishing their traditional merchant function. By 1993, the Wellhead Decontrol Act fully deregulated prices for natural gas production. However, continued regulation of the interstate pipeline grid to ensure efficient, nondiscriminatory access to transportation services at just and reasonable rates is the indispensable underpinning for competitive gas commodity markets.

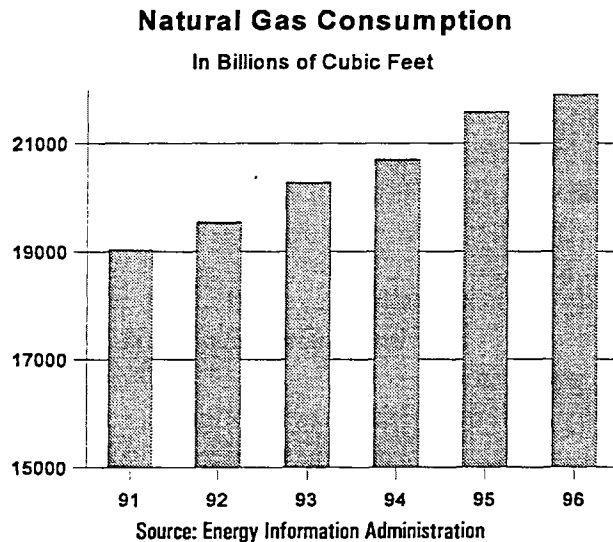
Natural gas open access has been a success. Today the gas market is growing, and customers have more flexible, more reliable services than ever before. Gas supply curtailment of firm pipeline customers is a thing of the past. Prices fluctuate with market conditions, but average prices for all customer classes are lower than they were ten years ago (adjusted for inflation). The competitive revolution in natural gas has also had beneficial environmental effects. Gas is increasingly seen as a reliable, affordable fuel in comparison with other fuels such as coal and oil that tend to have higher emissions affecting the environment, especially air quality. Gas consumption, especially for industrial and electric generation uses, has and will continue to increase.



Source: Energy Information Administration, *Monthly Energy Review*

To meet such increasing market opportunities, after completing restructuring and gaining operating experience in the restructured environment, the pipeline industry is aggressively developing new projects. Corporate announcements and pre-filing conferences with applicants indicate construction will increase in many regions of the U.S. Existing pipelines and new companies are planning

extensions and long lines into growing market areas. Pipelines will construct looping on existing systems to increase capacity for reliability and to meet market growth and the customers' need for alternative supply sources.



Growing demand in the New England, Mid-Atlantic, and Midwest regions of the country will continue to give rise to applications for major pipeline extensions and new pipelines to serve these regions. The Commission expects to receive applications for storage development to be used for peaking capability and supply flexibility, since customers will continue to be responsible for their own gas supply acquisition. The Commission also anticipates a significant number of applications for replacement facilities as a result of the aging of the national pipeline grid. Replacing aging facilities is necessary for safe pipeline operations.

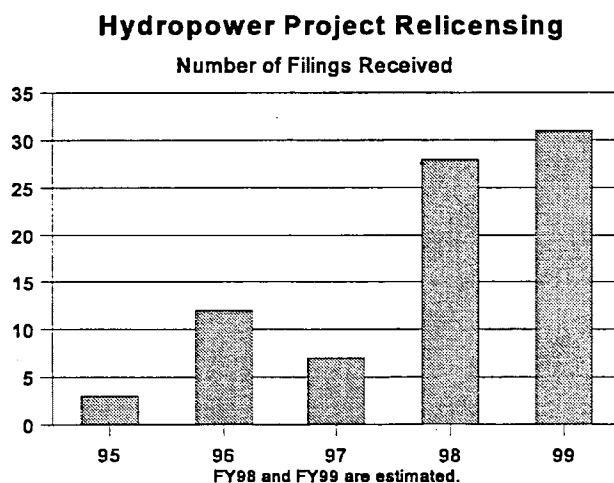
Not only have construction filings increased, but more significantly, the substance of these and other filings has changed. Very few filings are now straight-forward cases for which past Commission practice and precedent can guide the analysis. Instead, pipeline filings more often present innovative, complex proposals requiring decisions of first impression. New policies, for both advisory and litigation processes, will be necessary to deal with these proposals. Additionally, the complex and innovative nature of these filings attracts many protests and interventions, further complicating these proceedings.

As competition increases and new pipelines propose to serve markets currently served by existing pipelines, the benefits of alternative supplies of natural gas must be balanced with the environmental impact of a project and the potential for excess capacity that will be a drag on the market. Landowners increasingly question the right of pipelines to use eminent domain in cases where the need for the project is determined by the market, and are likely to contest many of these proposals. This will make the determination of the need for the projects and the environmental review of these projects increasingly complex and contentious.

The Commission will continue to protect those aspects of the natural gas and oil pipeline industries where competition as a regulatory mechanism is currently unworkable, to protect against the abuse of market power of pipelines. The staff will analyze filings and innovative ratemaking methodologies and ensure that where competition cannot work to regulate the market, services are maintained at adequate levels and fair prices. The Commission will also continue the important task of balancing and protecting the competing interests of companies, interested organizations, consumers, and resources affected by the application of eminent domain for new pipeline

construction. A competitive long-term market for firm transportation will assist the Commission in ensuring just and reasonable rates for consumers. The Commission will ensure fair competition and nondiscriminatory access to the national pipeline grid by addressing complaints and allegations of abuses on a timely basis.

New Group of Hydropower Relicenses. In FY 1998 and FY 1999, the Commission expects to receive relicense filings for 59 of the projects with licenses expiring between 2000 and 2010. In contrast to the group of licenses that expired in 1993, many of these are large capacity projects comprised of several developments. The capacity of the projects with licenses expiring between 2000 and 2010 is 11 times greater than the capacity of the 157 projects that expired in 1993. The 59 expected relicense applications are for projects located in 25 states. They include the 278-MW Lake Gaston Project in North Carolina and Virginia, the 225-MW Cabinet Gorge Project in Idaho, the 291-MW Fifteen Mile Falls Project in New Hampshire, and the 466-MW Noxon Rapids Project in Montana.



Although the Commission gained valuable experience in dealing with issues raised in the 157 relicenses for licenses that expired in 1993, it will still have to evaluate and balance many design, operational, and environmental resource issues. Traditionally, environmental issues have been resolved only after the relicense application was filed.

In October 1997, the Commission issued Order No. 596 that allows licensees and potential applicants to pursue alternative licensing and relicensing procedures. This improved regulatory approach provides for increasing agency and public involvement in Commission

processes and setting up more collaborative processes before and after applications are filed. The Commission will continue to interact with the public regarding the relicensing process, but will emphasize the advantages of the alternative procedures available under Order No. 596, in outreach meetings and seminars.

An example of pre-filing initiatives related to relicensing is the basin-wide cumulative impact assessment for the Snake River basin, that will begin in FY 1998 and continue in FY 1999. It will focus on a 360-mile-long reach of the Snake River. By 2008, eight relicense applications will be filed for projects located in the basin. There are many competing uses and demands for limited water resources in the basin. Considering cumulative effects will be complex because of the significant cumulative impacts that occurred in the past from hydropower development and other actions, the potential for significant and expensive changes to the relicense applicants' projects, and the intense

interest of state and federal agencies, Native Americans, nongovernmental organizations, and the public. The cumulative analysis will focus on such issues as restoring endangered salmon species, determining flow releases for fish and wildlife resources and improving water quality, and identifying recreational and land use opportunities. These issues are significant, both regionally and nationally. In FY 1999, analyses will include extensive flow and water quality modeling and geographical information system mapping and analysis.

Mandatory Data Collection and Publication. An increasingly competitive marketplace requires complete, accurate, and timely information. The Commission continues to work with the industry to supplement and, in many cases, eventually replace paper filings with electronic filings and data collection. Filings made electronically currently are posted on the Commission's electronic bulletin boards (EBBs), enabling the industry and public quick and easy access. Electric utilities make certain transmission systems information available on the Open-Access Same-Time Information System (OASIS), the electronic system for sharing transmission capacity information that was required by Order No. 889. This information provides stockholders with the capability to monitor pipelines' and utilities' activities and allows the filing of complaints, when warranted. The natural gas industry, pursuant to the requirements of Order No. 587, et seq., now posts considerable information regarding its systems on the World Wide Web as well as on EBBs, thus enhancing the availability of information to customers, regulators, and the consuming public. The move to electronic filings will also decrease the burden on the industry.

Timely reporting of information is critical to monitoring the industry to ensure that monopoly power is constrained, that practices are not unduly discriminatory, and that adequate and appropriate services are provided. Even if market-based solutions reduce the number of filings, the Commission still has a statutory mandate to monitor markets to ensure that rates are just and reasonable, and that services are offered in a nondiscriminatory manner.

Conclusion

The Commission is actively promoting competition where possible, boosting the progress achieved in the natural gas industry, encouraging new marketplace entrants, advancing utility restructuring initiatives, supporting the formation of regional transmission groups and independent system operators, and allowing market-based rates where feasible, among other actions. Fostering competitive forces where competition is feasible and refining pipeline and marketing practices to address market flaws and promote market transparency offers the best protection of the public interest. The Commission will develop regulatory systems based on Commission monitoring and customer complaints that can respond to the increased pace of the market without unduly burdening market participants.

The competitive future of the electric power industry primarily involves the generation sector. It must be supported by open transmission and distribution sectors which will remain natural

monopolies subject to more traditional forms of regulation. Managing the transition to competition is the most important task facing the Commission and will consume significant resources over the next few years. Changes in the electric power industry have significantly increased the Commission's workload. Electric filings in FY 1999 are expected to be nearly three times the volume of FY 1995, and the complexity of issues involved requires much more staff time and effort than before.

The Commission's main challenge in its natural gas program is to continue its regulation of transportation in ways that maintain existing competitive markets, including resolution of a second generation of competitive market issues, removing remaining market impediments, and lowering the cost of transactions. With the completion of restructuring, new market potential is expanding due to demand and customers' desire for supply alternatives. As a result, construction filings are on the rise, and rate filings are presenting new issues requiring innovative solutions.

In its hydropower program, the Commission is anticipating the influx of a new group of relicense applications, for projects with far larger capacities than those the Commission relicensed in the past few years.

These challenges require the Commission to maintain the level of 1,377 FTEs in FY 1999, with funding authority of \$168,898,000.

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ELECTRIC POWER

OVERVIEW

The electric industry is in the early stages of a restructuring that will bring the advantages of competition to the generation and sale of electricity. The generation sector has historically accounted for about 70 percent of the costs of the industry. Competition promises to bring significant savings to customers throughout the nation, thereby benefitting individuals and making American industry more competitive in world markets. Managing the transition to competition is the most important task facing the Commission.

The electric industry has evolved substantially since enactment of the Federal Power Act of 1935 (FPA), and the form of the Commission's regulation has changed with it. The Commission's basic mission is still to protect the public by ensuring that the activities of public utilities subject to its jurisdiction adequately protect electricity consumers, while providing investors an opportunity to earn a fair return on their investment. However, the means for achieving this mission has changed dramatically in recent years. The economies of scale that made electric power generation a natural monopoly have been almost completely exhausted, so that the public is now far better protected by a system of robust competition in generation rather than traditional regulation. At the same time, transmission and distribution remain natural monopolies. Left unregulated, companies could leverage their ownership of transmission and distribution facilities into a position of market power over generation as well.

The nation is experiencing the most sweeping transformation in the electric industry since the passage of the FPA.

Access to the transmission grid is the key to making competition work for wholesale electric markets.

Since the passage of the Energy Policy Act of 1992 (EPAct), the Commission has aggressively pursued policies designed to foster competition in wholesale power markets. EPAct strengthened the Commission's authority to order transmission access for wholesale transactions upon request, thereby opening the markets to competitive generation. And in 1996, the Commission built upon EPAct by issuing Order No. 888, which requires all public utilities that own, operate, or control interstate transmission facilities to offer open access to all wholesale market participants.

Long-Term Goals Extending Beyond FY 1999

The long-term goals of the electric power program will fulfill the Commission's mission in the following manner.

Foster the Growth of Efficient, Competitive Commodity Markets. The Commission will continue to regulate interstate transmission to support competitive generation. Because transmission

is critical to generation suppliers who need access to customers, the Commission must ensure that efficient, reliable, nondiscriminatory transmission access is available for all electric suppliers and customers. This is the underpinning of future competition in generation.

The Commission expects that this competitive market will offer consumers more new products and many new suppliers. And, as the electric industry completes this transition to competition, wholesale electricity prices should become more responsive to market conditions by reflecting changing supply and demand conditions more quickly. Wholesale electricity price differences within each trading region should narrow as competitive markets evolve.

The Commission will:

- ▶ Foster the growth of efficient, competitive commodity markets.
- ▶ Protect customers from abuse of market power.

Protect Customers from Abuse of Market Power. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, there are significant concentrations of generation in the hands of one or a few local companies in many parts of the country. The Commission must monitor and assess whether utilities can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition. Market participants must have confidence that electric markets are working fairly and that they will not be subject to this kind of abuse.

FY 1997 and First Quarter FY 1998 Achievements

The Commission's electric power program attained several major achievements in FY 1997 and in the first quarter of FY 1998.

Implementation of Order Nos. 888 and 889. The Commission's major achievement of FY 1997 was the full implementation of the open access and comparability provisions of Order Nos. 888 and 889. These orders signaled an historic change in the way transmission services are provided in the nation. The Commission anticipates that the restructuring of the electric industry will save consumers up to \$5 billion annually. Issuing these rules involved major staff efforts to address pro forma transmission tariff design, ancillary services policy, power pooling policy, and electronic information networks.

Approval of the California Restructuring Initiative. Last year, in response to a state-mandated retail access initiative in California, the three investor-owned electric utilities in that state (Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company) made a series of filings to comprehensively restructure the way companies buy and sell electricity in California. These filings involved: (1) the proposed jurisdictional split between transmission and local distribution facilities; (2) the governance structures of both the independent

system operator (ISO) and the power exchange (PX); (3) the appropriateness of market-based rates for the proposed power exchange; (4) methods for mitigating market power; and (5) new pricing methods for transmission. During FY 1997, the Commission held a series of technical conferences to explore the unprecedented issues raised by the restructuring proposal. In October 1997, the Commission gave interim authorization for the ISO and PX to begin operation on January 1, 1998. However, the participants have delayed the implementation until March 31, 1998. Many additional filings associated with the California restructuring were acted on prior to the intended operation date, including various aspects that were set for hearing. This effort consumed an enormous amount of Commission resources and, combined with other state restructuring efforts that have been and will be brought before the Commission, will continue to do so.

Issuance of Orders on Rehearing (Order Nos. 888-A, 888-B, 889-A, and 889-B). Nearly 400 requests for rehearing were filed in response to Order Nos. 888 and 889. If these requests remained outstanding, the industry would be uncertain about the Commission's resolve to implement open-access transmission. Therefore, for the industry to continue with its restructuring efforts, it was critical that the Commission promptly address the issues that were raised on rehearing. Accordingly, on February 26, 1997, the Commission issued Order Nos. 888-A and 889-A. These orders addressed numerous issues raised by parties on rehearing and adjusted and clarified several concepts to ease implementation of open access. In November 1997, the Commission issued Order Nos. 888-B and 889-B. In Order No. 888-B, the Commission clarified its position on the recovery of stranded costs in the case of municipalizations and municipal annexations, where customers previously served by a public utility become customers of a municipal utility instead. Order No. 889-B denied all rehearing requests related to the Open-Access Same-Time Information System (OASIS).

Issuance of Merger Policy Statement. On December 18, 1996, the Commission issued its Merger Policy Statement. This document revised the factors the Commission considers in determining whether a proposed merger is consistent with the public interest. The new Merger Policy Statement provides the industry with guidance for preparing merger applications and will allow the Commission to respond more promptly to the numerous requests for merger approval that are currently being filed. In the policy statement, the Commission announced that it would focus on ratepayer protection mechanisms as a way to avoid conducting an evidentiary hearing on the effect of a proposed merger on wholesale costs and rates. Using the Department of Justice/Federal Trade Commission Merger Guidelines, the Commission will quickly and clearly identify mergers that may result in an increase in market power. The policy statement established criteria the Commission would use to evaluate and to screen for competitive problems in new merger applications. The Commission also committed to processing merger proposals within 12 to 15 months of filing. Since the issuance of the Merger Policy Statement, applications for merger approval have been more focused and have provided the data needed to more quickly determine whether a proposed merger must be set for hearing.

FY 1998 AND FY 1999 PROGRAM ISSUES

As the electric industry responds to increasing competition, the Commission has experienced unprecedented growth in electric workload. Moreover, these high levels are likely to continue until the restructuring efforts are complete.

Efforts to refocus electric regulation in response to competition will promote greater consumer benefits and a stronger electric industry. The focus is shifting from setting cost-based rates for wholesale power suppliers to allowing market forces to set prices wherever possible. However, to ensure workable competition in wholesale power markets, the Commission must ensure open, nondiscriminatory access to transmission facilities, and must monitor the market to detect any instances of market abuse or failure.

Order Nos. 888 and 889 were the groundwork to ensure that increased competition will provide tangible benefits to consumers and a reliable and financially healthy electric utility industry.

Even with the issuance of the orders on rehearing of Order Nos. 888 and 889, much remains to be done. FY 1998 and FY 1999 will require continued high resource levels to further the transition to a competitive industry. Overall workload will continue at a high level into the foreseeable future. It is important for the Commission to have the resources to process this workload in a timely manner and to ensure that the competitive momentum of Order Nos. 888 and 889 is not jeopardized.

Restructuring Initiatives

Comparability and Open Access Transmission. In the open access final rule, Order No. 888, the Commission issued a pro forma transmission tariff describing the minimum terms and conditions required to provide nondiscriminatory open access transmission service. All public utilities that own, control, or operate interstate transmission facilities must offer service to others under the terms of the pro forma tariff, and they must also use the tariff for their own wholesale energy sales. Order No. 888 required all transmission-owning public utilities to submit compliance filings to the Commission and begin providing service under open access tariffs as of July 9, 1996, or to seek a waiver. Over 150 such tariffs were submitted, along with numerous requests for waiver of the provisions of Order No. 888. Order No. 888 also required compliance filings by power pools, holding companies, and parties to bilateral coordination agreements. These filings were submitted in December 1996. Also, in Order No. 888-A, the Commission refined the pro forma tariffs and required that each transmission-owning utility amend its tariff to reflect the prescribed changes by July 1997. Over 150 such compliance filings were received. The Commission has generically addressed many controversial and complex issues raised in these filings. However, many additional complex rate issues continue in various stages of hearing or summary resolution and will require extensive analysis as they are processed during FY 1998 and FY 1999.

The Commission has also begun its review of the standards of conduct and OASIS filings required by Order No. 889. These standards of conduct and the information networks — also required by Order No. 889 — are necessary to ensure that transmission owners and operators do not unfairly favor their own generation over competitors' generation, thereby interfering with competitive markets. Although the OASIS provision requires a continuing enforcement effort by the Commission to handle complaints about system operations, this investment is necessary to ensure a truly open access transmission system. Review of the standards of conduct and OASIS filings will consume considerable Commission resources in FY 1998 and FY 1999.

Stranded Costs. Some utility investment could go unrecovered if departing customers use their former suppliers' transmission systems to secure power elsewhere; these unrecovered investments are termed stranded costs. The opportunity to recover legitimate, prudent, and verifiable stranded

The level of stranded costs, including retail stranded costs, could range as high as \$200 billion.

costs is essential to ensure a fair and orderly transition to a market-oriented electricity industry. Utilities that made large capital investments or contractual commitments in the past under a different regulatory regime with the expectation of serving customers into the future, should have a fair opportunity to recover those costs if those customers leave under the new, competitive

regime. The electric program will require additional resources over the next several years to implement the stranded cost provisions of Order No. 888. The Commission expects that many utilities will seek recovery of stranded costs under the new regulations of Order No. 888. Many of these requests will be contested and will require litigation to resolve complex, factual issues related to the recovery of transition costs. The Commission has received about a dozen stranded cost filings to date, but expects to see a significant increase in the number of cases as utilities seek stranded cost recovery.

Regional Transmission Groups (RTGs) and ISOs. The Commission supports the creation of RTGs and ISOs to help implement industry reform. Both RTGs and ISOs are in their infancy, and the Commission has had a chance to review and approve only a handful of proposals. When fully implemented, the Commission believes that RTGs can resolve many issues that would otherwise consume the Commission's resources.

RTGs are groups of transmission-owning utilities and transmission-using utilities (who use the transmission of others to effect their wholesale power transactions) who jointly plan for future upgrades and address transmission issues on a regional basis.

ISOs are new institutions being explored because of their potential to remedy undue discrimination and to consider regional approaches to transmission pricing. The concept underlying ISOs is that the existing owners of transmission facilities would turn over operational control, but not ownership, of these facilities to a new independent entity. To avoid the potential conflict that may arise from possible preferential use of their own transmission systems, the ISOs will operate the transmission systems in conjunction with those of neighboring utilities. The ISO concept represents a major evolution in industry structure and is a central element in many state and regional restructuring initiatives. It remains

unclear at this time whether ISOs represent a final development or a stage in market evolution to transmission-only companies. In Order No. 888, the Commission nevertheless provided guidance to the industry on how to structure ISOs to make them work in a nondiscriminatory manner. There are several ISOs under development, each covering a large region of the country. The Commission is committed to ensuring that ISOs are truly independent and can operate the transmission system in a reliable, open, and nondiscriminatory manner. The Commission effort needed to address issues relating to ISOs will be significant.

RTGs and ISOs may play a significant role in providing important market safeguards for competition, enhancing reliable operation of the transmission system, and supporting the transition to competitive power markets. RTGs and ISOs have the potential to provide substantial benefits to the public and the Commission by decreasing the delays in the regulatory process, relieving regulatory burdens, and providing a forum for consensual agreements within new regional institutions. They can channel the expertise of the electric industry toward resolving technical issues relating to transmission system operations and toward planning the transmission system to meet the needs of all parties.

In the long run, RTGs and ISOs should reduce litigation before this Commission. However, the creation of new regional transmission entities under new forms of ownership or control requires the resolution of many technical and legal issues to assure that the reliability of the system is maintained and statutory requirements are met. For now, RTGs and ISOs will require a significant investment of Commission time and resources.

Utility Restructuring. The open-access rule and the restructuring activities by many state commissions responding to the changes in electric markets will encourage many utilities to restructure. Moreover, Congress is considering several legislative proposals, such as the reform or repeal of PUHCA, that could affect utility corporate structure.

The pace of corporate restructuring is expected to accelerate.

Electric utilities may choose to reorganize their corporate structures for a variety of reasons, including to form strategic alliances with other utilities, to diversify, or pursuant to state access programs. Such restructuring often involves a disposition of transmission facilities under the FPA which requires the Commission's authorization. In addition, the Commission is receiving a number of proposals for "convergence mergers" — that is, electric utilities being merged with natural gas distributors and pipelines. When convergence mergers require Commission approval, they raise many new and difficult market power issues.

The transformation to competitive markets may cause utilities to create separate transmission, generation, and distribution entities to replace the existing vertically integrated corporate structure. Reorganizations along functional business lines may include further consolidations in each

functional area with new regional organizations. The mergers and asset dispositions necessary to create most of these new corporate structures will also need Commission authorization.

Merger applications are often contested and extremely complex. For example, competitors who view proposed business combinations as imposing greater barriers to market entry or eroding their relative market share may vigorously oppose mergers and acquisitions. As compared to FY 1995, the number of corporate applications, including mergers, tripled in FY 1997 and is expected to increase five times in FY 1999; this increase, combined with the complexity of these cases, including cases set for investigation, has created a significant workload burden on the Commission.

However, the Commission recognizes that merger proposals are business decisions made in response to market pressures and opportunities and are thus entitled to timely decisions and regulatory certainty. Accordingly, the Commission issued the Merger Policy Statement. As a follow up, the Commission intends to initiate a rulemaking in FY 1998 to further clarify filing requirements for corporate applications. While this general proceeding will consume considerable staff resources in the short term, it will save time and resources in the long run for the Commission and its regulated entities.

State Restructuring Initiatives. State restructuring efforts will continue to move the industry toward competition and customer choice of power suppliers. Nearly all of the states are actively involved in investigating whether and how to restructure their retail electric power markets to provide transmission directly to consumers (i.e., retail access). The Commission usually receives filings to implement state programs because they involve transmission by public utilities in interstate commerce, over which the Commission has exclusive jurisdiction. Some restructuring proposals, such as California's, require a large commitment of Commission time and staff resources because of the new institutional structures they envision. For example, where a PX — a market-making institution that receives power from various sellers and provides the power to various buyers — is proposed, the Commission must review the proposal to ensure that wholesale power sellers that are public utilities cannot exercise market power. Where divestiture of transmission assets is proposed, or when disposition of control to an ISO is proposed, the Commission also must approve the disposition of transmission assets. Some of these proposals may involve innovative transmission pricing proposals. The Commission may have to adjust its policies and procedures to accommodate the characteristics of these new institutional structures.

Electric Rates

Market-Based Rates. Under the traditional cost-of-service type of ratemaking, rate proceedings are often contentious and, therefore, require enormous amounts of time and resources to resolve. Rates must continue to have a cost basis and meet traditional revenue requirements even in a more competitive environment. Such rates are in the public interest only where the Commission can ensure that no market power problems exist. Where market-based rates are approved, sellers are free

to adapt quickly to competitive conditions, and customers are more likely to receive the lowest-cost power.

New entrants into wholesale electric markets include nontraditional sellers, such as independent power producers and power marketers. They are often permitted market-based rates because they lack market power in generation and transmission. The Commission may conclude there is a lack of market power where neither the new entrants nor their affiliates own transmission facilities or control significant amounts of generation. The Commission also allows some traditional public utilities and their affiliates to sell at market-based rates if they also can demonstrate lack of market power in generation and transmission. However, because they can present an array of market power, self-dealing, and affiliate abuse issues, traditional public utilities, in this situation, require extra attention. The Commission sets specific conditions, called codes of conduct, to prevent such abuse.

As the industry changes to a more competitive market, the Commission is shifting from its reliance on traditional cost-based regulation. However, it must still ensure that market power is not abused.

Order No. 888 established a presumption that there is no generation dominance for sales from new generating capacity, but allows interveners to raise generation dominance issues related to new capacity in the context of a specific application. The Commission also decided that, for public utilities to obtain market-based rates for existing generation, it would continue to require applicants to show, on a case-by-case basis, that there is no generation dominance associated with existing capacity. The Commission further noted that it would continue to look at whether an applicant and its affiliates could erect other barriers to entry and whether there could be problems due to affiliate abuse or reciprocal dealing.

The Commission has authorized nearly 400 power marketers to charge market-based rates.

Power marketers who meet these criteria also may charge market-based rates. Power marketers usually do not produce power themselves, but buy and sell power produced by others. While they do not increase the amount of capacity available to meet the needs of consumers, they can contribute to increased market efficiency to the benefit of ultimate consumers. Power marketers

increase the Commission's workload because it must authorize their market-based rate schedules and monitor their actions in the marketplace. The Commission has authorized nearly 400 power marketers to charge market-based rates, and the number is still increasing. The number of applications by power marketers for market-based rate authority is expected to grow over the next few years.

The Transmission Pricing Policy Statement. To serve the long-term purposes of increased competition, reliability, efficiency, and equity, the Commission in FY 1995 issued a transmission pricing policy statement permitting public utilities to propose a wide range of nontraditional pricing proposals. These include distance-sensitive pricing, flow-based pricing, and other innovative concepts. For example, in March 1997 the Commission approved the General Agreement on Parallel

Paths, a two-year experiment that prices electricity according to how it actually flows, rather than the route described in the customer's contract. The number of nontraditional pricing proposals that raise new, complex, and resource-intensive technical, economic, and legal issues is expected to grow in FY 1998 and FY 1999.

Power Marketing Administrations (PMAs). The Commission reviews the rates for the five federal PMAs. One of them, the Alaska Power Administration, is in the process of being sold. The approximately 130 federal hydroelectric projects comprise 23 reporting units, some of which make multiple applications with the Commission for rate review. These reporting units may submit rate filings with the Commission as frequently as every year, but not less than once every 5 years. The frequency of such applications depends on the economics of marketing the surplus federal power and transmission services. The number of applications will remain level through FY 1999, but the complexity of the applications will increase as the PMAs respond to the new competitive environment. In addition to rate reviews, PMAs are subject to the reciprocity provisions of Order No. 888; the Commission has recently approved Bonneville Power Administration's reciprocity filing.

Affiliates of Canadian Electric Utilities. In FY 1997, the Commission acted on several cases involving an affiliate of a Canadian utility where the affiliate wants to sell power in the United States at market-based rates. Applying the same requirements to such an affiliate as to an affiliate of a United States utility, the Commission approves market-based rates if, among other things, the Canadian utility has an appropriate open-access transmission tariff in effect. Market-based rates have been approved for the power marketing affiliates of utilities in Alberta, British Columbia, and Quebec.

Accounting and Auditing

Reporting of Accounting, Financial, and Industry Data. An essential element of FPA regulation is to have reliable financial accounting information based on sound accounting principles. The Commission develops standardized accounting rules that the electric industry must uniformly follow. These rules, contained in the Commission's Uniform Systems of Accounts, are generally consistent with the accounting standards that must be followed by all commercial enterprises. In addition, the Commission develops accounting guidelines for the industry, implementing generalized changes in accepted accounting principles, such as those issued by the Financial Accounting Standards Board.

Monitoring and Analysis of Industry Accounting, Finance and Operations. The critical task of promoting and managing the introduction of competition into the regulatory framework requires the Commission to monitor and analyze industry accounting, finance, and operating data.

This effort will help insure a fairly based competitive environment in which undue market power does not override the benefits of competition, and no one is afforded improper preferential treatment.

The Commission, through its monitoring activities, collects and analyzes data for use in making decisions. The monitoring activities focus on areas affecting competition such as: preferential treatment of affiliates; cross-subsidization and cost shifting between customers and affiliates; fair access to information; transmission access and pricing; market power; and stranded costs. The Commission also investigates complaints about unfair activities and noncompliance with its regulations.

In addition, the Commission continues to audit the financial and related information reported by jurisdictional entities to ensure the integrity of the accounting data and compliance with the Commission's Uniform System of Accounts and related regulations. The audits include reviews of billings under automatic adjustment clauses and formula rates. The Commission normally requires companies to make refunds to wholesale customers when audits disclose improper billings under such rate mechanisms.

Other Issues

Power Pools. Power pool agreements are multi-utility agreements that often include sharing of generating capacity reserves. They sometimes provide a central means of economic dispatch, trading, and transmission of electric power. Power pools require complex agreements that provide for coordinated operation to lower costs for pool members. The changes occurring in the industry, including nondiscriminatory open-access transmission, require changes to existing pooling agreements. For example, pooling agreements must ensure nondiscriminatory membership criteria and the modification or termination of unduly preferential transmission agreements. The Commission directed that revised pooling agreements, as well as joint pool-wide transmission tariffs, be filed by December 31, 1996, to comply with the provisions of Order No. 888. These compliance filings have raised numerous issues which will need to be resolved on a case-by-case basis during FY 1998 and FY 1999.

Transmission Service Requests Under FPA Section 211. Congress modified Section 211 of the FPA through the EPAct to expand the Commission's authority to compel transmitting utilities (which include nonpublic utilities under the FPA) to provide transmission service. Reliance on Section 211 to obtain transmission services from jurisdictional public utilities should decline, since open-access transmission tariffs of general applicability are now on file with the Commission. Nonetheless, Section 211 will continue to provide a necessary mechanism for customers who have specialized transmission service needs or who require transmission service from nonpublic utilities that do not have nondiscriminatory open access tariffs. For example, in November 1997 the Commission ordered the Tennessee Valley Authority (a nonregulated entity) to provide transmission service to the City of Bristol, Virginia, so that the City can purchase power from an alternate supplier, Cinergy Services, Inc.

Exempt Wholesale Generators (EWGs). The EPAct directs the Commission to determine, upon application, the EWG status of certain electric power producers. EWG status exempts the facility's owners from the requirements of PUHCA. EWGs will provide a significant percentage of new domestic generation requirements. Although the Commission's role in acting on EWG certification applications is largely ministerial, most EWGs located in the United States are also public utilities, and must file their wholesale power rates with the Commission. The number of rate filings and other applications by EWGs will increase as projects currently under construction begin to operate.

Qualifying Facilities and Public Utility Regulatory Policies Act (PURPA) Issues. PURPA authorizes the Commission to certify small power production and cogeneration facilities as qualifying facilities (QFs) and, in certain cases, to exempt them from some Federal and state regulations. PURPA regulations require electric utilities to buy electricity from QFs at a rate that does not exceed the utility's cost of producing the electricity itself or acquiring it elsewhere (i.e., the "avoided cost").

The emphasis of the Commission's workload under PURPA has shifted from routine certification of generating facilities to issues related to enforcement.

Current PURPA issues include: (1) requests by purchasing utilities to be relieved of obligations under QF contracts that have allegedly become uneconomic, and (2) challenges to QF status by purchasing electric utilities in an effort to invalidate contracts with the QFs. In July 1996, the Commission issued a general policy announcing how it will treat QFs that are temporarily not in compliance with the Commission's regulations and cannot otherwise justify a waiver. This policy will result in the continued filing of complaints involving allegations of QF noncompliance. Other PURPA-related workload will also continue at the current level over the next several years.

Interlocking Directorates. To prevent adverse effects on the public interest through self-dealing and other abuses, the FPA restricts the activities of public utility officers and directors. Careful review from the Commission on interlocking positions is ever more critical as public utilities diversify. Moreover, formation of ISOs, which may have directors who are officials of public utilities, will raise new issues regarding interlocking directorates.

Public Utility Holding Company Act (PUHCA) or PURPA Reform. Further changes in the electric industry, including possible Congressional action on PUHCA and PURPA, and potential industry restructuring, may call for new generic inquiries in the next few years. Any shift of PUHCA responsibilities from the Securities and Exchange Commission to this Commission must be accompanied by an increase in resources to accomplish any transferred or new statutory requirements. However, because of the uncertainty of these potential responsibilities, the Commission is requesting no additional resources in this budget to address possible PUHCA and PURPA reforms.

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NATURAL GAS AND OIL PIPELINES PROGRAM

OVERVIEW

As a result of Order Nos. 436 and 636, the Commission has guided the natural gas industry through two major transitions during the last fifteen years. The Commission first encouraged pipelines to voluntarily allow market access to pipeline capacity through the open access regulations. It then completed the open access transition, ending pipeline bundled merchant services and installing stand-alone transportation services.

The past decade has seen a number of competitive advancements, including:

- introduction of competition to the sale of natural gas;
- transfer to the states of oversight responsibility for most gathering facilities;
- establishing a presumption of non-jurisdiction on gas pipelines in deep water on the Outer Continental Shelf;
- implementation of market-based rates in circumstances where competition is sufficient to restrain market power;
- a streamlined approach to oil pipeline regulation; and
- the vigorous resurgence of natural gas industry capital-intensive expansion activity.

These events highlight the Commission's efforts to rely on competition, whenever possible, in lieu of historical regulatory initiatives and actions. The Commission continues to play a critical role in the evolution of a competitive natural gas market, ensuring the continued success of open access under Order No. 636, encouraging efficient pipeline construction, encouraging competition in more transportation services, and helping the industry solve numerous problems as they develop.

The oil industry, as well, will continue to respond to the changes in the U.S. energy market. The Commission continues to implement and refine its streamlined regulations promulgated under Order No. 561. This includes permitting novel approaches under the Commission's rate and tariff regulations that will encourage the development and financing of prudent new oil pipeline projects.

In FY 1999, the Commission will seek to develop alternative regulatory methods that encourage further competition by continually examining its regulations and revising them to foster the mixed competitive-regulated market. The Commission will monitor developments in the natural gas and

oil pipeline industries to evaluate reliance on competition for the protection of consumers, to promote a healthy industry, and to determine where the use of competition can be expanded.

Competition will not completely replace traditional ratemaking in all situations.

Simultaneously, the Commission will continue to protect and oversee those aspects of the natural gas and oil pipeline industries where competition, as a regulator of market behaviors, is currently unworkable as a means of protecting against the abuse of market power of pipelines. It will also continue the important task of balancing and protecting the competing interests of companies, individuals, organizations, and resources affected by the application of eminent domain for new and replacement construction of the natural gas pipeline infrastructure. In the long-term market for firm transportation, the Commission will ensure just and reasonable rates for consumers and will address complaints and allegations of abuses in an expedited manner in order to ensure nondiscriminatory access to the national pipeline grid.

The Commission expects to process more proposals to construct new pipelines or expand existing facilities to serve growing markets or to compete in existing markets. New market potential is expanding due to demand and customers' desire for supply alternatives. As competition increases, competing pipelines and landowners who question the need for the new projects are likely to contest many of these proposals. This will make the determination of the need for the projects and the environmental review of these projects increasingly complex and contentious.

Long-Term Goals Beyond FY 1999

The long-term goals of the natural gas and oil program support the Commission's mission. The Commission acts in the public interest to protect customers by promoting competition where possible and regulating services subject to market power where competition does not adequately exist. The Commission also acts to safeguard the environment and ensure reliability and safety.

Ensure that Pipeline Transportation Service Supports Efficient, Competitive Commodity Markets. Natural gas commodity markets can be made to work better by continuing to improve standardization among pipeline systems for both information and business practices so that gas can be moved more efficiently. Ensuring fair and effective short-term markets assures that the parties obtain the capacity and gas they have purchased and ensures system reliability. Removing barriers to efficient secondary transportation markets is an additional method for improving commodity markets.

The Commission will:

- ▶ Ensure that pipeline transportation service supports efficient, competitive commodity markets.
- ▶ Protect customers from excessive transportation rates and service discrimination.
- ▶ Ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation systems.
- ▶ Ensure fair access to the oil pipeline systems for all customers under just and reasonable rates, terms, and conditions.

As competitive markets mature, customers will have more new transportation service products and a reasonable range of suppliers from which to choose. Natural gas prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly. Natural gas prices within each region will converge, except to the extent there are demonstrable transportation constraints, and it will be less costly, administratively, to transact business on the interstate transportation grid.

Protect Customers From Excessive Transportation Rates and Service Discrimination. As pipelines are permitted to implement more nontraditional forms of pricing and service, the Commission will monitor the industry to ensure the pipelines are not being preferential or unduly discriminatory, charging unjust and unreasonable rates, or providing services that are inadequate or undesirable. The Commission will develop regulatory systems based on Commission monitoring and customer complaints that can respond to the increased pace of the market without unduly burdening market participants. The Commission will ensure that both buyers and sellers have access to competitively priced commodity markets in the national gas transportation grid and that gas pipeline rates are just and reasonable, fairly balancing the competing interests of the pipelines and their customers.

Ensure That Adequate Capacity and Reliable, Flexible Service Is Available in the Interstate Natural Gas Transportation System. Construction of new and replacement facilities is necessary for many pipelines to ensure system reliability. The Commission will encourage efficient gas pipeline construction. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the geographic mixes of production and consumption. New facilities can provide individual customers with increased reliability of service by providing them with multiple supply and delivery options. The Commission's certification program will allow new pipeline capacity to be available to serve the market when needed. Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

Ensure Fair Access to the Oil Pipeline Systems for All Customers under Just and Reasonable Rates, Terms, and Conditions. The Commission will continue to ensure fair access to the oil pipeline systems for all customers under fair terms and conditions at reasonable rates. In some cases, this can be done through allowing market-based rates where markets are competitive. In others, the Commission needs to continue regulation, while remaining flexible, for the pricing of services for new oil pipeline construction.

FY 1997 and First Quarter FY 1998 Achievements

In addition to processing its traditional statutory work, the Commission undertook the following significant projects.

Standardization of Industry Business Practices. With the encouragement of the Commission, the Gas Industry Standards Board (GISB) has adopted more than 150 business practice standards, including standards relating to electronic communication over the Internet, aimed at simplifying the process of transacting business across the interstate natural gas pipeline grid. To implement the standards, each natural gas pipeline was required to make a tariff filing with the Commission. The Commission reviewed the filings and any comments, requiring revisions as appropriate. The majority of filings required at least one compliance filing in order to effect implementation. In total, over 500 GISB implementation filings were processed. In the beginning of FY 1998, the Commission issued a notice of proposed rulemaking and policy statement to adopt additional GISB standards, to further simplify business processes, and to provide policy guidance for continued standardization.

Revision to Commission's Import/Export Regulations. The Commission updated part 153 of its regulations, governing the filing of applications under Section 3 of the Natural Gas Act. Those regulations cover the siting, construction, and operation of facilities for the import or export of natural gas and the issuance and amendment of Presidential Permits for the construction and operation of border facilities. The revisions coincided with proposals for substantial new construction to bring more Canadian gas into the U.S., following a dramatic increase in natural gas import and export activity over the previous decade.

The Commission conformed its filing requirements under part 153 to its current responsibilities, as changed by legislation and Department of Energy delegation orders. The Commission redefined and clarified its role with respect to granting the authorizations necessary to construct and operate facilities for the import or export of natural gas between a foreign country and the United States. The revised regulations also codify existing practice, which requires an applicant proposing to construct or modify liquefied natural gas (LNG) facilities to file exhibits concerning the environmental and safety features of those facilities, and eliminated duplicate filing requirements.

Certification to Build Major Facilities. The Commission certified a number of major projects throughout the U.S., including system expansions of such pipelines as Columbia Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Kern River Gas Transmission Company, El Paso Natural Gas Company, Southern Natural Gas Company, and East Tennessee Natural Gas Company. In addition, the Commission issued either certificates or preliminary need determinations for competing projects into the Chicago market for Northern Border Pipeline Company, Alliance Pipeline, L.P., and Natural Gas Pipeline Company of America. The Commission also certified proposals to construct a new LNG facility for Pine Needle LNG Storage and to add a liquefaction facility for Algonquin LNG, Inc. To ensure compliance with environmental regulations, the Commission monitored pipeline construction and right-of-way restoration activities on 269 construction compliance trips.

Certification to Build Offshore Facilities. The Commission has recognized the importance of current gas production on the outer continental shelf (OCS) and its potential as a source of additional

new gas supplies. To ensure its regulatory policies do not impede or distort development activities on the OCS, the Commission adopted a policy statement clarifying how it would treat such facilities. The policy statement established a presumption that new facilities designed to collect gas produced in water depths of 200 meters or greater qualify as nonjurisdictional gathering facilities up to the point or points of potential interconnection with the interstate pipeline grid. From that point on, the Commission will use its “primary function” test to determine whether the facilities will be considered to be jurisdictional transmission facilities under Section 7 of the NGA. Subsequent to the policy statement, the Commission has acted on 18 pipeline applications or requests for declaratory order on jurisdiction for facilities to develop offshore supplies in the Gulf of Mexico.

Proposal for Research and Development Funding. The question of funding for research, development, and demonstration in the natural gas industry has been an issue since open access and competition have hampered the pipelines’ ability to collect the current Gas Research Institute (GRI) surcharge. The Commission convened a public conference to explore alternatives to the current GRI funding mechanism. Subsequent to the conference, the Commission issued an order extending the current GRI funding mechanism for one year, simultaneously with a notice of proposed rulemaking (NOPR) to address long-term funding issues. The NOPR proposed a non-discountable, volumetric surcharge to fund a core program of projects to benefit all segments of the industry. Further, it posed questions on the funding for a voluntary non-core program. In response to the NOPR, parties proposed a settlement, and early in FY 1998, the Commission referred resolution of the GRI funding mechanism to a settlement judge.

Conference Topics:

- ▶ Balancing service flexibility and recourse services
- ▶ Finding alternatives to existing pricing policies
- ▶ Expediting the certification process for additional pipeline capacity
- ▶ Improving the Commission’s complaint procedures

Examination of Issues and Priorities for the Natural Gas Industry. To assist in establishing its regulatory goals and priorities in the post-Order No. 636 environment, the Commission conducted an inquiry into the important issues facing the natural gas industry and the Commission’s regulation of the industry for the future. After review of over 80 filed comments consisting of over 1,600 pages, the Commission held a two-day conference with industry participants. The conference focused on the future of the industry as well as on issues relating to service flexibility, pricing, pipeline capacity, and Commission procedures — particularly complaint procedures. Participants addressed the impact of electric

restructuring, the need for rate and service flexibility, the desire for streamlined certificate processing, and the continued need for Commission regulation of pipeline market power.

The Commission received over 80 filed comments consisting of more than 1,600 pages.

With the information learned, the Commission began a comprehensive review of its current pending natural gas initiatives.

Focus on the Complaint Process. The Commission also began reevaluating the role of the complaint process in its oversight of the industry. In this era of light-handed regulation, parties must

have a forum to bring to the Commission's attention circumstances and situations in the marketplace. Such a forum must provide for timely response by the Commission to the problems that arise. To that end, the Commission tested an audit procedure to expedite the fact-finding part of an inquiry. An interdisciplinary staff team from several Commission offices conducted an on-site gathering of pertinent facts and produced a public report to allow the Commission to determine the best procedural course to follow to resolve the complaint. These procedures led to substantial penalty and tariff revisions in a reasonably short period of time and demonstrated the need for and usefulness of procedural innovation in the complaint and enforcement areas.

The Commission also requested public comment on two petitions on procedural reforms to its complaint process. These comments will help the Commission determine whether reforms are necessary.

Implementation of Electronic Filing. Pursuant to the requirements of Order Nos. 581 and 582, the Commission received initial electronic filings for the natural gas program during FY 1997. These filings included the Index of Customers, Discount Reports, Form Nos. 2, 2-A, and 11, and rate cases. The Commission worked with the industry to jointly develop filing requirements to ensure proper formatting and content that would be compatible with the pipelines' and the Commission's computer systems. Once filed, the data was loaded into databases for access by Commission staff, and the filings were loaded onto the Commission's EBB for public access. During FY 1997, the Commission received over 1,400 electronic filings. Similar numbers of electronic filings are expected in FY 1998.

Implementation of the OPR Web. The Office of Pipeline Regulation brought on-line its Intranet, the OPR Web. The OPR Web provides technical staff with access to numerous in-house databases containing information and filed data necessary to process workload. It also provides significant search capabilities to allow for faster and more effective information gathering. The OPR Web will serve as the prototype for similar technology applications throughout the Commission. It also provides staff with access to other information sites available through the Internet.

FY 1998 AND FY 1999 PROGRAM ISSUES

The Commission will use its resources in the gas and oil pipelines program to continue improving efficiency and develop and implement regulatory policies to address the ongoing changes in the natural gas industry. To accomplish this without negatively impacting traditional workload, the Commission will need to maintain a highly-trained and versatile staff, capable of identifying and analyzing complex issues. The challenge will be to develop innovative solutions that consider and address a myriad of issues.

Certificates

Pipeline Expansion. The pipeline industry is aggressively pursuing new markets after completing restructuring and gaining operating experience in the restructured environment. In the new competitive environment, pipelines are proposing to serve markets already served by other pipelines. Many of these proposals are vigorously contested by the competing pipelines and by landowners who question the need for the new projects. Processing these contested proposals requires significant resources. In particular, the environmental review of such projects becomes more complex and time-consuming, with additional public meetings and conferences and voluminous pleadings by the various parties. The Commission must then address the competing benefits of affordable, reliable supply versus the environmental impact and grant of eminent domain for arguably duplicative facilities. Such competing proposals are likely to increase with the advent of retail unbundling and the convergence of the electric and gas markets.

Some of the larger construction projects with which the Commission will be dealing are the industry's response to the availability of increasing Canadian supplies and the growing market for natural gas in the Northeast. The number of cross-border pipeline projects may increase as Canadian gas and oil suppliers seek additional markets for their products in the U.S. In addition, U.S. suppliers are likely to seek markets in Mexico. The Commission will continue to address projects that relate to the extensive exploration effort on the outer continental shelf and construction of pipelines to reach what are expected to be significant new gas supplies.

International transportation and marketing of natural gas is becoming increasingly important.

Examples of the complex construction projects being filed with the Commission are several competing projects proposing to serve parts of New England. These projects involve large numbers of intervenors, especially landowners.

Two of the projects, Portland Natural Gas Transmission System (PNGTS) and Maritimes & Northeast Pipeline, LLC (Maritimes), originally proposed to construct 83 miles of their pipelines parallel to each other between Portland, Maine, and Haverhill, Massachusetts. A related proposal by Granite State Gas Transmission, Inc., to construct a liquefied natural gas (LNG) facility, is dependent upon PNGTS to transport gas.

The Commission made a preliminary finding that PNGTS and Maritimes should construct one larger diameter pipeline instead of two parallel pipelines in this congested and environmentally sensitive corridor. This finding led to a joint pipeline proposal by PNGTS and Maritimes to construct a 101-mile joint pipeline between Portland, Maine, and Dracut, Massachusetts, which was subsequently certificated by the Commission.

The Commission will monitor the environmentally sensitive construction of the 101-mile joint pipeline, and is reviewing the remainder of the Maritimes project, which is competing with PNGTS

for the same source of supply. Further, the Commission is continuing to review Granite State's LNG project. Review of these projects requires coordination between the Commission's engineering, environmental, and rate staffs as well as between the Commission and a variety of federal, state, and local agencies.

All three projects manifest their own difficult environmental issues. As part of its review of these projects, staff issued three separate environmental impact statements (EISs) and is preparing a fourth. Staff has conducted numerous onsite visits and meetings (29 public meetings to date), and reviewed hundreds of written and oral comments (936 written and 367 oral, to date), supplemental information, and numerous route revisions. In addition, during the environmental review process the Commission cooperated with various state and federal agencies that were reviewing these projects.

PNGTS and Maritimes also presented difficult rate issues involving the use of negotiated rates, rather than the Commission's traditional cost-based rates. Maritimes proposed using multiple firm rate schedules, while PNGTS proposed using one firm rate schedule and individually negotiated rates within that rate schedule's framework. The Commission has certificated the PNGTS rate proposal and has made a preliminary finding on the Maritimes rate proposal, subject to Commission review of the remainder of Maritimes' project.

The Commission has competing construction projects on file in other areas, as well, and expects more of these difficult cases to be filed in the future.

The expansion of new market potential is driving the number of construction filings upward.

In addition, as the gas market continues to develop, the Commission expects that producers in the United States will explore options to export gas to Canadian and Mexican markets, which may require pipeline construction. Increased competition in these markets and customers' desires to have multiple and competing sources of supply will generate more NGA Section 3

filings and related requests for Presidential permits to construct and operate border facilities to import and export gas and oil.

Growing demand in the New England, Mid-Atlantic, and Midwest regions of the country will continue to give rise to applications for major pipeline extensions and new pipelines to serve these regions. Meeting construction and service time frames will require analyzing contractual arrangements among parties and monitoring interconnection policies to assure that competing pipelines may obtain access to markets. This will ensure that customers have choices for their gas supply needs. Again, the processing of major construction projects will entail technical conferences and public meetings as well as data requests and the analysis of comments, protests, and other filings. Where multiple pipelines propose to construct facilities in the same area, either for the same or discrete markets, the Commission will look at options for minimizing the cost and environmental impact of the facilities by encouraging joint facility construction. Significant environmental

compliance work will be ongoing in FY 1999 on projects currently on file that propose construction in 1998 and 1999.

Storage Development. The Commission expects to receive applications for storage development to be used for peaking capability and supply flexibility, since customers will continue to be responsible for their own gas supply acquisition. Anticipated storage facilities include depleted gas fields, new leached-salt caverns, and LNG tanks. Commission review and approval of these projects, many of which will be located near market areas, is likely to generate significant public interest regarding competition, need, and environmental impact. These cases will generate numerous comments and protests for which the Commission will hold technical conferences and public meetings prior to making a decision as to whether these proposals are in the public interest.

Replacement Facilities. The Commission anticipates a significant number of applications for replacement facilities as a result of the aging of the national pipeline grid. Replacing aging facilities is necessary for safe pipeline operations. A pipeline may install larger diameter pipe to increase capacity or achieve a uniform pipe size to facilitate maintenance operations. A detailed review of certificate applications involving these replacement facilities will be required, including engineering analysis and environmental impact of the facilities.

Acquisition of Excess Capacity. The Commission expects to continue to receive filings in response to its new policy allowing natural gas pipelines to acquire capacity on other pipelines. Where the costs of new construction and the related environmental impact render construction uneconomic, the new policy will make excess capacity on upstream or downstream pipelines attractive to markets. However, this policy is not expected to reduce construction requests where new, firm load cannot be met by capacity releases.

Construction Cost Impact on Rates. As the gas market has become more competitive, the need for rate certainty has risen. The industry stated its concern, through various pleadings, that the Commission's certificate process did not provide sufficient rate certainty for the pipeline applicants or their customers. The Commission's response to the industry's concern was the FY 1996 policy statement, Pricing for New and Existing Facilities Constructed by Natural Gas Pipelines. The policy requires, as part of a certificate proceeding, a determination of the treatment of construction costs in the pipeline's next rate case. The processing of certificate applications includes an analysis of the rate impact of the project's cost and the system benefits to determine whether the project cost may be rolled into current rates or must be incrementally priced in the next rate case.

In FY 1997, the Commission clarified two aspects of the pricing policy statement to provide the industry with further guidance on the rate treatment of project costs. The policy statement noted that pipelines should not break projects into small segments solely to limit the rate impact of the project so it could qualify for rolled-in rate treatment for each segment. The Commission addressed the

The Commission has clarified its pricing policy statement for construction projects.

circumstances under which projects would or would not be considered segmented for pricing purposes. In addition, the Commission clarified the issue of rolling in project costs when discounted rates are involved.

Other Construction Issues. The Commission will continue to receive certificate cases involving jurisdictional issues pertaining to its NGA Section 1(b) and 1(c) and NGPA Section 311 authority over facilities and services. As retail unbundling accelerates and the lines between interstate and intrastate services blur, the Commission expects growing concern over the different treatment of intrastate and interstate services.

**Improving the certificate process
will continue to be a top priority.**

The Commission will continue to develop improvements to its certificate process to meet the needs of a changing gas market. Technical conferences will continue to elicit public comment and aid in the flow of information among all affected parties. The Commission will hold these conferences in areas near the proposed construction path, as appropriate, to reduce the burden of attendance and to allow fuller participation. The Commission expects to focus on overhauling the certificate process to make the process more efficient and less burdensome on the industry. At the same time, the Commission will continue to ensure that it has adequate information to fulfill its statutory duty to determine that certificate applications are in the public convenience and necessity and meet environmental requirements.

Environmental Considerations

Competing Interests. Environmental concerns play a significant role in the review of certificate construction applications. Pipelines are facing increased opposition from landowners as new projects are proposed in more heavily populated areas. When new pipelines propose to serve markets currently served by existing pipelines, the benefits of alternative supplies of natural gas must be balanced with the environmental impact of a project. Landowners increasingly question the right of pipelines to use eminent domain in cases where the need for the project is determined by the market. Also, pipelines face timing concerns based on various environmental permitting requirements. Even as cases become more contentious, the Commission must pay particular attention to ex parte rules, which, while time intensive, ensure fairness to all concerned in developing a record for Commission decision. As a result, the environmental review process is increasingly complex.

Environmental Issues Include:

- Proposed route and alternatives
- Eminent domain
- Noise impact and mitigation
- Historic property and cultural resources
- Right-of-way restoration, revegetation
- Endangered species, wildlife protection
- Erosion control, top soil segregation

Protection of the environment remains a top consideration in the processing of certificate applications. Under the National Environmental Policy Act (NEPA), the Commission will continue

to perform required environmental analyses of all gas pipeline filings involving construction of facilities to avoid or mitigate adverse effects on water quality, vegetation and wildlife, historic and cultural resources, soils and geological resources, land use, and air and noise quality. The Commission conducts a thorough analysis of each of these areas before any certificate project can proceed.

The Commission will work to balance the thoroughness of such analysis with the need to improve processing time. To this end, the Commission will continue to pursue methods and formats to review gas pipeline and compressor construction applications more quickly while continuing to produce complete environmental documents. This analysis includes preparing environmental impact statements and environmental assessments for some projects. The Commission continues to encourage the use of third-party contractors and applicant-prepared environmental documents. These alternatives have reduced the resources required for this workload area, and they offer the potential for accelerating the review process. However, third party contracting has not eliminated the need for Commission staff resources to review the contractors' work to ensure accuracy and compliance with Commission policies.

Outreach. The Commission will update its training seminars on environmental compliance, environmental report preparation, and cultural and historical resource requirements. In the past, incomplete filings have impeded the environmental review process. These seminars aid applicants in preparing complete filings; training seminars have significantly improved the review of filed certificate applications.

The Commission's public information program on pipeline construction also enhances the review process. Informing the public of Commission processes and actions has helped to resolve problems more quickly. Therefore, it is essential to continue to assess and revise the public information program, including:

- local pre-construction notification through notices of intent to prepare environmental documents, including mailings to all landowners impacted by the pipeline right-of-way and/or noise levels;
- public notification of local environmental scoping meetings on proposed projects;
- public notification of pre-construction site inspections conducted by the Commission staff and cooperating federal and state agencies on controversial projects;
- availability of Commission-prepared brochures on the operation of the certification process that are easy to understand;
- enhanced coordination with state agencies; and

- outreach and training programs to inform the industry and public of the Commission's environmental policies.

Other Environmental Considerations. The Commission plans to continue its field compliance inspections of projects under construction. It will also monitor restoration of rights-of-way on pipelines greater than two miles in length, which were built under the automatic blanket authority, and projects completed under Sections 2.55(b) and 284 of the Commission's regulations. Safety inspections of jurisdictional LNG plants will continue on a biennial basis in accordance with the NGA and an agreement with the Department of Transportation.

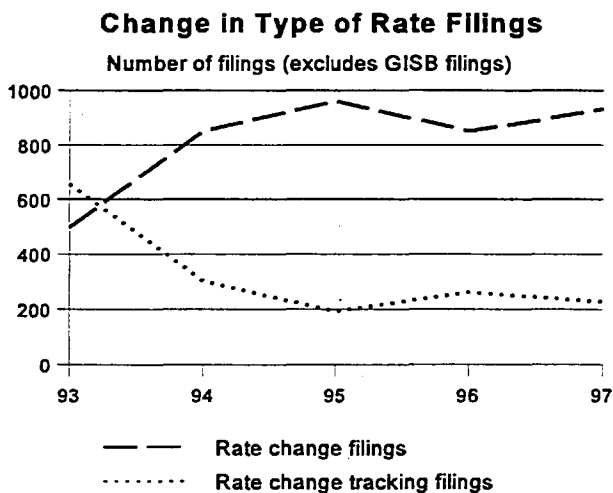
While a large effort in the environmental area continues to be directed toward improving the current process, the Commission will undertake new initiatives as resources are available.

The Commission will evaluate the effectiveness of various environmental mitigation techniques implemented by pipelines pursuant to Commission orders. This study will guide the industry and the Commission in conducting the most effective mitigation at the most economical cost.

In coordination with industry groups and other federal agencies, the Commission will implement an electronic geographic information system to allow the filing of digital maps, graphics, and photographs for use in environmental analyses.

Rates & Services

As the Commission moves toward more light-handed regulation, with increasing reliance on market-based solutions and reduced regulatory burden on the industry, the nature of natural gas and oil pipeline filings has changed. Many of the routine filings are no longer required or are now done on a self-implementing basis. The adjacent table shows that the rate change tracking filings, which include many routine filings, have declined while the often more complex rate change filings have increased. Prior to FY 1994, the rate change tracking filings included purchased gas adjustment (PGA) filings, which often were very complex. With the advent of restructuring pursuant to Order No. 636, PGA filings were no longer required. At the same time, rate change filings related to restructuring and post-restructuring raised unique issues that increased the complexity of many new filings. As the pipelines continue to redesign their services and rates to respond to the changing competitive environment, the resultant filings often raise issues not yet addressed by the Commission. The result



is that, while the total number of rate filings is lower than in previous years, the complexity of the workload has increased dramatically. In addition, many of these new approaches are filed as part of certificate applications for new projects rather than in rate filings. Pipelines are experimenting with variations of negotiated rates, incentive rates, and market-based rates. This trend is likely to continue as pipelines devise creative approaches to a changing and increasingly competitive market.

Capacity Turnback. The Commission did not terminate the gas sales contracts between natural gas pipelines and their customers when it restructured the natural gas industry under Order No. 636.

The changes in levels of contracted capacity under firm contracts will accelerate.

Rather, it modified those contracts to convey separate transportation rights. As a result, most of a pipeline's traditional customers operated under contracts with volume levels set prior to the introduction of competition into the market. While several pipelines have already faced renegotiation of a substantial amount of capacity on their systems, significant volumes of currently

contracted capacity will be up for renegotiation under expiring contracts beginning in 1999 and for several years thereafter. The pipelines' ability to resell this capacity will affect not only recovery of their costs but the rates to shippers whose contracts are not yet eligible for renegotiation or that choose to remain on a pipeline's system. As state programs instituting retail unbundling become reality, distribution companies are not likely to require their historical levels of pipeline firm transportation quantities, and capacity turnback levels would then grow. To date, the Commission has been able to foster settlements between the pipeline and its departing and remaining customers. As pipelines experience more capacity turnback situations with unique issues, such settlements may be more difficult to accomplish.

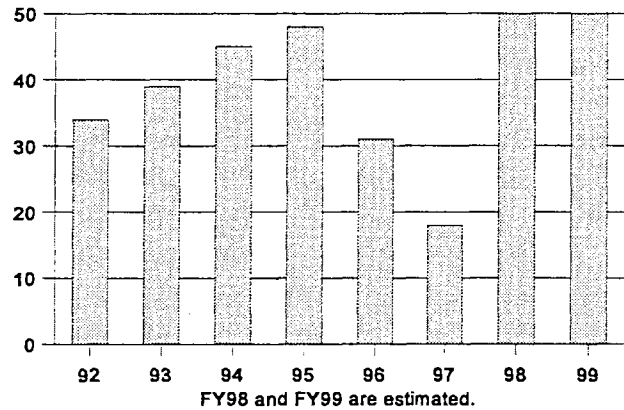
Standardization of Business Practices. In FY 1997, the Commission started implementing standardized business practices through the auspices of the Gas Industry Standards Board (GISB). As a voluntary organization, GISB made significant progress in the standardization of business practices relating to nominations, confirmations, invoicing, and other areas. However, it also became apparent that standardization that involved financial or regulatory interests would require stronger Commission involvement. During FY 1999, the Commission expects this involvement to peak, with the Commission being required to explore options and resolutions. Because of the often competing financial interests of segments of the industry, this process is expected to be time consuming and staff-resource intensive.

Complexity of Issues. The Commission expects to see a consistent pattern of complex tariff filings as the pipelines continue to adjust their operating terms and conditions to meet the changing needs of their shifting customer base, which now includes many more marketers and new industrial loads. The Commission also expects tariff filings that will revise penalties and operating restriction requirements that the pipelines believe are necessary to maintain balance in their systems. These two types of filings are likely to be increasingly complex and often heavily protested, thus requiring significant resources for review and analysis.

An indicator of the increase in complexity of filings is the increase in the number of filings set for technical conferences to allow pipelines to explain their filings and address the concerns of their customers and other intervenors. Except for FY 1996 and FY 1997, technical conferences have been increasing in number, and this increase is expected to resume. The anomaly of FY 1996 and FY 1997 occurred while pipelines were participating in numerous meetings developing the GISB standards, changing their business practices and reprogramming their computer systems to conform to GISB standards, and making their GISB filings, which involved extensive revisions to their tariffs to conform them to the GISB requirements. The GISB filings conformed the pipelines' tariffs to the GISB standards and did not require technical conferences to explain what the pipelines were doing.

Technical Conferences

Number of Cases Set for Technical Conference



Many proceedings before the Commission give rise to issues that are hotly contested by affected parties. The Commission has attempted to institute procedures such as technical or settlement conferences and alternate dispute resolution to resolve contested issues quickly and without protracted litigation. For oil pipeline cases, the Commission's regulations require that all protested rate filings be referred to a settlement judge and that the parties enter into good faith negotiations. If these alternative procedures cannot bring resolution of the contested issues, the Commission sets the case for an administrative law trial. These proceedings permit extensive discovery by the parties and allow for at least two sets of testimony by each party. While the trial phase is proceeding, staff continually attempts to encourage settlement among the parties.

The complexity that can occur with litigated gas cases is illustrated by the Tennessee Gas Pipeline Company case in Docket No. RP93-151-000, et al. This case started out as a filing to recover over \$153 million in gas supply realignment (GSR) costs incurred by Tennessee as the claimed result of its implementation of Order No. 636. There were more than 80 intervenors, many of whom were active participants in the proceedings at the Commission. By order of the Commission, a technical conference was held where staff and the parties asked many clarifying questions as to the costs proposed for recovery. The technical conference was not able to resolve the concerns about the costs, and a January 1994 order set the case for hearing. Subsequently, several other GSR cost filings were consolidated with the original case. Staff and the parties proceeded to request extensive discovery to ascertain the facts in the proceeding, and in September 1994 the parties and staff began settlement discussions, utilizing an alternative dispute resolution minitrial proceeding, which was held in July 1995. Staff and the parties prepared, filed, reviewed, and answered several rounds of testimony, and additional discovery was conducted. In addition, a settlement judge was assigned in

January 1996 to facilitate settlement negotiations. Since no agreement could be reached, a hearing was begun on February 26, and was completed on March 15, 1996.

When the judge assigned to try the case retired, the Chief Judge re-instituted the settlement judge procedure on October 9, 1996. After several days of intense negotiations, the parties and staff reached a settlement that resolves all issues relating to current and potential future GSR costs incurred by Tennessee, which could exceed \$1.185 billion. The settlement also resolves a total of 34 Commission dockets and 39 D.C. Circuit Court appeals, and limits the issues to be pursued in 7 additional appeals. The settlement was filed on February 28, 1997, and approved by Commission order issued April 16, 1997, nearly four years after the case was filed.

The Commission expects to see more of these difficult filings in cases where the parties are unable to resolve contested issues through settlement or alternative procedures.

Oil Pipelines

The primary goals of the Commission's oil pipelines regulatory program are to ensure that:

- shippers and consumers do not pay unjust and unreasonable transportation rates;
- transportation services are not unduly discriminatory; and
- oil pipelines have appropriate levels of incentives to continue to make prudent investments in their systems.

The Commission has statutory authority over approximately 150 interstate oil pipelines with combined transportation revenues of more than \$6 billion.

In Order No. 561, the Commission established a generally applicable indexing methodology that allows for greater efficiency and ease in filing rate changes. In addition to establishing the index pricing methodology and revising the rules and regulations, the Commission, in Order Nos. 571 and 572, delineated three alternatives to that methodology and the conditions under which they may be implemented. The three alternative methodologies are: traditional cost-of-service rates; market-based rates; and negotiated or settlement rates.

The three orders all became effective concurrently on January 1, 1995, in accordance with the Energy Policy Act. Since then, numerous pipelines have taken advantage of the new relaxed regulations when filing rate changes under the simplified indexing program and waiver requests for short-notice filings. The oil pipeline industry's response to the more streamlined regulatory environment created by the three orders has been positive. Additionally, several pipelines have successfully obtained market-based rates for certain areas of their systems upon showing a lack of market power. As an integral part of the generally applicable indexing methodology, the Commission will conduct a review of the selected index after five years of experience, in 2000. This first review will examine

the relationship of the annual change in the index to the actual cost changes experienced by the industry.

Like natural gas certificate and rate filings, oil pipeline filings also are becoming increasingly complex. An example of the complexity of the proposals in the oil pipeline area is a filing by Express Pipeline Partnership (Express). Express requested the Commission to approve its proposed oil transportation rates prior to constructing the oil pipeline. This was an international pipeline proposal, with the pipeline originating near Hardisty, Alberta, and interconnecting at Casper, Wyoming, with other crude oil pipeline systems. The U.S. portion of the pipeline consists of 515 miles of 24-inch diameter mainline pipeline, with a capacity of 172,000 barrels per day.

The proposal was the first of its kind at the Commission. The company was proposing pre-construction rates that differed depending upon the timing of service acquisition and the nature of the service acquired. There was no precedent for these types of proposals, thus the Commission was required to develop new policy and legal bases for its analysis of the proposal and to justify its permitting these new types of rates to become effective upon construction of the pipeline.

- Three of the four types of rates proposed were negotiated rates for committed term volume shippers, and these rates were protested by five parties. As a result the Commission required Express to file a projected, cost, revenue and throughput study for each year of a 15-year period (1997 through 2011). The Commission coordinated the efforts of its rate, accounting, and legal staff to perform an extensive review of this cost study to enable decisions regarding the reasonableness and legality of the proposed extended term rates, depreciation schedules, and differentiation of rates among customers.
- Another difficult issue adding to the complexity of the proposal was the parties' concerns about the impact of bringing Canadian oil into the U.S. Among other things, the Commission had to address claims that Express' proposed rates were discriminatory, denied access to other shippers, and were unjust and unreasonable.

The Commission expects to see more of these difficult filings as the oil pipelines move to serve more specific market niches, because these proposals allow the pipelines some degree of certainty as to rate recovery compared to the standard common carrier form of rate making.

The Commission will continue, through its timely issuance of decisions, to encourage novel approaches for the establishment and financing of prudent new pipeline projects, such as its efforts in approving the Express Pipeline Partnership, Longhorn Partners Pipeline, and Rio Grande Pipeline Company projects.

Accounting and Auditing

Reporting of Accounting, Financial, and Industry Data. An essential element of the natural gas and oil pipelines program is to have reliable financial accounting information based on sound accounting principles. The Commission develops standardized accounting rules the natural gas and oil pipelines industries must uniformly follow, which are generally consistent with the accounting standards that must be followed by enterprises in general. These rules are contained in the Commission's Uniform Systems of Accounts. In addition, the Commission develops accounting guidelines for the industries to use in implementing changes in generally accepted accounting principles, such as those issued by the Financial Accounting Standards Board.

Financial and operation data collected through filings of FERC Form Nos. 2, 2-A, and 6 are an integral part of the Commission's regulatory scheme. These forms give the Commission information on investment costs of facilities, the cost and types of capital used to finance such investments, and operating costs and revenue data.

Monitoring and Analysis of Industry Accounting, Finance and Operations. The critical task of promoting and managing the introduction of competition into the regulatory framework requires the Commission to monitor and analyze industry accounting, finance and operating data.

This effort will help ensure a fairly based competitive environment in which undue market power does not override the benefits of competition and no one is afforded improper preferential treatment.

The Commission, through its monitoring activities, collects and analyzes data for use in making decisions. The monitoring activities focus on areas affecting competition such as: preferential treatment to affiliates; cross-subsidization and cost shifting between customers and affiliates; fair access to information; transmission access and pricing; market power; and stranded cost. The Commission also investigates complaints about unfair activities and noncompliance with its regulations.

The Commission also audits the financial and related information reported by jurisdictional entities to ensure the integrity of the accounting data and compliance with the Commission's Uniform System of Accounts and related regulations. The audits include reviews of billings under automatic adjustment clauses and formula rates. The Commission normally requires companies to make refunds to wholesale customers when audits disclose improper billings under such rate mechanisms.

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HYDROPOWER

OVERVIEW

Water is one of the nation's most precious resources. The Commission's hydropower program is a major part of the national effort to develop sustainable water resource uses and benefits. Hydropower remains an essential, renewable energy resource, and a viable part of the nation's current and future power mix. Hydropower generation represents 98 percent of the country's current renewable energy resources; hydropower projects under the Commission's jurisdiction — approximately 50 percent of the national total — promote long-term safety and resource management objectives that are important to consumers and the general public. Moreover, hydropower generation at licensed projects often produces the cash flow necessary to develop other beneficial water uses in the project area and in affected river basins.

The Commission's regulation of hydroelectric power is changing to accommodate new realities. Hydropower development — and its sustainability — must adjust to a competitive electric market, an era of heightened environmental concerns, a decision-making process of shared authorities, and a shift away from new construction and licensing activities to the administration of existing projects.

Hydropower development must adjust to a competitive market, new environmental concerns, and a process where authorities are shared. It must also shift from new construction to the administration of existing projects.

A major impetus for change is the Commission's initiative to bring more competition to the natural gas and wholesale electric power markets. The resulting competitive forces are changing the economics and overall conditions under which hydropower projects are developed and operated. At least in part as a result of new market conditions, applications for new hydropower projects have fallen dramatically, and are expected to remain low into the next century. In a more competitive energy market, proposals for new projects demand more careful planning and greater consultation with, and agreement among, varied interests.

Staff resources are shifting from post- to pre-filing efforts to reduce time and staff needed to process relicense applications.

However, between the years 2000 and 2010, about 22 percent of licensed projects, representing 37 percent of generating capacity, will expire. Resource allocations will be necessary to properly address these applications. Already staff is involved in cooperative efforts with applicants and program stakeholders, before applications are filed, on applicant-prepared environmental assessments and third-party contracting. In addition, staff is facilitating collaborative processes and settlements to resolve potentially contentious issues related to these projects. These pre-filing activities reduce processing times once applications are received.

The public's heightened concern about the possible environmental impacts of hydropower development has also changed important aspects of the Commission's hydropower program. Compliance with a host of environmental laws, most passed in the past several decades, is an integral part of the Commission's hydropower responsibilities and processes. Among the complex, non-developmental values the Commission must consider in its decision making processes are how to preserve or restore free-flowing streams, fish and wildlife populations, water quality, endangered species, and aesthetic and cultural resources. Satisfying these requirements has extended the time required for processing applications, resulted in the inclusion of many more resource protective measures in licenses and relicenses, and increased the importance of post-licensing administration to guarantee the realization of intended benefits.

The number of participants and their levels of interest in the Commission's hydropower processes also have changed, with significant regulatory effects. The importance of water resource development issues, as well as the Commission's expanded role in environmental protection activities, has resulted in increased involvement by federal and state resource agencies, non-governmental organizations, and the public. Legislation and court decisions have clearly given other agencies shared responsibilities in the Commission's licensing process and in balancing the developmental and environmental values of concern to these entities. Although the Commission still must make the final decisions about hydropower development, it no longer controls some significant aspects of the regulatory processes. Thus, successful hydropower regulation increasingly requires fostering cooperative regulatory approaches, such as the use of up-front consultation and collaborative processes to resolve conflicts and to accommodate the varied interests of other participants.

Dam safety is a paramount concern, especially given the age of regulated dams and their importance to the country's energy infrastructure.

In FY 1999, the Commission will continue to emphasize the administration of a state-of-the-art, high quality, dynamic dam safety program. The Commission has long considered its dam safety and public safety programs to be among its most important responsibilities. Hydropower dams represent a significant element of the country's infrastructure and an enormous investment in our energy future. The Commission will maintain its commitment to excellence in the engineering, construction, and operation of its jurisdictional dams and reservoirs, while being fully responsive to environmental and public use issues. The Commission's philosophy is that a sound and comprehensive inspection and maintenance program can detect and remediate small problems before they become big problems. This is especially important as the number of older dams under regulation increases — almost 70 percent are over 50 years old.

Long-Term Goals Beyond FY 1999

The long-term goals of the hydropower program will require us to be flexible in our dealings with stakeholders in licensing and relicensing, up-to-date in analytical methodologies and techniques,

creative in resolving environmental issues, innovative and vigilant in dam safety matters, and highly trained in a wide range of disciplines.

The Commission will:

- ▶ Ensure that sustainable hydropower resources are licensed for the public's benefit.
- ▶ Maintain the nation's existing hydropower development to serve all water resource interests.
- ▶ Ensure dam safety through inspection of facilities and operations.

Ensure that Sustainable Hydropower Resources Are Licensed for the Public's Benefit. The Commission will seek to ensure that its environmental licensing conditions continue to mitigate for environmental impacts and enhance beneficial public uses while power development is appropriately maintained. The Commission will develop mechanisms to evaluate the effectiveness of license conditions

to facilitate more informed decisions on future licensing actions. Further, the Commission's licenses are conditioned to ensure that balancing water uses and protecting sensitive resources continue over the life of a project. These conditions are only as effective as the Commission's ability to work with its licensees to ensure they are met. Thus, administering a license over its life — when external circumstances may change unpredictably — is an essential feature of the Commission's regulation. But its administration cannot be heavy-handed. Cooperation and flexibility in achieving the desired ends will be necessary in a more competitive environment.

Maintain the Nation's Existing Hydropower Development to Serve All Water Resource Interests. The Commission's challenge will be to administer hydropower developments to accommodate increasing public uses without diminishing key water resource values. Each time the Commission must consider an adjustment related to one of the resource values represented in a reservoir, it must be sure to protect all the resource values.

Ensure Dam Safety Through Inspection of Facilities and Operations. The Commission's dam safety program ensures that the dams under its jurisdiction are properly constructed, operated and maintained. The inventory of dams under the Commission's jurisdiction is aging; many dams are quite old, so vigilance is a necessity. Engineering procedures are improving. The Commission must work with licensees, the engineering community, and the localities where projects are located to ensure that its safety program continues to match the state-of-the-art as it develops. The Commission will inspect high and significant hazard dams annually and ensure that these dams will comply with emergency action plan requirements.

FY 1997 and First Quarter FY 1998 Achievements

In FY 1997 and the first quarter of FY 1998, the Hydropower program realized a number of significant achievements.

Safe Operations During 1997 Flooding. Heavy and prolonged rainfall coupled with sudden snow melt in the central and western states produced record flows at many hydropower projects. These record flood flows provided a true test of projects' ability to safely pass flood flows, and offered the opportunity to determine if the current criteria used to establish the inflow design flood were appropriate. The staff worked closely with the licensees to assure sound project operation and proper coordination with the public in emergency situations through project emergency action plans.

During the spring 1997 floods, there were no adverse impacts to life or property resulting from the operation of the projects under our jurisdiction.

Creation of Rapid Response Inspection Teams for Emergencies. The Commission created a Rapid Response Inspection Team in each regional office to ensure emergency preparedness for natural disasters, such as earthquakes, or acts of terrorism. These teams can mobilize quickly, initiate safety inspections for water-retaining structures, and direct follow-up activities related to dam and public safety. By rapidly identifying conditions affecting water-retaining structures, actions can be taken to avoid, or lessen, the effects of a potential dam failure. Creating these teams and implementing a rapid response plan has strengthened the Commission's ability to ensure the public's safety.

Dam Safety Construction Oversight. The Commission oversaw \$48.8 million worth of dam safety remediation work and \$129.1 million of new capacity project construction. It also developed additional technical guidance and expanded the instrumentation and monitoring information in the Engineering Guidelines to include a chapter titled, "Performance Measurement and Monitoring."

Interagency Cooperation. As agreed to in memoranda of understanding, the Commission inspected dams under the jurisdiction of the U.S. Department of Energy and the Nuclear Regulatory Commission. The Commission also contributed significantly to the ongoing work of many dam safety organizations. Staff represented the Commission on the Interagency Committee on Dam Safety and held Board of Directors positions on the U.S. Committee on Large Dams and the National Performance of Dams Program. In addition, staff served as Chair and Vice Chair and held positions as Task Force Members on the U.S. Committee on Large Dams, National Dam Safety Program, American Society of Civil Engineers, and Training Aids for Dam Safety Committee.

Program Reorganization. The Commission established a new organizational structure with streamlined staffing to take its hydropower program into the next century. To use its resources most effectively, the Commission consolidated its licensing and compliance divisions. This allows for maximum staffing flexibility and helps the Commission process its high level of post-licensing filings and project administration.

Alternative Licensing and Relicensing Procedures. On October 29, 1997, the Commission issued a Final Rule (Order No. 596) allowing licensees and potential license applicants to use alternative procedures, if approved by the Commission, for preparing license applications. Under these

procedures, the pre-filing consultation process, the environmental review process, and administrative processes associated with statutes, such as the Clean Water Act, will be combined.

The Commission is actively pursuing the APEA process to significantly reduce the post-filing environmental review process.

Also, applicants can choose the applicant-prepared environmental assessment (APEA) or third-party contract process. Under Section 2403 of the Energy Policy Act of 1992, an applicant may choose an APEA or a third-party contract to prepare an environmental impact statement (EIS), and include the EIS in its license application. During FY 1997, the Commission continued fostering APEAs involving 31 projects. Through the APEA process, the Commission anticipates a substantial reduction in the time required for environmental review after the relicense or license application is filed. Early scoping of environmental issues and working closely with stakeholders are key components of the APEA process. The first APEA process was successfully completed for the relicensing of the Sinclair Project in FY 1996. This case, in which staff completed its environmental review process in only 4 months — a significant decrease in processing time — demonstrates the usefulness of APEAs. The Commission anticipates similar results with other applications using this processing alternative.

During FY 1997, the Commission began the third-party contract process for the relicensing of the New York Power Authority's 912 MW St. Lawrence-FDR Project in New York. Scoping was completed in September 1997, and depending on the status of negotiations among stakeholders, the EIS may begin in 1999, or earlier.

Action on Relicenses and Post-licensing Activities. The Commission has completed action on 138 of the relicense applications for licenses that expired in 1993. The remaining applications are either in settlement negotiations or awaiting state action to issue water quality certificates. Additional staff resources were devoted to the many post-license compliance filings, most concerning environmental matters. These filings included resource management plans and the outcome of other resource issues decided during the relicensing process.

Decision on Edwards Project. In November 1997, the Commission ordered the removal of Edwards dam, which is part of the Edwards Project, licensed to Edwards Manufacturing Company and the City of Augusta, Maine. This project was one of eleven existing projects evaluated in an EIS prepared on the Kennebec River basin. The EIS analyzed the cumulative effects of the eleven projects along with other activities in the river basin. Edwards dam is the last dam on the lower part of the Kennebec River. The primary factor in the Commission's decision was that the project causes significant adverse impacts to anadromous fish that available technologies cannot mitigate. The Commission will continue to address issues raised by the licensee concerning removal expense and compensation for its net investment.

Project Enhancements. New licenses issued for the licenses that expired in 1993 included many conditions to protect or improve recreation, fisheries, and wildlife. The Commission developed

these conditions after independently evaluating the environmental impacts and consulting with and reviewing comments from resource agencies, non-governmental organizations, and the public. In addition to the Federal Power Act (FPA) and the Commission's regulations, many license conditions are set based on provisions of other statutes, such as the Endangered Species Act and the Clean Water Act. These requirements often are developed after extensively reviewing and analyzing the cumulative impacts of several projects located within a river basin.

Approximately \$43.5 million of recreational improvements and additions were included in these licenses. These included boat ramps, canoe portages, hiking trails, and fishing access areas with fishing and parking access under the Americans with Disabilities Act. In other licenses, measures were included for downstream flow augmentation, recreational boating, fish viewing facilities, and hydropower educational programs.

In this same group of new licenses, the Commission required minimum flows to protect sensitive fisheries and aquatic resources in approximately 80 miles of river channel that would otherwise be dewatered by generation flows. Additional enhancement measures have included structures for fish passage, additional vegetative cover, operational constraints, and measures to reduce fish mortality.

Handling Allegations of Noncompliance. The Commission closed out over 200 investigations into allegations of noncompliance with environmental and engineering requirements. To ensure that licensees comply with the terms and conditions of the license, the Commission aggressively pursues reported incidents of noncompliance. It directs the licensee to explain the circumstances surrounding the incident and, if necessary, provide additional information. During FY 1997, the Commission continued to develop cooperative relationships with resource agencies and local organizations to assist in resolving the issues raised by these allegations.

Collection of Headwater Benefits. In FY 1997, the Commission collected approximately \$9.6 million in headwater benefits. Approximately \$260 million has been returned to the Treasury since the program began. Headwater storage projects may benefit owners of hydroelectric projects located downstream. The construction of headwater storage projects in a river basin often allow downstream hydroelectric projects to generate additional electricity. Under Section 10(f) of the FPA, the Commission has to determine how much the owner of a downstream project must pay the upstream (headwater project) owner for energy generation benefits. The Commission focuses its efforts on assessing headwater benefits derived from upstream federal storage projects constructed and operated by the U.S. Army Corps of Engineers and Bureau of Reclamation.

Processing Recreation Reports. The Commission processed the Licensed Hydropower Development Recreation Reports (Form 80), which licensees file every 6 years. The form contains information on recreational facility usage and potential recreational use at licensed projects. The Commission uses the data to analyze basin-wide and site specific project recreational needs. The Commission also makes the information available to other agencies and to the public.

FY 1998 AND FY 1999 PROGRAM ISSUES

The Commission's changing hydropower program will raise new program issues. To address the issues successfully, and to support its overall program goal, the Commission will need a highly-trained, technically competent hydropower staff, employing innovative approaches.

Licensing and Relicensing

The Commission will emphasize new business practices — early staff involvement to identify and resolve issues, use of applicant-prepared EAs and third-party contracting, and collaborative processes — to improve its regulation of hydropower.

In its licensing and compliance programs for FY 1999, the Commission will continue to emphasize new ways of doing business to achieve increased efficiencies. In licensing and relicensing, the Commission will encourage participants to work together using alternative methods, foster increased interagency cooperation, and facilitate settlements whenever possible. The Commission is offering the participants the degree of flexibility needed to produce a better license application that will allow for more expeditious Commission processing.

Relicensing Larger Capacity Projects with Emphasis on Pre-filing Processes. Another round of relicense applications is expected in FY 1998 and FY 1999 — 59 filings with average capacities 11 times larger than those in the last large influx of relicense applications. The Commission will reduce the number of pending cases before this next group is filed. Also, we will strive to address major issues during the pre-filing process. Further, the Commission's licensing and relicensing focus will remain balanced, looking to preserve the benefits of hydropower generation in a regulatory framework that ensures both comprehensive development and a comprehensive assessment of development's effects on resources in a river and its basin. These approaches, together with the lessons learned from relicensing those licenses that expired in 1993, will prepare the Commission for reviewing this new round of relicense applications.

Projects expected to file for relicensing in FY 1998 and FY 1999 average 11 times the capacity of those that expired in 1993.

Reducing Processing Time for Docketed Workload. The Commission recognizes that delayed licensing and relicensing decisions can postpone the realization of the generation, resource, and safety benefits that come from sustainable hydropower. Therefore, the Commission will take steps to reduce processing time under its control. Because parts of the process require extensive interactions with other agencies, as well as compliance with other laws that have their own time schedules, the Commission will focus its efforts on those parts of processes that it controls. This will be accomplished primarily through the use of collaborative procedures and early involvement of staff.

Innovative Approaches to Public and Agency Participation. The traditional licensing and relicensing processes involve extensive pre-filing consultations, often lasting several years. After an application is filed, staff makes extensive efforts to ensure there has been proper consultation with other federal and state agencies, compliance with a host of applicable environmental laws, multiple interactions with other agencies and interested groups and individuals, and resolution of conflicting resource values. Scoping and preparation of National Environmental Policy Act (NEPA) documents usually occurs many months and sometimes years after an application is filed.

Increasingly, the Commission is trying a different approach to shorten the time for processing license and relicense applications, including:

- active assistance to license and relicense applicants who choose to use the non-traditional APEA or third-party contract process before applications are filed; and
- collaborative strategies to identify issues, resolve conflicts, and build consensus before applications are filed.

The Commission has worked with licensees and potential applicants who chose to develop environmental review and analyses that involve all affected stakeholders. Generally these applicants have chosen to use either the APEA or third-party contract options, authorized by the Energy Policy Act of 1992. Key components of these pre-filing processes include distributing information on the proposal, conducting an initial informational meeting open to the public, conducting early public scoping of environmental, engineering, and economic issues, and involving Commission staff in resolving environmental issues affecting large groups of stakeholders.

On October 29, 1997, the Commission issued a Final Rule (Order No. 596) that offers licensees and potential applicants alternative administrative procedures for processing license and relicense applications. By improving communication among stakeholders and combining the pre-filing consultation and environmental review processes, the goal is to simplify and expedite the licensing process. Getting participants together and focusing on the issues earlier in the process should help to narrow the issues and encourage offers of settlements that can form the basis of faster licensing decisions.

The Commission expects increased use of the optional APEAs and third-party contracting through FY 1999 and beyond. Using the provisions of Order No. 596, which codifies alternative procedures, the Commission will permit portions of the licensing or relicensing process to be consolidated, thereby shortening the overall process. In effect, this alternative approach will rely on cooperative efforts among the stakeholders to design the process best suited for a particular proposal. By involving staff early in the process, before applications are filed, and by fostering approaches that focus participants on cooperating and working out their differences, the Commission hopes to reduce time and costs, while improving the decision-making process. Through increased staff oversight during the pre-filing process, the Commission expects to complete the NEPA review and other

licensing and relicensing requirements, such as endangered species consultation, water quality certification, and historic preservation consultation before an application is filed. Guiding relicense applicants and other stakeholders through either process will require a commitment of significant staff resources over the next several years.

Relicensing of the projects on the Upper Menominee River will demonstrate the success of non-traditional processes.

The current relicensing of eight projects in the Upper Menominee River basin serves as an example of how successful this process can be. With Commission assistance, the relicense applicant formed an APEA collaborative team composed of representatives from federal and state resource agencies and nongovernmental organizations. This team will assist the applicant and Commission

in the scoping process. The team engaged in a 2-year negotiation process resulting in a signed settlement agreement before the relicense applicant filed its application with the Commission. Significant environmental issues were resolved, with recognition and accommodation of the impacts on project economics.

The issues and stakeholders, the needs of the participants, and the degree of controversy often determine the approach for securing participation in the process. One very large project, the 912-MW St. Lawrence-FDR Project, is a good example of another innovative approach, demonstrating the Commission's commitment to flexible processes. The St. Lawrence-FDR Project, whose license will expire in 2003, was developed as part of a much larger undertaking, known as the St. Lawrence Power Project and Seaway. Both serve multiple purposes, and the International Joint Commission governs the operations of both. The relicense applicant has formed a cooperative licensing team to begin the relicensing process. The team consists of the relicense applicant, a third-party contractor, the Commission staff, and the state resource agency — along with other stakeholders, including representatives from federal and provincial agencies, industrial corporations, local communities, and several Native American communities. The team will identify issues, necessary studies, and mitigative and enhancement measures.

The staff is actively participating in the pre-filing phase of relicensing the St. Lawrence-FDR Project to solicit input and resolve issues thereby decreasing the time and funds spent on the post-filing phase.

The Commission has participated in cooperative team and individual subcommittee monthly meetings, conducted monthly reviews, and met with the third-party contractor and the cooperating state agency. Although complicated and requiring current staff involvement and significant travel expenses, this pre-relicensing effort should expedite the relicensing process by soliciting and resolving resource agency and stakeholder concerns early. The compressed time frame for conducting the necessary studies and processing the application will result in significant savings in time and in costs normally associated with resolving issues at later stages of the proceeding.

Processing the relicense applications for Idaho Power Company (IPC) projects on the Snake River is another example of how the Commission is trying innovative approaches. IPC operates eight

projects within a 360-mile-long reach of the Snake River that expire between 1997 and 2010. Applications for four of these projects have been filed. The Hells Canyon Project, scheduled to be filed in 2003, is comprised of a series of three large dams that block upstream passage of anadromous fish, including three endangered species. Stakeholders have identified the cumulative effects of all eight projects as a significant issue to be addressed during relicensing. The EIS prepared on the four pending applications will include an analysis of the resources that will be effected, but the Commission will defer the analysis of cumulative effects on anadromous fish until it receives applications for some of the other expiring project licenses. The Commission will begin reviewing the issue of cumulative effects on anadromous fish as it processes the first four applications, to gain an understanding of the complex issues involved.

Conducting Outreach Meetings. The Commission will continue to conduct a series of outreach meetings across the country in states where there will be significant relicensing activity. The Commission will educate licensees and other potential participants in relicensing cases about the advantages of alternative procedures codified in Order No. 596. The Commission recently conducted four meetings — three in California and one in Vermont — focused on encouraging use of alternative licensing processes. As a result of these sessions, two licensees have decided to use the APEA process and several more are considering it. In FY 1998, the Commission is planning ten more sessions, fostering a dialogue with and among federal, state, and regional governmental agencies, hydropower licensees, Native American tribes, non-governmental organizations, and the general public.

The Commission expects these efforts to increase substantially the percentage of applications incorporating environmental documents prepared in the pre-licensing stage, as well as the number of issuances based on settlement agreements.

Early in FY 1998, the Commission will pursue similar efforts with other federal agencies interested in improving working relationships involving hydropower licensing and gas pipeline certificates. The Commission also has appointed an ombudsman with specific responsibility to explore ways to improve cooperation with other agencies. The Commission hopes these efforts will result in more efficient working relationships among the many federal agencies with whom it shares responsibilities.

Managing Licensing Activities in Alaska. In Alaska, hydropower is seen as a cheaper alternative to diesel fuel, which must be shipped long distances. Presently, there are outstanding preliminary permits for 35 proposed projects in Alaska. Many of these permits are likely to result in future license applications.

Processing applications for proposed Alaskan projects will pose unique problems. Scoping meetings and project site visits will be expensive because of the high costs associated with travel to remote locations. There will be heightened resource concerns because of Alaska's natural settings; there

may also be limited information about sites and potentially affected resources. Also, required resource studies may take longer to conduct because of the short summer season.

All of these factors will require flexible approaches and a substantial commitment of staff resources to analyze issues and make licensing recommendations. Presently the Commission is working with six applicants using the APEA process. It expects future applicants to pursue this or other pre-filing processes, and will work with them to improve the licensing process.

Post-licensing Administration. Post-licensing activities are now a more prominent part of the Commission's hydropower activities. Additional staff resources are being applied to these parts of the program. Licensing can no longer be viewed as a one-time decision. Licenses are conditioned to ensure that the development of water resources and the protection of sensitive resources takes place over the full life of a project. The effectiveness of this balance depends on the Commission's ability to work with its licensees and other interests to ensure long-term conditions are met.

In post-licensing and administrative work, the Commission is using cooperative procedures to achieve its compliance objectives. These procedures recognize that a competitive marketplace increases project owners' sensitivity to the costs of compliance. Without sacrificing the objectives of safety and environmental protection embodied in its licenses, the Commission is using more training and outreach efforts designed to help licensees satisfy their obligations in partnership with other agencies and stakeholders. The Commission is providing licensees with the necessary information and assistance to help them operate their projects as licensed, to minimize violations, and to reduce the need for enforcement actions. The Commission is also increasing its efforts to involve stakeholders in post-licensing actions, as a way of accommodating the continuing interest of those who participated in recent licensing and relicensing actions, and ensuring the realization of the resource protection measures included in administered licenses.

Actively involving our stakeholders in post-licensing activities achieves more positive results.

Monitoring requirements in recently issued licenses may continue through the term of the license.

Monitoring Requirements and More Requests to Modify Projects.

Recently issued licenses include articles with terms and conditions that require monitoring and reporting well into the license term, and sometimes for the entire license term. These articles permit licensees and the Commission to determine the effectiveness of a variety of environmental mitigative and enhancement measures and supply a means of monitoring changes to environmental conditions. Today's licenses are designed to accommodate the ever-increasing and changing demands on waterways. To ensure that licenses enhance resource values, the Commission will analyze both the data submitted under the monitoring requirements and other data the Commission collects or receives from other sources. Results of these analyses will be entered in a database created to help the Commission in deciding what project changes are needed to adapt to changing conditions in the river basin during the term of the license.

For example, the demand for developing residential property and boat docks around large reservoirs increases dramatically over time. Therefore, recently issued licenses require licensees to monitor such trends and propose adjustments to land use and reservoir management plans during the term of the license. The Commission's responsibility to manage this process will become a significant component of its post-licensing activities.

The Commission also expects an increase in the number of requests for municipal water supplies. Requests in the Western states have generated controversy; now such requests in the south Atlantic states are increasing and are also hotly contested. For example, the City of Virginia Beach, Virginia, sought approval to withdraw water from the Lake Gaston Project, located on the Virginia-North Carolina border. After 14 years the dispute continues under judicial review. As the number of these applications increase and competition for limited water supplies mounts, so will the level of effort required to process these requests.

Most licenses contain reopener provisions that allow the Commission, after notice and opportunity for hearing, to require a licensee to change project operations and facilities. Reopener requests focus on specific issues. Most requests from agencies, nongovernmental organizations, and the public concern enhancement of environmental resources. The Commission expects the number of these requests to increase, largely due to federally-mandated fish restoration programs and newly listed and proposed threatened and endangered species.

Managing change at licensed projects will become a significant element of our post-licensing efforts.

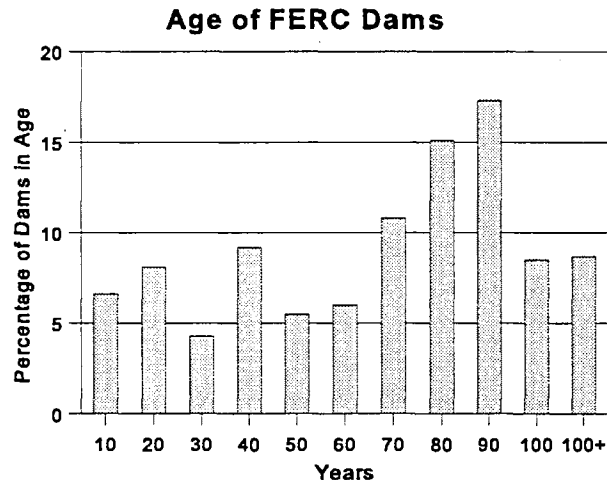
Most older licenses did not address the issue of fish passage facilities. The U.S. Fish and Wildlife Service's efforts to restore Atlantic salmon runs are dependent on installing fish passage facilities. The Commission determines what projects may potentially affect the restoration program and, therefore, what licenses need to be reopened. Analyses often encompass a large number of projects in one or more river basins. Often the reopener process includes preparing an environmental assessment (EA) or environmental impact statement (EIS). Staff will devote additional time to this work as resource agencies continue to identify rivers for anadromous fish restoration programs.

Salmon species listed or proposed as endangered could impact more than 150 Commission projects on the Pacific coast.

Hydropower projects have the potential to affect water quality, flow regimes, spawning areas, and fish movement. More Commission projects are affecting threatened and endangered fish species, because additional species have been listed or proposed for listing. For example, salmon species listed or proposed for listing in California, Oregon, and Washington coastal streams could affect the operations of over 150 Commission hydroelectric projects. Addressing these impacts will be a major effort.

Dam Safety

Even as changes take place, one essential element of the Commission's strategic goal for hydropower remains constant. Dam safety, in actuality the protection of life and property, is a paramount consideration. The Commission achieves it through a series of interrelated initiatives. A vigorous, state-of-the-art inspection program is most important, including over 1,600 projects and more than 2,000 dams. A continuing remedial program requires structural modifications to meet current safety standards. Since almost 70 percent of the dams under the Commission's jurisdiction are 50 years old, and almost 10 percent are over 100 years old, the Commission's dam safety program remains vigilant and active. The Commission also develops and publishes Engineering Guidelines for use by staff, dam owners and their consultants, and others in the dam safety community. These guidelines provide the procedures and criteria to be used in engineering reviews and analyses of hydropower projects, and in studies that applicants or their consultants conduct. In addition, since even the most rigorous program of design, construction, inspection, and maintenance cannot guarantee that emergencies will not occur, the Commission requires the development, maintenance, and periodic testing of emergency action plans as another line of defense for the protection of life and property. These plans specify preplanned actions that owners should take, in coordination with state and local preparedness agencies, in the event of a flood, earthquake, or facility failure.



Since 1991, 439 dams have undergone remediation; 90 more are ongoing.

Monitoring and Remediation. The remediation phase of the Commission's dam safety program is in transition. We have implemented various types of dam safety remediation over the years. Since 1991, 439 dams have undergone remediation and 90 are ongoing. Other dams are in stages of problem identification,

solution planning, and implementation — usually a structural modification. The Commission is ensuring that dams satisfy the requirements of its Engineering Guidelines and conform to the Federal Guidelines for Dam Safety. As these improvements are completed, the Commission is focusing on problem identification: how best to determine which structures are developing deficiencies.

The Commission will focus on monitoring and instrumentation to determine if the condition of dams and their appurtenant facilities changes. As dams age and undergo various loading conditions (e.g., floods and earthquakes), they are subject to different ranges of structural stress. Measuring and

identifying physical changes through instrumentation and monitoring are the keys to determining whether new or additional remediation may be required. The Commission is preparing a new Engineering Guidelines chapter on performance measurement and monitoring that covers the monitoring and evaluation of existing instrumentation and requirements for additional instrumentation to evaluate the structures. The objective is earlier detection of potential problems before a serious problem develops.

The Commission is conducting training courses to give every inspecting engineer a complete understanding of monitoring and instrumentation requirements. With this training, an inspecting engineer can quickly identify the condition of the dams and their components, and any changes in loading conditions. Re-evaluation is necessary if either the condition of the dam or the loading conditions change.

With monitoring data available, the Commission will expect owners and their consultants to evaluate continually the condition and performance of their projects. If the data indicate no significant trends or changes in project performance, then future independent consultant reports will focus primarily on operation and maintenance. This focus should ensure that maintenance and repairs are timely made.

In addition to adding guidelines in the Instrumentation and Monitoring section of the Engineering Guidelines, a team of senior civil engineers from the dam safety program is reviewing the dam safety operation procedures. Staff civil engineers use these procedures to perform operation inspections. The team will determine where improvements can be made in the dam safety operation procedures to ensure that inspections, instrumentation monitoring, and evaluation properly assess the performance of dams and identify any other necessary dam safety investigations and evaluations. Improved inspection procedures will also assist dam owners in identifying improvements that the Commission may require in the routine and more extensive inspections the Commission conducts.

The Commission is reviewing its dam safety operation procedures.

Once the operation procedures review is complete, the Commission will develop additional Engineering Guidelines on dam performance and monitoring for staff civil engineers, dam owners, and independent consultants. These additions will include the review of dam safety analyses — coupled with instrumentation and monitoring data — to determine the safety of structures at any given time. This is an important part of the transition from remediation to monitoring for aging dams.

Licensees have benefited from our monitoring of advances in field investigative techniques. The Commission requires licensees to use these new techniques for investigative and quality control purposes. These efforts have typically resulted in cost savings associated with remediation and sometimes have eliminated the need for dam safety modification work.

Because lives are at stake, the Commission must keep abreast of the latest analytical techniques and designs. The dam safety staff continually investigates new analytical methods and technological advances in field and laboratory investigative and analytical procedures, including innovative designs for proposed remedial modifications. Analyzing data and recommending modifications require more time because of advancements in state-of-the-art analytical techniques and in the technology of embankment and concrete dams. For example, the Commission examined the impact of the large floods experienced in Pennsylvania and Maryland in 1996, and the unprecedented flooding in the West and Midwest in early 1997, to determine if it needed to change its procedures for analyzing dams under flood conditions. The Commission did not change its processes, but learned it must pay careful attention to such events and be prepared to change its Engineering Guidelines as needed. Also, identifying projects having complex geological formations or site characteristics requires more time than it used to take because the Commission has more information to analyze. When necessary, the Commission retains the services of renowned consultants to assist in specialized fields, such as seismology and geotechnical engineering. The Commission routinely consults with experts in specialized fields to learn about advancements in state-of-the-art engineering.

Expanding Cooperative Regulation. The founding philosophy of the Commission's dam safety program is cooperative regulation. The Commission, however, is ultimately responsible for ensuring that licensees and exemptees build, operate, and maintain safe projects. The Commission's regional offices conduct approximately 2,800 inspections (about 2,500 dam safety and 300 environmental and public safety inspections) every year. The five regional offices are the Commission's direct link to day-to-day project operations and construction activities. They also monitor compliance with license requirements. The Commission distributes the responsibility for dam safety, however, among all stakeholders — the owners and their engineering consultants as well as the Commission itself. Today, with the list of identified stakeholders growing to include federal and state resource agencies, the effort to include cooperative partners is also growing. The Commission has found that by coordinating its activities and working cooperatively, objectives are more easily achieved, and outcomes are usually enhanced. The Commission must develop the right combination of owner, consultant, and federal and state government involvement in this cooperative dam safety effort.

The list of identified dam safety stakeholders is growing to include federal and state resource agencies.

Providing Assistance to Other Federal and State Agencies. The Commission shares its dam safety expertise with a variety of agencies. The Commission's expertise is called upon nationally and internationally. The Commission shares its knowledge with the community of dam safety experts to meet a broad objective of universally improving dam safety. Exchanging information is valuable to all participants and helps the Commission to refine and improve its program. The Commission is an active member of the Interagency Committee on Dam Safety (ICODS), which establishes Federal Dam Safety Guidelines for all federal agencies involved with the design, construction, operation, and regulation of dams. ICODS provides agencies a forum and mechanisms to cooperate,

The Commission is an active and leading member of the Nation's dam safety community.

share information, develop technical guidelines, discuss research needs and progress, and develop dam safety training. Federal agencies have achieved agreement on numerous dam safety issues through ICODS. The Commission provides important dam safety training and expertise to the federal dam safety community, in addition to authoring several of the guidelines. The Commission has developed and presented training courses in emergency action planning to the U.S. Army Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, and the Department of Labor, Mine Safety Office. It also developed training courses for the Federal Emergency Management Agency (FEMA), available to all state dam safety offices.

Through memoranda of understanding, the Commission assists the U.S. Department of Energy and the Nuclear Regulatory Commission in meeting the Federal Guidelines for dam safety by inspecting and evaluating dams under their jurisdiction.

The President recently signed legislation requiring the Commission to serve on a board of dam safety experts to assist the Director of the FEMA in implementing the National Dam Safety Program. This program is intended to supply funding and technical assistance to State Dam Safety offices. The Commission coordinates with states, conducting joint inspections, sharing results of the independent consultant inspection reports, providing EAP training, and working under individual state MOAs to share information.

The Commission actively participates in ICODS, which provides federal agencies with the forum and mechanism to cooperate, share information, develop technical guidelines, discuss research needs and progress, and develop dam safety training. ICODS has brought federal agencies into agreement on numerous dam safety issues.

APPENDIX A:

**PROPOSED
APPROPRIATION LANGUAGE**

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PROPOSED APPROPRIATION LANGUAGE

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), [\$162,141,000] \$168,898,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, [not to exceed \$162,141,000 of] revenues from fees and annual charges, and other services and collections in fiscal year [1998,] 1999 shall be retained and [used] become available until expended on October 1, 1999, for necessary expenses in this account.[, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than \$0.]

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APPENDIX B:
WORKLOAD TABLES

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ELECTRIC POWER WORKLOAD¹

The following table includes FY 1995 and FY 1996 to provide a fuller picture of the growing substantive workload in electric power.

ELECTRIC POWER	FY 1995 Actual			FY 1996 Actual			FY 1997 Actual			FY 1998 Estimate			FY 1999 Estimate		
	R	C	P	R	C	P	R	C	P	R	C	P	R	C	P
<i>Rate Filings</i>	1,788	1,754	494	3,239	2,957	776	5,302	4,176	1,902	4,000	4,600	1,302	4,000	4,800	502
<i>Formal Investigations</i>	111	65	134	188	91	231	100	72	259	75	100	234	75	100	209
<i>Compliance Filings</i>	376	294	139	798	784	153	1,306	1,113	346	1,400	1,400	346	1,400	1,400	346
<i>Small Power</i>	368 ²	366	6	126	129	3	122	100	25	125	125	25	125	125	25
<i>Cogeneration</i>	152	160	9	131	129	11	153	109	55	140	140	55	140	140	55
<i>Corp. Applications</i>	21	23	10	35	30	15	60	47	28	100	118	10	100	100	10
<i>Transmission Service</i>	8	4	12	11	6	17	10	0	27	10	12	25	8	12	21
<i>Interlocking Positions</i>	99	98	11	123	127	7	149	141	15	170	170	15	190	190	15
<i>Securities</i>	98	94	13	59	60	12	36	32	16	55	55	16	55	55	16
<i>Financial Audits</i>	40	42	69	49	27	91	50	88	53	40	40	53	40	40	53
<i>Contested Accounting Cases</i>	5	5	6	1	3	4	0	1	3	1	2	2	1	2	1
<i>FA Refund Reports</i>	12	9	9	2	6	5	23	22	6	5	9	2	5	6	1
<i>Federal Rate Filings</i>	12	12	5	14	16	3	9	10	2	8	8	2	8	8	2
<i>Declaratory Orders</i>	38	33	34	64	36	62	49	62	49	60	60	49	60	60	49
<i>Complaints</i>	31	24	37	22	15	44	14	19	39	30	30	39	35	35	39
<i>Rehearings</i>	143	120	98	179	138	139	158	88	209	200	200	209	200	200	209
<i>EWG Determinations</i>	102	90	33	97	118	12	79	73	18	110	110	18	110	110	18
<i>Accounting Interpretations</i>	2	0	2	0	1	1	1	1	1	1	1	1	1	1	1
<i>Accounting Approvals</i>	95	70	118	86	91	113	62	123	52	60	60	52	60	60	52
TOTAL	3,501	3,263	1,239	5,224	4,764	1,699	7,683	6,277	3,105	6,590	7,240	2,455	6,613	7,444	1,624

¹ Key: R = Receipts; C = Completed; P = Year-End Pending.

² Includes 190 one-time small power filings pursuant to the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.

NATURAL GAS AND OIL PIPELINES WORKLOAD

	FY 1996 Actual	FY 1997 Actual			FY 1998 Estimate			FY 1999 Estimate		
CERTIFICATES	P	R	C	P	R	C	P	R	C	P
<i>Construction Filings</i>	125	195	216	104	210	186	128	210	197	141
<i>Prior Notice & Abandonments</i>	121	461	470	112	460	455	117	420	420	117
<i>Meetings & Conferences</i>	0	139	139	0	151	151	0	151	151	0
<i>Compliance Filings & Reports</i>	73	425	447	51	403	389	65	393	391	67
<i>Environmental Analysis</i>	101	468	475	94	496	484	106	494	491	109
<i>Environmental Compliance & Safety Inspections</i>	50	1,103	998	155	847	897	105	840	840	105
<i>Rehearings, Complaints & Declaratory Orders</i>	62	110	85	87	123	118	92	113	110	95
TOTAL	532	2,901	2,830	603	2,690	2,680	613	2,621	2,600	634

GAS RATES	P	R	C	P	R	C	P	R	C	P
<i>Rate Filings</i>	218	1,737	1,724	231	1,307	1,164	374	1,217	1,213	378
<i>Intrastate Activities</i>	25	31	32	24	42	49	17	41	41	17
<i>Litigation, Settlements & Opinions</i>	104	65	88	81	83	83	81	83	83	81
<i>Meetings & Conferences</i>	31	146	156	21	187	182	26	187	184	29
<i>Rehearings, Complaints, etc.</i>	115	302	276	141	319	326	134	321	343	112
<i>Industry Analysis Functions</i>	0	1,318	1,318	0	1,316	1,316	0	1,316	1,316	0
<i>Accounting Actions</i>	79	77	129	27	77	95	9	77	77	9
TOTAL	572	3,676	3,723	525	3,331	3,215	641	3,242	3,257	626

OIL	P	R	C	P	R	C	P	R	C	P
<i>Oil Filings Nonformal</i>	29	531	535	25	520	520	25	520	520	25
<i>Oil Filings Formal</i>	181	81	23	239	45	75	209	45	65	189
<i>Litigation, Settlements & Opinions</i>	180	110	51	239	52	82	209	52	72	189
<i>Rehearings, Rulemakings, & Complaints</i>	29	17	28	18	17	17	18	27	27	18
<i>Meetings & Conferences</i>	0	1,000	1,000	0	1,000	1,000	0	1,000	1,000	0
<i>Accounting Actions</i>	22	54	61	15	52	52	15	52	52	15
TOTAL	441	1,793	1,698	536	1,686	1,746	476	1,696	1,736	436

HYDROPOWER WORKLOAD

	FY 1996 Actual	FY 1997 Actual			FY 1998 Estimate			FY 1999 Estimate		
DAM SAFETY & INSPECTIONS	P	R	C	P	R	C	P	R	C	P
<i>Operations Inspections³</i>	138	1,588	1,588	138	1565	1,565	138	1,565	1,565	138
<i>Prelicense Inspections</i>	0	71	71	0	60	60	0	60	60	0
<i>Construction Inspections</i>	175	315	315	175	275	275	175	255	255	175
<i>Exemption Inspections</i>	100	350	350	100	350	350	100	350	350	100
<i>Special Inspections</i>	125	246	246	125	210	210	125	210	210	125
<i>Engineering Evaluation & Studies</i>	149	600	600	149	600	600	149	600	600	149
<i>Part 12 Reviews</i>	56	168	168	56	165	165	56	165	165	56
<i>Dam Safety Reviews</i>	28	40	40	28	25	25	28	25	25	28
<i>Environmental & Public Use Insp.</i>	0	304	304	0	300	300	0	300	300	0
<i>EAP Tests</i>	0	35	35	0	40	40	0	40	40	0
TOTAL	771	3,717	3,717	771	3,590	3,590	771	3,570	3,570	771

HYDROPOWER LICENSING	P	R	C	P	R	C	P	R	C	P
<i>Original Licenses</i>	85	4	21	68	10	20	58	10	20	48
<i>Relicenses</i>	103	7	37	73	28	30	71	31	30	72
<i>Exemptions</i>	6	1	6	1	3	4	0	6	6	0
<i>Preliminary Permits</i>	25	14	23	16	15	24	7	16	15	8
<i>Declaratory Orders</i>	1	1	1	1	1	1	1	1	1	1
<i>Rehearings</i>	39	119	82	76	74	55	95	58	60	93
TOTAL	259	146	170	235	131	134	232	122	132	222

³Includes about 50 inspections in each fiscal year for DOE and NRC.

	FY 1996 Actual	FY 1997 Actual			FY 1998 Estimate			FY 1999 Estimate		
PROJECT COMPLIANCE & ADMINISTRATION	P	R	C	P	R	C	P	R	C	P
<i>Amendments</i>	535	1,535	1,523	547	1,500	1,500	547	1,550	1,500	597
<i>Jurisdiction</i>	17	32	33	16	25	25	16	25	25	16
<i>Federal Lands</i>	3	170	173	0	150	150	0	150	150	0
<i>Headwater Benefits</i>	34	116	124	26	130	130	26	130	130	26
<i>Compliance</i>	114	283	277	120	275	275	120	250	250	120
<i>Penalty</i>	11	7	12	6	6	6	6	6	6	6
<i>Surrenders, Transfers</i>	47	34	63	18	40	40	18	40	40	18
<i>Endangered Species Consultations</i>	0	4	4	0	10	10	0	5	5	0
<i>Abnormal Events</i>	0	2	2	0	2	2	0	2	2	0
<i>Compliance Audits</i>	0	24	24	0	24	24	0	24	24	0
<i>Complaints</i>	8	2	3	7	1	3	5	2	3	4
<i>Rehearings</i>	35	26	50	11	45	46	10	40	45	5
TOTAL	804	2,235	2,288	751	2,208	2,211	748	2,224	2,180	792

APPENDIX C:
OBJECT CLASS TABLE

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OBJECT CLASS SUMMARY (\$ in Thousands)

<u>Obligations</u>	<u>FY 1997 Actual</u>	<u>FY 1998 Estimate</u>	<u>FY 1999 Request</u>
11.9 Personnel Compensation	\$89,502	\$95,578	\$99,235
12.1 Benefits	16,218	17,950	18,323
13.0 Benefits for Former Personnel	<u>989</u>	<u>550</u>	<u>25</u>
Total, Personnel Compensation & Benefits	106,709	114,078	117,583
21.0 Travel & Transportation of Persons	1,989	2,099	2,093
22.0 Transportation of Things	31	10	10
23.1 Rental Payments to GSA	17,368	17,798	18,421
23.2 Rental Payments to Others	318	335	350
23.3 Communications, Utilities & Misc. Charges	2,708	3,083	3,439
24.0 Printing & Reproduction	2,388	2,023	2,031
25.1 Advisory & Assistance Services	3,744	7,375	6,805
25.2 Other Services	11,606	12,215	11,723
25.3 Purchase of Goods & Services from Government Accounts	480	832	774
25.4 Operation & Maintenance of Facilities	370	16	16
25.7 Operation & Maintenance of Equipment	1,364	1,572	1,563
26.0 Supplies & Materials	1,380	939	953
31.0 Equipment	3,391	3,185	3,077
41.0 Grants, Subsidies & Contributions	10	55	55
42.0 Insurance Claims & Indemnities	<u>7</u>	<u>5</u>	<u>5</u>
TOTAL, OBLIGATIONS	\$153,863	\$165,620	\$168,898
Application of Prior Years' Budget Authority	<u>(7,573)</u>	<u>(3,479)</u>	<u>0</u>
BUDGET AUTHORITY	\$146,290	\$162,141	\$168,898
Offsetting Receipts	<u>(146,290)</u>	<u>(162,141)</u>	<u>0</u>
NET BUDGET AUTHORITY	\$0	\$0	\$168,898

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APPENDIX D:

**INFORMATION AND
SYSTEMS TECHNOLOGY**

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Information and Systems Technology

The Commission is continually enhancing its ability to provide Commission staff, the public, and the regulated industries with the most effective and efficient means for obtaining and using information. Staff must have the hardware, software, and electronic access to the information they need to process complex, time-sensitive applications. Moreover, for competition to flourish, industry needs timely access to information. The Commission is developing a major three-year strategy for a comprehensive information management system to meet the needs of both internal staff and outside parties.

Electronic Filing. The Commission has taken steps to expand the use of electronic filing by industry, such as Order Nos. 581 and 582 which required electronic filing of natural gas pipeline rate cases, index of customers, and discount reports. Once received at the Commission, these filings are stored and are immediately available to staff for processing. The future comprehensive information management system will encompass electronic filing over the Commission's Internet World Wide Web home page (Web Site), which will save industry costs associated with paper, postage, and messenger services when filing documents with the Commission, and also will facilitate staff working directly with electronically filed documents.

Sharing of Information. The timely availability of information is a key element in moving from a heavily regulated environment to one where lighter-handed regulation and market forces combine to assure just and reasonable rates. The Commission currently operates an electronic bulletin board system accessible by modem, which includes the Commission Issuance Posting System (CIPS) and facilitates the exchange of information with the pipeline and electric industries.

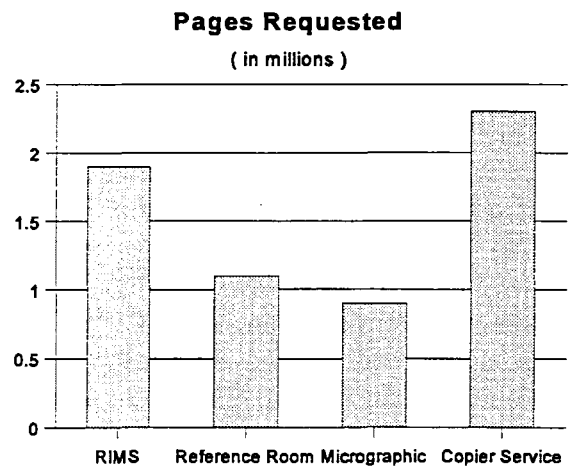
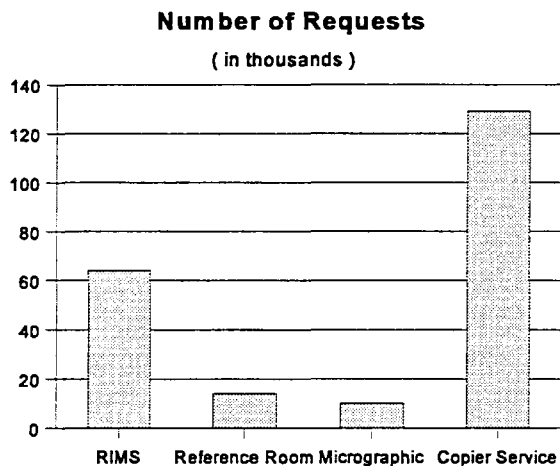
On November 10, 1997, the Commission introduced its new redesigned Web Site with many new features and information, including CIPS. Future plans for the Web Site include access to additional electronic bulletin board system information and to the Commission's library of documents in electronic format. To facilitate the exchange of information among Commission staff, the Commission is developing an agency-wide Intranet (which uses Internet technology over the internal local area network).

Information Technology Architecture. The Commission is in the process of developing an Information Technology Architecture (ITA). The Commission is examining its core business processes and developing a strategic information technology direction that supports the Commission's mission and goals and defines approaches for meeting them. A current initiative involves the decomposition of processes to determine a better methodology for tracking workload within the Commission. These processes are being modeled at a high level to allow the desired broad agency focus while still being detailed enough to be useful in the Commission's determination of its workload information needs.

At the same time that the Commission is modeling its business processes, it is conducting the information flow and relationship phase of ITA development. Analysis of how the Commission receives its workload and disseminates it to the various program offices is complete. The Commission is now examining the flows within and between offices to determine what information is needed at each stage of its movement and what information is shared by various offices to support Commission functions. This phase will be completed in early FY 1998.

Access to Documents. During FY 1997, the Commission made a major enhancement to its on-line image-based Records and Management Information System (RIMS), which is a library of documents in electronic form. Key information about the documents and the related search capabilities have been expanded. In addition, images of the documents dated after November 1995 can now be viewed and printed on-line at the Commission. The RIMS index can currently be accessed remotely by the public, via personal computer. Access to images of the documents will be made available to the public over the Commission's Web Site in FY 1998. About 90,000 new documents representing more than 1.5 million pages are added to the RIMS information database each year.

Each year, the Commission processes 220,000 requests for information totaling more than 6 million pages. The charts below show the primary means by which documents are requested and processed.



Through these and other initiatives, the Commission continues to work to reduce the burden on regulated entities, to streamline and simplify operations and services, and to make the government more responsive to the industries and public it serves.

APPENDIX E:
STATUTORY AUTHORITY

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STATUTORY AUTHORIZATION

The Commission's primary sources of authority are the following statutes:

- Federal Power Act;
- Natural Gas Act;
- Department of Energy Organization Act;
- Energy Policy Act;
- Natural Gas Policy Act;
- Interstate Commerce Act;
- Electric Consumers Protection Act;
- Energy Security Act;
- Public Utility Regulatory Policies Act;
- Public Utility Holding Company Act;
- Pacific Northwest Electric Power Planning and Conservation Act; and
- National Environmental Policy Act.

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APPENDIX F:

FY 1997

PERFORMANCE MEASUREMENTS

RESULTS

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FY 1997 PERFORMANCE MEASUREMENTS RESULTS

To date, the Commission has made significant progress on the performance measurements that were established in its FY 1997 budget request.

Make Regulation Work Better and Integrate Market Forces, Where Possible, into an Overall Regulatory Model.

- **Provide Refined Standards for Market-based Rates That Encourage Companies to Identify Competitive Services and to Apply for and Receive Market-based Regulation.**

Traditionally, the Commission evaluates rate filings made by electric utilities on a cost-of-service basis. In many recent cases, however, the Commission has allowed a utility to charge market-based rates for sales of electric energy, i.e., rates negotiated by the public utility and its wholesale customer. The Commission has approved market-based rates when the seller can demonstrate that, among other things, it lacks market power. In Order No. 888, the Commission clarified and liberalized its policies for obtaining market-based rates.

In the natural gas program, the Commission provided, under the Alternatives to Cost-of-Service Ratemaking Policy Statement, refined standards for market-based rates that encourage companies to identify competitive services, and to apply for and receive market-based regulation.

- **Develop Options for Performance-based Regulation for Areas That Cannot Be Competitive.**

The Commission's natural gas program developed options for performance-based regulation for areas that cannot be competitive, and established a negotiated/recourse rate program as an alternative available to pipelines that cannot demonstrate a lack of market power. During FY 1997, the Commission focused its efforts on the negotiated/recourse rate program. It accepted tariff language allowing natural gas pipelines to negotiate rates with individual customers in the tariffs of over 20 pipelines who proposed such language. In so doing, the Commission clarified the conditions to be applied to this program to insure that non-recourse customers on a pipeline's system had adequate information to insure non-discriminatory behavior on the part of the pipeline. The conditions further insured that the non-recourse customers would in no way be affected by a pipeline's agreement with a negotiated rate customer.

- **Provide Rate Certainty by Deciding Rate Treatment in Certificate Cases for New Natural Gas Pipeline Construction.**

Under the Policy Statement on the Treatment of Costs Relating to New Construction, the Commission determined that it was important for the marketplace to be aware of how costs relating to the construction of new natural gas facilities would be treated in a pipeline's subsequent rate case. This knowledge would allow the market to determine whether a project was viable. As a result, the Commission determined it would issue such a determination at the

certificate stage of a project. In FY 1997, it became standard procedure to address the costs and rate impact of a project in the preliminary determination, provided the pipeline can show it has contracts for the proposed capacity or the project operationally benefits the pipeline's customers as a whole.

- **Establish Fully Comparable Open-Access Transmission for All Transmission Owners under the Commission's Jurisdiction.**

In its electric power program, the Commission has made great strides in substituting market forces for traditional regulation. The key to this effort has been to open up access to the nation's transmission system for sellers and buyers in the wholesale power market. The Commission's major achievement of FY 1997 was the full implementation of the open access, comparability, and stranded cost provisions of Order No. 888. This order signaled an historic change in the way transmission services are provided in the nation. The Commission anticipates that this restructuring of the electric industry will result in substantial savings for consumers.

To further promote a competitive electric market and to support its policy of nondiscriminatory open transmission access, the Commission issued Order No. 889. That order requires utilities with transmission to establish an electronic information and reservation system for transmission services, OASIS, which transmission customers can use to check the availability and price of transmission services and to reserve space on the grid. The OASIS system began nationwide on January 3, 1997. Order No. 889 also imposes certain standards of conduct on utilities that own both generation and transmission. They must use their OASIS system for their own wholesale electric power sales and purchases, and are prohibited from exchanging certain information between their power marketers and transmission operators, except through the OASIS.

Order Nos. 888 and 889 engendered a huge compliance process because they required more than 150 utilities to file open access transmission tariffs with the Commission. To deal with these filings quickly, the Commission adopted a process of evaluating comments and issuing orders dealing with key issues comprehensively, rather than on a case-by-case basis.

In response to the emergence of open access transmission and competitive pressures, many electric utilities are opting to restructure themselves. Some mergers may enhance competition by forming more effective competitors. But others may harm competition by reducing the number of power suppliers available to customers. To protect competition in the newly emerging market environment, on December 18, 1996, the Commission issued a new Merger Policy Statement. It explains the factors used by the Commission to evaluate a merger application — with particular emphasis on analyzing the effects of a proposed merger on competition. Further, the Commission is making its regulations work better by setting out ways for merger applicants to avoid a time-consuming evidentiary hearing on the effects of a proposed merger. Since the Merger Policy Statement, merger applications have been better prepared, providing the data that is needed to determine how to act on the proposed merger. The Merger Policy Statement has enabled the Commission to act promptly on over a dozen merger applications in the last nine months of 1997.

Improve the Efficiency of The Commission's Environmental Programs.

- **Reduce Legitimate Complaints That People Have Been Excluded from Environmental Processes.**

To reduce legitimate complaints that people have been excluded from environmental review processes, the Commission required that each natural gas pipeline proposing a construction project file a list of landowners affected by the route of the pipeline. The Commission mailed to these landowners all environmental information, including a description of the project and its location. The correspondence explained how the landowners could comment on the project and participate in the process. The Commission also conducted public meetings in the locales impacted by the pipeline route. In addition, the Commission prepared a landowner brochure to explain the certificate process, the rights of landowners, and the ways their opinions can be considered in the certificate process. Even though the Commission's environmental mailing lists now include thousands of affected landowners, letters still arrive indicating that landowners are not aware of proposed construction. The natural gas program will continue to seek better ways of reaching and informing affected landowners.

- **Reduce Processing Time for Environmental Reviews.**

In FY 1997, there were a large number of gas pipeline construction projects on file with the Commission, and according to press reports, more projects to be filed. The pipeline industry claimed that there is large potential growth in the gas market in the Northeastern U.S. and many pipelines proposed projects to serve this growing market. The Commission used its environmental contractors to the maximum extent to help meet the deadlines indicated by the gas markets. It maintained its natural gas environmental staff by assimilating personnel from program areas that have a declining workload. The Commission experimented with new approaches to analyzing projects, such as encouraging joint projects to minimize environmental impact and allowing the completion of environmental work in phases when possible. This measure allowed pipelines to build sections of their facilities within the time frame of the expected market demand. As a result of these actions, the Commission issued authorizations for the timely construction of more than 25 major onshore pipeline projects. In conjunction with those authorizations, the Commission issued 6 environmental impact statements and over 90 environmental assessments.

The time required for environmental review in the hydropower program will decrease as more applicants select the applicant-prepared environmental assessment (APEA) or third-party contract process, instead of filing an application and then having the staff prepare the required environmental documents. In FY 1997, several potential applicants used APEA processes, but none were completed. The Commission anticipates that a greater percentage of future applicants will use these new processes.

- **Increase the Rate of Voluntary Compliance.**

The Commission held outreach seminars for the natural gas industry to teach pipelines, pipeline construction contractors, and environmental consultants how to comply with environmental laws and the Commission's regulations. The Commission required environmental inspectors on construction projects to ensure that the construction methods were environmentally sound and to take corrective action before major problems developed. The Commission analyzed pipeline contractor suggestions on the procedures that it requires for construction, mitigation, and restoration of the pipeline right-of-way. The Commission made revisions where necessary to facilitate the construction of the pipeline while still protecting forests, landowner properties, wetlands, endangered species, and cultural resources through significant mitigation measures, analysis of alternatives, and strict enforcement of environmental compliance. As a result of these efforts, reports from 269 inspections completed during FY 1997 show an improvement in pipeline construction methods and safety.

The Commission anticipated voluntary compliance would improve in the hydropower program. Compared to FY 1996, the number of procedural noncompliance investigations initiated in FY 1997 decreased by 47 percent. Improved compliance freed staff resources to address more complex compliance and administrative matters. The number of overdue compliance filings in FY 1997 increased 15 percent over the number in FY 1996. The licensing and compliance staff continually develops communication with licensees, exemptees, federal and state agencies, and non-governmental organizations. This approach ensures better compliance.

The Commission continues to assist hydropower project licensees and exemptees to help them understand their responsibilities under the terms and conditions of their license or exemption. In some cases, a telephone conference will suffice; in others a meeting at the project with all involved parties is necessary. These conferences can involve detailed explanations and guidance on settlement agreements, project operations, and compliance requirements.

Another tool to achieve a better rate of voluntary compliance in the hydropower program is the compliance audit. Multi-disciplinary teams conduct on-site investigations to anticipate, identify, and solve compliance problems. These visits, involving discussion of problems and possible solutions, foster better communication. Spotting problems before they become serious can save a licensee or exemptee and the Commission time and money. A substantial investment in staff resources and time is required, but results in better long-term compliance results.

- **Increase the Percentage of Dams Meeting All Current Safety Guidelines.**

In FY 1996, 89 dams under Commission jurisdiction were undergoing remedial work; in FY 1997, this number was reduced to 72, a decrease of 19 percent. This decrease in necessary remedial work demonstrates that a greater percentage of dams met current safety guidelines at the end of FY 1997. As its top priority, the Commission continues to make sure the dams under its jurisdiction are safe. The dam safety program is flexible, allowing it to assimilate advances in technology and new technical challenges presented by the aging water resources infrastructure.

With a state-of-the-art dam safety program, the Commission identifies those project structures requiring remediation. Through this program it ensures that these structures meet the Commission's Engineering Guidelines and conform to the Federal Guidelines for Dam Safety. To ensure accurate and timely identification of future deficiencies, the Commission is monitoring performance to identify which structures have deficiencies, or are developing deficiencies, before they become major dam safety problems. This will ensure the safety of the public and will also reduce the costs of remediation.

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APPENDIX G:
STRATEGIC PLAN

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FEDERAL ENERGY REGULATORY COMMISSION STRATEGIC PLAN FY 1997 - FY 2002

Introduction

This document is the Federal Energy Regulatory Commission's first strategic plan. The plan focuses on the most basic questions:

- What strategic role must the Commission play in each industry over the next decade?
- What are the Commission's strategic goals and objectives?
- What are reasonable success indicators for achieving these goals?
- How will the Commission measure its performance in the future?

This document serves as the basis for developing more detailed, results-oriented measures in the annual performance plans. The Commission is developing program evaluations and specific measures for general success indicators.

Congress has charged the Commission with specific but different responsibilities for each of the industries it regulates (see Table 1 on page 90 for an overview). In each industry, the Commission plays key strategic roles specifically assigned by the Congress—for example, to protect consumers through regulating rates and services. Many of the statutes setting forth the Commission's roles date to the 1930s or earlier, but the laws continue to evolve to match changing markets and technology. As a result, the Commission's roles continue to evolve also. This plan lays out the historical context of the Commission's responsibilities, as well as goals and objectives designed to capture the essence of the Commission's ongoing role in each industry. Goals for some of the industries overlap. Therefore, the goals are grouped into broad categories that often span more than one industry.

Mission

The Commission regulates, in the public interest, essential interstate aspects of four of the nation's critical energy industries: electric power transmission and sales for resale, natural gas transportation and sales for resale, oil pipeline transportation, and nonfederal hydroelectric power. The Commission ensures that the rates, terms and conditions of service for the electric power, natural gas, and oil industries are just and reasonable and not unduly discriminatory or preferential, and that licensing, administration, and safety actions for the hydropower industry and other approvals for all four industries are consistent with the public interest. It administers numerous laws and regulations involving key issues, including:

In the electric industry:

- Transmission and sales for resale of electric energy in interstate commerce;
- Certification of exempt wholesale generators and qualifying facilities; and
- Corporate transactions, mergers, and security issues of electric public utilities.

Table 1: Key Areas of Commission Jurisdiction

Type of Regulation	Electric Power	Interstate Natural Gas Pipelines	Oil Pipelines	Nonfederal Hydropower Projects
<i>Regulation of Markets and Rates, Terms, and Conditions of Energy Services</i>				
Transmission	Yes	Yes	Yes	No
Sales for Resale	Yes	Yes	No	No
Corporate	Yes	No	No	No
<i>Authorizing and Monitoring</i>				
Siting	No. Under EPAAct, the Commission can order transmission service, but states site the lines and generation.	Yes. The Commission issues certificates for construction of pipelines and related facilities.	No	Yes. The Commission issues preliminary permits, licenses, exemptions, and license amendments.
Environmental	No, except for programmatic EISs for some major actions.	Yes, NEPA review and interagency consultation for pipelines to be certificated.	No	Yes, NEPA review and interagency consultation for the above authorizations, except preliminary permits.
Safety	No	No, except as part of initial certification.	No	Yes, dam and public safety.

Related Responsibilities of Other Key Agencies

States	Retail sales, distribution, siting for transmission lines and generation, some aspects of retail transmission	Retail sales, distribution, some aspects of retail transportation, some environmental permitting	Siting	Projects that do not affect navigable waters, interstate commerce, or Federal lands or dams
Other Federal Agencies	DOE: reliability, PMAs EPA: air quality, emissions allowances NRC: nuclear power licenses	DOT: safety DOI: offshore waters, federal lands, endangered species, national parks USFS: national forests COE: water body crossings Advisory Council on Historic Preservation: cultural resources EPA: PCBs National Marine Fisheries Service: offshore fisheries	DOT: safety	COE, Bureau of Reclamation, and others: Congressionally authorized projects without private development

In the natural gas industry:

- Transportation and sales for resale of natural gas in interstate commerce;
- Construction and operation of natural gas pipelines; and
- Oversight of related environmental matters.

In the oil pipelines industry:

- Transportation of crude oil and petroleum products by pipeline in interstate commerce.

In the hydroelectric industry:

- Licensing and inspection of nonfederal hydroelectric projects; and
- Oversight of related environmental matters.

Strategic Vision

At the most basic level, the Commission is moving away from a traditional command and control approach to economic regulation, due to the evolving nature of the electric power and natural gas industries and by heightened environmental concerns surrounding construction of energy projects. The Commission will encourage restructuring in the electric industry to promote competitive commodity markets, as it has in the natural gas industry. This may tend to reduce federal regulation over the commodity portion of energy transactions, including natural gas and sales of power, but may mean a continued and even enhanced importance for federal regulation of interstate electric transmission and gas transportation grids. True open access to essential facilities is the underpinning of competitive commodity markets for both electricity and gas and requires constant adjustment to fit the changing industries.

The Commission will increase its emphasis on harmonizing its policies with those of states and other federal agencies, especially in the electric and hydropower programs, since it is clearer than ever that the different responsibilities of each of these entities have implications for all the others. Increasing convergence of energy markets, especially between gas and electricity, will require greater creativity in regulating gas transportation and electric transmission. Of necessity, economic market realities and heightened environmental requirements will also increasingly affect the hydroelectric industry.

The Commission is under some pressure to meet the needs of the industries as they become more competitive. The Commission must be flexible, quick, and innovative to meet these challenges, and will therefore continue its efforts to reallocate staff among its major areas to respond to pressing needs as they develop. As needs for regulation in the industries change, the ways of the Commission must change to respond in real time to industries and intervenors alike. These changes will include better use of electronic technology to facilitate the regulatory process, improved approaches to handle the problems of increasingly market-responsive energy industries, and improvements in environmental reviews.

Historical Perspective

Electric Power

The electric industry is in the early stages of a restructuring that will bring the advantages of competition to the generation and sale of electricity. The generation sector has historically accounted for about 70 percent of the costs of the industry. If structured well, competition promises to bring significant savings to customers throughout the nation, thereby benefiting individuals and making American industry more competitive in world markets. Managing the transition to competition is the most important task facing both this Commission and state public utility commissions around the country.

The electric industry was traditionally a set of local monopolies, regulated at first by the states to prevent abuses of monopoly power. In 1935, Congress passed the Federal Power Act (FPA), giving the Federal Power Commission (FPC, the Federal Energy Regulatory Commission's predecessor agency) the responsibility to regulate interstate aspects of the industry — that is, wholesale power sales and transmission service. The Commission's basic statutory responsibility still traces back to the FPA. The logic that governs its regulation remains the same: the public interest requires curbing abuses of market power in interstate commerce.

The electric industry has evolved substantially since 1935, and the form of the Commission's regulation has changed with it. The economies of scale that made electric power generation a natural monopoly have been almost completely exhausted, so that the public is now far better protected by a system of robust competition in generation rather than traditional regulation. At the same time, transmission and distribution remain natural monopolies. Left unregulated, companies could leverage their ownership of transmission and distribution into a position of market power over generation as well.

In 1978, Congress began introducing competitive pressure into the electric industry by enacting the Public Utility Regulatory Policies Act (PURPA). This act required utilities to buy power from a new class of non-utility generators. PURPA showed that independent generation is feasible.

Over time, it became clear that competition could lower generation costs. The biggest obstacle to competition was that incumbent utilities could often deny independent generators access to the transmission grid. In the late 1980s, the Commission began to encourage voluntary open access where possible (for instance, as a condition for approving mergers). In 1992, Congress passed the Energy Policy Act (EPAct), which authorized the Commission to order transmission access for individual wholesale transactions upon request. In 1996, the Commission issued Order No. 888, which required public utilities to offer open access to all wholesale market participants. However, under current law the Commission regulates only 67 percent of electric transmission plant in the U.S. (measured by investment in transmission plant). Increasingly, states are initiating retail access programs that may eventually extend the benefits of a competitive market to retail customers. The future of the industry is likely to entail a more competitive generation sector, supported by

transmission and distribution sectors that remain subject to market power and, therefore, to regulation.

Natural Gas

In the natural gas industry, the Commission's actions over the past 15 years have supported Congressional mandates and fostered the emergence of basic competitive market institutions for the commodity. In that sense, the natural gas industry is several years ahead of the electric industry. Now the Commission's main challenge is to continue its regulation of gas transportation in ways that a) maintain existing competitive markets and b) foster a second generation of competitive market institutions that will remove some of the market impediments that remain today and lower the costs of trading.

The early history of the natural gas industry is broadly similar to that of electric power. Gas companies were initially local franchised monopolies, many of whom manufactured gas locally from coal. With the discovery of large natural gas reserves in the southwest in the early part of the century, large interstate pipelines soon became a major sector of the industry, but retained strong features of a natural monopoly. As a result, Congress passed the Natural Gas Act of 1938 (NGA), giving the FPC jurisdiction over interstate sales for resale and gas transportation. Unlike the FPA, the NGA also gave the FPC jurisdiction over the construction of new interstate pipelines, which accounts for the difference in environmental focus between the two programs today. Unlike electric generation, natural gas production has probably never been a natural monopoly. However, a Supreme Court decision in 1954 interpreted the NGA as requiring the Commission to regulate the wellhead price of natural gas sold in interstate commerce just as it did wholesale interstate power sales.

Comprehensive regulation of natural gas wellhead prices proved a failure. By the mid-1970s, there were severe gas supply shortages in the interstate market as a result of artificially low prices. During cold winters (like 1976 — 1977), these shortages translated into delivery curtailments for many customers in the north. Congress began the phased deregulation of natural gas commodity prices with the Natural Gas Policy Act of 1978 (NGPA). During the 1980s, the biggest obstacle to competitive natural gas markets was the inability of customers to gain access through the pipeline systems to competitive gas suppliers. As a result, the Commission issued a series of measures (Order Nos. 436, 500 and 636) that opened pipeline transportation to all on equal terms and that eventually resulted in interstate pipelines' relinquishing their traditional merchant function. By 1993, the Wellhead Decontrol Act fully deregulated prices for natural gas production. However, continued regulation of the interstate pipeline grid to ensure efficient, nondiscriminatory access to transportation services at just and reasonable rates is the indispensable underpinning for competitive gas commodity markets.

Natural gas open access has been a success. Today the gas market is growing, and customers have more flexible, more reliable service than ever before. Gas supply curtailment of firm pipeline customers is a thing of the past. Prices fluctuate with market conditions, but average prices for all customer classes are lower than they were ten years ago (adjusted for inflation). The competitive

revolution in natural gas has also had beneficial environmental effects. Gas is increasingly seen as a reliable, affordable fuel in comparison with other fuels such as coal and oil that tend to have higher emissions affecting the environment, especially air quality.

Oil Pipelines

In 1977, as part of creating the Department of Energy, Congress gave the Commission responsibility for regulating oil pipelines under the Interstate Commerce Act.

The Commission's role in regulating oil pipelines differs from its role in natural gas and electric power, because the petroleum industry differs significantly from the natural gas and electric power industries. The Commission has never been charged to regulate prices for either crude oil or petroleum products. Indeed, markets for these commodities have long been recognized as competitive. Barges and tankers transport much of the crude oil and refined products used in the United States. These parts of the oil transport industry are also widely recognized as competitive. In many cases, they bring competitive forces to bear on oil pipelines. Oil pipelines remain critical transporters of oil to some areas and often have market power, but they do not have the same industry-wide roles that interstate gas pipelines or the electric transmission grid have in their industries. As a result, the Commission has been able to move to lighter-handed methods of regulation in some situations.

Hydropower

Water is one of the nation's most precious resources. River systems satisfy many competing water supply and economic needs, for hydropower, irrigation, domestic and industrial uses, navigation, recreation, and preservation of environmental values. Hydropower generation represents 98 percent of the country's current renewable energy resources. The Commission has jurisdiction over about half the hydropower generation in the United States. Its job is to: (1) look at all aspects of the project proposals that come before it, including the cumulative impacts on given river systems, and consider all competing interests; (2) administer over many decades the projects and associated resource protection conditions it authorizes; and (3) ensure the safety of dams and other structures under its jurisdiction.

The Federal Water Power Act of 1920 authorized the Federal Power Commission to license hydropower projects that are best adapted to the comprehensive development of a waterway. In 1935, the Congress amended and recodified the Federal Water Power Act of 1920 as Part I of the FPA. Later legislation — various flood control and river and harbor acts, PURPA, the Electric Consumers Protection Act of 1986 (ECPA), and EPAct — broadened the Commission's responsibility for overseeing the development of water resources.

The Commission's basic legal obligations have remained much the same, even as hydropower development changed dramatically. By the 1930s, when the FPA was passed, hydropower plants (both federal and nonfederal) had grown to provide 30 percent of the nation's generating capacity and 40 percent of the electric energy. In the 1950s and 1960s, even as additional plants continued

to be licensed, some existing hydropower plants were abandoned. Less expensive fossil fuels began changing the economics of energy generation. The energy embargo of the 1970s reversed the economics and politics of hydropower, while the Energy Security Act and PURPA encouraged the use of clean, domestic resources at facilities producing less than 80 megawatts. Between 1975 and 1991, over 950 nonfederal projects came on line, a majority of them small scale.

In recent years, water issues have become more important than ever, and hydropower's national role has come under greater scrutiny. First, hydropower remains an essential national energy resource. It is domestically produced and renewable. It has very low operating costs and is often a highly flexible resource since generation can be brought on line quickly. This flexibility may be quite valuable in a competitive generation market. At the same time, new hydropower projects may be less attractive to developers. They are capital intensive (and therefore risky), and the measures needed for environmental and safety reasons can be costly.

Second, public concern about environmental issues is far greater now than even a few years ago. These issues include preserving and restoring free-flowing streams, fish populations, water quality, endangered species, and cultural and aesthetic values. The Commission granted many of the licenses that currently govern hydropower projects decades ago, before the passage of the new environmental laws. The environmental issues dealt with in these laws arise when projects come up for relicensing.

Third, other competing uses for water are important and politically sensitive. Continuing growth in both population and industries only creates greater demands for water, power, recreational resources, and resource protection. Hydropower licensing and administration have become part of a larger debate about developing sustainable energy strategies and resources.

The increasing awareness of hydropower development and the Commission's decisions have led to expanded participation of federal and state resource agencies, nongovernmental organizations, and the public in the Commission's regulatory processes. In recent legislation, Congress sought both to clarify the role of other agencies in the Commission's licensing process and to strike a better balance between the developmental and environmental values of concern to these entities. The Commission increasingly is using up front consultation and settlement procedures to resolve conflicts and accommodate the interests of these varied participants.

Commission Administration

The Commission has been working for several years to improve both the way it does business with the industries it regulates and its own internal procedures.

Although the Commission must utilize the fact-finding capabilities of administrative litigation, it has developed a number of alternatives to lengthy and costly formal hearings. It has made extensive use of technical conferences, settlements, settlement judges, and mediators in its casework. It has also made use of generic rules and blanket authorizations where possible. In addition, it has encouraged the growth of regional transmission groups in electric power and development of national standards in natural gas pipeline operations. These groups, composed of all stakeholders, can find fair

solutions to potential disputes that would otherwise come to the Commission for decision. For environmental aspects of both hydropower licensing and natural gas pipelines, the Commission uses early staff involvement and prefiling meetings to identify potential areas of conflict early in the review process. It also uses technical conferences, local public meetings, and collaborative processes to promote understanding and compromise among the parties at various stages of the proceedings.

The Commission has introduced electronic filing and electronic bulletin boards. Electronic filing is already in place for many purposes, and computer systems provide access to bulletin board data, Commission documents, and information on obtaining Commission services.

While making these business improvements, the Commission has also reduced administrative staff by 14 percent between FY 1994 and FY 1997.

Strategic Goals and Objectives

A number of the Commission's responsibilities and approaches to meeting those responsibilities are similar across industries. Therefore, the Commission's goals for each industry can be grouped into several broad categories that cut across industries. These broad categories are:

- regulation of markets and rates, terms, and conditions of energy services;
- authorizing and monitoring energy projects; and
- Commission administration.

Industry goals appear below under these categories.

Regulating Energy Markets

Electric Power

The Commission will regulate electric transmission and bulk power markets to

- a) foster the growth of efficient, competitive commodity markets, and
- b) protect customers from excessive transmission rates and service discrimination.

Natural Gas

The Commission will regulate natural gas pipelines to

- a) ensure that pipeline transportation service supports efficient, competitive commodity markets, and
- b) protect customers from excessive transportation rates and service discrimination.

Oil Pipelines

The Commission will ensure fair access to the oil pipeline systems for all customers under just and reasonable rates, terms, and conditions.

Authorizing and Monitoring Energy Projects

Natural Gas

The Commission will regulate interstate natural gas pipelines to ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation systems.

Hydropower

The Commission will regulate nonfederal hydropower projects to

- a) ensure that sustainable hydropower resources are licensed for the public's benefit,
- b) maintain the nation's existing hydropower development to serve all water resource interests, and
- c) ensure dam safety through inspection of facilities and operations.

Commission Administration

All Industries

The Commission will reduce regulatory burden by

- a) reducing the processing time for docketed workload and for resolving disputes,
- b) minimizing filing burdens, and
- c) generating better information for use by industry and the public.

Relationship Between General Goals and Objectives and Annual Performance Goals

Regulating Energy Markets

Efficient, Competitive Markets

Customers will have more new products and a reasonable range of suppliers from which to choose in both the electric and natural gas industries.

The purpose of Commission policy on open access and unbundling for the natural gas and electric industries is to increase the options of customers who historically had very limited choices of natural gas and electric power suppliers. The Commission will assess whether customers have more new products and a reasonable range of suppliers from which to choose as an indication that commodity markets are reasonably competitive and responsive to customer needs.

Natural gas and electric power prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly.

The natural gas and electric industries are both subject to relatively short peaks in demand that customers cannot meet by storing the commodity on-site, despite the existence of substantial off-site gas storage. (This differs from the coal industry, for example, where many customers can ride out

short-term market fluctuations using on-site storage.) To analyze how responsive markets are becoming, the Commission will combine basic price information with other indicators of market conditions, such as weather in consuming areas, that will contribute to an assessment of market operations. The Commission's informal market tracking for natural gas suggests that both volatility and pricing anomalies can point to areas where the market is either not working as well as it could or working in ways that were not anticipated but are beneficial. Either way, the results are important as guides to future policy. This will likely be true for electric power also.

Natural gas prices within each trading region will tend to converge, except to the extent there are demonstrable transportation constraints or costs. Wholesale electricity price differences will also tend to narrow.

Convergence of prices within a trading region is one sign that competition is working efficiently.

It will be less costly, administratively, to transact business on the interstate natural gas transportation grid.

This is an important indicator of improved commodity markets. Transparent markets make it easier for customers to understand what their choices are. Markets that are easy and convenient to use lower the administrative costs for all customers using them. In both cases, the result is to lower the cost of using the market for each customer's transactions. With lower transactions costs, more customers will have access to the market, which will be especially important as more states give smaller customers the right to buy gas in the interstate market (rather than only from the local distribution company). In addition, lower transactions costs can increase the liquidity of the market.

Constraining Market Power

Market participants will have confidence that natural gas markets, electric markets, and oil transportation services are working efficiently and fairly and that market participants are not subject to abuses of market power. That is:

- *Broad customer classes (not necessarily every customer) will agree that buyers and sellers have access to competitively priced commodity markets in the national gas transportation and electric transmission grids.*
- *Customers will generally agree that gas pipeline, electric transmission and oil transportation rates and services are just and reasonable, fairly balancing the competing interests of the transporting or transmitting companies and their customers.*

This indicator refers to the Commission's success in eliminating unnecessary market power and in fairly balancing the interests of all parties when market power cannot be eliminated. In both cases, the best performance indicator will come from discussions with the industry and its customers.

The first part of the indicator refers to *customer perceptions* of how much competition they see. The reason for approaching the measure this way is that detailed, quantitative market power analyses are extremely difficult and expensive to perform. Even when performed, such analyses almost never tell the whole story by themselves. Non-quantified factors almost always substantially affect the degree to which observed levels of market concentration translate into the possibility of market power abuses. As a result, measuring customer perceptions is the most cost-effective way of judging the Commission's success in guaranteeing access to competitive markets where feasible.

The second part of the indicator reflects the fact that some degree of market power is inherent in the natural gas pipeline, oil pipeline and electric transmission industries. That is why they are regulated in the first place. In controlling market power, the Commission balances the legitimate interests of different parties. There is no direct way of quantifying how well the Commission is performing its balancing function. However, broad approval from each major industry sector and the ability of each to operate profitably would not be possible unless the Commission was succeeding in this balancing function.

Authorizing and Monitoring Energy Projects

Adequate Natural Gas Pipeline Capacity

The Commission's certification program will allow the appropriate amount of new pipeline capacity to be available to serve the market when needed.

This measure is meant to ensure that adequate capacity and reliable, flexible services are available in the interstate natural gas transmission system, while considering the need to ensure that there are no undue cost shifts or cross subsidization.

Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

The Commission must be able to process pipeline certificate cases in a fair and timely manner. In general, depending on the level of complexity and the number of opposing parties and type of opposition (e.g., landowner complaints), the Commission will act expeditiously and issue construction certificates to allow the commencement of service in accordance with the general plans of the applicant.

Licensing and Administering Hydropower Resources

Licensing conditions will protect and enhance beneficial public uses, both developmental and nondevelopmental.

Tracking the beneficial public uses that result from licensing conditions and changes in capacity will indicate that sustainable hydropower resources are being licensed for the public's benefit.

Administration of hydropower developments will accommodate increasing public use without diminishing key water resource values.

Tracking the number of recreation facilities at projects, the number of visitor days, and the number of improvements and enhancements made to facilities will indicate that existing hydropower development is serving all water resource interests.

The Commission will reduce processing time under its control, particularly through the use of collaborative procedures and early involvement of staff.

Timely issuances that take into account the interests of all involved entities will help ensure that the Commission's licensing program serves the public interest, taking into account all water resource interests.

Dam Safety

The percentage of high- and significant-hazard dams meeting all current structural safety standards will remain uniformly high.

The Commission's dam safety program must ensure consistently high safety standards at high and significant hazard dams to maintain the lowest probability of failure.

One hundred percent of high- and significant-hazard dams will be inspected annually.

Through inspections the Commission identifies safety problems at projects before they lead to dam failure or jeopardize public safety.

One hundred percent of high- and significant-hazard dams will comply with emergency action plan requirements.

Timely and effective emergency planning and recurrent monitoring should reduce or eliminate any potential threat to life or property.

Commission Administration

To reduce administrative burden, the Commission will:

- *reduce the processing time for docketed workload and for resolving disputes;*
- *minimize filing burden; and*
- *generate better information for use by the industries.*

The Commission will hold a series of symposia during FY 1998, dealing with issues such as expedited complaint procedures, electronic filing, certificate reforms, hydropower relicensing, and the Internet. Participants in the symposia will include key policy makers and technicians from industry, government, and academe, in addition to the Commission's management and staff.

Through this process the Commission will develop measurements to gauge progress toward its administrative goals.

Means and Strategies: Regulatory Actions and Adaptations

Electric Power

The Commission's goals for the electric industry reflect the rapid changes in that industry. The Commission's statutory obligations remain the same: to administer the laws and regulations involving issues of transmission and sales for resale of electric energy in interstate commerce, certification of exempt wholesale generators and qualifying facilities, and corporate transactions such as mergers and security issues of electric public utilities. Looking forward, to fulfil this mandate for an industry that is changing as much as the electric industry is changing, the Commission will need to play important new roles:

- Regulating interstate transmission to support competitive generation. Although transmission accounts for only 7 percent of overall investment in the industry, it is critical to generation suppliers who need access to customers. It is the Commission's job to ensure that efficient, reliable, nondiscriminatory access is available for all electric suppliers and customers. This is the underpinning of future competition in generation.
- Addressing market power. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, there are significant concentrations of generation in the hands of one or a few local companies in many parts of the country. The Commission will monitor utilities and assess whether they can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition.
- Encouraging efficient wholesale commodity markets. To achieve the benefits of competition, electric markets must function well. The Commission will encourage market structures that allow quick, reliable, flexible trading (a key to capturing the most trade benefits) and have low transaction costs (a key to getting useful access for smaller players).

Addressing External Factors

- Working effectively with states to harmonize regional reforms. Many aspects of the electric industry are regulated at the state level, including both retail sales and distribution services. As more states opt to give retail customers access to the power markets, the result will be unified, regional bulk power markets. However, since most of the electric industry's assets are under the jurisdiction of the states, coordination between the states and the Commission in the restructuring of the industry is critical to realizing the goal of efficient, competitive markets. The Commission will work with states to come up with cooperative solutions to the jurisdictional issues raised by the change.

- Working with other agencies to harmonize regulatory programs. The policies of several other federal agencies have important implications for the future of the electric industry. For example, the Department of Energy has important responsibilities in ensuring the reliability of the electric grid, and EPA's emissions responsibilities will inevitably affect the electric industry. The policies of these agencies are critical to realizing the goal of efficient, competitive markets.

Natural Gas

The Commission's goals for the natural gas industry reflect that industry's continuing change. The Commission's statutory obligations remain the same: to administer the laws and regulations involving the transportation and sales for resale of natural gas in interstate commerce, the construction and operation of natural gas pipelines, and the oversight of related environmental matters. To fulfil this mandate for an industry that is changing as much as the natural gas industry is continuing to change, the Commission will need to play important new roles. It must:

- Ensure that open access under the Order No. 636 regulations continues to work as intended.
- Encourage efficient gas pipeline construction. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the geographic mixes of production and consumption.
- Take advantage of competition in transportation. It appears possible that some transportation services can be subject to at least some greater competition than seemed likely a few years ago. The Commission will look for ways to take advantage of such competition as a tool to assure just and reasonable rates without reducing protection against the abuse of market power in transportation.
- Encourage improved commodity markets. Natural gas commodity markets can be made to work better by:
 - continuing efforts to improve standardization among pipeline systems for both information and business practices so that gas can be moved more efficiently;
 - ensuring fair and effective short-term markets to assure that the parties obtain the capacity and gas they have purchased and to ensure system reliability; and
 - removing barriers to efficient secondary transportation markets.
- Develop regulatory systems based on Commission monitoring and customer complaints that can respond to the increased pace of the market without unduly burdening market participants.

Addressing External Factors

- Work with states to address market and regulatory issues that arise as states adopt retail unbundling for local distribution companies. State policies on retail unbundling can affect the Commission's goal of ensuring efficient, competitive commodity markets.

- Coordinate with other federal agencies, state agencies, and the public when preparing environmental reviews. Coordination with other entities that have interests in pipeline projects often requires public notices, meetings, and comment periods, and is a factor in the processing time for the Commission's reviews.

The Commission must encourage the industry to solve these and other problems as they arise in the continuing evolution of the gas commodity market. Put differently, the Commission must regulate transportation in a way that fosters the growth of a second generation of gas markets that are more flexible, more responsive to customer needs, and less costly to use.

Oil Pipelines

To meet its goal for the oil pipeline industry, the Commission's role remains to ensure fair access to the oil pipeline systems for all customers under fair terms and conditions at reasonable rates. In some cases, the Commission can do this by allowing market-based rates where markets are competitive. In others, the Commission needs to continue regulation, while remaining flexible, for the pricing of services for new oil pipeline construction.

Hydropower

Despite the changes in the hydropower industry, the Commission's statutory obligations remain the same: to license and inspect nonfederal hydroelectric projects and to oversee related environmental matters. To meet its goals for the changing hydropower industry, the Commission is adapting its regulation to new realities — heightened environmental sensitivity, decision-making responsibilities shared with other authorities, and a new competitive marketplace. This means evolving approaches to regulation that include:

- Ensuring that regulation balances competing demands for limited water resources. The Commission's mandate to foster comprehensive plans of development while considering the overall effect of proposed hydropower development on rivers and river systems changes as society's demands upon water resources change. The Commission will seek to maintain the benefits of hydropower generation while enhancing environmental values and other beneficial uses of water.
- Maintaining vigilance over project operations. The Commission has ongoing responsibilities to ensure that balancing water uses and protecting sensitive resources continues over the life of a project. License conditions are only as effective as the Commission's ability to work with its licensees to ensure they are met. Thus, administering a license over its life — when external circumstances may change unpredictably — is an essential feature of the Commission's regulation. But its administration cannot be heavy-handed. Cooperation and flexibility in achieving the desired ends will be necessary in a more competitive environment.
- Explaining the Commission's hydropower program to new participants. The competitive market may bring new business entities into the industry (just as PURPA attracted new entrepreneurs

to develop small-scale hydropower). The Commission will integrate these new entities into its processes and accommodate their concerns and needs as it does for all others.

- Protecting life and property by ensuring the safety of dams and other structures. Here too, the Commission's regulation will evolve. The inventory of dams under the Commission's jurisdiction is aging; many dams are quite old, so vigilance is a necessity. Engineering procedures are improving. The Commission will work with licensees, the engineering community, and the localities where projects are located to ensure that its safety program continues to match the state of the art as it develops.

Addressing External Factors

- Coordinating Commission activities with those of other interested authorities. Although the Commission is charged with making final decisions on actions before it, many other entities have legitimate, recognized interests in the outcome of its cases. These other authorities include federal and state land and resource management agencies, fish and wildlife agencies, water quality agencies, Native American tribes, a variety of nongovernment organizations, and the public. The timing of actions by these other authorities will affect Commission processing times and the degree to which hydropower resources can be developed or sustained.
- Meeting competitive conditions. Although competitive changes are now occurring in the electric marketplace, the final impacts of those changes on sustainable hydropower are not yet known. The Commission will have to assess competition's effects on hydropower development and operation, and in some cases use flexible approaches to accommodate market-driven changes.
- Maintaining the benefits of hydropower regulation in the face of changing scientific and public attitudes. Because hydropower projects operate over many decades, the Commission must be sensitive to long term effects of these changes on resources protected by its licenses.

Commission Administration

Continued change will take advantage of improved information and automation technologies as well as respond to the needs of changing industries. To meet its goals over the next 5 years, the Commission will continue its administrative reforms involving:

- Expediting decisions where practicable, while considering the due process rights of others. Delay of good decisions almost inevitably means delay of benefits for consumers. As the regulated industries become more subject to competitive forces, timing becomes ever more important for companies as well as for consumers. Many of the proposals now coming before the Commission are extremely time-sensitive, because they represent market opportunities that can easily disappear if delayed. Examples include many new gas pipeline construction proposals. In some cases, delay can mean disruption. A proposed electric merger, for example, can bring many other intra-corporate changes to a stop until it is resolved. Delayed licensing and

relicensing decisions can postpone the realization of generation, environmental, and safety benefits.

- Developing new procedures for surgical, reactive intervention in markets. Competition is the best customer protection when it is available. The Commission must develop ways to intervene in markets only to the extent needed to correct particular problems. This means monitoring markets rather than trying to manage them, reacting to problems as they arise (for example, through complaints), and taking remedial action that has as little effect on well-functioning parts of the market as possible.
- Improving regulatory certainty. All of the industries the commission regulates are capital-intensive and therefore involve substantial risk. As natural gas and electric power commodity markets become more competitive, both regulated companies and their customers see the underlying risk in the form of changing market prices. It becomes ever more important to ensure that both regulated companies and their customers can count on stable, timely regulatory treatment. If regulation is uncertain, the result would be to add risk to products and markets and therefore to add costs.
- Controlling regulatory costs. Good regulation provides substantial benefits to customers but inevitably involves costs. The Commission has an obligation to ensure that the costs are reasonable in relation to the benefits produced. The Commission will continue to discipline its own costs. For example, it must reduce its overhead costs for administration and the costs of treating similar issues in similar cases. Moreover, the Commission's own cost is only a fraction of the burden that industries incur, since companies pay for the legal and technical expertise needed to bring their cases to the Commission. In controlling regulatory costs, the Commission must be sensitive to these costs also.
- Improving communication and cooperation. Up front staff involvement, technical conferences, public meetings, and collaborative procedures are essential tools for avoiding needless confrontation, shortening processing, and maintaining litigation at appropriate and reasonable levels in all program areas. These efforts are particularly important in gas pipeline construction and hydropower licensing, which typically raise contentious issues that require balancing strong competing interests.
- Taking advantage of new technology, especially for information. The Commission will continue to automate internal processes and make its computerized information more easily accessible to the public and more pertinent to the needs of the changing industries. Of particular importance, the Commission must make all public information available electronically and will work with the natural gas and electric industries to make market-monitoring information available while preserving commercial confidentiality as appropriate.

External Factors

These plans are based on current legislation and the current technological state of the industry. If either of these should change significantly, the Commission would need to change its plans. While the Commission cannot anticipate specific changes in either legislation or technology, the electric industry (especially) is in the midst of a transition that could lead to changes in both. For example, several proposals now before the Congress would lead to a significant further restructuring of the industry nationwide. Similarly, distributed generation may become more economically viable. If it does, it would change some of the Commission's basic assumptions about what parts of the industry can be competitive and in what ways.

Other external factors that can influence the Commission's success in meeting its goals are noted in the section, "Means and Strategies: Regulatory Actions and Adaptations."

Program Evaluation

The Commission is committed to accountability in its programs. For the next year, the most important task is to ensure that specific performance measures are developed along with the quantitative information needed to support them. To do this, the Commission will establish a high level working group, chaired by the Deputy Chief Financial Officer. The working group will include one member from each of five Offices: the Office of General Counsel, the Office of Hydropower Regulation, the Office of Pipeline Regulation, the Office of Electric Power Regulation and the Office of Economic Policy. It will present quarterly progress reports to the Chairman on the status of the Commission's performance measures.

To improve accountability in the longer run, the Commission will institute ongoing assessment reviews at least annually. As part of each review, the Commission will report on how well it is meeting its goals, how and why its goals and objectives should be modified (if at all) and what changes to indicators are needed to improve how well it is measuring its performance. A top priority involves improving its information systems to provide credible measurements of key performance indicators.

**FY 2000 BUDGET REQUEST TO
THE CONGRESS
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FEDERAL ENERGY REGULATORY COMMISSION

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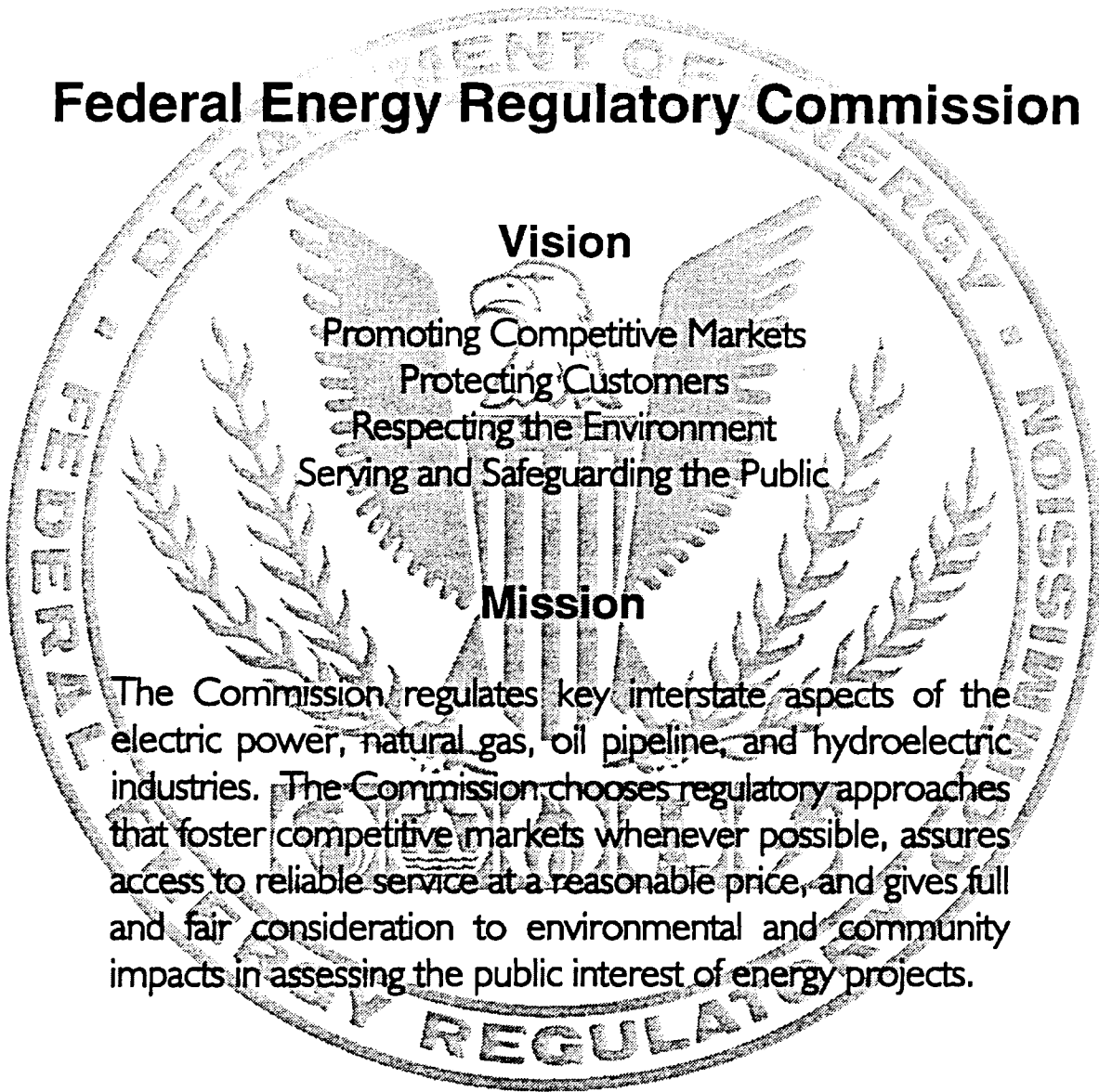
Federal Energy Regulatory Commission

Vision

- Promoting Competitive Markets
- Protecting Customers
- Respecting the Environment
- Serving and Safeguarding the Public

Mission

The Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.



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BUDGET REQUEST FOR 2000

To accomplish its mission and goals in FY 2000, the Commission requests funding of \$179,900,000 and 1320 FTEs. The Commission will recover its full costs of operation during FY 2000, resulting in a net appropriation of \$0.

\$179.9 M

The funding request of \$179,900,000 is 7.8 percent higher than the reduced FY 1999 level of \$167,500,000, approved by the House Appropriations Committee. It is 6.5 percent higher than the Commission's FY 1999 budget request of \$168,898,000, approved by the Senate Appropriations Committee.

The requested increase is due to three major factors. First, an increase of \$6 million is for mandatory salary and benefits increases of 5.5 percent. Second, the request includes \$2 million in one-time costs for *FERC First*, the Commission's reengineering initiative. The Commission anticipates that its reengineered processes will lead to annual savings in the future, as well as improved services for the Commission's constituents. Third, an increase of \$5 million is for essential improvements in information technology (IT). These IT initiatives will lead to annual savings of \$2 million.

During FY 1998, the Commission undertook a complete reexamination of how it does business. The one-time costs included in this budget request reflect the findings of that reexamination. The Commission plans the costs of this restructuring to be temporary. It is nevertheless essential to fund this investment if the agency is to meet the needs of the industries it regulates. If the Commission had recognized the need for these reengineering and IT initiatives before making its request for FY 1999, it would have had to request a higher funding level for that year to cover these costs, and the FY 2000 proposal would not represent a significant increase over FY 1999.

The Commission's reengineering and IT initiatives will enable the Commission to provide valuable new services. These include electronic filing and document retrieval, market monitoring, more rapid Commission action on complaints and filings, and greater use of both alternative dispute resolution and consensus-supported outcomes. These and other new services are necessary for the Commission to keep up with its regulatory responsibilities as the markets change. These services support the ongoing industry restructuring that will result in billions of dollars of benefits to the economy.

1,320 FTEs

The request for 1,320 FTEs is level with current usage, and is 57 FTEs lower than in the FY 1999 budget request. The Commission requested 1,377 FTEs for both FY 1998 and 1999 to meet the regulatory challenges associated with industry restructuring and its other statutory mandates. However, in FY 1998, the need to find a new, more efficient approach to regulating the changing energy industry became clear. Seeing the possibility of long-term savings from reengineering, the Commission chose not to hire up to the 1,377 FTE level in FY 1998. Instead, it applied the salary savings to its *FERC First* and IT initiatives. In FY 1999, to begin the implementation of these

initiatives, the Commission will need to keep FTEs at 1,320 and again apply the salary savings to implementation.

By the end of FY 2000, the Commission will have implemented its reengineered processes so that it can meet its statutory mandates in line with the rapidly changing realities of the regulated industries. Rapidly changing industries mean significant increases in many aspects of the Commission's work. Without reengineering, the Commission could meet this increased workload only with significant increases in staffing. The Commission anticipates that the efficiency benefits of reengineering and IT initiatives may mitigate the need for increased staffing in future years and may allow the Commission to maintain the current lower level of 1,320 FTEs.

Full Cost Recovery

The Commission will recover the full costs of its operations through annual charges and filing fees. It will deposit the revenue into the Treasury as a direct offset to its appropriation, resulting in a net appropriation of \$0.

Resources by Program (Budget Authority Dollars in Thousands)

Program	FY 1998 Actual	FY 1999 Estimate	FY 2000 Request	% (+/-) FY 1999 to FY 2000
Electric Power Funding FTEs	\$52,250 439	\$52,555 440	\$56,665 440	7.8% 0.0%
Natural Gas and Oil Pipelines Funding FTEs	\$64,742 514	\$65,749 515	\$70,522 515	7.3% 0.0%
Hydropower Funding FTEs	\$49,176 365	\$49,196 365	\$52,713 365	7.1% 0.0%
Total Budget Authority for Operating Expenses Funding FTEs	\$166,168 1,318	\$167,500 1,320	\$179,900 1,320	7.4% 0.0%
Application of Prior Years' Authority	(\$4,027)	(\$0)	(\$0)	N/A
Budget Authority	\$162,141	\$167,500	\$179,900	7.4%
Offsetting Receipts	(\$162,141)	(\$167,500)	(\$179,900)	N/A
Net Budget Authority	\$0	\$0	\$0	0.0%

EXECUTIVE SUMMARY

External Changes Challenge the Commission

A year ago, the Commission prepared its first Strategic Plan and its budget for FY 1999. These efforts made clear that the Commission faces long-term challenges.

First, increasing competition in natural gas and electric power commodity markets promises to create billions of dollars of benefit to the American public. Realizing these gains depends on continued, effective regulation of the essential transmission facilities — wires and pipes — that link suppliers and customers. Traditional transmission regulation, based on cost-of-service rate making, will remain a key part of the Commission's overall regulatory strategy, but new forms of regulation will become increasingly important. These include monitoring markets, mitigating market power where it exists, and interacting with new institutions such as independent system operators (ISOs).

Second, energy projects — hydroelectric projects and gas pipeline construction — are the subject of more extensive economic and environmental scrutiny from environmentalists, landowners, state and federal agencies, and project owners operating in more competitive markets. All have major stakes in the decisions the Commission reaches. On one hand, the Commission must be more sensitive to these diverse concerns. On the other, the timeliness of decisions is becoming more important as projects attempt to meet the changing demands of the marketplace.

Changes in each industry present new budgetary challenges. For example:

- *Electric.* The Commission still has its traditional workload. In addition, the electric industry is creating new institutions that the Commission must work with to ensure development and maintenance of smoothly functioning competitive markets.
- *Natural Gas.* The Commission's efforts to respond to developing gas markets include proposals to supplement traditional cost-of-service regulation with new, more market-oriented approaches, especially for short-term markets (including maximizing competition, mitigating market power, and monitoring for undue discrimination).
- *Hydropower.* The relicensing of projects, especially larger projects affecting whole river basins, involves complex issues around environmental impacts and other resource uses. On top of this, the new license conditions that deal with these issues create an ever increasing monitoring workload.

The Commission is Meeting the Challenge

Changing the Traditional Way of Adapting. The Commission has long been successful at adapting its traditional processes and structures to meet new problems — after all, the transition to greater competition in natural gas began almost a quarter century ago. However, the cumulative weight of change in the industries is now putting extreme pressure on the Commission to do more than adapt gradually. In particular, it became clear a year ago that the Commission would require increasing staffing levels to meet its workload

if it were to maintain its existing procedures. Even with modestly increasing levels of staffing, doing all the new work required would be difficult if the Commission is to meet its statutory obligations in the new energy world. The FY 1999 budget requested staffing levels that were the same as FY 1998, and slightly above those for FY 1997.

Reengineering: *FERC First*. At the same time, the Commission realized that increasing staffing levels in the future could not be counted on. Partly in response to this basic reality, the Commission undertook a complete reexamination of all its processes during FY 1998 — the *FERC First* reengineering initiative. The result is a blueprint for changing the Commission's processes and structures during FY 1999 and FY 2000 to match the challenges it will face in the future.

Reengineering Affects the Budget

This budget request reflects the results of *FERC First* in the following ways:

It requests 57 fewer FTEs for FY 2000 than the FY 1999 budget requested. The Commission anticipates that *FERC First* reengineering efforts and its IT initiatives will allow it to meet the challenges of the future with fewer people than anticipated a year ago. The Commission's traditional approach would require much higher levels of staffing to meet its increasing challenges. However, this request is predicated on the Commission being able to make these basic investments.

It requests about \$2 million for the expenses of *FERC First* itself. These are the one-time costs that will lead to long-term savings as reflected in the lower FTE request.

It requests about \$5 million for information technology (IT) initiatives. These include electronic filing and work flow management, key initiatives that will let the Commission process its work in a more timely way and offer better service to all its constituents. Other IT initiatives include efforts to replace obsolete technologies, modernize critical parts of the Commission's infrastructure (such as human resources procedures), and greatly increase cost accountability. IT is likely to require further initiatives in future years because of the inherently dynamic nature of the field. However, the specific initiatives funded here will save about \$2 million each year, compared with the systems now in place.

The Commission's Budget of the Future

The Commission's FY 2001 and FY 2002 budget requests will begin to reflect the positive returns and the organizational results of the Commission's internal reengineering. This will be evident in three key areas. First, the Commission's reengineering will lead to significant improvements in the Commission's performance measurement. Second, the Commission will design and implement new workload measurement systems that more accurately reflect the changing nature of its work. Finally, the budget narrative for FY 2001 will mirror the structure of the Commission's newly reengineered processes, and will identify funding and staffing requirements by the new categories. It will also provide a way to compare the new request format with the current request format by industry. The two main program

areas will be (1) work related to markets, tariffs, and rates, and (2) work related to authorizing and monitoring energy projects.

EXTERNAL CHANGES

The Commission's Regulatory Responsibilities

Economic Regulation

The Commission is obligated by statute to regulate key economic aspects of the electric, natural gas and oil industries. The law requires the Commission's economic regulatory activity because the transmission of electricity, natural gas, and oil is often a natural monopoly. There have been no changes to the Commission's basic organic statutes in the past year. Pending before Congress, however, are a number of bills that would assign the Commission new responsibilities related to electric restructuring.

Environmental, Siting, and Safety Regulation

The Commission is also charged by statute to regulate certain energy projects. This includes siting and environmental aspects of natural gas pipelines and both safety and overall usage of water resources for nonfederal hydroelectric projects. Statutory environmental requirements, along with the public's increasing interest in the environment and participation in Commission proceedings, make this aspect of the Commission's regulation as vital – and as difficult – as it has ever been.

Statutory Obligations

Energy Markets

In the electric power industry:

- ▶ Ensure just and reasonable rates for transmission and sales for resale of electric energy in interstate commerce;
- ▶ Ensure non-discrimination in rates, services, and access;
- ▶ Certify exempt wholesale generators and qualifying facilities; and
- ▶ Review proposals for corporate transactions, mergers, and issuance of securities by electric public utilities.

In the natural gas industry:

- ▶ Ensure just and reasonable rates for transportation and sales for resale of natural gas in interstate commerce; and
- ▶ Ensure non-discrimination in rates, services, and access.

In the oil pipelines industry:

- ▶ Ensure just and reasonable rates for pipeline transportation of crude oil and petroleum products in interstate commerce; and
- ▶ Ensure non-discrimination in rates, services, and access.

Energy Projects

In the natural gas industry:

- ▶ Act on proposals for construction and operation of natural gas pipelines; and
- ▶ Oversee related environmental matters.

In the hydroelectric industry:

- ▶ Act on applications for licenses for nonfederal hydroelectric projects;
 - ▶ Oversee related environmental matters; and
 - Ensure the safety of nonfederal hydropower projects.
-

Meeting the Legal Mandate

Thus, the Commission operates under two imperatives:

- Its work is mandated by law, often down to detailed legislative requirements.
- The industries it regulates are changing rapidly; old statutes must be applied to new circumstances, including a new focus on markets.

This chapter describes how changes in regulated industries affect the way the Commission must approach its work. The next chapter describes the Commission's overall strategy for addressing those changes.

Industry Changes Challenge the Commission

The industries the Commission regulates are rapidly changing their structures, operations, and investment strategies. These changes reflect a continuing evolution toward greater competition, an ongoing convergence of gas pipeline and electric power markets, and greater environmental accountability. Other government agencies, industry participants, and the public are becoming increasingly involved in the Commission's activities.

One force behind these changes is support in Congress and successive administrations for expanding competition in the natural gas, oil pipeline, and electric power industries, reflected most recently by the enactment of the Energy Policy Act of 1992. Also contributing to the changes are the Commission's open access policies, which require owners of electric transmission and gas transportation systems to make their systems available to all competitors. Other changes affecting the Commission's activities include:

- **A global trend toward competition** in industries that have been traditionally viewed as monopolistic;
- **Industry innovations**, including organizational, technical, and financial improvements developed to deal better with the evolving markets; and
- **Heightened public awareness of environmental concerns**, reflected in statutory and regulatory changes that increase environmental, historic preservation, and land use requirements for the administration and relicensing of hydropower projects and the construction of natural gas pipelines.

Major Challenges in the Year 2000**Regulating Energy Markets**

The challenge facing the Commission is to develop a regulatory approach that promotes competitive markets while protecting customers and serving and safeguarding the public. Natural gas markets have been competitive for some time. Electric markets are becoming much more competitive in many parts

of the country. In both industries, competition to supply the basic commodity has required a new regulatory infrastructure. Without the open access provided under the Commission's Order No. 636 (for natural gas) and Order No. 888 (for electric power), market power over transmission would have reduced competition in commodity markets greatly. Going forward, the continuing evolution of natural gas and electric commodity markets will require further regulatory adaptations to ensure that the basic principles of open access remain intact in a changing world.

Market Functioning. Both gas and electric markets are developing rapidly. In natural gas, flexible short-term markets offer prices at many points around the grid that vary rapidly with changes in supply and demand. These spot market prices for gas imply a value for gas transportation that does not depend on the traditional regulated rate. The divergence between value and regulated price of transportation, and questions raised about the effectiveness of traditional rate setting as a tool for addressing market power, led the Commission to reexamine its approach to regulating short-term gas transportation. As part of this review, the Commission is exploring how it might:

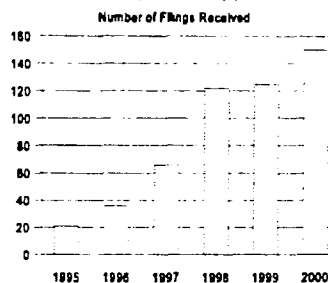
- maximize competition in the short-term transportation market;
- mitigate the ability of firms to exercise residual market power; and
- monitor the market for instances of monopoly power or undue discrimination.

On the electric side, new market institutions are developing rapidly. The Commission is looking at ways to promote competition in regional power markets. It is encouraging pricing and operational innovations in regional market arrangements including establishing Independent System Operators (ISOs) and Power Exchanges (PXs). The Commission must ensure that competitive market structures continue to deliver just and reasonable rates.

In both natural gas and electric power, improved monitoring will be crucial. Emerging markets involve far more individual transactions than can be easily tracked in a traditional regulatory setting. They are inherently unpredictable, with unforeseen opportunities and associated issues arising as often as the entrepreneurial zeal of companies can find them. That makes it essential that the Commission monitor gas and electric markets to ensure that competition is working for the benefit of consumers, that market power is being mitigated, and that the Commission can identify any necessary regulatory adaptations. In a related effort, the Commission will explore ways to enhance market transparency so that market participants see their options more easily, can better detect market power abuses, and can use improved complaint processes to report them to the Commission. Thus, the Commission will move away from hands-on, command-and-control regulatory methods, to focus more on promoting competitive markets and keeping a vigilant watch on market operations.

Industry Structure. By law, the Commission reviews changes in ownership or control of electric power facilities. This aspect of the Commission's work

Electric Corporate Applications



FY 1999 and FY 2000 are estimated.

becomes even more important in an increasingly competitive world. Companies are finding it necessary to repackage their assets by building on their strengths and reducing their vulnerabilities, while the Commission must ensure that changes in ownership patterns do not create market power problems.

Both mergers and divestitures have increased since the Commission issued its open-access policies. Competition has led to significant merger activity in many industries, but mergers can create or enhance market power by reducing the number of energy providers. The Commission's challenge is first to decide whether particular mergers are in the public interest and then to monitor for overly concentrated markets and exercises of market power by those companies. Many parties are also buying and selling electric generating plants — asset acquisition can raise important market power issues. Convergence between the gas and electric industries is leading to mergers and alliances across the two industries. These raise novel issues for the Commission. Corporate changes can also lead to regulatory issues in the natural gas industry (when pipelines spin off to affiliates their merchant and gathering functions) and in the hydroelectric industry (when companies seek to spin off generation facilities that the Commission licenses).

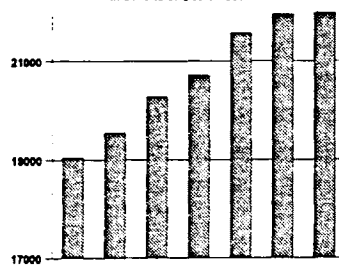
Authorizing and Monitoring Energy Projects

The Commission has a basic statutory responsibility for authorizing and monitoring certain energy projects. Its major challenge in carrying out this responsibility is to ensure the licensing and relicensing of sustainable hydropower projects and the construction of natural gas pipeline and storage projects that are economically viable and protect the environment.

Gas Pipeline Certification. On the gas side, growing demand in New England, the Mid-Atlantic, and the Midwest will lead to more applications for major pipeline extensions and new pipelines. Many industry observers believe that the pipeline grid must support a future industry that supplies up to 30 trillion cubic feet of natural gas nationally per year. As customers have become responsible for their own gas supply acquisition, they have demanded more flexible arrangements. As a result, the Commission expects more applications for storage development and liquefied natural gas facilities to provide peaking capability and supply flexibility. As the national pipeline grid ages, the Commission anticipates a significant number of applications for replacement facilities in the interest of safety.

Natural Gas Consumption

In Billions of Cubic Feet



Source: Energy Information Administration

Increasingly, new pipelines propose to serve markets already served by existing pipelines. In these cases, the Commission must balance the benefits of competing supplies of natural gas against the environmental impacts of a project and the potential market impacts of excess capacity. Landowners increasingly question the right of pipelines to use eminent domain when the Commission relies on evidence of market demand to establish need for the project. Thus, determining project need and environmental consequences will be an increasingly complex and contentious process.

Finally, the substance of these and other filings has changed. Very few filings are now straightforward cases for which past Commission practice and precedent can guide the analysis. The innovative, complex proposals many

pipelines are presenting require a fresh look and new analytical techniques; in addition, these filings attract many protests and interventions, further complicating the proceedings.

Hydropower Administration. As electric markets grow, the challenge to the Commission's hydropower program is to ensure that sustainable hydropower remains a part of the nation's energy mix. Projects must be economically viable, responsive to environmental needs, and sensitive to other water use values. Hydropower's low operating costs and flexibility can make it valuable in competitive generation markets. But projects are capital intensive, and the measures needed to bring them into environmental and safety compliance can be costly.

Other federal and state agencies are permitted by law to impose mandatory conditions on licenses issued by the Commission. This requires extensive collaboration between the Commission and other agencies. Successfully managing this collaboration is a significant challenge for the Commission's hydropower program.

New environmental issues arise whenever projects licensed decades ago come up for license renewal. Many upcoming relicensing actions will be for large, complex projects that affect important and regional environmental resources such as fisheries, endangered species, and recreational opportunities. The complexity of the cases increases the need for expediting procedures and calls for prefiling consultation among all the participants.

Licensing decisions, complex as they are, do not end the Commission's responsibilities. Each relicensing case leads to an additional, ongoing monitoring effort throughout the life of the license. (Such monitoring was not required in the original licenses that were issued decades ago when environmental concerns were less prominent.) Issues arising after licensing can be very contentious and decisions difficult. The Commission is conditioning licenses to ensure that water resource development and sensitive resources are protected for the life of the license, which can be up to 50 years. Lines of communication established during licensing and relicensing must continue to function during the term of the license. In addition, the Commission must determine which mitigation measures work best so that it can impose those that are the most effective for protecting resources. In addition, the aging population of hydropower dams poses a challenge in terms of dam safety and public safety, requiring innovative approaches and a shift in program emphasis to monitoring and instrumentation.

The Commission's Response to the Challenge

Responsible Regulation: As Important as Ever

As the electric and gas industries become more competitive, the Commission must change its approach if it is to meet its statutory responsibilities. In the past, the Commission acted to control monopolies by setting prices and limiting profits. In the future, effective regulation must support the growth of strong, competitive electric and gas markets, even though electric transmission and natural gas pipelines retain market power. All parties need to know that the regulatory system will treat them fairly, will not tolerate

abuses of market power, and will not give any player an unfair advantage over others. For some purposes, traditional cost-of-service rate making will still be appropriate. For many other purposes, new methods will be necessary.

Both gas pipeline projects and hydropower projects can, without mitigation, significantly affect the environment and other social issues, such as land use and recreation. These issues become more important every year — especially for hydropower licenses, which extend over many years — even as competitive markets constrain the project resources available to devote to these issues. A major role of the Commission is to lead the various parties to the collaborative resolution of their legitimate, conflicting interests.

A New Approach to Regulation: Regional and Collaborative

The Commission is developing a variety of new ways to deal with specific challenges it faces. However, two themes run through most of its new approaches.

First, the Commission's focus must be increasingly regional. This is true for both markets and projects. The focus must increasingly be on regional gas and electric power markets rather than individual companies. For hydropower, the Commission must focus increasingly on whole river basins in assessing individual projects.

Second, the Commission's focus must become more collaborative. For energy projects, greater awareness of environmental concerns translates into the need for greater collaboration between the Commission and all concerned parties — other agencies, project proponents, nongovernmental organizations, landowners, Native Americans, and the public. For markets, the Commission must work more closely with state public utility commissions, with existing and new market institutions such as ISOs and PXs, with standard-setting groups such as the Commercial Practices Working Group and the Gas Industry Standards Board, and with other key institutions such as the North American Electricity Reliability Council. The Commission has undertaken the following:

- **Collaborative Process.** The Commission has set up a new collaborative process to work better with the concerned agencies, nongovernmental organizations, and the public on hydropower licensing. Collaboration begins before filing, to resolve as many issues as possible in a proposed facility application. These measures can help to expedite processing after the application is filed.
- **Interagency Task Force.** The Commission has formed an interagency task force with other federal agencies (including the Departments of Interior, Commerce, and Agriculture) to address issues arising in hydropower relicensing. This task force will address key inter-agency issues, including how to coordinate processes across agencies and how to make the best use of the Commission's new collaborative processes.
- **Ombudsman Function.** In 1998, the Commission created the function of ombudsman. The ombudsman is part of the Commission's external

affairs organization specifically charged to develop new methods of cooperation and consensual decision-making with other government agencies and also with new industry institutions such as ISOs. Part of the ombudsman role is to develop stronger ties between other agencies and all of the Commission's program offices.

INTERNAL CHANGES

The challenges facing the Commission over the next few years are substantial. To meet them, the Commission must retool the way it operates or risk being unable to respond appropriately to the changing industries it regulates. During FY 1998, the Commission staff undertook a comprehensive look at how it does business today and how it can meet the needs of tomorrow — the *FERC First* effort. The Commission staff is implementing the resulting changes during FY 1999 and FY 2000. This chapter describes several key changes that the Commission will undertake:

- *FERC First* defined *seven major process initiatives* that will change the way the Commission's work is done. These initiatives will cover most of the Commission's major work processes.
- *FERC First* proposed a *target organization* for the Commission's staff in 2000. This target organization is designed to reflect the Commission's reengineered processes. It may change slightly as the Commission develops its blueprints more fully over the next two years.
- The Commission will refine its *performance measures*. The Commission has not further developed the performance measures it proposed last year. The overall review of work processes took precedence, and performance measures are best refined during the implementation of the new processes. That refinement will occur as *FERC First* recommendations are put in place.
- The Commission will redesign its *workload measures*. Industry changes have significantly reduced the usefulness of the Commission's traditional workload measures. As part of implementing the *FERC First* initiatives, the Commission will overhaul these measures.
- The Commission will develop a *new budget format*. The Commission has traditionally divided its programs by industry (gas and oil pipelines, electric power, and hydroelectric projects). This division is increasingly misleading and impractical. It does not take into account the similarity and interconnectedness of gas and electric markets, nor the similarities between hydroelectric and gas pipeline projects' environmental and public concerns.

Together, these changes will prepare the Commission for the 21st Century and represent a comprehensive response to both the letter and the spirit of the National Performance Review of 1993 and the Government Performance and Results Act of 1993 (GPRA).

New Ways of Doing Business: *FERC First* Processes

FERC First began with a full review of the Commission's operations. The Chairman assembled a steering committee of managers and a team of 40 staff, assisted by consultants. This group assessed the external influences affecting Commission operations, reviewed the Commission's basic operations as they exist and as they should be, and conducted interviews and

focus groups with staff and constituents. This initial phase of *FERC First* resulted in a set of seven major initiatives to reshape the Commission's work processes.

Core Initiatives

Two primary initiatives reflect the core of the Commission's responsibilities.

Promoting Competitive Markets. A major focus of *FERC First* is integrating the economic regulation of the gas and electric industries. Considering the convergence of the industries, it makes sense to bring together these aspects of the Commission's responsibilities. An integrated approach will foster regulatory consistency, ease resolution of issues arising from the convergence of the two industries, and maximize the realization of economic benefits. This initiative will include a focused, periodic examination of elements critical to competitive markets and appropriate market monitoring to identify ways to promote and maintain competitive markets and to identify potential market problems. Essential to this approach will be early and continual collaboration among professional disciplines within the Commission and greater outreach, including increased coordination with market institutions and participants.

Authorizing and Monitoring Energy Projects. Both gas pipeline projects and hydropower projects must adjust to competitive markets, heightened environmental concerns and multiple jurisdictional authorities. The Commission must find the best balance among a project's economic viability, its effects on the environment, and its effects on other legitimate claims on the resources. Successful regulation of projects increasingly requires early and continual cooperation with other authorities and all interested parties.

A key element of this initiative is the use of extensive collaboration among the applicant, Commission staff, other agencies, non-governmental organizations, affected landowners, and other interested members of the public. Such collaboration is designed to resolve (as much as possible) issues arising in a proposed gas or hydropower facility application. Such collaboration may lead to the development before filing of a complete factual record for a Commission decision.

Supporting Initiatives

Several other initiatives are closely related to, and integrally support, the processes for markets and projects:

Resolving Disputes. The Commission seeks to promote early resolution of contested matters and complaints through expanded use of consensual decision-making, including alternative dispute resolution (ADR). Parties also will have opportunities to participate in pre-filing ADR to resolve or narrow the issues that would otherwise remain contested after a filing.

Building Bridges. *FERC First* identified the enhancement of two-way communication between the Commission and its constituents as a critical need in the future. Better communication will contribute to Commission decision-making, improve interested parties' understanding of Commission policies and actions, allow for long-term collaboration between staff and

outside parties, and establish an external constituent focus throughout the staff. The proactive nature of this initiative is a departure from the past; planning, staff training, and performance measurements will help ensure positive outreach.

Strategic Planning. Building on the Commission's initial response to GPRA, the Commission will develop a specific process to do strategic planning and overall performance measurement for the agency. This will take into account the broad spectrum of industry trends in developing Commission goals and objectives. Assessment of industry trends, market needs and constituent wishes will depend on analysis of industry data, guidance from the Chairman and Commissioners, and dialogue with the public and Commission staff. Along with articulating strategic direction, identifying goals, and measuring results, this process will identify necessary funding and staffing levels, Commission skill mixes, and information technology (IT) requirements to realize objectives.

Managing Information Technology. IT is one of two essential enabling tools for all of the Commission's future business. This initiative will set up a largely paper-free environment with electronic filing and posting of documents and automated work flow management. Putting these measures into place will address the need for complete, accurate, and timely information in an increasingly competitive marketplace. Planned major improvements to IT will reduce processing time for workload without statutory deadlines by streamlining and automating processes throughout the Commission.

The web site will serve as the entry point for electronic filing, posting, serving notifications of filings, and providing filings to interested parties. IT will make information available faster through the Commission's web site and will simplify searching for specific information within the large body of data the Commission maintains. Internal staff and external parties will have access to filings within minutes or hours rather than days. A workload processing system to be completed in FY 2000 will be linked to the Commission's Records and Information Management System and to the electronic filing. Eventually it will also be linked to a data repository, to be constructed in FY 2000 and linked soon after. The data repository will store information in a variety of formats and use powerful search tools to find specific information within multiple databases.

The Commission's IT will also support the oversight of industry markets, by enabling the monitoring of competitive markets engaging in electronic commerce. Energy companies use a web of IT and telecommunications systems to share information and coordinate delivery of energy products, and to monitor and control energy operations. Together, these systems help define the modern marketplace.

Overall, this initiative will strengthen strategic planning, expand access to information, manage priorities, improve communications and operations, allocate resources efficiently, and improve IT skills across the Commission.

Fixing the Year 2000 Computer Bug

The Year 2000 computer issue has been a challenge for both the Commission and its regulated industries because of the immovable deadline for ensuring Year 2000 readiness. The Commission has been addressing its own computer systems, and has a well developed implementation schedule for total readiness by January 1, 2000. The Commission is also a member of the President's Council on Year 2000 Conversion, and is the leader of the oil and natural gas sector of the Council's Energy Working Group. The Council is working with federal agencies and coordinating the outreach and sharing of information across industries such as telecommunications, banking, transportation, and energy, raising awareness and monitoring industry progress in reaching Year 2000 readiness.

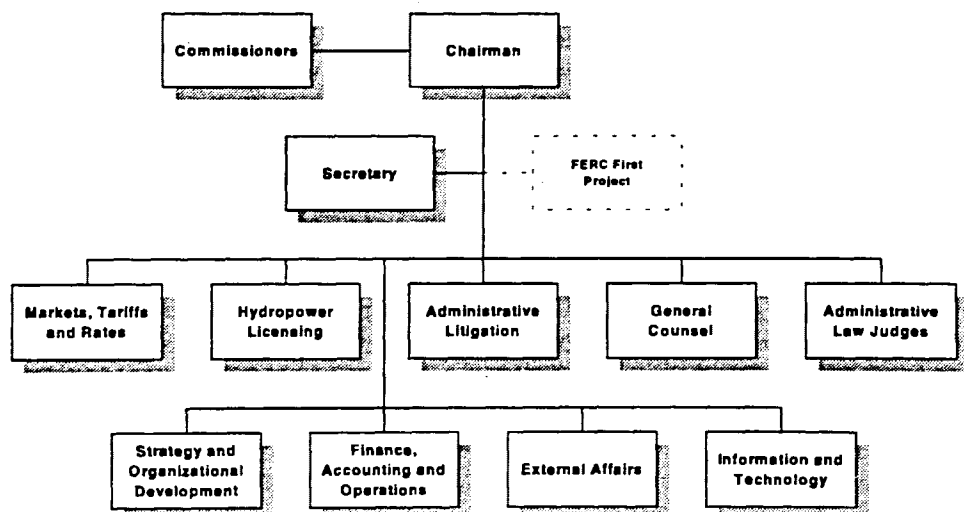
Developing Employees. An enhanced human resources capability is the second essential enabling tool for all of the Commission's future business. The Commission faces two overarching, long-term challenges to its human resources systems. First, it must shift a significant part of its work force from traditional forms of regulation to new forms more suited to markets and collaboration with other agencies and parties. Second, it must improve the productivity of all its employees by reducing its traditional reliance on management hierarchies and encouraging greater initiative from all staff members.

A key to handling the changing regulatory environment is meeting new staffing requirements. Since the Commission cannot fully foresee all issues before they arise, staff must look at circumstances, consider issues, and find solutions in a rapidly changing environment. The Commission will align its human resources and training efforts with its strategic plan and business objectives. It must adopt the processes to attract, retain and develop the highest caliber employees to support those objectives.

The Commission also must develop new forms of regulation while still using its traditional approaches. This will require improving management culture. Meeting the resulting workload with reasonable staffing levels will be impossible unless the whole staff becomes much more versatile and productive. Improving the Commission's management culture is imperative for achieving this change.

Reorganizing the Commission to Realize Benefits

FERC Organizational Structure by the Year 2000



NOTE: Office lines are subject to further examination

A major aspect of the *FERC First* plan is bringing together all the experts needed to handle each work process from beginning to end. Doing this

enhances staff's understanding of emerging markets, enables staff to build in quality throughout the process, and eliminates the need for many layers of internal review. The Target 2000 organization largely follows the lines of the identified processes and optimizes skill mixes. The Commission will gradually achieve the target organization as it puts the *FERC First* initiatives into place, concluding in the first quarter of 2000.

Performance Measurement

FERC First makes clearer than ever the need for the Commission to measure the outcomes of its actions and to use this information to make management decisions. The FY 1999 Performance Plan began to develop outcome-based measures for the three sets of goals and objectives contained in the strategic plan: energy markets, energy projects and internal administration. The FY 1999 Performance Plan proposed that the Commission set up cross-agency teams to develop further the measures proposed for each area.

The onset of *FERC First* delayed the further development of outcome-based performance measures, while strengthening the overall process for performance measurement. The delay makes sense because performance measures will be a natural outcome of the detailed process review undertaken by *FERC First*. At the same time, a key *FERC First* initiative is to develop a capability to do both strategic planning and performance measurement much more rigorously than in the past.

During the coming year, the Commission will work through the *FERC First* process to develop its performance measures in the following ways:

- *Energy Markets.* The Commission will develop its capability to find and analyze market data, develop baselines, and present outcomes for as many measures as possible. It will refine its measurements as appropriate.
- *Energy Projects.* Existing proposals for performance measures reflect the inherent difficulty of measuring the balance the Commission must strike among competing interests in its energy project programs. These proposals are too vague to serve as immediate guides. The Commission will focus initial efforts in this area on hydroelectric projects, where the environmental issues are most important. It will develop a data base of all conditions included in hydro licenses and what each condition is intended to achieve. In effect, this data base will embody all the specific goals the Commission has decided to pursue in different hydropower cases. It will develop a data base of objectives realized. This will let the Commission review the overall direction of its policy, measure the degree to which it has achieved the goals it has already set, and make any necessary adjustments to license conditions. Finally, the Commission will take the lessons of its hydroelectric measurement process and consider how to measure its natural gas certificate program.
- *Administration.* The Commission will develop these proposals further, using both new management systems being developed as part of its IT initiatives and the process review undertaken by *FERC First*.

- *Human Resources.* A major strategic challenge facing the Commission today lies in more targeted hiring and training to keep its skill mix optimal. During 1999, the Commission will develop specific goals, outcomes and performance measures for its human resources programs as part of *FERC First*.

Workload Analysis

The Commission must develop new ways to measure its internal workload, just as it must develop better ways to assess the outcomes of its policies. The Commission's current workload accounting system is increasingly inadequate for its future needs, for the following reasons.

- Traditional workload categories are based mostly on traditional inputs and outputs such as the number of filings received and the number of orders issued. These measures do not easily capture the substance of much of the Commission's future workload. For example, the effort required to monitor markets is likely to be largely independent of the number of formal filings. Proactive and facilitative approaches to some issues will be specifically designed to reduce the number of formal filings and might better be judged from the number of filings avoided than the number received. Similarly, the same regulatory problem in different regions (for example, establishing regional markets) may come to the Commission as many or few formal filings. Yet work required is likely to be similar, no matter how many filings are involved.
- Current workload categories often include cases that vary greatly as to the staff time and attention necessary to process them. Some cases are straightforward and may be resolved based on precedents, while others are complex and ground-breaking, requiring vastly greater resources. However, each case is counted as one. This confounds the Commission's ability to connect workload trends with changes in resource requirements.
- Items in different workload categories require vastly different amounts of staff time and attention. The Commission has not quantified these differences well as part of its overall planning.

The *FERC First* initiatives give the Commission a rare chance to redesign its workload measurement system systematically and agency-wide. *FERC First* will make it possible (1) to redefine workload categories in ways that reflect the Commission's emerging workload and (2) to estimate the resources that should be required to address different work items. This will help the Commission tie its workload to its resource requirements and will help to clarify the likely effects of changing resource levels on overall agency performance.

By the budget request for FY 2001, the Commission expects to be able to identify the future workload categories. The Commission also anticipates that the *FERC First* process will identify reasonable baselines for the work needed to address each category. The goal is to be able to link workload levels to resource requirements by the request for FY 2002.

Future Budget Documents

The Commission's FY 2001 and FY 2002 budget requests will embody increasingly more of the Commission's internal reengineering. This will include new performance measures and new workload accounting systems as these become available.

In addition, the Commission's reengineered work processes and organizational structure reflect changes in the industries and will dictate a new orientation for future budget documents. The Commission anticipates that the budget request for FY 2001 — the narrative and requests for funding and staffing levels — will mirror the Commission's new processes, rather than the separate industries. Therefore, it will be organized around work related to:

- markets, tariffs, and rates; and
- authorizing and monitoring energy projects.

The exact makeup of these work categories will depend on final decisions during process implementation, and will incorporate the support functions. In the budget request for FY 2001, the Commission anticipates that it will identify funding and staffing requirements by the new categories. The Commission recognizes the need to be able to compare the FY 2001 budget with those for previous years. Therefore, it anticipates providing a means of comparing the new request format with the current one.

ELECTRIC POWER

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1998 <u>Actual</u>	FY 1999 <u>Estimate</u>	FY 2000 <u>Request</u>
FUNDING	\$52,250	\$52,555	\$56,665
FTEs	439	440	440

Overview

Managing the transition to competition is the most important task facing the Commission.

The electric industry is in the early stages of a restructuring that will bring the advantages of competition to the generation and sale of electricity, even while the transmission grid remains a natural monopoly. Competition promises to bring significant savings to customers throughout the Nation, thereby benefitting individuals and making American industry more competitive in world markets. The generation sector has historically accounted for about 70 percent of the costs of the industry, but customer savings will only appear if the market power inherent in transmission is controlled. Therefore, the most important task facing the Commission is to continue to regulate transmission as required by law, by adapting its regulatory strategies to support the emerging competitive market for electric power.

The electric industry has evolved substantially since enactment of the Federal Power Act of 1935 (FPA). The Commission's basic mission remains the protection of the public by ensuring that wholesale electricity customers have access to reliable service at a reasonable price. However, the means for achieving this mission have changed dramatically in recent years. The success of independent power suppliers over the past decade has shown that electric power generation is no longer a natural monopoly. Accordingly, the public is better served by competition in generation than by traditional command-and-control, cost-based regulation. At the same time, transmission and distribution remain natural monopolies. Left unregulated, companies could leverage their ownership of transmission and distribution facilities into a position of market power over generation as well.

Access to the transmission grid is the key to making competition work for wholesale electric markets.

Since the passage of the Energy Policy Act of 1992 (EPAcT), the Commission has aggressively pursued policies designed to foster competition in wholesale power markets. EPAcT strengthened the Commission's authority to order transmission access for wholesale transactions on a case-by-case basis, thereby opening the markets to competitive generation. And in 1996, the Commission followed the logic of the EPAcT one step further. It issued Order No. 888, which requires all public utilities that own, operate, or control interstate transmission facilities to offer open access to all wholesale market participants.

Long-Term Goals Beyond FY 2000

The long-term goals of the Commission's electric power program flow directly from the first two parts of the Commission's vision statement.

The Commission will:

- ▶ Foster the growth of efficient, competitive commodity markets.
- ▶ Protect customers from abuse of market power.

Foster the Growth of Efficient, Competitive Commodity Markets. The Commission will continue to regulate transmission to support competition. Because transmission is critical to those who need access to customers, the Commission must ensure that efficient, reliable, nondiscriminatory transmission access is available for all wholesale electric suppliers and customers. This is the underpinning of future electric competition. The Commission expects that this competitive market will offer consumers more new products and many new suppliers. Additionally, as the electric industry continues this transition to competition, wholesale electricity prices should become more responsive to market conditions by reflecting changing supply and demand conditions more quickly. Wholesale electricity price differences within each trading region should narrow as competitive markets evolve.

Protect Customers from Abuse of Market Power. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, in many parts of the country, significant concentrations of generation are in the hands of one or a few local companies. The Commission must monitor and assess whether utilities can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately and timely to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition. Market participants must have confidence that electric markets are working fairly and that they will not be subject to market power abuse.

Program Challenges

The complexity of its electric workload has grown significantly as the Commission has responded to the changes in the electric industry. This trend of increasing complexity of the electric workload is expected to continue into the future, until the restructuring efforts are complete.

The Commission is refocusing its electric regulatory efforts by shifting from setting cost-based rates for wholesale power suppliers to allowing market forces to set prices wherever possible. However, to safeguard workable competition in wholesale power markets, the Commission must ensure open, nondiscriminatory access to transmission facilities, and must monitor the market to detect instances of market abuse or failure.

The issuance of Order Nos. 888 and 889 and the orders on rehearing were merely the beginning of electric utility restructuring. Much remains to be done:

The issuance of Order Nos. 888 and 889 was only the beginning. During FY 1999 and FY 2000, much remains to be done to further the transition to a competitive industry.

- Helping design and work with fundamentally new industry institutions, such as Independent System Operators or other Regional Transmission Organizations;
- Developing new regulatory strategies to match the needs of these institutions and the evolving market;
- Addressing the remaining market power inherent in transmission in an entirely new context — competition in electric generation. The Commission's experience in natural gas shows that a new approach to regulating transmission will have many unexpected features, including developing entirely new capabilities, such as market monitoring; and
- Cooperating much more closely with state regulators and other government agencies as traditional jurisdictional lines blur.

Overall, this requires a substantial overhaul of our regulatory strategy and organization over the next few years. It also suggests that the Commission's work will focus more on regional and national market issues, developing continuing relationships with new industry institutions, and on monitoring and intervening when necessary if markets are not functioning appropriately.

Restructuring Initiatives

The Commission's restructuring initiatives involve a number of interwoven areas: transmission access, state restructuring initiatives, ISOs, utility reorganizations, reliability, and the potential for Federal restructuring legislation.

Comparability and Open-Access Transmission. In the open access final rule, Order No. 888, the Commission directed all public utilities that own, control, or operate interstate transmission facilities to offer service to others under the terms of the *pro forma* tariff, and to use the tariff for their own wholesale energy sales. Although this order was implemented in 1996, many complex rate and policy issues continue in various stages of the decision-making process and will require extensive analysis as they are processed during FY 1999 and FY 2000.

The Commission also continues to review compliance with the standards of conduct and the Open Access Same-Time Information System (OASIS) requirements of Order No. 889. For example, in December 1998, the Commission approved the North American Electric Reliability Council's (NERC) procedures for relieving constraints on transmission systems caused by parallel loop flows, and ordered public utilities that use those procedures to amend their *pro forma* open access tariffs accordingly. Standards of conduct and the information networks are also necessary to ensure that transmission owners and operators do not unfairly favor their own generation over competitors' generation, thereby interfering with competitive markets. A continuous monitoring, oversight and enforcement effort by the Commission, particularly the expeditious handling of complaints about transmission system operations and affiliate preferences, is necessary to ensure open, nondiscriminatory access to the nation's transmission system. This effort will consume considerable Commission resources in FY 1999 and FY 2000 as the industry adapts to changes from its historical practices.

State Restructuring Initiatives. State restructuring efforts will continue to move the industry toward more competition and retail customer choice of electric power suppliers. Nearly all of the states are actively involved in

investigating whether and how to restructure their retail electric power markets. The Commission plays a critical role in implementing state programs when they involve transmission by public utilities in interstate commerce, over which the Commission has exclusive jurisdiction.

Some restructuring proposals, such as California's, require a large commitment of Commission time and staff resources because of the sheer magnitude of the institutional changes and the large number of policy and legal calls involved. For example, when a power exchange — a centralized trading institution that receives power from various sellers and provides the power to various buyers — is proposed, the Commission must ensure that wholesale power sellers that are public utilities cannot exercise market power. Where divestiture of ownership or control of transmission assets is proposed, the Commission also must approve the disposition of transmission assets. Some of these proposals may involve innovative transmission pricing proposals. The Commission has adjusted its policies and procedures to fit the special and regional characteristics of these new institutional structures.

In addition to California, the Commission in FY 1998 facilitated moves toward retail electricity competition in a number of states, including Washington, Nevada, New York, Idaho, Pennsylvania, Rhode Island, New Hampshire, Massachusetts, and Illinois. The number of state restructuring programs will grow significantly over the next few years

Regional Transmission Organizations (RTOs). The Commission supports the creation of RTOs to help implement industry restructuring and reduce the vertical integration of power generation and transmission. RTOs are being explored because of their potential to remedy undue discrimination in the provision of transmission service and to consider regional approaches to transmission pricing.

Examples of RTOs are Independent System Operators (ISO), Transmission Companies (TRANSCO), Grid Companies (GRIDCO), and Wire Companies (WIRECO).

The move to regional institutions represents a major evolution in industry structure and is a central element in many state and regional restructuring initiatives. This move has just begun, and the Commission has had a chance to review and approve only a handful of regional proposals. When fully implemented, the Commission believes that these new institutions can resolve many issues that would otherwise consume the Commission's resources. In Order No. 888, the Commission provided guidance to the industry on how to structure one kind of RTO, Independent System Operators (ISOs), to make them work in a nondiscriminatory manner. The concept underlying ISOs is that the existing owners of transmission facilities would turn over operational control, but not ownership, of these facilities to an independent grid manager. The Commission has approved several ISOs that will operate in California, New York, New England, Texas, the Midwest, and the Mid-Atlantic. Additional ISO proposals are pending. The Commission held a public conference on April 15 and 16, 1998, to examine the future of ISOs, and held several regional conferences during FY 1998.

In September 1998, the Chairman announced the Commission's intention to complete by December 31, 1999, a generic proceeding to accelerate the establishment of RTOs in every region of the country. As part of this proceeding, the Commission will consult with the states on the criteria for

establishing RTO boundaries and on the role of the states in the formation and governance of RTOs. RTOS would encompass not just ISOs but other corporate and institutional forms of independent grid managers, including ownership of the transmission facilities.

In September 1998, the Commission secured additional authority that will help promote RTOs and the reliability of the grid. The Secretary of Energy delegated Section 202(a) of the FPA to the Commission. This section grants authority to delineate regional districts across the country to promote interconnection and coordination within and between regions.

The Commission is committed to ensuring that RTOs can operate the transmission system in a reliable, open, and nondiscriminatory manner. In the long run, RTOs should reduce litigation before the Commission. However, the creation of new regional transmission entities under new forms of ownership or control requires the resolution of many technical and legal issues to assure that the reliability of the system is maintained and statutory requirements are met. For now, RTOs will require a significant investment of Commission time and resources.

Many traditional electric utilities are auctioning off their generation assets in order to reposition themselves strategically or to comply with state mandated retail access programs.

Utility Restructuring. The open-access rule and the restructuring activities by many state commissions are leading many utilities to restructure their corporate organizations in some manner. FY 1998 saw a dramatic increase in the number of traditional electric utilities that auctioned their generation plants as a first stage toward state-mandated direct retail access. These state programs will allow the retail customer to select its power supplier and have the electricity delivered by the local transmission/distribution utility, much as retail telephone customers can now select their own long distance provider. Electric utilities also may choose to reorganize their corporate structures for a variety of reasons, including strategic alliances with other utilities, diversification, or as part of state retail choice programs. Such restructuring often involves a disposition of facilities under the FPA that requires the Commission's authorization.

The Commission continues to see a significant increase in the number and types of corporate reorganizations being proposed. For example, in addition to unprecedented numbers of mergers involving combinations of electric utilities, the Commission is receiving a number of proposals for "convergence mergers" — that is, electric utilities merging with natural gas distributors and pipelines. Convergence mergers raise many new and difficult vertical market power issues. Some ISO proposals are being made as part of proposed mergers, and others are at the direction of state retail choice initiatives. Finally, we expect that the transformation to competitive markets may also cause utilities to create separate transmission, generation, and distribution entities to replace the existing vertically integrated corporate structure. Reorganizations along functional business lines, in turn, may include further consolidations in each functional area with new regional organizations.

With respect to the effect of a merger or other corporate restructuring on competition, the Commission must be assured that no significant increase in market dominance will result from the transaction. The Commission must

also be assured that ratepayers will be protected from any negative effects of the merger. When the merger involves a registered public utility holding company, the Commission must know that the merged entity will abide by the Commission's inter-company policies designed to protect ratepayers from affiliate abuse. The Commission has decided to employ the Department of Justice/Federal Trade Commission's merger guidelines for these purposes. The Commission also examines barriers to entry of new competitors into the market. Such entry is important in mitigating adverse effects of the corporate mergers.

The Commission recognizes that merger proposals are business decisions made in response to market pressures and opportunities, and are thus entitled to timely decisions and regulatory certainty. Accordingly, the Commission in FY 1998 issued proposed streamlined merger regulations to reduce further the regulatory burden on public utilities seeking to merge, while continuing to safeguard the public interest. While this proceeding will consume considerable staff resources in the short term, it will save time and resources in the long run for the Commission and its regulated entities.

Merger applications are often contested and extremely complex. For example, competitors who view proposed business combinations as imposing greater barriers to market entry or eroding their relative market share may vigorously oppose mergers and acquisitions. One example of an extremely complex merger is the proposed combination of Central and SouthWest Corporation and American Electric Power Company, which the Commission set for hearing in November 1998. The merger would create one of the largest electric utility systems in the country. The number of corporate applications filed with the Commission, including mergers, is expected to increase seven times from FY 1995 to FY 2000. This increase, combined with the complexity of these cases resulting from the competitive dynamics of electricity markets, including cases set for investigation, has created a significant workload burden on the Commission.

As the newly opened transmission system is put to the test in supporting a competitive market for generation, it is vitally important to maintain the reliability of the electric power system.

Reliability. System reliability is critical to the success of a competitive electric industry. Currently, there is no clear federal authority to establish reliability standards for the bulk power transmission grid or to enforce such standards. Historically, regulators and industry participants have relied upon voluntary industry organizations such as NERC and its regional reliability councils to establish reliability rules and standards to maintain the security of the grid. However, compliance with those standards has been neither mandatory nor applicable to all market participants.

As the electricity market becomes highly competitive, the number of market participants and the volume of transactions that affect the operational demands on the system are expanding. This has created a situation where reliability standards need to be mandatory and enforced to protect the integrity of the bulk power system.

It is also becoming more apparent that reliability rules may have commercial impacts on competitive electric markets. The Commission has of necessity become involved in determining whether certain reliability provisions are just and reasonable terms and conditions of transmission service under the FPA.

Increasingly, the Commission is receiving complaints that reliability rules are being administered in a discriminatory way. In FY 1998, the Commission held a public conference to discuss the process it may follow, in the absence of federal legislation on reliability issues, for evaluating the effect of reliability standards on jurisdictional electric transmission service.

Federal Legislation to Restructure the Electric Utility Industry. In June 1998, the Administration submitted the Comprehensive Electricity Competition Act (CECA) to Congress. CECA provides for a number of significant changes to the electric utility industry. Some of these provisions, if enacted, could significantly affect the Commission in FY 1999, FY 2000, and beyond. For example, the retail customer choice provisions of CECA, if enacted, could significantly increase the number of restructuring and merger proposals submitted for Commission review. CECA would give the Commission authority to approve and oversee a private, self-regulating organization that develops and enforces mandatory reliability standards for electric service. It would also give the Commission explicit authority to require utilities to turn over operational control of their transmission facilities to an ISO. Other provisions of CECA would give the Commission the authority to mitigate market power when a company acquires excessive control over retail electricity markets, would repeal the Public Utility Holding Company Act of 1935 (PUHCA), and prospectively repeal the provisions in the Public Utility Regulatory Policies Act (PURPA) that require utilities to purchase power from qualifying facilities.

A number of bills were introduced by members of the House of Representatives and the Senate that also would restructure the electricity industry and expand the role of the Commission in ways similar to those in the Administration proposal.

These provisions could significantly affect the resource needs of the Commission's electric regulatory program. The Commission estimates that the provisions of the program, as currently envisioned, would require a significant increase in electric program staffing. However, future needs will depend on the final provisions of any legislation Congress eventually enacts. Because of the uncertainty, the Commission is requesting no additional resources at this time to address these potential responsibilities.

Electric Rates

As the industry changes to a more competitive market, the Commission is shifting from its reliance on traditional cost-based regulation. However, it must still ensure that market power is not abused.

Market-Based Rates. Recent entrants into wholesale electric markets include nontraditional sellers such as independent power producers and power marketers. They are usually permitted market-based rates because they lack market power in generation and transmission. The Commission may conclude there is a lack of market power where neither the new entrants nor their affiliates own transmission facilities or control significant amounts of generation. Increasingly, the Commission also is allowing some traditional public utilities and their affiliates to sell at market-based rates if they can demonstrate certain conditions. They need to show that they have mitigated generation and transmission market power, they cannot keep competitors from entering the bulk power market (through control of other inputs to the production of bulk power, such as fuel), and they are not engaged and will not engage in affiliate abuse or self-dealing.

The Commission has authorized nearly 400 power marketers to charge market-based rates.

Power marketers, both independent marketers and those affiliated with traditional utilities, have become a major category of power sellers. Power marketers usually do not produce power themselves, but buy and sell power produced by others. Thus, while they do not increase the capacity available to meet the needs of consumers, they can contribute to increased market efficiency to the benefit of ultimate consumers. Power marketers increase the Commission's workload because it must authorize their market-based rate schedules and monitor their actions in the marketplace.

The Commission also ordered a Texas utility in FY 1998 to provide open access transmission for power sales to Mexico.

The growing interest in market-based rates is key to the Commission's responsibility to protect electric power customers. Under traditional cost-based regulation, where the Commission establishes a cost-based rate for a particular public utility, the Commission requires that particular cost-based information useful to the rate-setting process be filed periodically with the Commission. Under market-based pricing, these cost-based data become less important to the Commission and may, indeed, be considered to be proprietary or commercially sensitive by the power supplier itself.

However, under market-based pricing, the Commission must still ensure that market participants do not exercise market power. The Commission will therefore need to increase its monitoring of the market for wholesale power and refine its capabilities to handle complaints of market manipulation. The Commission is already engaging in increased market surveillance. For example, the Commission put together a task force to study certain very high, short-term energy prices that occurred in the Midwest during the summer of 1998. The Commission anticipates that such market surveillance efforts will continue and will require shifting of resources from other areas.

Utilities that made large capital investments or contractual commitments in the past under a different regulatory regime with the expectation of serving customers into the future, should have a fair opportunity to recover those costs (stranded costs) if those customers leave under the new, competitive regime.

Stranded Costs. Some utility investment could go unrecovered if departing customers use their former suppliers' transmission systems to secure power elsewhere; these unrecovered investments are termed stranded costs. The opportunity to recover legitimate, prudent, and verifiable stranded costs is essential to ensure a fair and orderly transition to a market-oriented electricity industry. Utilities that made large capital investments or contractual commitments in the past under a different regulatory regime, with the expectation of serving customers into the future, should have a fair opportunity to recover those costs if those customers leave their traditional utility to purchase electricity from new, more competitive electricity suppliers. In November 1997, the Commission clarified its position on recovery of stranded costs in the case of municipalizations and municipal annexations, where customers previously served by a public utility become customers of a municipal utility instead. Many of these stranded cost requests will be contested and will require litigation to resolve complex, factual issues related to the recovery of transition costs. As competition increases, the Commission forecasts that the number of stranded cost cases will triple by FY 2000, and the Commission will need to allocate substantial resources to this area.

Auditing. The Commission will continue to expand the scope of auditing as part of monitoring, oversight, and enforcement related to developing competitive markets. Audits will target industry compliance with the Commission's rules and regulations. Oversight of competitive markets requires auditing of industry-wide practices to help the Commission foster competitive markets. Audits also focus on topical areas relating to Commission policy.

Other Issues

Power pool agreements are multi-utility agreements that often include sharing of generating capacity reserves. They sometimes provide a central means of economic dispatch, trading, and transmission of electric power.

Power Pools. Power pools require complex agreements that provide for coordinated operation to lower costs for pool members. The changes occurring in the industry, including nondiscriminatory open-access transmission, require changes to existing pooling agreements. For example, pooling agreements must ensure nondiscriminatory membership criteria and the modification or termination of unduly preferential transmission agreements. The Commission directed that revised pooling agreements, as well as joint pool-wide transmission tariffs, be filed by December 31, 1996, to comply with the provisions of Order No. 888. Many pools went beyond the requirements of Order No. 888 and, in conjunction with their compliance filings, made additional restructuring filings that raise complex issues. These issues will need to be resolved on a case-by-case basis during FY 1999 and FY 2000.

Transmission Service Requests Under FPA Section 211. Congress modified Section 211 of the FPA through the EPAct to expand the Commission's authority to compel transmitting utilities (which include nonpublic utilities under the FPA, such as municipal utilities and cooperatives) to provide transmission service. Reliance on Section 211 to obtain transmission services from jurisdictional public utilities should decline, since open-access transmission tariffs of general applicability are now on file with the Commission. Nonetheless, Section 211 will continue to provide a necessary mechanism for customers who have specialized transmission service needs or who require transmission service from nonpublic utilities that are not required to have nondiscriminatory open-access tariffs on file with the Commission.

Exempt Wholesale Generators (EWGs). The EPAct directs the Commission to determine, upon application, the EWG status of certain electric power producers/operators. EWG status exempts the facility's owners and operators from the requirements of PUHCA. EWGs will provide a significant percentage of new domestic generation requirements. Although the Commission's role in acting on EWG certification applications is largely ministerial, most EWGs located in the United States are also public utilities, and must file their wholesale power rates with the Commission. The number of rate filings and other applications by EWGs will increase as projects currently under construction begin to operate.

Power Marketing Administrations (PMAs). The Commission reviews the rates for the four federal PMAs (the assets of the fifth PMA, the Alaska Power Administration, were recently sold to non-federal entities). The approximately 130 federal hydroelectric projects comprise 21 reporting units, some of which make multiple applications with the Commission for rate

review. These reporting units may submit rate filings with the Commission as frequently as every year, but not less than once every 5 years. The frequency of such applications depends on the economics of marketing the surplus federal power and transmission services. The number of applications will remain level through FY 2000, but the complexity of the applications will increase as the PMAs respond to the new competitive environment. In addition to rate reviews, PMAs are subject to the transmission reciprocity provisions of Order No. 888. The Commission recently approved Bonneville Power Administration's reciprocity filing, and Western Area Power Administration and Southwestern Power Administration both filed reciprocity open-access tariffs with the Commission in early 1998.

The emphasis of the Commission's workload under PURPA has shifted from routine certification of generating facilities to issues related to enforcement.

Qualifying Facilities and Public Utility Regulatory Policies Act Issues. PURPA authorizes the Commission to certify small power production and cogeneration facilities as qualifying facilities (QFs) and, in certain cases, to exempt them from some Federal and state regulations. PURPA regulations require electric utilities to buy electricity from QFs at a rate that does not exceed the utility's cost of producing the electricity itself or acquiring it elsewhere (i.e., the "avoided cost").

Current PURPA issues include: (1) requests by purchasing utilities to be relieved of obligations under QF contracts that have allegedly become uneconomic, and (2) challenges to QF status by purchasing electric utilities in an effort to invalidate contracts with the QFs. The Commission expects to see the continued filing of complaints involving allegations of QF noncompliance. Other PURPA-related workload will continue at the current level over the next several years.

Interlocking Directorates. To prevent adverse effects on the public interest through self-dealing and other abuses, the FPA restricts the activities of public utility officers and directors. Careful review from the Commission on interlocking positions is ever more critical as public utilities diversify. Moreover, formation of ISOs, which may have directors who are officials of other public utilities, will raise new issues regarding interlocking directorates.

FY 1998 and First Quarter FY 1999 Achievements

The Commission's electric power program attained several major achievements in FY 1998.

Continuing Implementation of Order Nos. 888 and 889. The Commission is well into the implementation stage for Order Nos. 888 and 889. These orders require all public utilities that own, control or operate facilities used for transmission of electric energy in interstate commerce to have on file open-access, nondiscriminatory transmission tariffs, to create or participate in OASIS that will allow customers to obtain critical transmission-related information, and to implement standards of conduct that ensure the functional separation of the transmission and wholesale merchant functions within each public utility.

In November 1997, the Commission issued Order Nos. 888-B and 889-B. In Order No. 888-B, the Commission clarified its position on the recovery of stranded costs in the case of municipalizations and municipal annexations, where customers previously served by a public utility become customers of a municipal utility instead. Order No. 889-B denied all rehearing requests related to OASIS. In May 1998, the Commission issued revised standards and protocols for OASIS. These changes were designed to allow for more public access to transmission information and will foster greater integrity and confidence in the OASIS system.

Approval of Major Restructuring Initiatives. The Commission has recently approved a number of significant state and power pool restructurings that should ultimately reduce electric rates to consumers by greatly increasing their access to lower cost power. In response to a state-mandated retail access initiative in California, the three investor-owned electric utilities in that state (Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company) made a series of filings to comprehensively restructure the way companies buy and sell electricity in California. The California ISO and Power Exchange (PX) were able to successfully begin operations on April 1, 1998, as a consequence of the Commission's timely response to the numerous filings submitted by the parties.

In April 1998, the Commission approved a major East Coast electric power pool's restructuring plan, which, among other things, established an ISO and provided open-access transmission service on a pool-wide basis. The ISO plan was submitted by a group of companies comprising the Pennsylvania-New Jersey-Maryland Interconnection (PJM). The Commission approved PJM's use of single transmission rates, which are based on the costs of the transmission system where the point of delivery is located. The Commission also approved PJM's proposed locational marginal pricing for transmission congestion costs, which called for the price of transmission over constrained interfaces to be based on price differences on opposite sides of the constraint.

The Commission also approved in April 1998 a major restructuring of the New England Power Pool (NEPOOL), a major northeast power pool which consists of over 130 separate entities. The restructured pool will provide broad, region-wide service using a pool-wide tariff intended to ensure nondiscriminatory access to the regional transmission network with a postage-stamp type rate for all transactions, and employing a nonpancaked rate structure. The restructured NEPOOL includes an ISO whose primary responsibilities are to ensure system reliability, administer the NEPOOL tariff, and oversee the efficient and competitive functioning of the regional power market. Market participants will be able to buy and sell various services at bid-clearing, rather than cost-based, prices through bilateral transactions or through a regional power exchange that will be administered by the ISO. In December 1998, the Commission approved market-based rates for the New England Power Pool (NEPOOL). NEPOOL's new bid-based pricing system is a key component of the pool's restructuring.

In June 1998, the Commission approved the creation of the New York ISO, which assumed the functions of the New York Power Pool. The Commission also approved the proposals of the New York State Reliability Council to develop bulk power reliability standards, and a New York Power Exchange, which is designed to facilitate transmission open to all market participants. The Commission has deferred action on the rates, terms, and conditions of the ISO's open-access tariff and other issues.

In September 1998, the Commission conditionally approved the application of ten transmission-owning public utilities to transfer operation of their jurisdictional transmission facilities to the Midwest ISO, and conditionally accepted for filing the ISO's open access transmission tariff.

The Commission held a public conference on April 15 and 16, 1998, to examine the future of ISOs, and held several regional conferences during FY 1998. The Commission wishes to examine whether any changes to its policies that affect the development of ISOs (including improving the OASIS system and reforming transmission pricing) are appropriate to further promote competition and reliability in bulk power markets.

Reduction of Backlog. In the first phase of the *FERC First* initiative, the Commission staff interviewed a number of representatives of regulated industries, state commissions, and other interested entities. One theme common to many parties was a concern with a backlog of pending decisions. "Justice delayed is justice denied," they stated. In response, the Commission quickly embarked upon a concerted effort to reduce the backlog, especially in the areas of pending initial decisions, complaints, and orders on rehearing. The project was successful — the backlog has been virtually eliminated, and new teams and procedures have been set into place which will ensure that it does not resurface.

Reliability Round Table. In response to increasing numbers of complaints that reliability rules are being administered in a discriminatory way, the Commission held a public conference in FY 1998. It convened the conference to discuss the process it may follow, in the absence of federal legislation on reliability issues, for evaluating the effect of reliability standards on jurisdictional electric transmission service.

One reliability-related issue that has been raised by a complainant is the "tagging" of power sales transactions. On April 7, 1998, the Commission issued an order addressing NERC's requirement that information be submitted to the control area operator at the time a power sales transaction is scheduled so that the transaction can be "tagged" for reliability purposes. Petitioners had claimed that the NERC requirement required prior approval by the Commission. The Commission rejected the argument, finding that the NERC requirement is consistent with the information that the transmission tariffs already require.

Issuance of Proposed Streamlined Merger Regulations. On December 18, 1996, the Commission issued its Merger Policy Statement which revised the factors the Commission considers in determining whether a proposed merger is consistent with the public interest. In April 1998, the Commission took

The proposed streamlined merger regulations should lessen the regulatory burden on merger applicants, while safeguarding the public interest.

further steps to lessen the regulatory burden on public utilities seeking to merge with other companies by issuing proposed streamlined merger regulations designed to continue the protection of the public interest. The proposed regulations would: codify existing Commission merger policy based on the Merger Policy Statement and recent precedent-setting merger cases; provide for more descriptive filing requirements that clarify what materials the Commission requires to review proposed mergers; streamline filing requirements for mergers that do not raise competitive concerns; and reduce the industry's regulatory burden by eliminating outdated filing requirements. The Commission also announced that it would schedule a technical conference on the use of a computer simulation model which would facilitate prompt and accurate market power analysis for both applicants and Commission staff.

The Commission's renewed commitment in the 1996 policy statement to process merger applications promptly has yielded dramatic results. In FY1997, the Commission took final action on 15 merger applications, up from two the year before. These 15 actions also were five more than the number of merger applications filed that year, thus significantly reducing the backlog of these extremely resource-intensive cases. The backlog reduction continued into FY1998, when the Commission received six major merger applications and it took final action on seven.

Record Keeping Burden Reduction. The Commission issued Order No. 589 on February 5, 1998, which will reduce the public reporting burden for the electric and natural gas and oil pipeline industries by an estimated \$5 million annually. The order removed the Commission's prescribed units of property listings and gave electric utilities the flexibility to develop their own property listings and corresponding fixed asset records. Electric utilities must maintain a written unit of property listing for use in accounting for additions and retirements of fixed assets and must apply the list consistently. The order also clarifies that electric utilities may use estimates when it is impractical or unduly burdensome to identify the actual cost of retired property. The increased flexibility reduces the record keeping burden on the industry and provides electric utilities with the ability to maintain records that are in line with their business needs. The order was developed in collaboration with the affected industries.

NATURAL GAS AND OIL PIPELINES

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1998	FY 1999	FY 2000
	<u>Actual</u>	<u>Estimate</u>	<u>Request</u>
FUNDING	\$64,742	\$65,749	\$70,522
FTEs	514	515	515

Overview

The natural gas industry has seen dramatic changes over the last few years. It is no longer a heavily regulated industry, with the Commission authorizing all aspects of gas sales and transmission. Now competition governs commodity markets, and market forces play an important role in the Commission's regulation of the transportation of natural gas. Significant market power remains in the transportation market, however, requiring continuous regulatory oversight. There is also a need for gas transportation to mesh with competitive commodity markets. Indeed, market-friendly regulation of transportation is an essential part of the infrastructure needed to ensure the full benefit of competitive commodity markets as well as to protect customers. Thus, the Commission's essential mission is to fulfill its legal mandate to protect customers in new ways that both support and make full use of competition. The one area that has remained regulated in a traditional way is the authorization of gas pipeline construction projects. But even there, the Commission is looking at different approaches for meeting the time-sensitive needs of the competitive market while properly addressing environmental and landowner concerns.

In light of the changes in the industry, the Commission is undertaking a natural gas policy initiative to improve the efficiency, transparency, and competitiveness of short-term markets. In FY 2000, the Commission expects to complete this initiative to revamp significantly its regulation of short-term markets and to begin systematic changes in regulation of long-term gas markets. As part of this initiative, the Commission is exploring expanded use of competitive market forces in its oversight of the natural gas transportation market. The Commission expects to enhance market competition by modifying its regulations and methods to constrain market power. At the same time, the Commission would improve mitigation measures to better curtail the exercise of market power by capacity holders and would broaden the Commission's and customers' ability to decide through monitoring when residual market power is being abused. The Commission is assessing the effects of short-term markets on long-term pricing and the impact of long-

term market issues on short-term markets. The Commission will also look at all issues regarding certification of new construction.

Competition will not completely replace traditional ratemaking in all situations.

As the shape of the natural gas industry changes, the nature of the Commission's role as a regulator is also changing. The Commission will not dictate the functioning of the industry. Instead, it will ensure that a well functioning, efficient market is delivering natural gas and transportation fairly and at reasonable rates — set mostly by the marketplace — while dealing with the market power that still exists. Further, the Commission will be responsible for assuring that the gas industry can grow and meet the needs of the increasing market demand for gas by permitting pipeline construction as appropriate. The Commission must be sensitive to the need for quick construction decisions in the competitive marketplace, while facing growing landowner and environmental concerns.

The oil industry is also changing to deal with cross-energy competition among oil, gas, electricity, and coal. One aspect of the oil industry that will be prominent for the Commission in FY 2000 is the review of the indexing mechanism for setting oil pipeline transportation rates.

The Commission is revising its complaint procedures to provide timely responses to help the market.

Simultaneously, the Commission will continue to regulate those aspects of the natural gas and oil pipeline industries where competition is currently unworkable for protecting against the abuse of market power. In addition, the Commission has proposed to revise its complaint procedures to make complaint resolution faster and to ensure that the markets can work fairly and efficiently. The Commission will continue to set rates for long-term service while ensuring just and reasonable rates for consumers and addressing complaints and allegations of abuses quickly to ensure nondiscriminatory access to the national pipeline grid.

The Commission expects to respond to a continuing need to construct new pipelines or expand existing facilities to serve growing markets or to compete in existing markets. New market potential is expanding due to demand for supply alternatives. The Commission will continue the important task of balancing and protecting the competing interests of companies, individuals, organizations, and resources affected by the application of eminent domain for new and replacement construction of the natural gas pipeline infrastructure. Increased participation by landowners will require creative efforts by the Commission to address their concerns adequately.

Long-Term Goals Beyond FY 2000

The long-term goals of the natural gas and oil program support the Commission's mission. The Commission acts in the public interest to protect customers by promoting competition where possible and regulating services subject to market power where competition does not adequately exist. The Commission also acts to safeguard the environment and ensure service reliability.

Ensure that Pipeline Transportation Service Supports Efficient, Competitive Commodity Markets. Improving standardization among

The Commission will:

- ▶ Ensure that pipeline transportation service supports efficient, competitive commodity markets.
- ▶ Protect customers from excessive transportation rates and service discrimination.
- ▶ Ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation system.
- ▶ Ensure fair access to the oil pipeline systems for all customers under just and reasonable rates, terms, and conditions.

pipeline systems for both information and business practices results in gas moving more efficiently. Establishing fair and effective markets ensures that the parties obtain the capacity and gas they have purchased and ensures system reliability. Removing barriers to efficient secondary transportation markets is an additional method for improving commodity markets.

As competitive markets mature and the Commission adjusts its regulatory structures, customers will have more new transportation service products and a reasonable range of suppliers from which to choose. Natural gas prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly. Natural gas prices within each region will converge, except to the extent that demonstrable transportation constraints exist, making it less costly, administratively, to transact business on the interstate transportation grid.

Protect Customers From Excessive Transportation Rates and Service Discrimination. As pipelines are permitted to implement more nontraditional forms of pricing and service, the Commission will monitor the industry to ensure the pipelines are not being preferential or unduly discriminatory, charging unjust and unreasonable rates, unduly exercising market power, or providing services that are inadequate or undesirable. The Commission's regulatory systems will be based on Commission monitoring and information availability to permit customer complaints that can respond to the increased pace of the market without unduly burdening market participants. The Commission will ensure that both buyers and sellers have access to competitively priced commodity markets in the national gas transportation grid and that gas pipeline rates are just and reasonable, fairly balancing the competing interests of the pipelines and their customers.

Ensure That Adequate Capacity and Reliable, Flexible Service Is Available in the Interstate Natural Gas Transportation System. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the geographic mixes of production and consumption. The Commission will encourage efficient gas pipeline construction to provide individual customers and market entrants with increased reliability of service by providing them with multiple supply and delivery options. The Commission's certification program will allow new pipeline capacity to be available to serve the market when needed. Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

Ensure Fair Access to the Oil Pipeline Systems for All Customers under Just and Reasonable Rates, Terms, and Conditions. The Commission will continue to ensure fair access to the oil pipeline systems for all customers under fair terms and conditions at reasonable rates. In some cases, this can be done through allowing market-based rates where markets are competitive. In others, the Commission needs to continue regulation, while remaining flexible, for the pricing of services for new oil pipeline construction.

Program Challenges

The most significant change in the gas pipeline industry is the increase in competition to provide gas services. With this increase in competition has come an increase in the number of pipeline certificate filings and the number of unique and innovative rate filing proposals. Many of the new pipeline certificate projects are proposed to be built in congested areas, in more environmentally-sensitive areas, or in competition with existing pipelines in the same geographic area. To deal with the increasing difficulty presented by the rate filings and the more contentious proceedings for certificates, the Commission has undertaken an examination of its regulatory programs.

A Notice of Proposed Rulemaking (NOPR) issued in late summer of 1998 seeks to revise the regulation of natural gas short-term transportation market to a more market-based approach. A Notice of Inquiry (NOI) issued at the same time requests comments on options for dealing with the long-term issues facing the gas transportation industry, in light of marketplace changes and the proposed regulation changes for the short-term market. In addition, the Commission issued two NOPRs and held several technical conferences to improve the certification process, meet the need of the competitive market for timely construction decisions, address landowner concerns, and meet statutory requirements. The Commission also issued a NOPR revising its *ex parte* rules to make them more responsive to the current needs of the industry while continuing to meet the requirements of the Administrative Procedure Act. Finally, the Commission issued a NOPR proposing to revise its procedures to ensure fair, timely resolution of complaint filings.

Through *FERC First*, the Commission is further modifying its internal processes to implement case triage, to route cases quickly to the appropriate process path for speedier processing, and interdisciplinary teams, to improve coordination of some cases and eliminate layers of supervisory review. These and other changes will allow the Commission to more timely process its workload to meet the competitive needs of the marketplace while still ensuring just and reasonable rates in the noncompetitive sectors of the market. By taking these approaches, the Commission should be able to handle its increasingly complex workload without the need for additional staffing.

Rates & Services

As the Commission moves toward more light-handed regulation, with increasing reliance on market-based solutions and reduced regulatory burden on the industry, the nature of natural gas and oil pipeline filings has changed. Many of the routine filings are no longer required or are now done on a self-implementing basis. As the pipelines continue to redesign their services and rates to respond to the changing competitive environment, the resultant filings often raise issues not yet addressed by the Commission. The result is that, while the total number of rate filings is lower than in previous years, the complexity of the workload has increased dramatically. In addition, many of these new approaches are filed as part of certificate applications for new projects rather than in rate filings. Pipelines are experimenting with variations of negotiated rates, incentive rates, and market-based rates. This trend is likely to continue as pipelines devise creative approaches to a

changing and increasingly competitive market. In addition, the industry's efforts to standardize business practices in coordination with the Gas Industry Standards Board (GISB) have resulted in many, often complex filings. The Commission expects that the number of GISB filings will decline somewhat in FY 2000. However, the Commission expects an increase in filings related to the NOPR revising regulation of the short-term natural gas transportation market.

Renegotiation of expiring contracts with substantial volumes will present unique issues to the gas industry.

Capacity Turnback. While several pipelines have already faced renegotiation of a substantial amount of capacity on their systems, significant volumes of currently contracted capacity will be up for renegotiation under expiring contracts beginning in 1999 and for several years after that. The pipelines' ability to resell this capacity will affect not only recovery of their costs but the rates to shippers whose contracts are not yet eligible for renegotiation or that choose to remain on a pipeline's system. As state programs instituting retail unbundling become reality, distribution companies are not likely to require their historical levels of pipeline firm transportation quantities, and capacity turnback levels could then grow unless other shippers contract for the capacity. To date, the Commission has been able to foster settlements between the pipeline and its departing and remaining customers. As pipelines experience more capacity turnback situations with unique issues, such settlements may be more difficult to accomplish.

Kansas Ad Valorem Tax Refunds. Before the passage of the Natural Gas Policy Act of 1978, the Commission permitted natural gas producers to treat Kansas ad valorem taxes as severance taxes to be added on to the area or national prices of gas. In 1997, the Court of Appeals ruled that the Kansas ad valorem tax was not a severance tax and thus was not an appropriate add-on to the price of gas. Thus, the Kansas ad valorem taxes passed through by the pipelines to consumers of gas must be refunded with interest for gas sales dating from 1983. Since the refund requirement could present serious individual financial problems for the owners of the gas wells, the Commission stated that it would entertain individual requests for adjustment relief to alleviate the hardship. This refund program will engender many workload items for the Commission over the next five years as the refunds are made. Refund report filings will be made by the pipelines, and the producers will be filing hardship relief applications. In addition, the Commission will be contacting those producers that do not make the refunds required and seeking necessary actions to enforce the refund obligation. This program will cover a five-year period to allow for the refunds to be made over a longer period to lessen the economic burden that a one-time full refund would entail.

Standardization of Business Practices. In FY 1997, the Commission started implementing standardized business practices through the auspices of GISB. As a voluntary organization, GISB made significant progress in the standardization of business practices relating to nominations, confirmations, invoicing, and other areas. However, it also became apparent that standardization involving financial or regulatory interests would require stronger Commission involvement. Because of the often competing financial interests of segments of the industry, this process is expected to be time consuming and staff-resource intensive. The standardization effort will

continue to result in many tariff filings as natural gas pipelines carry out the standards. Many of these filings are complex and will require interpretation and analysis of waiver requests due to the unique nature of individual pipeline business operations.

Complexity of Issues. As the pipelines continue to adjust their operating terms and conditions to meet the changing needs of their shifting customer base, which now includes many more marketers and new industrial loads, the Commission expects complex tariff filings to continue. The Commission also expects tariff filings that will revise penalty provisions, supply pooling provisions, capacity awarding mechanisms such as auctions, and operating restriction requirements that the pipelines believe are necessary to maintain balance and flexibility in their systems. These types of filings are likely to be increasingly complex and often heavily protested, thus requiring significant resources for review and analysis.

Many proceedings before the Commission involve issues that are hotly contested by affected parties. The Commission uses procedures such as technical or settlement conferences and alternate dispute resolution to resolve contested issues quickly and without protracted litigation. For oil pipeline cases, the Commission's regulations require that all protested rate filings be referred to a settlement judge and that the parties enter into good faith negotiations. If these alternative procedures cannot bring resolution of the contested issues, the Commission sets the case for an administrative law trial. These proceedings permit extensive discovery by the parties and allow for at least two sets of testimony by each party. During the trial phase, staff continually attempts to encourage settlement among the parties.

The complexity that can occur with litigated gas cases is illustrated by the Tennessee Gas Pipeline Company case. This case started out as a filing to recover more than \$153 million in gas supply realignment (GSR) costs incurred by Tennessee as the claimed result of its implementation of Order No. 636. After a technical conference, hearing, settlement discussions, consolidation with other GSR cost filings, and an alternative dispute resolution minitrial proceeding, the parties and staff reached a settlement. The settlement resolves a total of 34 Commission dockets and 39 D.C. Circuit Court appeals, and limits the issues to be pursued in seven additional appeals. The settlement was approved by the Commission nearly four years after the case was filed.

The Commission expects to see more of these difficult filings in cases where the parties are unable to resolve contested issues through settlement or alternative procedures.

Monitoring and Auditing of Industry Practices. The Commission will continue to expand the scope of its auditing activity as part of its continuing monitoring, oversight and enforcement effort. The auditing activities will stress the oversight of the development of competitive markets and will target industry compliance with the Commission's rules and regulations. Such oversight requires auditing of industry-wide practices to provide information for the Commission to employ in its choice of regulatory approaches to foster competitive markets. Audits include data gathering and analysis that could

result in systemic findings about the state of the industry. For example, during FY 1998 the Commission began an audit of the pipeline marketing affiliates' compliance with the Commission's standards of conduct and reporting and record keeping requirements. Audits are also effective tools to resolve material issues of fact in complaint proceedings. In the NOPR on the short-term gas market, the Commission is proposing an increased monitoring effort as an integral part of its proposed new market-oriented approach to regulating the short-term market.

Certificates

Pipeline Expansion. The pipeline industry is aggressively pursuing new markets after completing restructuring and gaining operating experience in the restructured environment. In the new competitive environment, pipelines are proposing to serve markets already served by other pipelines. Many of these proposals are vigorously contested by the competing pipelines and by landowners who question the need for the new projects. Processing these contested proposals requires significant resources. The environmental review of such projects has become more complex and time-consuming, with additional public meetings and conferences and voluminous pleadings by the various parties. The Commission must address the competing interests of affordable, reliable supply versus the environmental impact and grant of eminent domain for potentially duplicative facilities. Competing proposals are likely to increase with the coming of retail unbundling and the convergence of the electric and gas markets.

The issues the landowners raise fall into three basic categories: (1) questions concerning the need for new pipeline facilities when the project displaces service through existing facilities instead of serving new markets; (2) concerns about disruption of current rights-of-way; and (3) concerns about the environmental and economic impacts of new construction, including the expansion of rights-of-way and the use of eminent domain to take additional landowner property. These issues can become very difficult to resolve; thus, as more landowners intervene and raise their concerns, the Commission will need to expend additional resources in this area. In this regard, implementation of the Commission's *FERC First* initiatives and other collaborative approaches may enhance dispute resolution and strengthen relationships with the various constituencies.

Growing Canadian supply and U.S. demand are driving new international natural gas projects.

Increasing availability of Canadian supplies and the growing market for natural gas in the Northeast will continue to result in large construction projects. The Commission also expects that Canadian gas and oil suppliers will seek additional markets for their products in the U.S. and that producers will explore options to export gas to Canadian and Mexican markets, which may require pipeline construction. Increased competition in these markets and customers' desires for multiple, competing sources of supply will generate more Natural Gas Act (NGA) Section 3 filings and related requests for Presidential permits for importing and exporting gas and oil. The Commission will also continue to see projects related to the extensive exploration effort on the outer continental shelf and construction of pipelines to reach significant new gas supplies.

The expansion of new market potential is increasing the Commission's work related to pipeline construction.

Growing demand in the New England, Mid-Atlantic, and Midwest regions of the country will continue to lead to applications for major pipeline extensions and new pipelines to serve these regions. Meeting construction and service time frames will require analyzing contractual arrangements among parties and monitoring interconnection policies to assure that competing pipelines may obtain access to markets and that customers have choices for their gas supply needs. Processing of major construction projects will entail technical conferences and public meetings as well as the analysis of data responses, comments, protests, and other filings. Where multiple pipelines propose to construct facilities in the same area, either for the same or discrete markets, the Commission will explore options for reducing the cost and environmental impact of the facilities by encouraging joint facility construction. Significant environmental compliance work will be ongoing in FY 2000 for projects that propose construction in 1999 and 2000.

Construction Project Complexity. With the increased awareness of landowners and citizens' groups, pipelines proposed in densely populated areas result in many interveners, more organized opposition to pipeline projects, and greater scrutiny of the Commission's environmental review. Also, many of these proposals present difficult rate issues involving the use of negotiated rates, rather than the Commission's traditional cost-based rates. The Commission expects more of these difficult cases to be filed in the future.

The complexity of construction projects is illustrated by a number of competing projects proposed to serve different markets. In New England, review of several projects is complicated by overlapping markets and construction areas and by strong local opposition. At the Commission's urging, two pipelines that had proposed parallel facilities through a congested and environmentally-sensitive corridor proposed a joint pipeline that was ultimately approved by the Commission. The sheer size of two projects proposed to transport gas into Chicago has contributed to the complexity of these projects; the two projects combined involve the construction of 1,660 miles of pipeline at a cost of \$2.58 billion. In addition, three large, contentious competing projects have been proposed that will transport gas from Chicago to Eastern Canada and the U.S. Northeast. All three projects have already drawn opposition from various landowner groups and other parties. In each case an environmental impact statement will be prepared. Staff has held scoping meetings and site visits, and has received hundreds and, for one project, thousands of written and verbal comments.

Review of these projects requires extensive coordination among the Commission's engineering, environmental, rate, legal, and economic staffs, as well as among the Commission and a variety of federal, state, local agencies, and the public, in particular on environmental matters.

Storage Development. The Commission expects to continue to receive applications for storage development to be used for peaking capability and supply flexibility, since customers will continue to be responsible for their own gas supply acquisition. Anticipated storage facilities include depleted gas fields, new leached-salt caverns, and liquefied natural gas (LNG) tanks. Commission review and approval of these projects, many of which will be

located near market areas, is likely to generate significant public interest regarding competition, need, and environmental impact. As a result, the Commission will hold technical conferences and public meetings before making a decision as to whether these proposals are in the public interest.

Replacement Facilities. The Commission anticipates many applications for replacement facilities as a result of the aging of the national pipeline grid. Replacing aging facilities is necessary for safe pipeline operations. A replacement project may be fairly straightforward, with the pipeline proposing to merely remove old pipe and replace it with new pipe of the same diameter in the old right-of-way. The replacement projects can become much more difficult if the pipeline proposes to replace the old pipe with new pipe of a larger diameter, or to leave the old pipe in place, seal it off, and install new parallel pipe. These types of proposals can engender minimal to significant opposition depending upon the change in the size of the pipe, the environmental disturbance caused by the construction activities, and whether additional right-of-way must be acquired. The more contested the proposal, the more resources that will be required to deal with the issues; however, engineering review and environmental review will be required for all applications.

Acquisition of Excess Capacity. The Commission expects to continue to receive filings in response to its policy allowing natural gas pipelines to acquire capacity on other pipelines under certain circumstances. Where the costs of new construction and the related environmental impact render construction uneconomic, the policy makes excess capacity on upstream or downstream pipelines attractive to markets. However, this policy is not expected to reduce construction requests where new, firm load cannot be met by capacity releases.

Construction Cost Impact on Rates. As the gas market has become more competitive, the need for rate certainty has risen. In response to the industry's concern that the Commission's certificate process did not provide sufficient rate certainty for the pipeline applicants or their customers, the Commission issued its FY 1996 policy statement, *Pricing for New and Existing Facilities Constructed by Natural Gas Pipelines*. As a result, processing certificate applications includes analyzing the rate impact of the project's cost and the system benefits. This analysis determines whether the project cost may be rolled into current rates or must be incrementally priced in the next rate case. As part of the changes proposed in the NOPR on the regulation of the short-term gas market, the Commission has asked for comments on whether its rolled-in versus incremental pricing policy should be revised. Additionally, the Commission has sought comments on the necessity of any modifications to traditional cost-of-service rates to serve the future needs of the industry.

The Commission is exploring further changes to its pricing policy statement to provide additional rate certainty for construction projects.

Other Construction Issues. The Commission will continue to receive certificate cases involving jurisdictional issues concerning its NGA Section 1(b) and 1(c) and Natural Gas Policy Act Section 311 authority over facilities and services. As retail unbundling accelerates and the lines between interstate and intrastate services blur, the Commission expects growing concern over the different treatment of intrastate and interstate services.

Improving the certificate process will continue to be a top priority.

The Commission will continue to improve its certificate process to meet the needs of a changing gas market. The Commission expects to focus on overhauling the certificate process to make it more efficient and less burdensome on the industry and the public. A recent proposed rulemaking would streamline the certificate regulations and clarify and update certain regulations to conform to the Commission's present policies. At the same time, the Commission will continue to ensure that it has the information to determine, according to statute, that certificate applications are in the public convenience and necessity and meet environmental requirements.

Environmental Considerations

Competing Interests. Environmental concerns play a significant role in the review of certificate construction applications. Pipelines are facing increased opposition from landowners as new projects are proposed in more heavily populated areas. When new pipelines propose to serve markets currently served by existing pipelines, the benefits of alternative supplies of natural gas must be balanced with the environmental impact of a project. Landowners increasingly question the right of pipelines to use eminent domain in cases where the need for the project is determined by the market. Also, pipelines face timing concerns based on various environmental permitting requirements. As the certificate cases become more contentious, the Commission must devise new ways to issue certificates and address the intervening parties' concerns in a timely fashion. The *FERC First* effort and the Commission's proposed rulemakings will provide new, more effective ways to address the diverse concerns, by developing collaborative processes among all affected parties and revising the *ex parte* rules to facilitate open communication.

Environmental Issues Include:

- ▶ Proposed route and alternatives
- ▶ Eminent domain
- ▶ Noise impact and mitigation
- ▶ Historic property and cultural resources
- ▶ Right-of-way restoration, revegetation
- ▶ Endangered species, wildlife protection
- ▶ Erosion control, top soil segregation

Protection of the environment remains a top consideration in the processing of certificate applications. Under the National Environmental Policy Act, the Commission will continue to perform required environmental analysis of all gas pipeline construction proposals. The purpose of this analysis is to avoid or mitigate adverse effects on water quality, vegetation and wildlife, historic and cultural resources, soils and geological resources, land use, and air and noise quality. The Commission conducts a thorough analysis of each of these areas before any certificate project can proceed.

The Commission will work to balance the thoroughness of such analysis with the need to improve processing time. To this end, the Commission will continue to pursue methods and formats to review construction applications more quickly while continuing to produce complete environmental documents. The Commission continues to encourage the use of third-party contractors and applicant-prepared environmental documents. These alternatives have reduced the resources required for this workload area, and they offer the potential for accelerating the review process. However, Commission staff resources are still required to review the contractors' work to ensure accuracy and compliance with Commission policies.

Outreach. The Commission will continue to work with other agencies. The Commission has executed Memoranda of Understanding (MOUs) with the Department of Transportation on LNG and on natural gas transportation facilities and with the Environmental Protection Agency on pipeline facilities

contaminated with polychlorinated biphenals (PCBs). MOUs with other agencies are under consideration. The Commission will also enter into agreements with other agencies and state historic preservation offices to evaluate the impact of specific natural gas facilities on cultural resources. These agreements will ensure the Commission's compliance with Section 106 of the National Historic Preservation Act.

The Commission will continue to update its training seminars on environmental compliance, environmental report preparation, and cultural and historical resource requirements. In the past, incomplete filings have impeded the environmental review process. These seminars aid applicants in preparing complete filings and significantly improve the processing of certificate filings.

The Commission's public information program on pipeline construction also enhances the review process. Informing the public of Commission processes and actions has helped to resolve problems more quickly. The public information program includes:

- notification through mailings to all landowners whose land is crossed by pipeline right-of-way and/or who may be affected by noise levels;
- public notification of local environmental scoping meetings on proposed projects;
- public notification of preconstruction site inspections conducted by the Commission staff and other agencies on controversial projects;
- easy-to-understand brochures on the Commission's certification process;
- enhanced coordination with state agencies; and
- outreach programs explaining the Commission's environmental policies.

Other Environmental Considerations. The Commission plans to continue its field compliance inspections of projects under construction. The Commission expects this work to increase substantially as the major pipelines discussed above are certificated and built. The Commission will also monitor restoration of rights-of-way on pipelines greater than two miles in length, which were built under the automatic blanket authority, and projects completed under Sections 2.55(b) and 284 of the Commission's regulations. Safety inspections of jurisdictional LNG plants will continue biennially according to the NGA and an agreement with the Department of Transportation.

While a substantial effort in the environmental area continues to be directed toward improving the current process, the Commission will undertake new initiatives as resources are available. The Commission will evaluate the effectiveness of various environmental mitigation techniques implemented by pipelines pursuant to Commission orders. This study will guide the industry and the Commission in conducting the most effective mitigation at the most economical cost. In coordination with industry groups and other

federal agencies, the Commission is exploring an electronic geographic information system (GIS) to allow the filing of digital maps, graphics, and photographs for use in environmental analysis.

Oil Pipelines

The primary goals of the Commission's oil pipeline regulatory program are to ensure that (1) shippers and consumers do not pay unjust and unreasonable transportation rates; (2) transportation services are not discriminatory; and (3) oil pipelines have appropriate levels of incentives to continue to make prudent investments in their systems.

In Order Nos. 561, 571 and 572, the Commission established a generally applicable indexing methodology that allows for greater efficiency and ease in filing rate changes and delineated three alternatives to that methodology: traditional cost-of-service rates; market-based rates; and negotiated or settlement rates.

The Commission has statutory authority over approximately 170 interstate oil pipelines with combined transportation revenues of more than \$6 billion.

The three orders all became effective concurrently on January 1, 1995, in accordance with the Energy Policy Act. Since then, many pipelines have taken advantage of the new relaxed regulations when filing rate changes under the simplified indexing program and waiver requests for short-notice filings. Several pipelines have also obtained market-based rates for certain areas of their systems upon showing a lack of market power. As an integral part of the generally applicable indexing methodology, the Commission will conduct a review of the selected index after five years of experience, in 2000. This first review will examine the relationship of the annual change in the index to the actual cost changes experienced by the industry.

Like natural gas certificate and rate filings, oil pipeline filings also are becoming increasingly complex. An example of the complexity of the proposals in the oil pipeline area is a filing by Express Pipeline Partnership (Express). This was a proposal for an international pipeline from Alberta to interconnect with other crude oil pipeline systems in Wyoming. The U.S. portion of the pipeline consists of 515 miles of pipeline with a capacity of 172,000 barrels per day. In the first of its kind proposal, Express proposed preconstruction rates that differed depending upon the timing of service acquisition and the nature of the service acquired. The Commission was required to develop new policy and legal bases for its analysis of the proposal and to justify permitting these new types of rates to become effective upon construction of the pipeline. The Commission's rate, accounting, and legal staffs coordinated to review the cost study to decide the reasonableness and legality of the proposed extended term rates, depreciation schedules, and differentiation of rates among customers.

Work on formal cases involving the Trans Alaska Pipeline System has resulted in several settlements resolving numerous intricate and contentious issues. For example, a settlement on the Quality Bank case resolved issues in dispute for over nine years. These settlements, in concert with a drop in the level of pipeline throughput to below full capacity, have resulted in a more competitive atmosphere and the likelihood of less litigation on this pipeline system in the future.

However, the Commission expects to face further challenges as oil pipelines submit contentious filings designed to serve more specific market niches. Novel filings such as those made by Express are likely to become the rule rather than the exception as oil pipelines move to compete in energy markets.

The Commission will continue to encourage novel approaches for new pipeline projects. Providing timely issuance of decisions will aid in the establishment and acquisition of financing for prudent new projects such as its efforts in approving the Express Pipeline Partnership, Longhorn Partners Pipeline, and Rio Grande Pipeline Company projects.

FY 1998 and First Quarter FY 1999 Achievements

Besides processing its traditional statutory work, the Commission undertook the following significant projects.

Examination of Issues and Priorities for the Natural Gas Industry. In FY 1997, the Commission held a conference with industry participants that focused on the future of the industry and also on issues relating to service flexibility, pricing, pipeline capacity, and Commission procedures. As an outgrowth of this conference, the Commission launched a comprehensive review in FY 1998 of its regulatory methods, which culminated in its gas policy initiative. The Commission issued a NOPR proposing a more market-based approach to regulation of the short-term transportation market. The primary NOPR proposals include the following: removal of the rate cap for all short-term transportation services, required auctions for all short-term transportation capacity, and negotiation of terms and conditions of services. The NOPR also requested comments on possible changes to its certificate policies to ensure that needed construction without overbuilding will occur. The changes include reviewing the test used to determine the need for construction of new capacity and revising the Commission's pricing policy for new capacity. The Commission simultaneously issued a NOI requesting comments on a variety of long-term transportation issues in light of market changes and the regulatory changes proposed in the NOPR. The NOI seeks comments on whether the Commission should modify its long-term market pricing policies by moving away from traditional cost-of-service ratemaking or by modifying the current ratemaking methods.

Proposed Rule Would:

- ▶ Maximize short-term competition
- ▶ Mitigate residual market power
- ▶ Monitor for abuse of market power

Financial Conference. As a part of its gas industry review, the Commission held a conference on the financial outlook of the natural gas pipeline industry. The purpose of the conference was to improve its understanding of the regulated natural gas pipelines' current financial circumstances and to gain perspective on whether it appropriately recognizes the industry's financial condition in a newly competitive environment. The Commission also explored its rate of return methods and its overall ratemaking policies. The conference and comments formed the basis for a new Commission policy on rate of return and capital structure initiated in FY 1998.

Focus on the Complaint Process. After reviewing public comment on two petitions on procedural reforms to its complaint process, the Commission held a conference to provide a public forum for the parties to share their

views. The comments and the conference, along with recommendations generated by the Commission's *FERC First* effort, led the Commission to propose changes to its complaint procedures. The Commission then issued a NOPR proposing revised procedures that will ensure fair, timely resolution of complaint filings.

Implementation of Electronic Filing. Pursuant to the requirements of Order Nos. 581 and 582, the Commission received for the first time electronic filings for certain natural gas program filings during FY 1997. These filings included the Index of Customers, Discount Reports, Form Nos. 2, 2-A, and 11, and rate cases. The Commission worked with the industry to develop filing requirements to ensure proper formatting and content compatible with the pipelines' and the Commission's computer systems. As a result, the Commission developed a means for receiving these filings in electronic format and distributing the filed information to the public. The gas staff developed a system that loaded the filed data into databases for access by the public through the Commission's electronic bulletin board. During FY 1998, the Commission received more than 1,300 electronic filings. Similar numbers of electronic filings are expected in FY 1999.

Development of the Gas and Oil Web Site. Electronic filing of the rate cases and the Forms 2, 2-A, and 11 generated a need to develop a method for distribution of the electronically-filed information to the staff. Thus, the gas staff developed an intranet web site, the Office of Pipeline Regulation Intranet (OPR Web), that made the electronically-filed information, and other pertinent Commission information, orders, and data, available to staff for review and for analysis. When the Commission upgraded its Internet Web site, it moved much of the information available on the OPR Web to the Commission Web site, to allow the public additional access to electronically filed information and other Commission records.

Standardization of Industry Business Practices. With the encouragement of the Commission, GISB has adopted additional business practice standards. These include standards relating to electronic communication over the Internet, aimed at simplifying the process of transacting business across the interstate natural gas pipeline grid. In FY 1998, the Commission issued a final rule adopting Version 1.2 of the GISB standards, further simplifying business processes, and providing policy guidance for continued standardization. To implement the standards, each natural gas pipeline was required to make a tariff filing with the Commission. The Commission reviewed the filings and any comments, requiring revisions as appropriate. Most filings required at least one compliance filing in order to effect implementation. In total, we processed more than 100 GISB implementation filings. In FY 1998, the Commission also issued a final rule adopting additional GISB standards dealing with intra-day nominations and revisions to nomination and confirmation procedures. In FY 1999, the Commission issued a NOPR proposing to adopt Version 1.3 of the GISB standards. It also issued a final rule establishing a required date for pipelines to enter into operational balancing agreements with interconnecting interstate and intrastate pipelines.

Certification to Build Major Facilities. The Commission authorized many major projects, including system expansions of such pipelines as National Fuel Gas Supply Corporation, Northern Natural Gas Company, Questar Pipeline Company, Southern Natural Gas Company, Great Lakes Transmission Limited Partnership, Transwestern Pipeline Company, Transcontinental Gas Pipe Line Corporation, East Tennessee Natural Gas Company, and PG&E Gas Transmission, Northwest Corporation. The Commission approved a proposal by KN Wattenberg Transmission Limited Liability Company to construct the Front Runner Pipeline Project. This project will provide a needed transportation alternative in the Front Range area of the Rocky Mountains that will increase competition among pipelines. The Commission also approved applications by Pacific Interstate Transmission Company, Northwest Alaskan Pipeline Company, PG&E Gas Transmission, Northwest Corporation, Transwestern Pipeline Company, Northwest Pipeline Company, and Pan Alberta Gas (U.S.) Inc., which restructure natural gas sales and transportation agreements of the Alaska Natural Gas Transportation System. The new agreements will more efficiently meet new market situations.

The Commission issued certificates for new projects into the Chicago and Northeast markets for Alliance Pipeline, L.P. and Maritimes & NE Pipeline, L.L.C., respectively, and issued a preliminary determination for Vector Pipeline L.P. to move gas from Chicago toward the Northeast. The Alliance project is a major new pipeline that is part of a combined Canadian-United States pipeline project. A new 975-mile long Canadian pipeline will interconnect with the 887-mile long United States facilities. The \$1.34 billion Alliance project will be a high-pressure system to transport high-Btu, high-ethane gas to Chicago.

The Commission also certificated proposals to construct new LNG facilities for Granite State Gas Transmission, Inc. and to operate existing LNG facilities for Total Peaking Services and Hopkinton LNG Corp. In addition, the Commission authorized a major salt cavern storage proposal by N.E. Hub Partners, L.P. To ensure compliance with environmental regulations, the Commission monitored pipeline construction and right-of-way restoration activities on almost 400 construction compliance trips in FY 1998.

Certification to Build Offshore Facilities. The Commission has recognized the importance of current gas production on the outer continental shelf and its potential as a source of new gas supplies. In FY 1998, the Commission acted on nine pipeline applications or requests for declaratory order on jurisdiction of facilities. Of these, eight were to develop offshore supplies in the Gulf of Mexico with deliverability of more than 900,000 MMBtu per day, and one was to develop offshore supplies in the North Atlantic with deliverability of 590,000 MMBtu per day. These offshore pipeline projects raise the issue of which statutory authority, the Natural Gas Act or the Outer Continental Shelf Lands Act, applies to the Commission's regulation of transportation from the offshore platforms to the mainland and how the Commission should exercise that authority. The Commission issued a NOI soliciting industry comments on these issues in June 1998, and will be devising a policy informed by these comments in FY 1999 for application in late 1999 and beyond.

Proposal for Research and Development Funding. The question of funding for research, development, and demonstration in the natural gas industry has been an issue since open access and competition have hampered the pipelines' ability to collect the current Gas Research Institute (GRI) surcharge. The Commission convened a public conference to explore alternatives to the current GRI funding mechanism. After the conference, the Commission issued an order extending the current GRI funding mechanism for one year, simultaneously with a NOPR to address long-term funding issues including the funding for a voluntary noncore program. In response to the NOPR, parties proposed a settlement, and early in FY 1998, the Commission referred resolution of the GRI funding mechanism to a settlement judge. A modified settlement agreement was subsequently certified and approved by the Commission in FY 1998. The settlement results in the continued funding of GRI for a core program that would provide for research and development for the general benefit of the gas-consuming public. The settlement provides for the phase-in to fully-voluntary funding by the end of its seven-year term. The Commission also analyzed GRI's program filing for 1999 and approved its program plan and budget for that year.

Record Keeping Burden Reduction. The Commission issued Order No. 589 on February 5, 1998, which will reduce the public reporting burden in total for the electric and natural gas and oil pipeline industries by an average of \$5 million annually. The Order, developed as a collaborative effort with the three industries, removed the Commission's prescribed units of property listings.

HYDROPOWER

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1998 <u>Actual</u>	FY 1999 <u>Estimate</u>	FY 2000 <u>Request</u>
FUNDING	\$49,176	\$49,196	\$52,713
FTEs	365	365	365

Overview

The Commission regulates nonfederal hydropower projects that use and affect a variety of important natural resources. Electricity generated from the power of falling water is economic, renewable, available for peak demand, and without emissions — a valuable contribution to the Nation's energy mix. Hydropower regulation must provide economic, environmental, and other public benefits.

External Changes Affect Licensing and Oversight

The Commission's regulation of hydropower is changing to fit new realities and challenges. Today's hydropower projects must adjust to competitive electric markets, increasing concern for the environment, cumulative effects of hydropower projects in a river basin or region, and shared jurisdictional authorities.

Hydropower is and will continue to be a significant component of the Nation's renewable energy mix.

- Hydropower represents 98 percent of all renewables
- FERC regulates over 1,660 hydropower projects representing 50 percent of total hydropower capacity in the US.
- Hydropower is regulated to promote long-term safety and sustainable development
- Today's hydropower projects must be able to compete in rapidly changing energy markets

Competitive Electric Markets. A major impetus for change in the hydropower industry is the increasing competitiveness of the electric power markets. Applications for new hydropower projects have fallen dramatically and are expected to remain low into the next century. Electric restructuring is prompting some licensees to begin reevaluating their existing hydropower assets, and sometimes to divest themselves of hydro generating plants. Others are finding new opportunities in obtaining such assets as part of a generation portfolio. Competitive electric markets will increase pressure on all licensees to control operating and maintenance costs to ensure that the projects remain competitive.

Increasing Environmental Concerns. The public's concern about the environmental impacts of hydropower operations increases every year. This heightened concern and a host of environmental laws result in many requirements in new licenses. In its alternative licensing process and monitoring activities, the Commission is focusing on resolving many conflicts over licensing before the filing of an application and is continuing staff involvement through post-licensing. Early and sustained collaboration among diverse participants is effective in finding solutions.

Because the values and circumstances of a project may change over time, license conditions may require revisiting and modification to make sure they continue to address the intent of the license adequately. Collaborative solutions can be written into a license and implemented during the term of the license. Collaborative efforts should lead to improvements in environmental outcomes, accountability, and river basin management, and are often beneficial for licensees, resulting in less costly, equally effective measures.

Focus on River Basins and Regions. Entire river basins and regions can be affected by the operation of hydropower projects. One or more projects in a basin can have significant impacts on water quality, endangered species, public use, water supply, and other aspects of environmental quality in the river basin and beyond. Therefore, when considering impacts and determining the licensing requirements for individual projects, the Commission takes into account the impacts and operations of other projects throughout the river basin.

Shared Jurisdictional Authorities. Successful hydropower regulation requires fostering cooperative regulatory approaches, such as up-front collaboration with other agencies to resolve conflicts, accommodate varied interests, and avoid duplication of efforts. This is increasingly necessary, both because others control some significant aspects of the regulatory process, and because issues are contentious. In the end, of course, the Commission still must make most final decisions about hydropower development.

Dam Safety

Hydropower projects must continue to meet the high standards of the Commission's dynamic, state-of-the-art dam safety program and must be administered to protect the public. With almost 70 percent of Commission dams more than 50 years old and almost 10 percent more than 100 years old, the Commission must remain vigilant. A sound, comprehensive inspection and maintenance program detects and corrects small problems before they become big ones. The Commission continues to gain knowledge and develop information for the assessment of structural soundness under extreme conditions, such as flooding and earthquakes.

Through cooperative regulation, the Commission distributes responsibility for dam safety among all participants — project owners, their engineering consultants, the states, and the Commission itself. The Commission also shares its dam safety expertise with other agencies and dam safety experts worldwide.

Long-Term Goals Beyond FY 2000

The Commission has identified the following three long-term goals of the hydropower program.

Ensure that Sustainable Hydropower Resources Are Licensed for the Public's Benefit. The Commission will continue to encourage the use of alternative licensing processes that emphasize collaboration and consensus

The Commission will:

- ▶ Ensure that sustainable hydropower resources are licensed for the public's benefit.
- ▶ Ensure that the nation's existing hydropower serves multiple water resource interests.
- ▶ Ensure dam safety through inspection of facilities and operations.

decisions, reduce the length of the process, and foster good working relationships. The Commission will seek to ensure that environmental licensing conditions are effective, mitigate environmental impacts, and enhance beneficial public uses over the term of the license. Finally, the Commission will evaluate the effectiveness of license conditions over time and allow for adjustments during the life of the license.

Ensure that the Nation's Existing Hydropower Serves Multiple Water Resource Interests. The Commission is challenged to accommodate increasing public uses without diminishing key water resource values. Each time the Commission must consider an adjustment related to one resource value at a project, it must equally consider potential impacts on all resource values. Furthermore, over the life of a license, external circumstances may change unpredictably. The Commission has seen that proactive administration over the life of the license is the most successful strategy. Cooperation and flexibility in achieving the desired ends will be necessary in a more competitive environment.

Ensure Dam Safety Through Inspection of Facilities and Operations. The Commission's dam safety program will ensure that the dams under its jurisdiction are properly constructed, operated and maintained. Vigilance is particularly necessary because of the increasing number of older dams under the Commission's jurisdiction. As engineering procedures improve, the Commission must work with licensees, the engineering community, Federal Emergency Management Agency (FEMA), federal and state agencies, and localities to ensure that its safety program continues to protect the public and resources. The Commission will focus on improving cooperation and coordination among all participants, and will inspect high- and significant-hazard dams annually, to ensure that these dams will comply with safety and emergency action plan requirements.

FY 1999 and FY 2000 Program Challenges

Hydropower licensing considerations must address competitive electric markets, heightened environmental concerns, the increasing need for a regional focus, shared jurisdictional authorities, and maintaining the safety of hydro generating facilities.

Licensing and Oversight

Relicensing currently makes up a large part of the Commission's hydropower licensing workload. Between the years 2000 and 2010, more than 220 project licenses will expire. These projects represent about 22 gigawatts, or 37 percent of the total generating capacity of all licensed projects. During relicensing, particularly in recent years, hydropower issues undergo intense scrutiny, involving many participants. This process considers economics and environmental requirements.

Licenses and license amendments involving new capacity also raise these issues. In all cases, the Commission must deal with these issues using cooperative, flexible, and innovative approaches. In addition, it must follow

through with monitoring and oversight throughout the life of the license to ensure compliance with the substance and intent of the license requirements.

Following is a discussion of how the main challenges facing the Commission for FY 2000 affect the Commission's work. At the end of this section is an example — the Snake River relicensing — which illustrates several of these issues.

Competitive Electric Markets. Hydropower's future is promising. New and existing hydropower may benefit from some initiatives. Certain federal and state restructuring plans and legislative proposals would require blocks of energy to be generated from renewable sources. Also, worldwide initiatives to minimize greenhouse gases favor conventional hydropower projects.

License Transfers. Some utilities are choosing or are required to divest themselves of all generating sources, not just hydropower. As a result, the Commission is receiving more applications to transfer hydropower project licenses. For example, Niagara Mohawk Power Corporation is a licensee or exemptee for 38 jurisdictional projects scheduled to be sold in FY 1999. Before approving a transfer, the Commission reviews the proposed transferee's compliance history and scrutinizes marginal projects for potential compliance problems. The Commission will work with transferees, as necessary, to ensure they understand their responsibilities under the license or exemption.

Recent sales of hydropower projects have sparked great interest and have involved prices well above book value. Hydropower projects supply ancillary services that increase their value, especially in the case of existing, operating projects. Large licensed but unconstructed pumped storage projects are finding it hard to obtain adequate power sales contracts and the long-term financing required for these capital-intensive investments. However, the peaking capacity system benefits of pumped storage and other peaking projects appear useful in the restructured market.

Heightened Environmental Concerns. Operations from hydropower projects have the potential to affect water quality, flow regimes, fish spawning areas, and fish movement. Endangered species listings are increasing, and the Commission is receiving requests to look at effects of projects on this growing list. The Commission must ensure compliance with the Endangered Species Act, and beyond this must balance a project's economic viability and power generation with the need to protect the environment and other water values. To address these needs, the Commission will rely on increased use of the alternative licensing process and on monitoring for environmental effects.

The Commission will promote and emphasize new business practices — educating licensees and participants, greater staff involvement in identifying and resolving issues, use of applicant-prepared EAs and third-party EIS contracting, and collaborative processes — to significantly improve hydropower regulation.

Alternative Process. In licensing and relicensing, the Commission will increasingly encourage participants to work together, foster increased interagency cooperation, and facilitate consensus decisions whenever possible. The Commission is offering the participants the flexibility needed to produce a better license application that will allow for more expeditious Commission processing. In the alternative process, Commission staff must

be involved with a project from the pre-filing stages and continue its involvement right through post-authorization monitoring. All participants — including the prospective applicant, Commission staff, other agencies, non-governmental organizations, Indian tribes, affected landowners, and other interested members of the public — collaborate to resolve issues as far as possible before the application is filed. The same collaboration will be important during post-authorization.

Monitoring and Proactive Compliance Assistance. Monitoring ensures that license conditions are met. As facilities age and environmental concerns increase, the Commission's monitoring and enforcement responsibilities also increase. Additional staff resources are being allocated to post licensing administration.

Actively involving our participants in post-licensing activities achieves more positive results for everyone.

In post-licensing and administrative work, the Commission has been successfully using cooperative procedures to achieve its compliance objectives, and these efforts will increase. These procedures recognize that a competitive marketplace increases project owners' sensitivity to the costs of compliance. The Commission is helping licensees to satisfy their safety and environmental protection obligations in partnership with other agencies and participants, to minimize violations and required audits, and to reduce the need for enforcement actions. Efforts have focused on helping project owners with small projects and those with recently issued licenses and exemptions. In FY 1999 and beyond, the Commission will extend this proactive effort to all licensees and exemptees.

Monitoring for Changing Conditions. Licensing and license administration are more and more ongoing processes, rather than one-time decisions. From the point of view of the licensee, the Commission, environmentalists, or other concerned persons, conditions may change after a license is issued, to an extent that requires revisiting the license conditions to assure attainment of objectives. The Commission is reevaluating its hydropower oversight processes to confirm that the measures required in licenses have the intended outcomes. This assures participants that as times and situations change, licenses can be flexible enough to meet the requirements of the licensees and other participants. It should also facilitate licensing, since participants will know that changes can be made during the new license term.

For instance, the Commission must give increasing attention to license requirements for monitoring the development of residential property and boat docks around the reservoir and considering adjustments to land use and reservoir management plans during the term of the license. Another issue requiring monitoring is that of increasing and disputed requests to withdraw municipal water supplies from hydropower reservoirs. As the number of these applications increases and competition for limited water supplies mounts, so will the effort required to process these requests on an individual and cumulative basis.

Another monitoring issue concerns requests to examine project impacts on federally listed endangered fish and to modify project operations if appropriate. For example, salmon species listed or proposed for federal listing in California, Oregon, and Washington coastal streams could affect the

Listings or proposed listings of salmon species as endangered could impact more than 150 Commission projects in the Pacific Northwest and California.

operations of more than 150 Commission hydroelectric projects. The Commission has initiated consultation with the National Marine Fisheries Service (NMFS) to address the effects of current project operation of the large Hells Canyon Hydroelectric Project on listed salmon species. In addition, the Commission staff is working cooperatively with the NMFS, licensees, and other participants in further developing and implementing habitat conservation plans for the Columbia River that will address the effects of multiple hydropower projects on listed species.

Flexible Approaches in Alaska. In Alaska, hydropower is cheaper than diesel fuel, which requires long-distance shipping. Currently, preliminary permits exist for 10 proposed projects, many of which are likely to result in future license applications. Processing applications for proposed Alaskan projects will pose unique problems requiring flexible approaches and a substantial commitment of staff resources. Scoping meetings and project site visits will be expensive, because of the high costs associated with travel to remote locations. There will be heightened resource concerns because of Alaska's natural settings, and conducting required resource studies will be complicated by the short summer season. Presently the Commission is working with six applicants using the applicant-prepared environmental assessment (APEA) process. The Commission expects future applicants to pursue this or other pre-filing processes, and will work with them to improve the licensing process.

Focus on River Basins and Regions. When considering impacts and determining the licensing requirements for individual projects, the Commission must take into account the cumulative impacts and operations of other projects throughout the river basin.

Relicensing Larger Projects Affecting Entire River Basins. Another round of relicense applications began in FY 1997 and will continue in FY 1999 and FY 2000 — 79 filings representing 5 percent of the capacity of all licensed projects. In these three years the Commission will receive the initial filings of the larger group of 220-plus projects with licenses that expire in FY 2000 through FY 2010. The 22-gigawatt capacity of these projects is 37 percent of the total generating capacity of all hydropower projects. On average, they are 10 times larger than the projects whose licenses expired in 1993, have multiple developments, and some affect very significant environmental resources in entire river basins and regions. The larger number of participants with diverse interests and objectives will increase the difficulty of relicensing these projects. The Commission will strive to address major issues during the pre-filing process and attempt to bring the many participants together. Further, the Commission will focus on assessing the project's effects on resources in a river and its basin, and balancing interests to ensure comprehensive development.

Shared Jurisdictional Authority. The Commission is increasing efforts to work cooperatively with other agencies to balance competing interests. Licenses contain many environmental requirements developed by other agencies that are often imposed through these agencies' mandatory conditioning authority. Shared jurisdiction lengthens the time of the licensing process, and the resulting license articles add additional costs to the

The staff's involvement in relicensing projects on the Upper Menominee River, St. Lawrence River, Clark Fork River, and the Snake River demonstrate the Commission's response to the need for innovative public and agency participation.

project. These additional costs are often at odds with pressures of the competitive market to keep costs to a minimum. For all these reasons, interagency cooperation is critical in fulfilling the Commission's role and ensuring that hydropower is part of the Nation's energy future.

The Commission must provide leadership and bring participants together to resolve the difficult issues associated with projects. Traditionally, the burden of greater public and agency participation was left to prospective applicants of hydropower projects. However, the size of the projects, the scope of environmental issues, and the large number of participants are placing increasing pressure on the Commission to facilitate processing. Innovative approaches such as APEAs and third party environmental impact statements (EISs) are excellent processes to improve public and agency participation. The Commission staff has been participating actively in the pre-filing process and during administration of licenses to facilitate consultation and dialogue regarding endangered species, water quality certification, historic preservation, and other matters. Guiding licensees and other participants through such processes will require a commitment of significant staff resources over the next several years.

The Snake River relicensing, discussed below, is an example of a collaborative river basin approach to consensus decision-making, designed to resolve issues before applications are filed with the Commission. Other examples of innovative public and agency participation include the St. Lawrence-FDR Project in New York, the Cabinet Gorge-Noxon Rapids Projects in Montana, and the Lake Gaston Project in Virginia.

The Snake River Relicensing. Processing the relicense applications for Idaho Power Company projects on the Snake River is an example of how the Commission is dealing with environmental and river basin issues and using a collaborative approach. The Snake River is one of the most heavily developed basins in the west, with more than 50 percent of its 1,050 miles impounded. The main issues in the Snake River Basins are salmon restoration options and allocation of scarce water resources. Resolution of Snake River Basin issues will be a component in the recovery of Pacific Northwest salmon resources.

Idaho Power Company operates eight projects on or adjacent to the Snake River in Idaho and Oregon, spanning 360 miles, whose licenses have expired or will expire between 1997 and 2008. Four applications already have been filed. Of particular importance is the Hells Canyon Project, whose license will expire in 2005. This project, consisting of a series of three large mainstream dams and producing almost 1,200 megawatts, has blocked access to about one third of the basin by salmon, including three endangered species.

Idaho Power Company and stakeholders have developed a collaborative process to address issues associated with relicensing the Hells Canyon Project and other projects. Members of the collaborative team are diverse — including federal, state, and local agencies; Indian tribes; conservation organizations; recreational users; industrial power purchases; and the public. The team, focusing on study needs and environmental protection measures,

works together to frame public issues, resolve controversy, and identify stakeholder needs. The Commission staff is working with the team. The collaborative process has been successful in fostering a good working relationship among the participants and in reaching consensus on many issues. The Commission has conducted extensive scoping to decide how to process these eight projects, and participants have identified as significant issues water quality, fish habitat, riparian vegetation, other flow-related resources, and the cumulative effects of all eight projects.

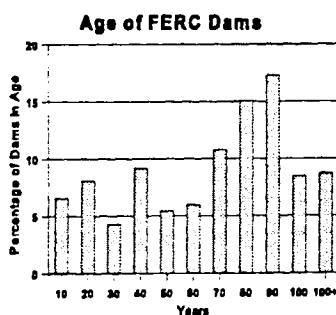
After discussion with stakeholders, the Commission staff decided to prepare a multi-project EIS for the first four projects, to include a basin-wide cumulative analysis of affected resources. However, because of the limited effects of the first four projects on anadromous fish, the Commission will defer the analysis of the cumulative effects on anadromous fish until it receives applications for some of the other expiring project licenses. Meanwhile, the Commission will begin a preliminary review of the cumulative effects on anadromous fish as it processes the first four applications, to gain an understanding of the complex issues involved.

The evaluation of project-specific and cumulative impacts in the basin will represent a significant commitment of staff resources. Complicating factors are the size of the basin, the number of projects involved, the complexity and controversy of the issues, the intense public and agency interest, past cumulative impacts, and the many competing uses and demands for limited water resources.

Dam Safety

One essential and constant element of the Commission's hydropower program is dam safety. The protection of life and property is of paramount consideration. Most important, in its inspection program, covering more than 1,600 projects and more than 2,600 dams, the Commission's regional offices conduct about 2,800 inspections every year. Other important elements include maintaining vigilance, both to meet the challenges of aging dams and to deal with changing dam ownership in the dynamic electricity market; dealing with many remediation and monitoring issues; overseeing the development and testing of emergency action plans; using cooperative regulation; and providing assistance to other federal and state agencies.

Maintaining a Vigilant and Active Dam Safety Program. Remaining vigilant is important to maintain safety as the population of jurisdictional dams ages. Vigilance is also necessary as dams change hands in the competitive electric industry.



Aging Dams. Many older dams were constructed without the knowledge of design and construction practices in use today. Older embankment dams, for example, were constructed using techniques and equipment different from those used today. As research and technology advance, new engineering theories and solutions develop. This does not imply that dams are unsafe, but rather that dams constructed today would be designed and built differently. Even with older dams, the majority are stable for most conditions, but the Commission must continually evaluate dams under extreme conditions, such as earthquakes and floods.

Competition in the Electric Power Market. The competitive market brings additional strains to dam safety. As some large utilities begin to sell their hydropower projects, the Commission must make certain that the projects are properly monitored and maintained. Through its inspection program, the Commission will be aware of changes and observe any resulting effects of these changes. These effects may require more dam safety inspections and even more communications and meetings with licensees.

Remediation and Monitoring. As the population of dams ages, the remediation phase of the Commission's dam safety program includes more monitoring.

Since 1981, 457 dams have undergone remediation; 110 more are ongoing, in full compliance with all applicable environmental regulations and safeguards.

During construction, the Commission's projects comply with all applicable federal and state environmental regulations and include appropriate environmental protection measures, such as erosion control plans and flow monitoring systems. Other dams are in stages of problem identification, solution planning, and implementation — usually a structural modification. The Commission ensures that dams satisfy the requirements of its engineering guidelines and conform to the federal guidelines for dam safety.

As dams age and undergo various stress conditions (e.g., floods and earthquakes), they are subject to different ranges of structural stress. The Commission will use monitoring and instrumentation to decide whether the condition of dams and their appurtenant facilities is changing. This procedure is the key to detecting potential problems before they become serious and deciding whether new remediation is necessary. With monitoring data available, the Commission will expect licensees and their consultants to evaluate continually the condition and performance of their projects. If the data show no significant trends or changes in project performance, then future independent consultant reports will focus on operation and maintenance to ensure timely maintenance and repairs.

An important part of the transition from remediation to monitoring for aging dams is the development of additional engineering guidelines on dam performance and monitoring for staff civil engineers, dam owners, and independent consultants. These guideline additions will include the review of dam safety analyses, along with instrumentation and monitoring data, to determine structural safety at any given time.

With lives at stake, the Commission keeps abreast of technological advances in field and laboratory investigative and analytical procedures, including innovative designs for proposed remedial modifications. The dam safety staff continually investigates new analytical methods. Keeping abreast of advancements in state-of-the-art analytical techniques and in the technology of embankment and concrete dams can add time to the process of analyzing data and recommending modifications. However, licensees have benefited from the Commission's monitoring of advances in field investigative techniques. The Commission requires licensees to use these new techniques for quality control. These efforts have typically resulted in cost savings associated with remediation and have sometimes eliminated the need for dam safety modification work.

Flood Evaluations Require New Methods. The Commission evaluates the ability of projects to withstand large floods as part of dam safety assessments. Maximum rainfall that can be expected in an area determines the magnitude of the flood the dam has to pass. Estimates of flood magnitudes derived from these values showed many projects to be inadequate. This meant that remediation would be necessary for the structures to withstand floods greater than those for which they were originally designed. The Commission is conducting site specific evaluations to avoid the possibility of unnecessary project remediation.

Liquefaction Evaluations of Dams. Liquefaction occurs when significant portions of a dam or its foundation suddenly lose strength during an earthquake, potentially affecting its ability to retain the reservoir. The Commission staff must evaluate several embankment dams to determine their ability to withstand earthquakes. The state-of-the-art methods required in these evaluations are being pursued internationally and are the subject of many technical papers and conferences throughout the world. The Commission staff must conduct extensive reviews and attend several meetings to address the critical issues.

Commission staff and its consultants are giving direction on these issues and holding periodic meetings with the licensees and their consultants. This process expedites the licensee's analysis and preempts any possible disagreement regarding the methodology or results. This procedure will also serve to develop a consistent approach in dealing with similar issues on other dams. The Commission staff is discussing these issues with other dam safety organizations, such as the Bureau of Reclamation.

Emergency Action Plans. All of the inspections, remediation, and monitoring the Commission maintains, however, cannot guarantee that emergencies will not occur. Therefore, the Commission requires the development, maintenance, and periodic testing of emergency action plans. These plans are another line of defense for the protection of life and property. They specify preplanned actions that owners must take, in coordination with state and local preparedness agencies, in case of flood, earthquake, or project facility failure. The Commission is recognized as a national leader in emergency action plans and regularly shares its expertise with many other agencies. (See the following section, FY 1998 and First Quarter FY 1999 Achievements, for further information.)

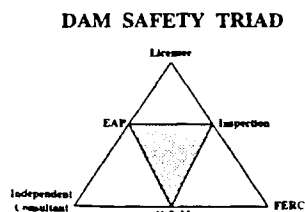
Expanding Cooperative Regulation. The Commission is responsible for ensuring that licensees and exemptees build, operate, and maintain safe projects. The Commission's five regional offices conduct the inspections and are the Commission's direct link to day-to-day project operations and construction activities. They also monitor compliance with license requirements.

A fundamental philosophy of the Commission's dam safety program is cooperative regulation. The Commission distributes the responsibility for dam safety among all participants — project owners, their engineering consultants, and the Commission itself. Today, with the list of identified

The list of identified dam safety participants is growing to include federal and state resource agencies.

participants growing to include federal and state resource agencies, the effort to include cooperative partners is also growing.

When the licensee, the independent consultant, and the Commission staff — known as the Dam Safety Triad — work together, with each focusing on its established area of responsibility, the necessary checks and balances are maintained. In addition, this cooperative approach results in comprehensive evaluations, while using Commission resources efficiently. The public and the environment are protected throughout the construction, operation, and maintenance of the hydro facilities.



Providing Assistance to Other Federal and State Agencies. The Commission's dam safety expertise is called upon nationally and internationally.

The Commission shares its knowledge with the community of dam safety experts to meet a broad objective of universally improving dam safety. Exchanging information is valuable to all participants and helps the Commission to refine and improve its program. The Commission is an active member of the Interagency Committee on Dam Safety (ICODS), which establishes Federal Dam Safety Guidelines for all federal agencies involved with the design, construction, operation, and regulation of dams. The ICODS provides agencies a forum and mechanisms to cooperate, share information, develop technical guidelines, discuss research needs and progress, and develop dam safety training.

The Commission shares its knowledge with a variety of other agencies, and has trained many agencies in emergency action planning. Through memoranda of understanding, the Commission helps the U.S. Department of Energy and the Nuclear Regulatory Commission meet federal dam safety guidelines by inspecting and evaluating dams under their jurisdiction.

The President recently signed legislation requiring the Commission to serve on a board of dam safety experts. These experts assist the Director of FEMA in carrying out the National Dam Safety Program and advise the Director of FEMA on institutional, managerial, technical, legislative, and policy issues affecting national dam safety. The Commission coordinates with states to conduct joint inspections, to share results of the independent consultant inspection reports, to provide emergency action plan training, and to share information.

FY 1998 and First Quarter FY 1999 Achievements

In FY 1998 and the first quarter of FY 1999, the hydropower program realized many significant achievements.

Licensing and Oversight

Interagency Task Force. To improve relations with federal and state agencies, the Commission is participating in the Interagency Task Force. It consists of five work groups: federal agency coordination; state agency coordination; *ex parte*; collaborative process; and economics. The goal of

these work groups is to improve routine communication, reduce duplication, and find practical ways to work together more efficiently.

Alternative Licensing and Relicensing Procedures. On October 29, 1997, the Commission issued Order No. 596, allowing licensees and potential license applicants to use alternative procedures, if approved by the Commission, for preparing license applications. The order promotes communication among participants for resolution of issues. Under these procedures, the pre-filing consultation process, the environmental review process, and administrative processes associated with other federal statutes, such as the Clean Water Act, will be combined. The rule also allows the Commission to manage its communication with the participants effectively through *ex parte* communications protocols.

The Commission is actively promoting and pursuing alternative licensing processes with licensees and participants to resolve disputes and significantly reduce the post-filing environmental review process.

Licensees and applicants can choose to submit an APEA or third-party contract EIS as part of their application. The first APEA process was successfully completed for the relicensing of the Sinclair Project in FY 1996. This case, in which staff completed its environmental review process in only 4 months and issued the new license in 7 months — a significant decrease in processing time — shows the potential usefulness of APEAs. Through the APEA process, the Commission anticipates that the participants can resolve all issues with a substantial reduction in the time required for environmental review after the filing of the relicense or license application. During FY 1998, the Commission continued fostering APEAs involving 34 projects. The Commission issued four licenses using the APEA process in FY 1998.

During FY 1998, the Commission continued the third-party contract EIS process for the relicensing of the New York Power Authority's 912 MW St. Lawrence-FDR Project in New York. Scoping was completed in September 1997, and depending on the status of negotiations among participants, staff may begin directing the preparation of the EIS in FY 1999.

Outreach. The Commission staff undertook a major outreach effort to provide information on alternative licensing processes and to discuss other licensing and post-licensing programs. Meetings were held in California, New York and Vermont, Alabama and Georgia, North and South Carolina, Utah and Colorado, Maine, Oregon and Washington, Michigan, Idaho and Montana, Wisconsin, and Alaska. The objective was to provide a forum for licensees, federal and state agencies, tribes, nongovernmental organizations, and the general public to get information on these programs and to ask questions and give feedback on their experiences. Outreach sessions have been very well attended. These sessions have resulted in increased understanding of and interest in the use of APEAs, third-party contracts, and other collaborative licensing processes.

The first of a series of informal regional presentations discussing the alternative licensing process and other pre- and post-licensing concerns was held in Sacramento, California, in December 1998. It was attended by federal and state agencies, industry representatives, non-governmental organizations, and the public. The objective was to help the industry and others decide whether to use the alternative process by giving everyone a thorough

understanding of the process. Discussions focused on the nuts and bolts of the process and how to sustain it.

Action on Relicenses and Post-licensing Activities. The Commission has completed action on 143 of the relicense applications for licenses that expired in 1993. The remaining 14 applications are either in settlement negotiations or awaiting state action to issue water quality certificates.

Project Enhancements. New licenses issued for the projects whose licenses expired in 1993 included many conditions to protect or improve recreation, fisheries, and wildlife. The Commission included approximately \$43.5 million in recreational improvements in these licenses. These included boat ramps, canoe portages, hiking trails, and fishing access areas with fishing and parking access. In other licenses, measures were included for downstream flow augmentation, recreational boating, and fish viewing facilities.

In this group of new licenses, the Commission required minimum flows to protect sensitive fisheries and aquatic resources in approximately 80 miles of river channel that would otherwise be partially or wholly dewatered for generation flows. Additional enhancement measures have included structures for fish passage, additional vegetative cover, operational constraints, and measures to reduce fish mortality.

The Commission developed these conditions after independently evaluating the environmental impacts and consulting with and reviewing comments from resource agencies, non-governmental organizations, and the public. The Commission develops requirements often after extensively reviewing and analyzing the cumulative impacts of several projects located within a river basin. The Commission bases many license conditions on provisions of statutes — such as the Endangered Species Act and the Clean Water Act — besides the Federal Power Act and the Commission's regulations.

Handling Allegations of Noncompliance. To ensure that licensees comply with the terms and conditions of the license, the Commission aggressively pursues reported incidents of noncompliance. It directs the licensee to explain the circumstances surrounding the incident and, if necessary, provide additional information. During FY 1998, the Commission closed out more than 200 investigations into allegations of noncompliance with environmental and engineering requirements. The Commission continued to develop cooperative relationships with resource agencies and local organizations to help resolve the issues raised by these allegations.

Recreational Fisheries Report. On June 7, 1995, the President signed Executive Order 12962, directing federal agencies to “improve the quantity, function, sustainable productivity, and distribution of U.S. Aquatic resources for increased recreational fishing opportunities....” Until 1998, the Commission participated, through the Department of Energy (DOE), with the National Recreational Fisheries Council established by the order. Given the unique nature of the Commission's role in overseeing large expanses of the Nation's waterways affected by hydropower development, the

Commission developed its own plan in 1998. The plan sets forth proposals for enhancing recreational fishing opportunities at licensed facilities.

Settlement on the Edwards Project. With Commission staff assistance, parties involved in the proceedings for the relicensing of the Edwards Project in Maine and various proceedings regarding fish passage at seven upstream dams filed an offer of settlement on May 28, 1998. The settlement would provide for the transfer of the license for the Edwards Project to the State of Maine, followed by removal of the dam and all project facilities in 1999, and would resolve disputes regarding fish passage.

Decision on Platte River Projects. In July 1998, the Commission approved a comprehensive settlement and issued new licenses for Kingsley Dam and North Platte/Keystone Division Dam Projects in Nebraska. The two projects share a 150-mile reach of the Platte River and affect one of the most important migratory bird habitats in North America, providing habitats for a number of threatened or endangered species. Approval of the settlement concluded a 14-year, controversial proceeding. The settlement covers all major issues in the proceeding and is supported by all major parties, including both licensees, the US Department of the Interior, the States of Nebraska, Colorado, and Wyoming, the Platte River Whooping Crane Critical Habitat Maintenance Trust, National Audubon Society, American Rivers, Sierra Club, Nebraska Wildlife Federation, and Nebraska Water Users.

Decision on Thunder Bay Projects. In December 1998, the Commission approved a settlement and issued a new license for the Thunder Bay Project. Comprised of six developments in the Thunder Bay River Basin in Michigan, this project is a combination of two former projects with licenses that expired in 1993. Approval of the settlement covered all major issues in the proceeding and was supported by all the parties. Issues settled included project operation, impoundment water levels, compliance monitoring, fish and wildlife protection and management, bald eagle protection and management, and nuisance plant control.

Decision on the Cushman Project. In July 1998, the Commission issued a license to the City of Tacoma, Washington, to continue to operate the Cushman Project on the North Fork of the Skokomish River, resolving a 23-year-old, frequently gridlocked, relicensing proceeding. Licensing conditions required increased flows, additional recreational facilities, flood control measures, measures to improve fisheries habitat, measures to improve water quality and wildlife habitat, and measures to protect cultural resources.

Dam Safety

Safe Operations During 1998 Flooding. The unusually strong El Niño weather pattern directed a steady series of heavy and prolonged storms with substantial rainfall into the Southeastern United States. Both Alabama and Georgia suffered record flooding in several river basins. Commission projects safely passed all flows, and licensees assisted in flood warning notifications, in coordination with emergency management agencies, to populated areas downstream of the projects. In southeast Georgia, the Flint River basin, which experienced record flooding and heavy damage during the July 1994 flood, again experienced near record flood levels. Commission

staff worked closely with project personnel to coordinate spillway operations during the flood, ensuring the safe passage of flood waters and giving downstream population centers accurate emergency action notifications and flood forecasting. FEMA commended the owners of the two Commission projects on the Flint river for their cooperation during the flood.

Rapid Response Inspection Team Deployed to Milner Project. In September 1998, the licensee of the Milner Project notified the Commission's Portland Regional Office that a hazardous condition had developed at the South Milner Dam. First reports from the field indicated that dam failure was imminent. A sinkhole had developed in the crest of the dam, a vortex appeared a short distance away in the reservoir, and muddy water was being discharged from downstream drains. The project's emergency action plan had already been activated. Commission staff was in constant contact with the licensee as the Rapid Response Inspection Team was en route to the site. Commission staff gave directions that ultimately prevented the failure of the dam. Nine years earlier, the Commission's dam safety staff had required the licensee to construct several features to safeguard against possible failure of the dam during concentrated leakage incidents. Dam failure was averted because of the Commission's careful analysis, sound preparation, availability, and on-the-spot engineering judgment.

Spillway Gate Design Review and Inspection. Commission staff initiated a comprehensive design review and physical inspection of all spillway tainter gates at the Commission's high- and significant-hazard potential projects. (Hazard potential refers to the potential for loss of life or significant property damage if a dam were to fail, not to the condition of the dam.) The Commission used lessons learned from the failure of the Bureau of Reclamation's Folsom Dam tainter gate in 1995. The Folsom Gate failure demonstrated the importance of carefully inspecting for corrosion on tainter gates designed and constructed in the 1950's, and ensuring that they have acceptable maintenance and lubrication plans in place.

Sabotage Protection at Commission Dams. The Commission, along with the Army Corps of Engineers, Bureau of Reclamation, Tennessee Valley Authority (TVA), and DOE, formed the Interagency Forum on Infrastructure Protection of Hydroelectric Facilities to protect major water-retaining structures from sabotage. The forum is focusing on promoting information exchange on security issues, improving interagency communication on threat reporting, and mobilizing private sector and Government cooperation in resolving security related issues.

Electronic Dam Safety Reports. Commission staff developed procedures to submit dam safety inspection reports electronically. The reports, including digitized photographs, are now available to all parties faster, more efficiently, and at less cost.

Seismic Repair on Environmentally Sensitive Project. The Commission completed the fast-tracked seismic remediation project at two Commission dams with the successful refilling of Butt Valley Dam in November 1997. Two high hazard potential embankment dams, Lake Almanor and Butt Valley in California, were modified to withstand an earthquake loading condition.

The project, completed within 20 months of identifying the problem, was accomplished within several very sensitive environmental parameters. Commission staff conducted public meetings and coordinated extensively with many government and non-government resource agencies. This cooperative effort resulted in successfully mitigating impacts to the trophy trout fishery and endangered species, and identifying and protecting historic sites within the construction area.

Expanded Emergency Action Plan Cooperation. In response to requests from other federal and state agencies, the Commission's Emergency Action Plan Exercise Design Course for dam safety expanded its coverage to include additional agencies. The primary objective of the course is to help Commission licensees better prepare for the testing of their emergency action planning process. Many agencies, including the Bureau of Reclamation, Corps of Engineers, TVA, and FEMA, have attended the course in past years. Additional participants include licensees, the National Weather Service, the National Emergency Management Association, the Association of State Dam Safety Officials, the Association of State Floodplain Managers, and local emergency response agencies. This integrated approach will bring to the table the viewpoints of key agencies responding to potential dam emergencies, further strengthening the Commission's dam safety program. It will also greatly increase communication and understanding among licensees and local, state, and federal contacts.

Federal Dam Safety Guidelines. FEMA, with substantial contributions from Commission staff, revised and published several Dam Safety Guidelines, including Federal Guidelines for Emergency Action Plans, Inflow Design Floods, and Hazard Potential Classifications in November 1998.

Actions Taken To Improve States' Dam Safety Programs. The National Dam Safety Program Review Board reviewed the dam safety programs of all of the states. A Commission staff member is on the Board and the Commission's dam safety expertise was influential in this effort. Actions were instituted to help improve the state programs. The Board is presently preparing performance measures to evaluate improvements to dam safety programs on a national basis. Because of these actions, two states without dam safety programs developed programs, and one state, with no dam safety legislation, is developing legislation for a program. The state legislature will be considering the proposed legislation.

FY 2000 PERFORMANCE PLAN

Introduction

The Commission's Strategic Plan identified strategic goals and objectives for each of its program areas (electric power, natural gas pipelines, oil pipelines, and hydropower) and for administration. It also proposed success indicators that, if measured appropriately, would indicate how well the Commission was succeeding at meeting its goals and objectives.

The next stage is to develop performance measurements that accurately reflect the success indicators. The Commission's Performance Plan for FY 1999 noted that development of appropriate performance measures would be particularly challenging for the Commission. The challenge was attributed to three considerations:

- The complexity of developing outcome-based measures from the economic impact of the Commission's activities and the impact on issues such as environmental protection;
- The inherent infeasibility of crafting single numerical measurements to gauge the Commission's success in balancing competing economic, environmental, and social interests; and
- The difficulty in determining which data is most useful in accounting for the nuances inherent in the Commission's judicial and legislative processes.

In response to these challenges, the Commission established agencywide committees to review the performance measurements proposed for each of the three sets of goals and objectives contained in the strategic plan. The committees met regularly to discuss possible performance indicators and sources of data. The goal of the committees was to have a comprehensive system of measurement and associated baseline data in place by the start of FY 1999.

As the committees met to discuss performance indicators, attention focused on the Commission's ongoing review of its procedures for handling gas certificate applications. It became clear that, generally speaking, the Commission's procedures for processing its workload had not kept pace with the Commission's new regulatory vision. Traditional processes dominated despite the move away from traditional, heavy-handed regulation. The *FERC First* project was a natural outgrowth of this realization.

Initially, the Commission planned to use the experience in the gas program as a prototype for possible action in the hydropower area. This traditional model, however, failed to account for the speed with which the regulatory environment and the industries are changing. *FERC First* involved a simultaneous review of all Commission processes. Further, *FERC First* examined the manner in which the Commission's organization structure contributed to its ability to process its workload.

The result of *FERC First* is a model for a new regulatory infrastructure designed to meet the needs of a modern regulatory environment. At a time when the natural gas and electric industries are converging, the Commission will consolidate the economic regulation of these industries. The Commission will also reduce the layers of internal review by gathering the experts needed to handle workload at the start of the process and allowing them to follow it to conclusion. The collaborative process necessary for environmental reviews and regulation of natural gas pipelines, liquefied natural gas terminals, and hydropower projects will also be enhanced. The Commission's organization chart will be a reflection of the goals outlined in the Commission's Strategic Plan, enhancing the Commission's ability to measure its performance in these areas. The Commission plans to complete implementation of these changes by the middle of 2000.

Change, however, rarely comes without cost. The Commission's decision to enter into the resource-intensive *FERC First* project came just as the Commission's effort to review and perfect its performance measurements gained momentum. Forty staff worked full-time on *FERC First*, with many others also participating part-time and in other ways such as focus groups. Many people who participated in the performance measurement committees found themselves assigned to *FERC First* as well. The Chairman had little choice but to postpone work on the performance measurements until *FERC First* moved into the implementation phase.

Because of *FERC First*, the Commission finds itself a minimum of 6 months behind in developing the baseline data, performance indicators, and data sources necessary to meet the challenge of the FY 1999 performance plan. The performance measurement committees have been reconstituted and are engaged in developing the mechanisms required to measure the Commission's performance in FY 1999. The development of improved measurements and performance indicators for FY 2000 have been similarly affected.

Yet *FERC First* also has the benefit of positioning the Commission to measure its performance more efficiently through realigning its infrastructure to match the Commission's goals and objectives. Other initiatives derived from *FERC First*, such as implementing a largely paper-free environment with electronic filing and posting of documents and automated work flow management, feed directly into the Commission's performance measurements.

In summary, the delay experienced by the Commission in refining its performance measurements for FY 1999 will have the long-term effect of serving the Commission as it measures its performance in FY 2000 and beyond.

Mission

The Commission regulates, in the public interest, essential interstate aspects of four of the nation's critical energy industries: electric power transmission and sales for resale, natural gas transportation and sales for resale, oil pipeline

transportation, and nonfederal hydroelectric power. The Commission ensures that the rates, terms and conditions of service for the electric, natural gas, and oil industries are just and reasonable and not unduly discriminatory or preferential, and that licensing, administration, and safety actions for the hydropower industry and other approvals for all four industries are consistent with the public interest. It administers numerous laws and regulations involving key issues, including:

In the electric industry:

- Transmission and sales for resale of electric energy in interstate commerce at just and reasonable rates;
- Certification of exempt wholesale generators and qualifying facilities; and
- Corporate transactions, mergers, and security issues of electric public utilities.

In the natural gas industry:

- Transportation and sales for resale of natural gas in interstate commerce at just and reasonable rates;
- Construction and operation of natural gas pipelines; and
- Oversight of related environmental matters.

In the oil pipelines industry:

- Transportation of crude oil and petroleum products by pipeline in interstate commerce.

In the hydroelectric industry:

- Licensing and inspection of nonfederal hydroelectric projects; and
- Oversight of related environmental matters.

Goals and Objectives

The Commission's goals and objectives fall into three broad categories:

- those for regulating energy markets;
- those for authorizing and monitoring energy projects; and
- those for Commission administration.

Regulating Energy Markets

The Commission will regulate **electric transmission and bulk power markets** to

- a) foster the growth of efficient, competitive commodity markets, and
- b) protect customers from abuse of market power.

The Commission will regulate **natural gas pipelines** to

- a) ensure that pipeline transportation service supports efficient, competitive commodity markets, and
- b) protect customers from excessive transportation rates and service discrimination.

The Commission will ensure fair access to the **oil pipeline systems** for all customers under just and reasonable rates, terms, and conditions.

Authorizing and Monitoring Energy Markets

The Commission will regulate interstate **natural gas pipelines** to ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation systems.

The Commission will regulate nonfederal **hydropower** projects to

- a) ensure that sustainable hydropower resources are licensed for the public's benefit,
- b) maintain the nation's existing hydropower development to serve all water resource interests, and
- c) ensure dam safety through inspection of facilities and operations.

Commission Administration

The Commission will reduce regulatory burden by

- a) reducing the processing time for docketed workload and for resolving disputes,
- b) minimizing filing burden, and
- c) generating better information for use by industry and the public.

Measuring Success Indicators for Regulating Energy Markets

Efficient, Competitive Markets

Customers will have more new products and a reasonable range of suppliers from which to choose in both the electric and natural gas industries. This will indicate that commodity markets are reasonably competitive as well as responsive to customer needs.

Order Nos. 636 and 888 put forward basic principles of open access and unbundling for the natural gas and electric industries. In both cases, the purpose was to increase the options of natural gas and wholesale electric customers who historically had very limited choices of natural gas and electric power suppliers. Implementation of these principles by the natural gas industry has resulted in the continuing development of new transportation services to fill the needs of customers. The electric industry is at an earlier stage of implementation, but the Commission anticipates that similar development will occur in that industry.

To provide new services, pipelines and electric utilities must file revisions to their tariffs governing their offerings. To measure the provision of new services, the Commission established an indicator in its filing tracking system for each filing that proposes to offer a new service or expand the availability of an existing service. The Commission will categorize the services that have been proposed, and explain the impact of the service on natural gas and electric customers.

Order Nos. 636 and 888 were intended to give natural gas pipeline and wholesale electric power customers the ability to choose commodity suppliers. In the case of natural gas, the Commission collects data from

pipelines on the identity of their customers. Using this data from the Index of Customers, the Commission will determine the range of pipelines being used by individual customers. This data will be supplemented with data for capacity in the secondary market through the Commission's capacity release data. Analysis of this data is expected to show that for most suppliers a range of sources is being used to provide transportation services. Open access in the electric industry is much newer. Over the next year, we will identify ways to assess the number of suppliers from which customers may choose.

One of the most important benefits of open access is to allow many companies other than electric utilities and interstate natural gas pipelines to develop and offer innovative services. While the Commission does not generally collect data directly on such third party services in either industry, it will work to develop ways to inventory the new services being offered.

Natural gas and electric power prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly.

The natural gas and electric industries are both inherently subject to relatively short peaks in demand that customers cannot meet by storing the commodity onsite. (This differs from, for example, the coal industry, where many customers can ride out short-term market fluctuations using on-site storage.) As a result, a performance measurement for market responsiveness must rest on the collection and analysis of short-term (hourly, daily and weekly) natural gas and electric price information.

The Commission does not collect short-term price data for natural gas or electric power. However, several trade press publications publish price information for many points around the natural gas grid. Others have started doing so for electric power also. Each publication uses a different methodology for collecting price data, and even casual review of the data for some peak periods suggests that it is difficult to interpret the published information precisely. Nonetheless, the Commission proposes to use the trade press information for two reasons:

- **It is independently collected.** The Commission need not undertake a new data collection effort with the burden for respondents that would entail. And the performance measure will be based on information the Commission does not itself control, which is desirable.
- **It is the information that is most easily available to those who buy and sell gas and power in the market.** As a result, the quality and interpretability of the data are themselves important diagnostics about how well the market is performing.

For electric power, trade press data will be supplemented by price data from power pools when and as such data become available. Power pool price information may be more reliable than trade press reports, because it may be more comprehensive and more consistent. If so, it may become the primary data source of electric power price information where it is available. In

addition, power pool price information is likely to have both of the advantages noted above for trade press information.

The Commission has been collecting and analyzing trade press pricing information for natural gas for some time. For example, Figure 1 shows a map of the range of spot prices for 1995 and 1996 at various points around the country, while Figure 2 shows the average price of natural gas at several locations for the last few years. Similar information is now becoming available for electric power, and the Commission has begun to collect and analyze this information as well. Figure 3 shows a map of average electric prices around the country.

To analyze how responsive markets are becoming, the Commission will combine this basic price information with other indicators of market conditions. The most important of these is normally weather in consuming areas. Extreme or prolonged cold weather in key consuming areas increases natural gas demand and should lead to price increases. Similarly, unusually hot weather in the summer typically increases electric demand and should lead to price increases. Weather information is available from the National Oceanic and Atmospheric Administration.

Other key factors for natural gas include storage levels and production losses from bad weather in supply areas. For electric power, they include generating plant and transmission line outages.

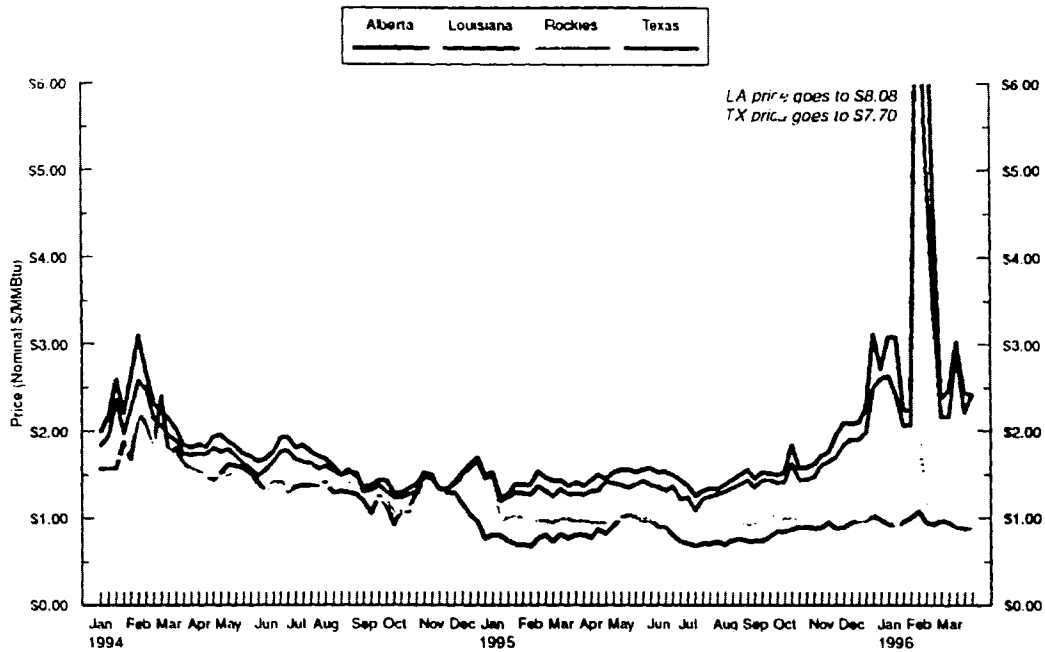
In the case of this performance measurement, the result cannot be a single quantitative measure of success. This is because in a well-functioning market, the only single measure that summarizes supply and demand forces accurately is price. Price cannot be used as a summary indicator of demand and supply here because it is precisely the responsiveness of prices to changing conditions that is at issue. Therefore, the performance indicator will necessarily be a narrative analysis of how demand and supply conditions relate to prices, supported by substantial quantitative information presented in both graphic and tabular form.

Finally, the Commission anticipates using price information to diagnose other aspects of market performance. For example, it will measure and report price volatility and pricing anomalies (cases where prices move in counter intuitive ways). The Commission's informal market tracking for natural gas suggests that both volatility and pricing anomalies can point to areas where the market is either (a) not working as well as it could or (b) working in ways that were not anticipated but are beneficial. Either way, the results are important as guides to future policy. This will likely be true for electric power also.

Natural gas prices within each trading region will tend to converge, except to the extent there are demonstrable transportation constraints or costs. Wholesale electricity price differences will also tend to narrow.

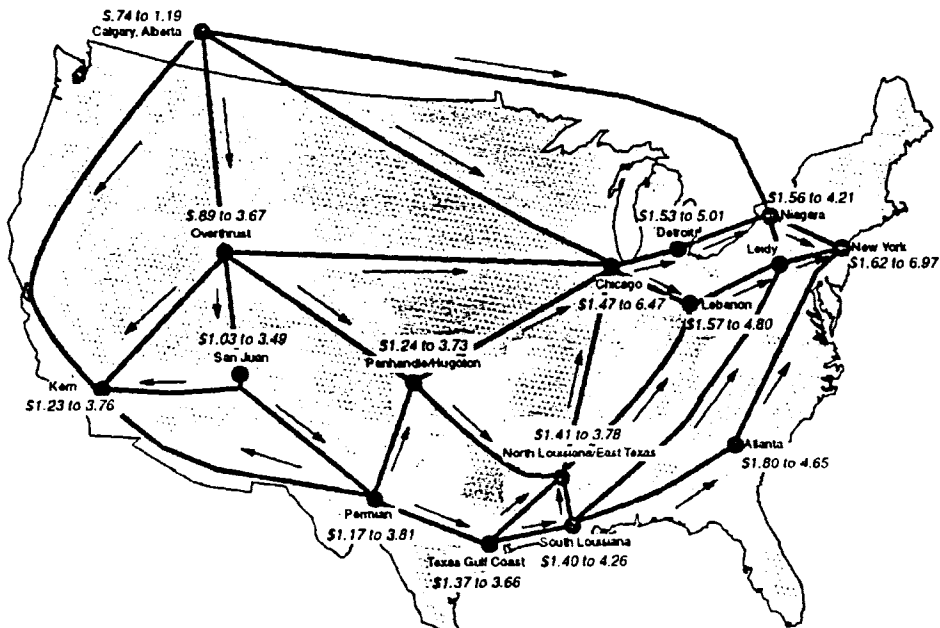
The Commission will use the trade press and power pool price information to develop its performance measurement for this success indicator also. The result will be a similar narrative explanation of what the price information shows and how it correlates with measures of transportation costs and

Figure 1.
Weekly Wellhead Prices, by Region
January 1994 - March 1996



Source: Natural Gas Intelligence and Natural Gas Week. Data through March 25, 1996.

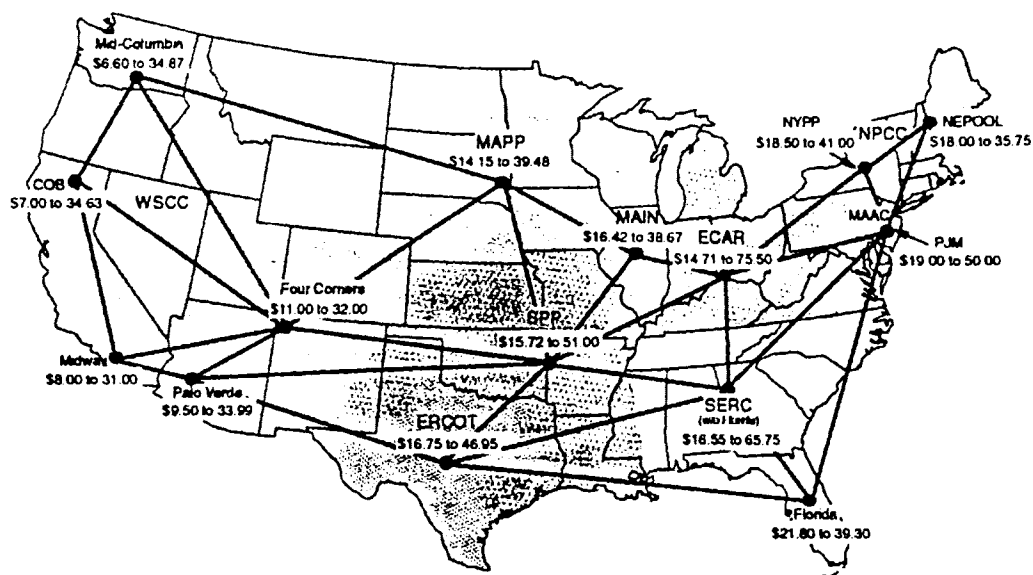
Figure 2.
Range of Average Monthly Natural Gas Spot Prices, 1995-96
Dollars per MMBtu



Source: Natural Gas Week. Data through December 30, 1996.

Notes: Monthly average prices for selected delivery points. Prices for Alberta and Niagara are for Canadian spot transactions of 12 months or less. Prices used for Detroit are from Columbia Gas at Maumee, Ohio. Spot prices reflect transactions of 31 days or less. Monthly price is the median of the prices assigned to a market center area.

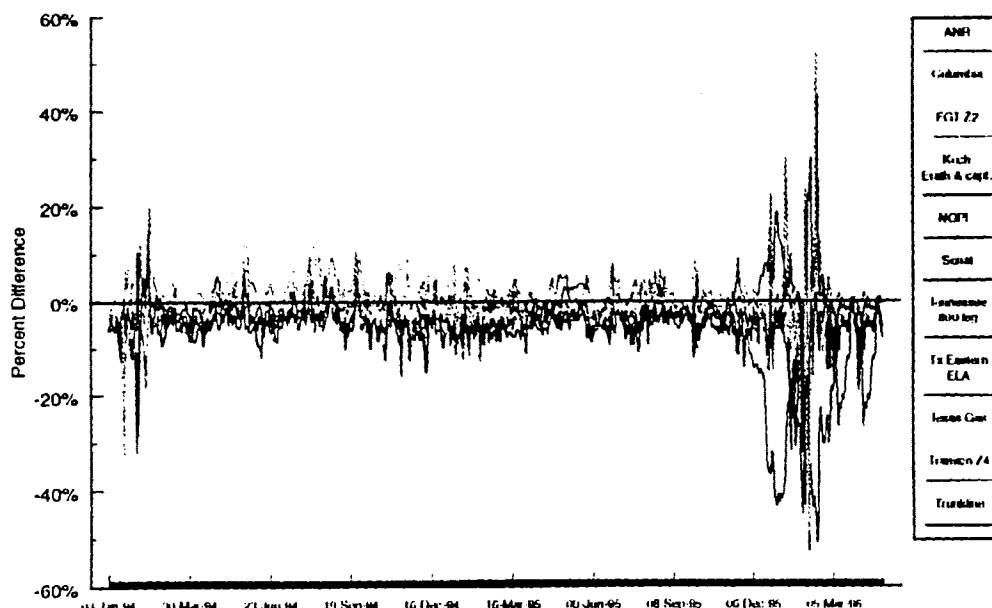
Dollars per MWh



Source: *Power Markets Week*. Data through December 27, 1996

Source: *Power Markets Week*. Data through December 27, 1996.
Note: Prices are index prices for on-peak electricity prepared by *Power Markets Week* based on assessments of where the bulk of despatching occurred. The prices for NEPOOL, NYPP, PJM, ECAR, SERC, SPP, ERCOT, MAPP and MAIN are for transactions within those market areas. Mid-Columbia prices are for several points within Washington State. All other prices are for specific points.

January 1994 - March 1996



Source: Gas Daily, Daily Price Survey Data through March 29, 1996

constraints. The Commission will use interstate pipeline and electric utility transmission tariff terms, conditions, and rates that are already on file to derive measures of transportation costs. (This information may be supplemented with publicly available reports of prices for capacity in secondary gas transportation markets or power pools.) The Commission does not now have formal information on transportation constraints for natural gas (that is, when pipelines are so full that no more gas can move). It will work on developing measures in this area.

To see an example of how the Commission would use price information, consider the case of natural gas in South Louisiana, an area that is especially rich in pricing points. Within South Louisiana, the Henry Hub is the best known and most liquid market. Figure 4 shows the percentage price differences between the Henry Hub and a wide range of other pricing points reported for South Louisiana. The figure shows that:

- Major price differentials occur only when the industry is under severe strain (the same periods that showed up as price spikes in Figure 1). The peak price differentials in the figure are large, but there is no clear pattern as to which points have relatively high prices. The Commission does not yet have information that would show whether the differentials occur because transportation links between pricing points become constrained (as the success indicator would suggest) or for other reasons (which would indicate the potential for market improvements).
- Minor price differentials occur almost all the time and are probably larger than one would expect if markets were functioning as well as they could.

Over the next year, the Commission will continue to develop this success indicator by:

- creating data bases with all available pricing point information for both natural gas and electric power;
- using tariffs and other data sources to get measures of short-term transportation and transmission costs; and
- developing indicators of when transportation and transmission constraints occur and where.

It will be less costly, administratively, to transact business on the interstate natural gas transportation grid.

This is a very important success indicator. Transparent markets make it easier for customers to understand what their choices are. Markets that are easy and convenient to use lower the administrative costs for all customers using them. In both cases, the result is to lower the cost of using the market for each customer's transactions. With lower transactions costs, more customers will have access to the market, which will be especially important as more states give smaller customers the right to buy gas in the interstate market (rather than only from the local distribution company). In addition, lower transactions costs can increase the liquidity of the market.

It is also the hardest of the Commission's success indicators to measure. The Commission does not have any good information sources that would let it measure success in lowering transactions costs, nor will such information be easily collected. For example, one might propose surveying customers to obtain the information. However, it would be difficult to justify the burden of such a survey, and it is unclear how one could structure questions to get meaningful responses.

As a result, over the next year the Commission will attempt to develop options for measuring this success indicator and report on its degree of success in devising a viable measurement strategy.

Constraining Market Power

Market participants will have confidence that natural gas markets, electric markets, and oil transportation services are working fairly and that they are not subject to abuses of market power. That is:

- *Broad customer classes (not necessarily every customer) will agree that buyers and sellers have access to competitively priced commodity markets in the national gas transportation and electric transmission grids.*
- *Customers will generally agree that gas pipeline, electric transmission and oil transportation rates and services are just and reasonable, fairly balancing the competing interests of the transporting or transmitting companies and their customers.*

This success indicator refers to the Commission's success in eliminating unnecessary market power and in fairly balancing the interests of all when market power cannot be eliminated. In both cases, the best performance indicator will come from discussions with the industry and its customers.

The first part of the indicator refers to *customer perceptions* of how much competition they see. The reason for approaching the measure this way is that detailed, quantitative market power analyses are extremely difficult and expensive to perform. Even when performed, such analyses almost never tell the whole story by themselves. Non-quantified factors almost always substantially affect the degree to which observed levels of market concentration translate into the possibility of market power abuses. As a result, measuring customer perceptions is the most cost-effective way of judging the Commission's success in guaranteeing access to competitive markets where feasible.

The second indicator reflects the fact that some degree of market power is inherent in the natural gas pipeline, oil pipeline and electric transmission industries. That is why they are regulated in the first place. In controlling market power, the Commission is essentially balancing the legitimate interests of different parties. There is no direct way of quantifying how well the Commission is performing its balancing function. However, broad approval from each major industry sector would not be possible unless the Commission was succeeding in this balancing function.

In an important sense, the Commission is almost always engaged in seeking feedback on both current and potential future policies. In issuing generic proposed rulemakings, it seeks out comment from all parts of the industry affected and uses the comments to fashion its long-term policies. Recent examples of proceedings that have given the Commission widespread feedback on generic policies are proposed rules on secondary transportation markets for natural gas, alternatives to traditional cost of service rate making for interstate gas pipelines and capacity reservation tariffs for electric transmission.

There are several additional ways that the Commission might seek input from the industries on its success for these two indicators. The Commission has used two in the last few years:

- A letter requesting (voluntary) feedback on its performance sent to all major trade and interest groups affected by the Commission's electric, natural gas and oil pipeline regulation.
- A two-day technical conference on the status of regulation in the natural gas industry today.

Both approaches yielded important information about whether the Commission has made appropriate policy choices and whether its administration of the law is up to date. During the next year, the Commission will refine these two approaches and design further options for measurement that are more precisely targeted as success measures. It will then choose the most cost-effective mix of options as its measurement strategy for the future. Thus, formal technical conferences may be appropriate every few years, but too costly to hold every year.

Measuring Success Indicators for Authorizing and Monitoring Energy Projects

Adequate Natural Gas Pipeline Capacity

The Commission's certification program will allow the appropriate amount of new pipeline capacity to be available to serve the market when needed.

Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

Both of these performance indicators are linked directly to the Commission's ability to process pipeline certificate cases in a fair and timely manner. In general, depending on the level of complexity and the number of opposing parties and type of opposition (e.g., landowner complaints), the Commission will act expeditiously and issue construction certificates to allow the commencement of service on the date requested by the applicant. More specifically, the Commission will seek to develop targets for the amount of time it takes to process each of several types of cases:

- Prior notice filings

- Certificate Cases where no precedential issues are present. The processing time will generally be less for untested filings than for protested ones.
- Cases of first impression or that have larger policy implications. The target processing times will need to take account of the fact that similar policy issues may be intertwined through a variety of cases, sometimes requiring the Commission to consider all aspects of the policy together.
- Major Certificates, generally requiring environmental impact statements or major environmental assessments. The target processing times will need to take account of the need for inter-agency consultations.

Licensing and Administering Hydropower Resources

Licensing conditions will protect and enhance beneficial public uses, both developmental and nondevelopmental.

Administration of hydropower developments will accommodate increasing public use without diminishing key water resource values.

Direct
The Commission builds environmental requirements into the conditions under which hydropower projects are licensed. These requirements are as varied and complex as the number of projects within the Commission's jurisdiction. Balance must be reached between the economic interests of the licensee and the varied interests of other interested parties. Each project is unique in its environmental considerations.

In response to the growing complexity and sensitivity of the environmental impact of hydropower projects, the Commission will develop a data base of all conditions included in hydro licenses and what each condition is intended to achieve. This data base will represent the specific goals the Commission has decided to pursue in different hydropower cases. The next steps will be to collate the overall objectives embodied in the license conditions and develop a data base of objectives realized for each project.

Once the data bases are functioning, it will take some time to develop sufficient background data to determine whether the Commission's environmental policies are yielding the desired results. The improved data collection will also lead to improved performance measurements in the environmental area. Until that point is reached, the Commission will attempt to track its environmental performance using the measurements above. In the case of the first measurement, the Commission will track: (1) the beneficial public uses that result from environmental licensing conditions; and, (2) changes in capacity data by year. In the second measurement, the Commission will rely on a number of statistical components to determine its success in this performance indicator. These include the number of recreation facilities at projects, the number of visitor days, and the number of improvements and enhancements made to facilities.

The Commission will reduce processing time under its control, particularly through the use of collaborative procedures and early involvement of staff.

The Commission will track and compare: (1) historical (post-Electric Consumers Protection Act) data on processing times and numbers and percentages of filings having settlements or using other collaborative processes; (2) processing times for Commission activities associated with applications filed in FY 1997 and in each subsequent year; and, (3) percentage of issuances — starting in FY 1997 — for projects using settlements or collaborative processes.

Dam Safety

The percentage of high- and significant-hazard dams meeting all current structural safety standards will remain uniformly high.

Progress on this success indicator will be based on a mathematical formula. To arrive at a percentage, the formula will divide the number of high- and significant-hazard dams not meeting safety standards by the total number of high- and significant hazard dams.

One hundred percent of high- and significant-hazard dams will be inspected annually.

The information for this indicator will come from the Commission's annual inspection data.

One hundred percent of high- and significant-hazard dams will comply with emergency action plan requirements.

The information for this indicator will come from the Commission's emergency action plan data.

Measuring Success Indicators For Commission Administration

Reducing Administrative Burden

To reduce administrative burden, the Commission will:

1) Reduce the processing time for docketed workload and for resolving disputes.

Delayed hydropower licensing and pipeline certification decisions can postpone the benefits of sustainable hydropower and available natural gas. While parts of the licensing and certification processes require extensive interactions with other agencies and compliance with other laws that have their own time schedules, the Commission will focus its efforts on those parts of the processes that it controls. These areas include processing systems, conflict resolution strategies, and information technology developments.

Processing Systems. The Commission is in the midst of a comprehensive review of its procedures for handling gas certificate applications. The intention is to improve the processing system by establishing achievable targets for reducing processing time. These changes will redefine how staff handles applications and will include revising employee standards to support the new procedures. Guidelines will specify how long various processes

should take for the majority of cases. By FY 1999, the Commission should be able to measure improvements in timeliness in processing certificates. After developing new procedures in the gas area, the Commission will use these as a prototype to apply as appropriate in the hydropower area.

Conflict Resolution Strategies. In hydropower licensing in particular, but also in gas certificates, the Commission will continue to develop collaborative strategies to identify issues, prevent or resolve conflicts, and build consensus. By involving staff early in the process, before applications are filed, and by fostering approaches that focus participants on cooperating and working out their differences, the Commission hopes to reduce time and costs while improving the decision-making process. The aim of early staff involvement is to prevent conflicting interests from developing into formal disputes. However, when disputes do arise between parties after the application is filed, the Commission will focus on alternative dispute resolution techniques, including technical conferences, to keep processing times to a minimum.

Information Technology Developments. Information technology development will reduce processing time for docketed workload by streamlining and automating processes throughout the Commission. The Commission is developing a major three-year strategy for a comprehensive information management system, to include electronic filing and information dissemination through the Commission's web site in FY 1999. Electronic filing, combined with electronic posting and service over the web site, will permit staff and outside parties to obtain filings within minutes or hours rather than days.

Additional improvements to internal workload processing will arise from the construction of a work flow tracking system. This system will be linked to the Commission's Records and Information Management System (RIMS), the electronic filing system, and a planned data repository that can accommodate a variety of format types. Process re-engineering will streamline business processes and permit the future work flow tracking system to function efficiently.

Information technology improvements will occur incrementally. Preparation for major enhancements will include fundamentals such as ensuring the reliability of the local area and wide area networks (LAN and WAN), implementing inclusive information technology resource management, resolving all Year 2000 compliancy issues, and comprehensive planning.

Change management and configuration management of individual computers will also contribute to improved network stability and security. A standards-based system that monitors all software releases and guarantees the Commission is in compliance with all licensing restrictions will be a major part of these management enhancements.

All Year 2000 compliancy issues will be identified and prioritized for elimination or replacement and implemented during FY 1999, in conjunction with the development of a comprehensive, flexible workload tracking and routing system. The Commission will complete construction of the work

flow tracking system during FY 1999. In addition, the planned data repository will be available to Commission staff and the public in FY 2000. As electronic filing is incorporated, the infrastructure will facilitate working directly with electronically filed documents.

2) Minimize filing burden.

The Commission will expand and standardize the use of electronic filing to ease the filing burden on the regulated industries. Electronic filing pilots via the Commission's Web Site will be in place in FY 1999. When complete, electronic filing will eliminate the cost of paper, copying, postage, and messenger services for those who file with the Commission. Developing standards for electronic filing will minimize and standardize the number of filing types, and will simplify and streamline filing requirements. Electronic service and notification of availability and receipt of filings will also contribute to reducing filing burden.

In FY 1999, standards committees — under the direction of the Chief Information Officer and the Secretary, and in consultation with the industries — will complete development of electronic filing standards. The Commission will evaluate and re-engineer processes performed by the Office of Information and Technology and complete planning for the physical infrastructure needed to implement electronic filing.

A goal of the future comprehensive information management system will be the development of a common, multi-purpose, standards-based infrastructure that accepts electronic filings and maintains all Commission data in a data repository accessible electronically by Commission staff, and eventually by the public. The system components will be flexible enough to meet a mix of needs throughout the Commission as well as the needs of industry filers and members of the public.

3) Generate better information for use by the industries.

The availability of information is a key element in moving from a heavily regulated environment to one where lighter-handed regulation and market forces combine to assure just and reasonable rates. Information technology development will make information available in a more timely manner through the Commission's web site and will facilitate searching for specific information within the large body of data the Commission maintains.

The web site will serve as the entry point for electronic filing, posting receipt of filings, serving notifications of filings to interested parties, providing filings to interested parties, and other similar activities that have traditionally required paper. Internal staff and external parties will have access to filings within minutes or hours rather than days.

A future data repository will store information in a variety of formats and use powerful search tools to locate specific information within multiple databases. All public information will be searchable by key words and by index, and privileged information could be made accessible to users through

a system of assigned passwords. The web site will also supersede the current bulletin board system that is accessed by modem.

In FY 1999, the Commission will develop and implement plans for archiving data stored on the LAN and will complete plans for the data repository, including incorporating RIMS into the data repository. In FY 1999, the public will have access to RIMS and all bulletin board information via the web site. Electronic service over the web site will be implemented in FY 1999.

Program Evaluation

The Commission is committed to accountability in its programs. For the next year, the most important task is to ensure that more specific performance measures are developed along with the quantitative information needed to support them. To do this, the Commission has established a high level working group, including the directors of five Offices: the Office of Hydropower Regulation, the Office of Pipeline Regulation, the Office of Economic Policy, the Office of Finance, Accounting Operations, and the Office of Strategy and Organizational Management. It will present quarterly progress reports to the Chairman on the status of the Commission's performance measures.

To improve accountability in the longer run, the Commission will institute ongoing assessment reviews at least annually. As part of each review, the Commission will report on how well it is meeting its goals, how and why its goals and objectives should be modified (if at all) and what changes to indicators are needed to improve how well it is measuring its performance. A top priority involves improving its information systems to provide credible measurements of key performance indicators.

APPENDIX A:

**PROPOSED
APPROPRIATION LANGUAGE**

Proposed Appropriation Language

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$3,000); [\$167,500,000] \$179,900,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed [\$167,500,000] \$179,900,000 of revenues from fees and annual charges, and other services and collections in fiscal year [1999] 2000, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year [1999] 2000, so as to result in a final fiscal year [1999] 2000 appropriation from the General Fund estimated at not more than \$0.

APPENDIX B:

TRADITIONAL WORKLOAD

Quantifying Commission Workload

This appendix shows the part of the Commission's workload covered by the traditional workload categories now in use. These categories have changed only minimally over the years, and are increasingly inadequate for the Commission's future needs. As part of the *FERC First* reengineering project, the Commission anticipates developing a new workload tracking system that will mirror the evolving workload mix that the Commission faces now and in the future.

Inadequacies of the Current System

Key problems with the Commission's current workload measurement system include the following:

- Current workload categories are based mostly on traditional inputs and outputs such as the number of filings received and the number of orders issued. These measures do not capture the substance of much of the Commission's present and future workload.

For example, the effort required to monitor markets is likely to be largely independent of the number of formal filings. Proactive and facilitative approaches to some issues will be specifically designed to reduce the number of formal filings and might better be judged from the number of filings avoided than the number received. Similarly, the same regulatory problem in different regions (for example, establishing regional markets) may come to the Commission as many or few formal filings. Yet work required is likely to be similar, no matter how many filings are involved.

As part of *FERC First's* overall process reengineering, the Commission will design new workload categories to cover the Commission's nontraditional workload.

- Items in different workload categories require vastly different amounts of staff time and attention. For instance, many electric mergers require extensive involvement from many staff members over a period of many months, while electric power rate filings on average consume much less staff time. As part of *FERC First's* overall process reengineering, the Commission will develop estimates of the level of effort that should be required for items within each future workload category.
- Within a particular workload category, cases sometimes vary greatly as to the staff time and attention necessary to process them. However, each case is counted as one. This confounds the Commission's ability to connect workload trends with changes in resource requirements. For example, some natural gas pipeline construction certificate cases are relatively straightforward and can be resolved quickly. Others are extremely complex and require vastly greater resources. As part of *FERC First's* overall process reengineering, the Commission will address this problem.

**Future Changes to
Workload
Accounting**

FERC First will allow the Commission to redesign its workload measurement system systematically and agency-wide. *FERC First* will make it possible (1) to redefine workload categories in ways that reflect the Commission's emerging workload and (2) to estimate the resources that should be required to address different work items. This will help the Commission tie its workload to its resource requirements and will help to clarify the likely effects of changing resource levels on overall agency performance.

By the budget request for FY 2001, the Commission expects to be able to identify the future workload categories. The Commission also anticipates that the *FERC First* process will identify reasonable baselines for the work needed to address each category. The goal is to be able to link workload levels to resource requirements by the budget request for FY 2002.

ELECTRIC POWER WORKLOAD¹

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a complete or accurate representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1997 Actual	FY 1998 Actual			FY 1999 Estimate			FY 2000 Estimate		
ELECTRIC POWER	P	R	C	P	R	C	P	R	C	P
<i>Rate Filings</i>	1,643	4,478	4,495	1,626	3,500	4,100	1,026	2,800	2,800	1,026
<i>Formal Investigations</i>	217	187	132	272	150	150	272	100	125	247
<i>Compliance Filings</i>	331	1,681	1,539	473	1,800	1,900	373	1,800	1,800	373
<i>Small Power</i>	1	156	157	0	140	140	0	140	140	0
<i>Cogeneration</i>	16	119	120	15	100	100	15	100	100	15
<i>Corporate Applications</i>	30	122	76	76	125	125	76	150	150	76
<i>Transmission Service</i>	24	3	3	24	3	15	12	2	7	7
<i>Interlocking Positions</i>	13	219	216	16	190	190	16	200	200	16
<i>Securities</i>	9	60	67	2	62	55	9	55	55	9
<i>Financial Audits</i>	62	16	13	65	4	27	42	6	15	33
<i>Contested Accounting Cases</i>	0	0	0	0	0	0	0	0	0	0
<i>FA Refund Reports</i>	4	4	5	3	4	5	2	4	5	1
<i>Federal Rate Filings</i>	2	11	9	4	8	8	4	8	8	4
<i>Declaratory Orders</i>	55	35	46	44	36	36	44	36	36	44
<i>Complaints</i>	44	38	35	47	51	51	47	56	56	47
<i>Rehearings</i>	216	367	298	285	220	220	285	220	220	285
<i>EWG Determinations</i>	9	90	90	9	100	100	9	100	100	9
<i>Accounting Interpretations</i>	1	2	3	0	0	0	0	0	0	0
<i>Depreciation Filings</i>	5	59	34	30	2	32	0	0	0	0
<i>Accounting Approvals²</i>	11	75	75	11	61	61	11	61	61	11

¹Key: R = Receipts; C = Completed; P = Year-End Pending.

²Beginning in FY 1999, this category combines accounting approvals and interpretations.

NATURAL GAS AND OIL PIPELINES WORKLOAD

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a complete or accurate representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1997 Actual	FY 1998 Actual			FY 1999 Estimate			FY 2000 Estimate		
CERTIFICATES	P	R	C	P	R	C	P	R	C	P
<i>Construction Activity</i>	108	181	204	85	210	197	98	212	209	101
<i>Prior Notice & Abandonments</i>	112	456	456	112	420	420	112	400	425	87
<i>Meetings & Conferences</i>	0	151	151	0	151	151	0	151	151	0
<i>Compliance Filings & Reports</i>	51	409	421	39	393	391	41	393	400	34
<i>Environmental Analysis</i>	94	453	486	61	494	491	64	441	441	64
<i>Environmental Compliance & Safety Inspections</i>	155	1,113	1,163	105	1,000	1,000	105	1,000	1,000	105
<i>Rehearings, Complaints & Declaratory Orders</i>	88	95	90	93	97	99	91	98	98	91

GAS RATES	P	R	C	P	R	C	P	R	C	P
<i>Rate Filing Activities</i>	185	1,288	1,353	120	1,270	1,279	111	1,282	1,282	111
<i>Intrastate Activities</i>	16	203	47	172	159	323	8	102	102	8
<i>Litigation, Settlements & Opinions</i>	87	64	89	62	66	70	58	66	68	56
<i>Meetings & Conferences</i>	21	167	172	16	172	172	16	172	172	16
<i>Rehearings, Complaints, etc.</i>	141	230	239	132	273	297	108	271	295	84
<i>Industry Analysis Functions</i>	0	1,675	1,671	4	1,628	1,632	0	1,659	1,659	0
<i>Accounting Actions</i>	18	37	32	23	23	42	4	37	25	16

OIL	P	R	C	P	R	C	P	R	C	P
<i>Oil Filings Nonformal</i>	25	497	494	28	520	520	28	520	520	28
<i>Oil Filings Formal</i>	240	130	277	93	35	45	83	35	45	73
<i>Litigation, Settlements & Opinions</i>	242	136	282	96	43	54	85	42	54	73
<i>Rehearings, Rulemakings, & Complaints</i>	25	17	23	19	18	30	7	18	20	5
<i>Meetings & Conferences</i>	0	1,000	1,000	0	1,000	1,000	0	1,000	1,000	0
<i>Accounting Actions</i>	6	39	39	6	39	39	6	39	39	6

HYDROPOWER WORKLOAD

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a complete or accurate representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1997 Actual	FY 1998 Actual			FY 1999 Estimate			FY 2000 Estimate		
DAM SAFETY & INSPECTIONS	P	R	C	P	R	C	P	R	C	P
<i>Operations Inspections³</i>	138	1,685	1,685	138	1,565	1,565	138	1,565	1,565	138
<i>Preliminary Inspections</i>	0	39	39	0	60	60	0	60	60	0
<i>Construction Inspections</i>	175	285	285	175	255	255	175	255	255	175
<i>Exemption Inspections</i>	100	302	302	100	350	350	100	350	350	100
<i>Special Inspections</i>	125	285	285	125	210	210	125	210	210	125
<i>Engineering Evaluation & Studies</i>	149	630	630	149	600	600	149	600	600	149
<i>Part 12 Reviews</i>	49	137	137	49	165	165	49	165	165	49
<i>Dam Safety Reviews</i>	8	18	18	8	25	25	8	25	25	8
<i>Environmental & Public Use Insp.</i>	0	251	251	0	300	300	0	300	300	0
<i>EAP Tests</i>	0	32	32	0	40	40	0	40	40	0

HYDROPOWER LICENSING	P	R	C	P	R	C	P	R	C	P
<i>Original Licenses</i>	70	7	14	63	10	20	53	10	20	43
<i>Relicenses</i>	75	21	20	76	31	30	77	20	30	67
<i>Exemptions</i>	1	4	2	3	3	3	3	3	3	3
<i>Preliminary Permits</i>	15	10	20	5	10	12	3	10	10	3
<i>Declaratory Orders</i>	1	1	1	1	1	1	1	1	1	1
<i>Rehearings</i>	76	74	55	95	58	60	93	58	60	91

³Includes about 50 inspections in each fiscal year for DOE and NRC.

	FY 1997 Actual	FY 1998 Actual			FY 1998 Estimate			FY 2000 Estimate		
PROJECT COMPLIANCE & ADMINISTRATION	P	R	C	P	R	C	P	R	C	P
<i>Amendments</i>	566	1,769	1,858	477	1,700	1,650	527	1,600	1,650	477
<i>Jurisdiction</i>	17	10	25	2	10	10	2	10	10	2
<i>Federal Lands</i>	0	59	56	3	150	150	3	150	150	3
<i>Headwater Benefits</i>	26	111	119	18	130	130	18	130	130	18
<i>Compliance</i>	121	275	325	71	250	250	71	250	250	71
<i>Penalty</i>	7	6	6	7	6	6	7	6	6	7
<i>Surrenders, Transfers</i>	18	55	34	39	75	55	59	50	55	54
<i>Endangered Species Consultations</i>	0	10	10	0	5	5	0	5	5	0
<i>Abnormal Events</i>	0	2	2	0	2	2	0	2	2	0
<i>Compliance Audits & Assistance</i>	0	24	24	0	24	24	0	24	24	0
<i>Complaints</i>	7	2	3	6	1	3	4	2	3	3
<i>Rehearings</i>	11	45	46	10	45	46	9	40	45	4

APPENDIX C:

OBJECT CLASS TABLE

OBJECT CLASS SUMMARY (\$ in Thousands)

<u>Obligations</u>		<u>FY 1998 Actual</u>	<u>FY 1999 Estimate</u>	<u>FY 2000 Request</u>
11.9	Personnel Compensation	\$92,045	\$95,203	\$100,156
12.1	Benefits	17,502	18,620	19,900
13.0	Benefits for Former Personnel	<u>799</u>	<u>55</u>	<u>25</u>
	Total, Personnel Compensation & Benefits	110,346	113,878	120,081
21.0	Travel & Transportation of Persons	1,727	2,108	2,243
22.0	Transportation of Things	38	10	10
23.1	Rental Payments to GSA	17,139	17,672	18,252
23.2	Rental Payments to Others	504	350	366
23.3	Communications, Utilities & Misc. Charges	2,432	2,896	2,829
24.0	Printing & Reproduction	2,232	2,261	2,325
25.0	Other Services	24,615	23,928	24,339
25.1	Advisory and Assistance	5,695	7,248	8,919
25.2	Non-Federal	14,972	12,918	12,155
25.3	Federal	545	726	778
25.4	Operation & Maintenance of Facilities	1,779	444	100
25.7	Operation & Maintenance of Equipment	1,624	2,592	2,387
26.0	Supplies & Materials	1,439	1,182	1,318
31.0	Equipment	5,560	3,145	8,067
41.0	Grants, Subsidies & Contributions	50	65	65
42.0	Insurance Claims & Indemnities	<u>86</u>	<u>5</u>	<u>5</u>
	TOTAL, OBLIGATIONS	\$166,168	\$167,500	\$179,900
	Application of Prior Years' Budget Authority	<u>(4,027)</u>	<u>0</u>	<u>0</u>
	GROSS BUDGET AUTHORITY	\$162,141	\$167,500	\$179,900
	Offsetting Receipts	<u>(162,141)</u>	<u>(167,500)</u>	<u>(179,900)</u>
	NET BUDGET AUTHORITY	\$0	\$0	\$0

APPENDIX D:

STATUTORY AUTHORITY

Statutory Authorization

The Commission's primary sources of authority are the following statutes:

- Federal Power Act;
- Natural Gas Act;
- Department of Energy Organization Act;
- Energy Policy Act;
- Natural Gas Policy Act;
- Interstate Commerce Act;
- Electric Consumers Protection Act;
- Energy Security Act;
- Public Utility Regulatory Policies Act;
- Public Utility Holding Company Act;
- Pacific Northwest Electric Power Planning and Conservation Act; and
- National Environmental Policy Act.

APPENDIX E:

STRATEGIC PLAN

FEDERAL ENERGY REGULATORY COMMISSION STRATEGIC PLAN FY 1997 - FY 2002

Introduction

This document is the Federal Energy Regulatory Commission's first strategic plan. The plan focuses on the most basic questions:

- What strategic role must the Commission play in each industry over the next decade?
- What are the Commission's strategic goals and objectives?
- What are reasonable success indicators for achieving these goals?
- How will the Commission measure its performance in the future?

This document serves as the basis for developing more detailed, results-oriented measures in the annual performance plans. The Commission is developing program evaluations and specific measures for general success indicators.

Congress has charged the Commission with specific but different responsibilities for each of the industries it regulates (see Table 1 on page 90 for an overview). In each industry, the Commission plays key strategic roles specifically assigned by the Congress—for example, to protect consumers through regulating rates and services. Many of the statutes setting forth the Commission's roles date to the 1930s or earlier, but the laws continue to evolve to match changing markets and technology. As a result, the Commission's roles continue to evolve also. This plan lays out the historical context of the Commission's responsibilities, as well as goals and objectives designed to capture the essence of the Commission's ongoing role in each industry. Goals for some of the industries overlap. Therefore, the goals are grouped into broad categories that often span more than one industry.

Mission

The Commission regulates, in the public interest, essential interstate aspects of four of the nation's critical energy industries: electric power transmission and sales for resale, natural gas transportation and sales for resale, oil pipeline transportation, and nonfederal hydroelectric power. The Commission ensures that the rates, terms and conditions of service for the electric power, natural gas, and oil industries are just and reasonable and not unduly discriminatory or preferential, and that licensing, administration, and safety actions for the hydropower industry and other approvals for all four industries are consistent with the public interest. It administers numerous laws and regulations involving key issues, including:

In the electric industry:

- Transmission and sales for resale of electric energy in interstate commerce;
- Certification of exempt wholesale generators and qualifying facilities; and
- Corporate transactions, mergers, and security issues of electric public utilities.

In the natural gas industry:

- Transportation and sales for resale of natural gas in interstate commerce;
- Construction and operation of natural gas pipelines; and
- Oversight of related environmental matters.

Table 1: Key Areas of Commission Jurisdiction

Type of Regulation	Electric Power	Interstate Natural Gas Pipelines	Oil Pipelines	Nonfederal Hydropower Projects
Regulation of Markets and Rates, Terms, and Conditions of Energy Services				
Transmission	Yes	Yes	Yes	No
Sales for Resale	Yes	Yes	No	No
Corporate	Yes	No	No	No
Authorizing and Monitoring				
Siting	No. Under EPAct, the Commission can order transmission service, but states site the lines and generation.	Yes. The Commission issues certificates for construction of pipelines and related facilities.	No	Yes. The Commission issues preliminary permits, licenses, exemptions, and license amendments.
Environmental	No, except for programmatic EISs for some major actions.	Yes, NEPA review and interagency consultation for pipelines to be certificated.	No	Yes, NEPA review and interagency consultation for the above authorizations, except preliminary permits.
Safety	No	No, except as part of initial certification.	No	Yes, dam and public safety.
Related Responsibilities of Other Key Agencies				
States	Retail sales, distribution, siting for transmission lines and generation, some aspects of retail transmission	Retail sales, distribution, some aspects of retail transportation, some environmental permitting	Siting	Projects that do not affect navigable waters, interstate commerce, or Federal lands or dams
Other Federal Agencies	DOE: reliability, PMAs EPA: air quality, emissions allowances NRC: nuclear power licenses	DOT: safety DOI: offshore waters, federal lands, endangered species, national parks USFS: national forests COE: water body crossings Advisory Council on Historic Preservation: cultural resources EPA: PCBs National Marine Fisheries Service: offshore fisheries	DOT: safety	COE, Bureau of Reclamation, and others: Congressionally authorized projects without private development

In the oil pipelines industry:

- Transportation of crude oil and petroleum products by pipeline in interstate commerce.

In the hydroelectric industry:

- Licensing and inspection of nonfederal hydroelectric projects; and
- Oversight of related environmental matters.

Strategic Vision

At the most basic level, the Commission is moving away from a traditional command and control approach to economic regulation, due to the evolving nature of the electric power and natural gas industries and by heightened environmental concerns surrounding construction of energy projects. The Commission will encourage restructuring in the electric industry to promote competitive commodity markets, as it has in the natural gas industry. This may tend to reduce federal regulation over the commodity portion of energy transactions, including natural gas and sales of power, but may mean a continued and even enhanced importance for federal regulation of interstate electric transmission and gas transportation grids. True open access to essential facilities is the underpinning of competitive commodity markets for both electricity and gas and requires constant adjustment to fit the changing industries.

The Commission will increase its emphasis on harmonizing its policies with those of states and other federal agencies, especially in the electric and hydropower programs, since it is clearer than ever that the different responsibilities of each of these entities have implications for all the others. Increasing convergence of energy markets, especially between gas and electricity, will require greater creativity in regulating gas transportation and electric transmission. Of necessity, economic market realities and heightened environmental requirements will also increasingly affect the hydroelectric industry.

The Commission is under some pressure to meet the needs of the industries as they become more competitive. The Commission must be flexible, quick, and innovative to meet these challenges, and will therefore continue its efforts to reallocate staff among its major areas to respond to pressing needs as they develop. As needs for regulation in the industries change, the ways of the Commission must change to respond in real time to industries and intervenors alike. These changes will include better use of electronic technology to facilitate the regulatory process, improved approaches to handle the problems of increasingly market-responsive energy industries, and improvements in environmental reviews.

Historical Perspective

Electric Power

The electric industry is in the early stages of a restructuring that will bring the advantages of competition to the generation and sale of electricity. The generation sector has historically accounted for about 70 percent of the costs of the industry. If structured well, competition promises to bring significant savings to customers throughout the nation, thereby benefiting individuals and making American industry more competitive in world markets. Managing the transition to competition is the most important task facing both this Commission and state public utility commissions around the country.

The electric industry was traditionally a set of local monopolies, regulated at first by the states to prevent abuses of monopoly power. In 1935, Congress passed the Federal Power Act (FPA), giving the Federal Power Commission (FPC, the Federal Energy Regulatory Commission's predecessor agency) the responsibility to regulate interstate aspects of the industry — that is, wholesale power sales and transmission service. The Commission's basic statutory responsibility still traces back to the FPA. The logic that governs its regulation remains the same: the public interest requires curbing abuses of market power in interstate commerce.

The electric industry has evolved substantially since 1935, and the form of the Commission's regulation has changed with it. The economies of scale that made electric power generation a natural monopoly have been almost completely exhausted, so that the public is now far better protected by a system of robust competition in generation rather than traditional regulation. At the same time, transmission and distribution remain natural monopolies. Left unregulated, companies could leverage their ownership of transmission and distribution into a position of market power over generation as well.

In 1978, Congress began introducing competitive pressure into the electric industry by enacting the Public Utility Regulatory Policies Act (PURPA). This act required utilities to buy power from a new class of non-utility generators. PURPA showed that independent generation is feasible.

Over time, it became clear that competition could lower generation costs. The biggest obstacle to competition was that incumbent utilities could often deny independent generators access to the transmission grid. In the late 1980s, the Commission began to encourage voluntary open access where possible (for instance, as a condition for approving mergers). In 1992, Congress passed the Energy Policy Act (EPA), which authorized the Commission to order transmission access for individual wholesale transactions upon request. In 1996, the Commission issued Order No. 888, which required public utilities to offer open access to all wholesale market participants. However, under current law the Commission regulates only 67 percent of electric transmission plant in the U.S. (measured by investment in transmission plant). Increasingly, states are initiating retail access programs that may eventually extend the benefits of a competitive market to retail customers. The future of the industry is likely to entail a more competitive generation sector, supported by transmission and distribution sectors that remain subject to market power and, therefore, to regulation.

Natural Gas

In the natural gas industry, the Commission's actions over the past 15 years have supported Congressional mandates and fostered the emergence of basic competitive market institutions for the commodity. In that sense, the natural gas industry is several years ahead of the electric industry. Now the Commission's main challenge is to continue its regulation of gas transportation in ways that a) maintain existing competitive markets and b) foster a second generation of competitive market institutions that will remove some of the market impediments that remain today and lower the costs of trading.

The early history of the natural gas industry is broadly similar to that of electric power. Gas companies were initially local franchised monopolies, many of whom manufactured gas locally from coal. With the discovery of large natural gas reserves in the southwest in the early part of the century, large interstate pipelines soon became a major sector of the industry, but retained strong features of a natural monopoly. As a result, Congress passed the Natural Gas Act of 1938 (NGA), giving the FPC jurisdiction over interstate sales for resale and gas transportation. Unlike the FPA, the NGA also gave the FPC jurisdiction over the construction of new interstate pipelines, which accounts for the difference in environmental focus between the two programs today. Unlike electric generation, natural gas production has probably never been a natural monopoly. However, a Supreme Court decision in 1954 interpreted the NGA as requiring the Commission to regulate the wellhead price of natural gas sold in interstate commerce just as it did wholesale interstate power sales.

Comprehensive regulation of natural gas wellhead prices proved a failure. By the mid-1970s, there were severe gas supply shortages in the interstate market as a result of artificially low prices. During cold winters (like 1976 — 1977), these shortages translated into delivery curtailments for many customers in the north. Congress began the phased deregulation of natural gas commodity prices with the Natural Gas Policy Act of 1978 (NGPA). During the 1980s, the biggest obstacle to competitive natural gas markets was the inability of customers to gain access through the pipeline systems to competitive gas suppliers. As a result, the Commission issued a series of measures (Order Nos. 436, 500 and 636) that opened pipeline transportation to all on equal terms and that eventually resulted in interstate pipelines' relinquishing their traditional

merchant function. By 1993, the Wellhead Decontrol Act fully deregulated prices for natural gas production. However, continued regulation of the interstate pipeline grid to ensure efficient, nondiscriminatory access to transportation services at just and reasonable rates is the indispensable underpinning for competitive gas commodity markets.

Natural gas open access has been a success. Today the gas market is growing, and customers have more flexible, more reliable service than ever before. Gas supply curtailment of firm pipeline customers is a thing of the past. Prices fluctuate with market conditions, but average prices for all customer classes are lower than they were ten years ago (adjusted for inflation). The competitive revolution in natural gas has also had beneficial environmental effects. Gas is increasingly seen as a reliable, affordable fuel in comparison with other fuels such as coal and oil that tend to have higher emissions affecting the environment, especially air quality.

Oil Pipelines

In 1977, as part of creating the Department of Energy, Congress gave the Commission responsibility for regulating oil pipelines under the Interstate Commerce Act.

The Commission's role in regulating oil pipelines differs from its role in natural gas and electric power, because the petroleum industry differs significantly from the natural gas and electric power industries. The Commission has never been charged to regulate prices for either crude oil or petroleum products. Indeed, markets for these commodities have long been recognized as competitive. Barges and tankers transport much of the crude oil and refined products used in the United States. These parts of the oil transport industry are also widely recognized as competitive. In many cases, they bring competitive forces to bear on oil pipelines. Oil pipelines remain critical transporters of oil to some areas and often have market power, but they do not have the same industry-wide roles that interstate gas pipelines or the electric transmission grid have in their industries. As a result, the Commission has been able to move to lighter-handed methods of regulation in some situations.

Hydropower

Water is one of the nation's most precious resources. River systems satisfy many competing water supply and economic needs, for hydropower, irrigation, domestic and industrial uses, navigation, recreation, and preservation of environmental values. Hydropower generation represents 98 percent of the country's current renewable energy resources. The Commission has jurisdiction over about half the hydropower generation in the United States. Its job is to: (1) look at all aspects of the project proposals that come before it, including the cumulative impacts on given river systems, and consider all competing interests; (2) administer over many decades the projects and associated resource protection conditions it authorizes; and (3) ensure the safety of dams and other structures under its jurisdiction.

The Federal Water Power Act of 1920 authorized the Federal Power Commission to license hydropower projects that are best adapted to the comprehensive development of a waterway. In 1935, the Congress amended and recodified the Federal Water Power Act of 1920 as Part I of the FPA. Later legislation — various flood control and river and harbor acts, PURPA, the Electric Consumers Protection Act of 1986 (ECPA), and EPAct — broadened the Commission's responsibility for overseeing the development of water resources.

The Commission's basic legal obligations have remained much the same, even as hydropower development changed dramatically. By the 1930s, when the FPA was passed, hydropower plants (both federal and nonfederal) had grown to provide 30 percent of the nation's generating capacity and 40 percent of the electric energy. In the 1950s and 1960s, even as additional plants continued to be licensed, some existing hydropower plants were abandoned. Less expensive fossil fuels began changing the economics of energy

generation. The energy embargo of the 1970s reversed the economics and politics of hydropower, while the Energy Security Act and PURPA encouraged the use of clean, domestic resources at facilities producing less than 80 megawatts. Between 1975 and 1991, over 950 nonfederal projects came on line, a majority of them small scale.

In recent years, water issues have become more important than ever, and hydropower's national role has come under greater scrutiny. First, hydropower remains an essential national energy resource. It is domestically produced and renewable. It has very low operating costs and is often a highly flexible resource since generation can be brought on line quickly. This flexibility may be quite valuable in a competitive generation market. At the same time, new hydropower projects may be less attractive to developers. They are capital intensive (and therefore risky), and the measures needed for environmental and safety reasons can be costly.

Second, public concern about environmental issues is far greater now than even a few years ago. These issues include preserving and restoring free-flowing streams, fish populations, water quality, endangered species, and cultural and aesthetic values. The Commission granted many of the licenses that currently govern hydropower projects decades ago, before the passage of the new environmental laws. The environmental issues dealt with in these laws arise when projects come up for relicensing.

Third, other competing uses for water are important and politically sensitive. Continuing growth in both population and industries only creates greater demands for water, power, recreational resources, and resource protection. Hydropower licensing and administration have become part of a larger debate about developing sustainable energy strategies and resources.

The increasing awareness of hydropower development and the Commission's decisions have led to expanded participation of federal and state resource agencies, nongovernmental organizations, and the public in the Commission's regulatory processes. In recent legislation, Congress sought both to clarify the role of other agencies in the Commission's licensing process and to strike a better balance between the developmental and environmental values of concern to these entities. The Commission increasingly is using up front consultation and settlement procedures to resolve conflicts and accommodate the interests of these varied participants.

Commission Administration

The Commission has been working for several years to improve both the way it does business with the industries it regulates and its own internal procedures.

Although the Commission must utilize the fact-finding capabilities of administrative litigation, it has developed a number of alternatives to lengthy and costly formal hearings. It has made extensive use of technical conferences, settlements, settlement judges, and mediators in its casework. It has also made use of generic rules and blanket authorizations where possible. In addition, it has encouraged the growth of regional transmission groups in electric power and development of national standards in natural gas pipeline operations. These groups, composed of all stakeholders, can find fair solutions to potential disputes that would otherwise come to the Commission for decision. For environmental aspects of both hydropower licensing and natural gas pipelines, the Commission uses early staff involvement and prefiling meetings to identify potential areas of conflict early in the review process. It also uses technical conferences, local public meetings, and collaborative processes to promote understanding and compromise among the parties at various stages of the proceedings.

The Commission has introduced electronic filing and electronic bulletin boards. Electronic filing is already in place for many purposes, and computer systems provide access to bulletin board data, Commission documents, and information on obtaining Commission services.

While making these business improvements, the Commission has also reduced administrative staff by 14 percent between FY 1994 and FY 1997.

Strategic Goals and Objectives

A number of the Commission's responsibilities and approaches to meeting those responsibilities are similar across industries. Therefore, the Commission's goals for each industry can be grouped into several broad categories that cut across industries. These broad categories are:

- regulation of markets and rates, terms, and conditions of energy services;
- authorizing and monitoring energy projects; and
- Commission administration.

Industry goals appear below under these categories.

Regulating Energy Markets

Electric Power

The Commission will regulate electric transmission and bulk power markets to

- a) foster the growth of efficient, competitive commodity markets, and
- b) protect customers from excessive transmission rates and service discrimination.

Natural Gas

The Commission will regulate natural gas pipelines to

- a) ensure that pipeline transportation service supports efficient, competitive commodity markets, and
- b) protect customers from excessive transportation rates and service discrimination.

Oil Pipelines

The Commission will ensure fair access to the oil pipeline systems for all customers under just and reasonable rates, terms, and conditions.

Authorizing and Monitoring Energy Projects

Natural Gas

The Commission will regulate interstate natural gas pipelines to ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation systems.

Hydropower

The Commission will regulate nonfederal hydropower projects to

- a) ensure that sustainable hydropower resources are licensed for the public's benefit,
- b) maintain the nation's existing hydropower development to serve all water resource interests, and
- c) ensure dam safety through inspection of facilities and operations.

Commission Administration

All Industries

The Commission will reduce regulatory burden by

- a) reducing the processing time for docketed workload and for resolving disputes,
- b) minimizing filing burdens, and
- c) generating better information for use by industry and the public.

Relationship Between General Goals and Objectives and Annual Performance Goals

Regulating Energy Markets

Efficient, Competitive Markets

Customers will have more new products and a reasonable range of suppliers from which to choose in both the electric and natural gas industries.

The purpose of Commission policy on open access and unbundling for the natural gas and electric industries is to increase the options of customers who historically had very limited choices of natural gas and electric power suppliers. The Commission will assess whether customers have more new products and a reasonable range of suppliers from which to choose as an indication that commodity markets are reasonably competitive and responsive to customer needs.

Natural gas and electric power prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly.

The natural gas and electric industries are both subject to relatively short peaks in demand that customers cannot meet by storing the commodity on-site, despite the existence of substantial off-site gas storage. (This differs from the coal industry, for example, where many customers can ride out short-term market fluctuations using on-site storage.) To analyze how responsive markets are becoming, the Commission will combine basic price information with other indicators of market conditions, such as weather in consuming areas, that will contribute to an assessment of market operations. The Commission's informal market tracking for natural gas suggests that both volatility and pricing anomalies can point to areas where the market is either not working as well as it could or working in ways that were not anticipated but are beneficial. Either way, the results are important as guides to future policy. This will likely be true for electric power also.

Natural gas prices within each trading region will tend to converge, except to the extent there are demonstrable transportation constraints or costs. Wholesale electricity price differences will also tend to narrow.

Convergence of prices within a trading region is one sign that competition is working efficiently.

It will be less costly, administratively, to transact business on the interstate natural gas transportation grid.

This is an important indicator of improved commodity markets. Transparent markets make it easier for customers to understand what their choices are. Markets that are easy and convenient to use lower the administrative costs for all customers using them. In both cases, the result is to lower the cost of using the market for each customer's transactions. With lower transactions costs, more customers will have access to the market, which will be especially important as more states give smaller customers the right to buy gas in the interstate market (rather than only from the local distribution company). In addition, lower transactions costs can increase the liquidity of the market.

Constraining Market Power

Market participants will have confidence that natural gas markets, electric markets, and oil transportation services are working efficiently and fairly and that market participants are not subject to abuses of market power. That is:

- *Broad customer classes (not necessarily every customer) will agree that buyers and sellers have access to competitively priced commodity markets in the national gas transportation and electric transmission grids.*
- *Customers will generally agree that gas pipeline, electric transmission and oil transportation rates and services are just and reasonable, fairly balancing the competing interests of the transporting or transmitting companies and their customers.*

This indicator refers to the Commission's success in eliminating unnecessary market power and in fairly balancing the interests of all parties when market power cannot be eliminated. In both cases, the best performance indicator will come from discussions with the industry and its customers.

The first part of the indicator refers to *customer perceptions* of how much competition they see. The reason for approaching the measure this way is that detailed, quantitative market power analyses are extremely difficult and expensive to perform. Even when performed, such analyses almost never tell the whole story by themselves. Non-quantified factors almost always substantially affect the degree to which observed levels of market concentration translate into the possibility of market power abuses. As a result, measuring customer perceptions is the most cost-effective way of judging the Commission's success in guaranteeing access to competitive markets where feasible.

The second part of the indicator reflects the fact that some degree of market power is inherent in the natural gas pipeline, oil pipeline and electric transmission industries. That is why they are regulated in the first place. In controlling market power, the Commission balances the legitimate interests of different parties. There is no direct way of quantifying how well the Commission is performing its balancing function. However, broad approval from each major industry sector and the ability of each to operate profitably would not be possible unless the Commission was succeeding in this balancing function.

Authorizing and Monitoring Energy Projects

Adequate Natural Gas Pipeline Capacity

The Commission's certification program will allow the appropriate amount of new pipeline capacity to be available to serve the market when needed.

This measure is meant to ensure that adequate capacity and reliable, flexible services are available in the interstate natural gas transmission system, while considering the need to ensure that there are no undue cost shifts or cross subsidization.

Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

The Commission must be able to process pipeline certificate cases in a fair and timely manner. In general, depending on the level of complexity and the number of opposing parties and type of opposition (e.g., landowner complaints), the Commission will act expeditiously and issue construction certificates to allow the commencement of service in accordance with the general plans of the applicant.

Licensing and Administering Hydropower Resources

Licensing conditions will protect and enhance beneficial public uses, both developmental and nondevelopmental.

Tracking the beneficial public uses that result from licensing conditions and changes in capacity will indicate that sustainable hydropower resources are being licensed for the public's benefit.

Administration of hydropower developments will accommodate increasing public use without diminishing key water resource values.

Tracking the number of recreation facilities at projects, the number of visitor days, and the number of improvements and enhancements made to facilities will indicate that existing hydropower development is serving all water resource interests.

The Commission will reduce processing time under its control, particularly through the use of collaborative procedures and early involvement of staff.

Timely issuances that take into account the interests of all involved entities will help ensure that the Commission's licensing program serves the public interest, taking into account all water resource interests.

Dam Safety

The percentage of high- and significant-hazard dams meeting all current structural safety standards will remain uniformly high.

The Commission's dam safety program must ensure consistently high safety standards at high and significant hazard dams to maintain the lowest probability of failure.

One hundred percent of high- and significant-hazard dams will be inspected annually.

Through inspections the Commission identifies safety problems at projects before they lead to dam failure or jeopardize public safety.

One hundred percent of high- and significant-hazard dams will comply with emergency action plan requirements.

Timely and effective emergency planning and recurrent monitoring should reduce or eliminate any potential threat to life or property.

Commission Administration

To reduce administrative burden, the Commission will:

- *reduce the processing time for docketed workload and for resolving disputes;*
- *minimize filing burden; and*
- *generate better information for use by the industries.*

The Commission will hold a series of symposia during FY 1998, dealing with issues such as expedited complaint procedures, electronic filing, certificate reforms, hydropower relicensing, and the Internet. Participants in the symposia will include key policy makers and technicians from industry, government, and academe, in addition to the Commission's management and staff. Through this process the Commission will develop measurements to gauge progress toward its administrative goals.

Means and Strategies: Regulatory Actions and Adaptations

Electric Power

The Commission's goals for the electric industry reflect the rapid changes in that industry. The Commission's statutory obligations remain the same: to administer the laws and regulations involving issues of transmission and sales for resale of electric energy in interstate commerce, certification of exempt wholesale generators and qualifying facilities, and corporate transactions such as mergers and security issues of electric public utilities. Looking forward, to fulfil this mandate for an industry that is changing as much as the electric industry is changing, the Commission will need to play important new roles:

- Regulating interstate transmission to support competitive generation. Although transmission accounts for only 7 percent of overall investment in the industry, it is critical to generation suppliers who need access to customers. It is the Commission's job to ensure that efficient, reliable, nondiscriminatory access is available for all electric suppliers and customers. This is the underpinning of future competition in generation.
- Addressing market power. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, there are significant concentrations of generation in the hands of one or a few local companies in many parts of the country. The Commission will monitor utilities and assess whether they can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition.
- Encouraging efficient wholesale commodity markets. To achieve the benefits of competition, electric markets must function well. The Commission will encourage market structures that allow quick, reliable, flexible trading (a key to capturing the most trade benefits) and have low transaction costs (a key to getting useful access for smaller players).

Addressing External Factors

- Working effectively with states to harmonize regional reforms. Many aspects of the electric industry are regulated at the state level, including both retail sales and distribution services. As more states opt to give retail customers access to the power markets, the result will be unified, regional bulk power markets. However, since most of the electric industry's assets are under the jurisdiction of the states, coordination between the states and the Commission in the restructuring of the industry is critical to realizing the goal of efficient, competitive markets. The Commission will work with states to come up with cooperative solutions to the jurisdictional issues raised by the change.
- Working with other agencies to harmonize regulatory programs. The policies of several other federal agencies have important implications for the future of the electric industry. For example, the Department of Energy has important responsibilities in ensuring the reliability of the electric grid, and EPA's emissions responsibilities will inevitably affect the electric industry. The policies of these agencies are critical to realizing the goal of efficient, competitive markets.

Natural Gas

The Commission's goals for the natural gas industry reflect that industry's continuing change. The Commission's statutory obligations remain the same: to administer the laws and regulations involving the transportation and sales for resale of natural gas in interstate commerce, the construction and operation of natural gas pipelines, and the oversight of related environmental matters. To fulfil this mandate for an

industry that is changing as much as the natural gas industry is continuing to change, the Commission will need to play important new roles. It must:

- Ensure that open access under the Order No. 636 regulations continues to work as intended.
- Encourage efficient gas pipeline construction. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the geographic mixes of production and consumption.
- Take advantage of competition in transportation. It appears possible that some transportation services can be subject to at least some greater competition than seemed likely a few years ago. The Commission will look for ways to take advantage of such competition as a tool to assure just and reasonable rates without reducing protection against the abuse of market power in transportation.
- Encourage improved commodity markets. Natural gas commodity markets can be made to work better by:
 - ▶ continuing efforts to improve standardization among pipeline systems for both information and business practices so that gas can be moved more efficiently;
 - ▶ ensuring fair and effective short-term markets to assure that the parties obtain the capacity and gas they have purchased and to ensure system reliability; and
 - ▶ removing barriers to efficient secondary transportation markets.
- Develop regulatory systems based on Commission monitoring and customer complaints that can respond to the increased pace of the market without unduly burdening market participants.

Addressing External Factors

- Work with states to address market and regulatory issues that arise as states adopt retail unbundling for local distribution companies. State policies on retail unbundling can affect the Commission's goal of ensuring efficient, competitive commodity markets.
- Coordinate with other federal agencies, state agencies, and the public when preparing environmental reviews. Coordination with other entities that have interests in pipeline projects often requires public notices, meetings, and comment periods, and is a factor in the processing time for the Commission's reviews.

The Commission must encourage the industry to solve these and other problems as they arise in the continuing evolution of the gas commodity market. Put differently, the Commission must regulate transportation in a way that fosters the growth of a second generation of gas markets that are more flexible, more responsive to customer needs, and less costly to use.

Oil Pipelines

To meet its goal for the oil pipeline industry, the Commission's role remains to ensure fair access to the oil pipeline systems for all customers under fair terms and conditions at reasonable rates. In some cases, the Commission can do this by allowing market-based rates where markets are competitive. In others, the Commission needs to continue regulation, while remaining flexible, for the pricing of services for new oil pipeline construction.

Hydropower

Despite the changes in the hydropower industry, the Commission's statutory obligations remain the same: to license and inspect nonfederal hydroelectric projects and to oversee related environmental matters. To meet its goals for the changing hydropower industry, the Commission is adapting its regulation to new realities — heightened environmental sensitivity, decision-making responsibilities shared with other authorities, and a new competitive marketplace. This means evolving approaches to regulation that include:

- Ensuring that regulation balances competing demands for limited water resources. The Commission's mandate to foster comprehensive plans of development while considering the overall effect of proposed hydropower development on rivers and river systems changes as society's demands upon water resources change. The Commission will seek to maintain the benefits of hydropower generation while enhancing environmental values and other beneficial uses of water.
- Maintaining vigilance over project operations. The Commission has ongoing responsibilities to ensure that balancing water uses and protecting sensitive resources continues over the life of a project. License conditions are only as effective as the Commission's ability to work with its licensees to ensure they are met. Thus, administering a license over its life — when external circumstances may change unpredictably — is an essential feature of the Commission's regulation. But its administration cannot be heavy-handed. Cooperation and flexibility in achieving the desired ends will be necessary in a more competitive environment.
- Explaining the Commission's hydropower program to new participants. The competitive market may bring new business entities into the industry (just as PURPA attracted new entrepreneurs to develop small-scale hydropower). The Commission will integrate these new entities into its processes and accommodate their concerns and needs as it does for all others.
- Protecting life and property by ensuring the safety of dams and other structures. Here too, the Commission's regulation will evolve. The inventory of dams under the Commission's jurisdiction is aging; many dams are quite old, so vigilance is a necessity. Engineering procedures are improving. The Commission will work with licensees, the engineering community, and the localities where projects are located to ensure that its safety program continues to match the state of the art as it develops.

Addressing External Factors

- Coordinating Commission activities with those of other interested authorities. Although the Commission is charged with making final decisions on actions before it, many other entities have legitimate, recognized interests in the outcome of its cases. These other authorities include federal and state land and resource management agencies, fish and wildlife agencies, water quality agencies, Native American tribes, a variety of nongovernment organizations, and the public. The timing of actions by these other authorities will affect Commission processing times and the degree to which hydropower resources can be developed or sustained.
- Meeting competitive conditions. Although competitive changes are now occurring in the electric marketplace, the final impacts of those changes on sustainable hydropower are not yet known. The Commission will have to assess competition's effects on hydropower development and operation, and in some cases use flexible approaches to accommodate market-driven changes.
- Maintaining the benefits of hydropower regulation in the face of changing scientific and public attitudes. Because hydropower projects operate over many decades, the Commission must be sensitive to long term effects of these changes on resources protected by its licenses.

Commission Administration

Continued change will take advantage of improved information and automation technologies as well as respond to the needs of changing industries. To meet its goals over the next 5 years, the Commission will continue its administrative reforms involving:

- Expediting decisions where practicable, while considering the due process rights of others. Delay of good decisions almost inevitably means delay of benefits for consumers. As the regulated industries become more subject to competitive forces, timing becomes ever more important for companies as well as for consumers. Many of the proposals now coming before the Commission are extremely time-sensitive, because they represent market opportunities that can easily disappear if delayed. Examples include many new gas pipeline construction proposals. In some cases, delay can mean disruption. A proposed electric merger, for example, can bring many other intra-corporate changes to a stop until it is resolved. Delayed licensing and relicensing decisions can postpone the realization of generation, environmental, and safety benefits.
- Developing new procedures for surgical, reactive intervention in markets. Competition is the best customer protection when it is available. The Commission must develop ways to intervene in markets only to the extent needed to correct particular problems. This means monitoring markets rather than trying to manage them, reacting to problems as they arise (for example, through complaints), and taking remedial action that has as little effect on well-functioning parts of the market as possible.
- Improving regulatory certainty. All of the industries the commission regulates are capital-intensive and therefore involve substantial risk. As natural gas and electric power commodity markets become more competitive, both regulated companies and their customers see the underlying risk in the form of changing market prices. It becomes ever more important to ensure that both regulated companies and their customers can count on stable, timely regulatory treatment. If regulation is uncertain, the result would be to add risk to products and markets and therefore to add costs.
- Controlling regulatory costs. Good regulation provides substantial benefits to customers but inevitably involves costs. The Commission has an obligation to ensure that the costs are reasonable in relation to the benefits produced. The Commission will continue to discipline its own costs. For example, it must reduce its overhead costs for administration and the costs of treating similar issues in similar cases. Moreover, the Commission's own cost is only a fraction of the burden that industries incur, since companies pay for the legal and technical expertise needed to bring their cases to the Commission. In controlling regulatory costs, the Commission must be sensitive to these costs also.
- Improving communication and cooperation. Up front staff involvement, technical conferences, public meetings, and collaborative procedures are essential tools for avoiding needless confrontation, shortening processing, and maintaining litigation at appropriate and reasonable levels in all program areas. These efforts are particularly important in gas pipeline construction and hydropower licensing, which typically raise contentious issues that require balancing strong competing interests.
- Taking advantage of new technology, especially for information. The Commission will continue to automate internal processes and make its computerized information more easily accessible to the public and more pertinent to the needs of the changing industries. Of particular importance, the Commission must make all public information available electronically and will work with the natural gas and electric industries to make market-monitoring information available while preserving commercial confidentiality as appropriate.

External Factors

These plans are based on current legislation and the current technological state of the industry. If either of these should change significantly, the Commission would need to change its plans. While the Commission cannot anticipate specific changes in either legislation or technology, the electric industry (especially) is in the midst of a transition that could lead to changes in both. For example, several proposals now before the Congress would lead to a significant further restructuring of the industry nationwide. Similarly, distributed generation may become more economically viable. If it does, it would change some of the Commission's basic assumptions about what parts of the industry can be competitive and in what ways.

Other external factors that can influence the Commission's success in meeting its goals are noted in the section, "Means and Strategies: Regulatory Actions and Adaptations."

Program Evaluation

The Commission is committed to accountability in its programs. For the next year, the most important task is to ensure that specific performance measures are developed along with the quantitative information needed to support them. To do this, the Commission will establish a high level working group, chaired by the Deputy Chief Financial Officer. The working group will include one member from each of five Offices: the Office of General Counsel, the Office of Hydropower Regulation, the Office of Pipeline Regulation, the Office of Electric Power Regulation and the Office of Economic Policy. It will present quarterly progress reports to the Chairman on the status of the Commission's performance measures.

To improve accountability in the longer run, the Commission will institute ongoing assessment reviews at least annually. As part of each review, the Commission will report on how well it is meeting its goals, how and why its goals and objectives should be modified (if at all) and what changes to indicators are needed to improve how well it is measuring its performance. A top priority involves improving its information systems to provide credible measurements of key performance indicators.

**FY 2001 BUDGET REQUEST
TO CONGRESS
AND ANNUAL PERFORMANCE PLAN**



FEDERAL ENERGY REGULATORY COMMISSION

FEBRUARY 2000

James J. Hoecker
Chairman

**FY 2001 BUDGET REQUEST
TO CONGRESS
AND ANNUAL PERFORMANCE PLAN**



FEDERAL ENERGY REGULATORY COMMISSION

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**James J. Hoecker
Chairman**

Federal Energy Regulatory Commission

Vision

Promoting Competitive Markets
Protecting Customers
Respecting the Environment
Serving and Safeguarding the Public

Mission

The Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.

Values

Employees – People are our most valued asset. We provide the support needed for all employees to excel.

Integrity – We maintain the highest level of professionalism and an environment of fairness, trust, respect, and honesty.

Diversity – We value diversity in people and ideas.

Working Together – We clearly communicate expectations, encourage cooperation and teamwork, and share responsibility.

Progress and Innovation – We are creative and flexible, and seek out opportunities to improve.

Action – Prompt and fair resolution of matters before the Commission is essential to our mission.

Reaching Out – Two-way communication with the public is key to our effectiveness.

Public Service – Our ultimate objective is to provide valued services to the public.

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EXECUTIVE SUMMARY

External Changes Challenge the Commission

Over the next few years, the Commission must meet three major challenges.

First, the competition that the Commission has long encouraged is changing dramatically the nature of the natural gas and electric industries:

- Regulated monopolies have given way to open networks that support change and competition.
- Energy commodity and service markets move much faster than ever before.
- Energy industries create new services and institutions as quickly as they sense new commercial opportunities.
- The markets for natural gas and electric power have become very closely intertwined, raising many new regulatory challenges.
- Regulated energy companies restructure themselves frequently, acquiring new assets and divesting old ones.

The challenge for the Commission is to understand the market much more fully and respond to new issues much more quickly than ever before, even as it continues to fulfill its traditional responsibilities. Developing the tools for more effective market monitoring will help the Commission to identify and address issues such as continuing market power and helping to refine market structures.

Second, the Commission's energy projects programs (natural gas pipeline construction and hydroelectric power) face growing public involvement. For example, relicensing a large hydroelectric project can affect a whole river basin and inevitably raises complex issues around environmental impacts and other resource uses. Such concerns lead to more sharing of responsibility among agencies with jurisdiction by law or with special expertise. At the same time, energy projects are increasingly subject to the pressure of industry competition, which creates an ever-increasing need to act quickly. The challenge for the Commission is to address a greater number of more difficult issues, while keeping to the tightest time frames it can.

Third, all government agencies must become more accountable for the results of their programs. This means developing and living by outcome-based performance measures as required under the Government Performance and Results Act (GPRA). It also means finding ways to work more efficiently every year. The challenge for the Commission is to develop regulatory programs to match changing industries while simultaneously improving service and lowering real (inflation-adjusted) costs.

The Commission is Meeting the Challenge

The Commission is responding to these challenges by reengineering both its approach to regulation and its own internal workings.

New Approaches to Regulation. In order to realize benefits to consumers and the economy, the Commission now is focusing as much on markets and regions as on individual companies and projects. It is relying far more on collaborative processes to resolve key environmental issues. It is making much greater use of complaint and alternative dispute resolution processes in addition to formal litigation to resolve specific disputes. It also is taking on a new role in monitoring markets and addressing market structure. Overall, the Commission is shifting away from command-and-control approaches and toward consensual, market-sensitive approaches.

The Commission promotes the growth of competitive markets every day through its case work, and it has undertaken two major policy initiatives to address generic issues that need industry-wide solutions. Order No. 2000, the Commission's initiative to promote regional transmission organizations (RTOs), will provide a fair, efficient platform for regional electricity markets as well as encouraging pricing and operational innovations. A wide-ranging initiative to modernize natural gas regulation will supplement traditional cost-of-service regulation with new, more market-oriented approaches, especially for short-term markets (including ways to maximize competition, mitigate market power, and monitor for undue discrimination).

The Commission promotes the development of sustainable hydroelectric and natural gas infrastructure. It continues to encourage collaborative work between stakeholders in the hydropower licensing process to work out differences in interests as early as possible. Now it is building on these efforts by helping to coordinate efforts of concerned agencies through the Interagency Task Force. With regard to certification of natural gas pipelines, the Commission is addressing issues of timeliness, interagency coordination, and impacts on environmental and community interests.

Finally, the Commission is expediting its complaint process and has created the Dispute Resolution Service to foster case resolution by means other than litigation or formal case processing. These measures will let parties resolve many disputes much more quickly, economically, and amicably than might have been possible under most regulatory options, which should help everyone save both time and money.

Reengineering. The Commission has undertaken a comprehensive review of all its business processes as well as its organizational structure. As a result, it should be able to improve the efficiency and speed with which it does much of its traditional work. This is a necessary first step in being able to address the substantial new workload the Commission will face in the future, despite limited or declining resources. This new workload includes

the much greater future focus on markets as well as increased post-license compliance work that is being required in modern hydroelectric licenses.

The Commission also is restructuring itself to address the new structure and changing needs of the industries it regulates. A new Office of Markets, Tariffs, and Rates will focus on the natural gas, electric, and oil industries. The office will address traditional cost of service and market-oriented rates and services, new market institutions, and other issues such as the growing convergence of the natural gas and electric industries. This office also will let the Commission focus much more clearly on regional energy markets. In authorizing natural gas pipelines and non-federal hydropower projects, a new Office of Energy Projects will address environmental and cultural issues along with project economics and engineering. Both offices are based on a business process model that will make it much easier for the Commission to redeploy resources to meet the fluctuating needs of the particular industries it regulates and will use interdisciplinary teams to expedite processes.

Business process reform also has provided a new focus on support work, which is crucial to the Commission's success in the areas of energy markets and projects. For example, the Commission is expanding electronic filing to speed information flow and is implementing new initiatives to improve leadership and management.

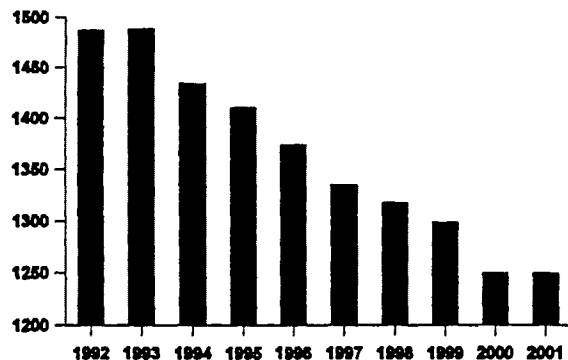
Greater Accountability. The Commission's innovations in regulatory policy and process, combined with its internal reengineering, will let the Commission protect customers and meet the needs of industry in an environment of rapid economic change, while keeping costs under control and keeping better track of program outcomes.

Changes to the Budget Request

In the face of steady or growing workload and novel responsibilities in areas like electric reliability, this year's budget represents the first year of a longer-term plan to reduce real (inflation-adjusted) costs. Fully two thirds of the Commission's costs are attributable to employee salaries and benefits. Since 1992, the Commission has reduced its FTE levels by almost one sixth. Over the next 5 years, the Commission expects to request only half of the normal cost-of-living adjustment for employee costs. This means that, making certain assumptions about the nature of its anticipated work, the Commission is prepared to reduce overall employee costs by about 2 percent per year (the solid line of the graph on page vi), while fully meeting its responsibilities. While the budget may continue to grow in nominal terms, it will fall in inflation-adjusted dollars. The Commission will realize the needed savings through a combination of personnel reductions and hiring lower-graded replacements for some employees who leave. The Commission will also give managers incentives to reduce personnel costs.

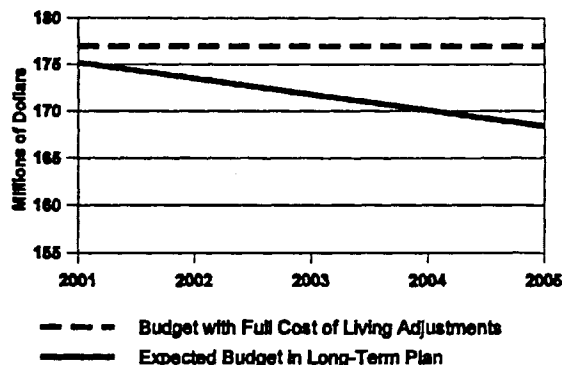
Full-Time Equivalents (FTEs)

FY 1992 to FY 2001



Expected Budget Requests

FY 2001 to FY 2005 in Constant Dollars



To help achieve its budgetary goals, the Commission is adopting a manage-to-budget approach, which holds all office directors directly responsible for managing a fixed budget for personnel and other costs in their offices. This will encourage leaders to manage creatively and to contain costs in each segment of the Commission.

Finally, the Commission is continuing to develop outcome-based GPRA performance measures for its major programs. These measures are difficult to devise. However, the Commission believes they are an essential tool for ensuring that its programs are effective and for correcting any policies that are not succeeding.

This budget request rests on the key assumption that new legislation will not significantly increase or decrease the Commission's workload during FY 2001.

Budget Request

To accomplish its mission and goals in FY 2001, the Federal Energy Regulatory Commission requires 1,250 FTEs and funding of \$175,200,000.

The Commission's FY 2001 budget request reflects the positive returns and the organizational results of the Commission's internal reengineering. The budget request is organized by energy markets, energy projects, and program support work, rather than according to the electric, natural gas, oil pipeline and hydroelectric industries, as in the past. Funding and FTE requirements by the new programs appear below. For OMB and Congressional committees interested in the breakdown by industry sector, those data appear in Appendix C.

Resources by Program
(Budget Authority Dollars in Thousands)

Program	FY 1999 Actual	FY 2000 Estimate	FY 2001 Request	% (+/-) FY 2000 to FY 2001
Energy Markets Funding FTES	\$55,075 610	\$59,613 631	\$61,836 631	3.7% 0.0%
Energy Projects Funding FTES	\$44,206 429	\$42,141 363	\$43,538 363	3.3% 0.0%
Program Support Funding FTES	\$67,255 260	\$73,196 256	\$69,826 256	(4.6%) 0.0%
Total Budget Authority for Operating Expenses Funding FTES	\$166,536 1,299	\$174,950 1,250	\$175,200 1,250	0.1% 0.0%
Application of Prior Years' Authority	864	(\$0)	(\$0)	N/A
Budget Authority	\$167,500	\$174,950	\$175,200	0.1%
Offsetting Receipts	(\$167,500)	(\$174,950)	(\$175,200)	N/A
Net Budget Authority	\$0	\$0	\$0	0.0%

Full Cost Recovery

The Commission will recover the full costs of its operations through annual charges and filing fees. It will deposit the revenue into the Treasury as a direct offset to its appropriation, resulting in a net appropriation of \$0.

HOW THIS BUDGET REQUEST IS DIFFERENT

How this Budget Request is Different

This budget presentation reflects the Commission's new programs and its focus on all processes, including support work. The budget narrative ties the Commission's work to its goals. The Performance Plan for FY 2001 included in this document ties the goals and the work to performance measurements.

New Chapters.

Instead of presenting the budget request under the energy resource categories of Electric Power, Natural Gas and Oil Pipelines, and Hydropower as in the past, the Commission is organizing its request by its three essential processes: Energy Markets, Energy Projects, and Program Support work.

- **Energy Markets:** Functions and resources associated with economic regulatory issues of competition, well-functioning markets, and mitigating market power. This includes regulation of electric and natural gas rates, corporate mergers, and other aspects of energy markets.
- **Energy Projects:** Functions and resources associated with engineering, cultural, economic, and environmental issues related to energy projects. This includes hydropower licensing and dam safety, certification of natural gas pipeline construction, and environmental review of hydropower and natural gas projects.
- **Program Support:** Functions and resources associated with support work for all Commission responsibilities.

In previous budget requests, funding and FTEs for support activities were prorated among the Commission's core programs. This year, the Commission recognizes the vital role of its support functions by describing them in a separate chapter.

The Commission's support work includes human resources management and development, financial management, procurement, strategic management, information technology,

external communications, dispute resolution, and general legal services. In the long run, the Commission's core programs can only be as good as the support programs and central values that stand behind them.

A funding and FTE breakdown by sector is available in Appendix C.

Structure Within The Chapters. To link its goals and its budget request, the Commission has organized each chapter of the budget request around its goals for the programs (see the FY 2001 Performance Plan). Chapter sections are:

- Goals of the Program
- Implementing the Goals through Key Policy Initiatives
- Working Toward the Goals Every Day
- FY 1999 Achievements

FY 1999 Performance Plan; Workload Tables. The performance plan also is organized by markets, projects, and support. It includes matrices showing all categories of workload related to the Commission's high-level goals and performance measures. These relationships reflect the first step in the revision of workload discussed in the FY 2000 budget. In the new matrices, some traditional categories were combined, and some new categories created. Some of the new categories cannot yet be quantified. The Commission is currently developing data that will enable it to quantify work on fundamentally new processes so as to tie its changing workload to its resource needs. The Commission is committed to revising its method of quantifying its workload, and will report its progress next year.

Traditional workload tables (showing numbers of filings received, completed, and pending) appear in Appendix B, but these workload categories do not reflect all the Commission's work. The beginning of a new look at categorizing work is reflected in the workload crosswalk in the same appendix and in the FY 2001 Performance Plan.

INTRODUCTION

Preparing the Federal Energy Regulatory Commission to meet the challenges of the 21st Century means adapting to new energy market conditions, incorporating information technologies, and improving processes for greater productivity and cost control. Where possible, the Commission promotes market competition as a substitute for command-and-control regulation. However, its success in this regard requires the Commission to act expeditiously and to use its resources more wisely. The Commission's internal changes, and the FY 2001 budget request, reflect these approaches.

Energy Industries Continue to Change

The industries the Commission regulates are rapidly changing their structures, operations, and investment strategies, reflecting a continuing evolution toward greater competition and an ongoing convergence of natural gas and electric power markets. Meanwhile, the public is placing more value on environmental accountability, causing increasing tension between the need for energy, with its complex infrastructures, and the need for a healthy environment. As a result, other government agencies, industry participants, and the public are becoming increasingly active in Commission proceedings.

Changes in Natural Gas and Electric Markets

Expanding Competition. Competitive forces have been growing over time in the natural gas and electric power industries. In the natural gas industry, for example, the ability to transport and deliver gas over long distances created incentives to trade. Because the regulated rate structure operated on cost-based, long-term contracts, buyers and sellers either could not trade or sought to bypass the regulated rate system.

In the electric power industry, improvements in the transmission grid were accompanied by major technological developments in electric power generation. The most important of these technological changes was the introduction of highly efficient combined cycle power plants, typically fueled by natural gas. Such generating units could produce electric power at costs below the regulated rates charged by monopoly utilities. Small, independent power stations allowed some consumers (mainly large industrial facilities) to choose between their traditional utility provider and cheaper alternative supply sources, effectively creating a limited form of competition.

Trends in Markets

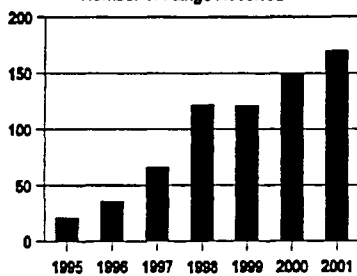
- ▶ Competitive markets
- ▶ Greater reliance on market institutions
- ▶ Industry Structure: consolidation and functional disaggregation
- ▶ Converging industries

In Congress and successive administrations, support for expanding competition in the natural gas, oil pipeline, and electric power industries has also been a force for change. This is reflected in the numerous electric restructuring proposals considered in the Congress in 1999, including the Administration's Comprehensive Electricity Competition Plan. The Commission's policies, such as open access to the electric transmission and natural gas transportation systems, have contributed significantly to this growth in competition. The result has been vastly increased competition in both natural gas and electricity commodity markets and increasing competition in natural gas services.

Natural gas commodity markets have been competitive since wellhead decontrol under the Natural Gas Policy Act. Electricity as a commodity is increasingly sold at market rates. In both industries, competition to supply the basic commodity has required a new regulatory infrastructure. The Commission's challenge has been to formulate a regulatory approach that promotes competition while protecting customers from residual market power.

New Market Institutions. The Commission's open access policies have led to greater variety in regulated services and also to the existence of a well-functioning market that serves as a platform for a variety of nontraditional services. Market and technology demands are creating a need for regionalization. In electricity, regional transmission organizations (RTOs) promise to provide more efficient pricing. Futures markets in both natural gas and electricity have provided price transparency and a basis for hedging risk. These and other innovative services have provided shippers and other market participants with substantial savings.

Electric Corporate Applications
Number of Filings Received



FY 2000 and FY 2001 are estimated.

Corporate Applications include:

- ▶ Mergers
- ▶ Acquisitions and Sales of Facilities
- ▶ Interlocking Directorates
- ▶ Securities

Industry Structure Changes. As with many other industries undergoing structural, economic, and regulatory transformation, the natural gas and electric industries are realigning themselves. In some cases this means restructuring along functional lines; for example, voluntary divestiture of generating assets. Order No. 2000 is designed to spur some electric utilities to restructure themselves into separate transmission and generation companies as one means to create independent regional transmission entities. This is in addition to a tendency to restructure due to other changes in technology, regulatory policy, and economic trends. Similarly, Order No. 636 unbundled natural gas pipelines from commodity suppliers in 1992. Within each sector, there is also a natural tendency toward consolidation. This consolidation can raise competitive issues by reducing the number of energy providers. The significance of mergers and affiliate issues is greater than in the past, especially for generation, as the country relies more on competition to protect customers from market power.

Both mergers and divestitures have increased since the Commission issued its open-access policies. By law, the Commission reviews changes in ownership or control of electric transmission facilities. The Commission must first decide whether particular mergers are in the public interest and then monitor for overly concentrated markets and undue exercises of market power.

Growing Electronic Commerce. Electronic commerce is redefining the nature of the natural gas and electric business transactions. Transactions are increasingly completed over the Internet. Both natural gas and electricity companies are moving from using electronic bulletin boards to Internet Websites. In addition, the electric industry is moving from manual to electronic tagging of transactions. Electronic commerce is particularly important for the natural gas and electricity industries. Natural gas and electric prices change very rapidly in response to quickly changing market conditions. In the long run, electronic commerce promises to give more customers more control over their energy use and the prices they pay to use it. This will allow greater efficiency and may help dampen price volatility.

Convergent Industries. A significant and increasing convergence is occurring between the natural gas and electric industries, as greater numbers of market participants perceive a single energy market as opposed to separate natural gas and electric markets. This convergence raises significant opportunities and challenges for both the industries and the Commission. For example, in some cases natural gas pipelines and electric transmission services may begin to compete with each other. At the same time, consolidation mergers that bring natural gas and electric companies together could reduce competition. Natural gas companies also may attempt to leverage the value of natural gas by developing the electric power side of their businesses. Part of the broader trend toward restructuring businesses includes other forms of diversification, such as joint energy-telecommunications ventures.

Energy Projects: Balancing Competing Multiple Interests

As environmental issues are more forcefully advocated in the Commission's proceedings and as international competition increases, the Commission's responsibility to accommodate competing interests becomes more difficult and highly charged. There is a greater need for collaborative decision making among all affected parties and for increased cooperation among involved agencies.

Trends Relating to Energy Projects

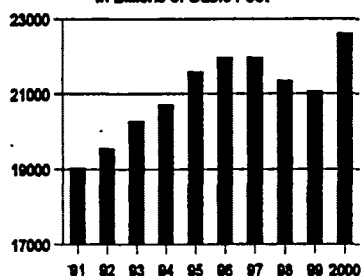
- ▶ Growing environmental accountability
- ▶ Greater jurisdictional overlaps
- ▶ Growing need for consensual decisionmaking
- ▶ Need for expanded facilities

Competing Interests in Hydropower Licensing. Because hydropower is economical, clean, renewable, and flexible, it is a valuable part of the nation's energy mix. The Commission strives to maintain sustainable hydropower, providing economic, environmental, and other public benefits. But projects are capital intensive, and the measures needed to bring them into environmental and safety compliance can be costly. Projects must be economically viable, and development must be responsive to environmental needs and sensitive to other water use demands.

New environmental issues arise whenever projects licensed 30 to 50 years ago come up for license renewal. Interest in the environmental effects of hydropower operations increases every year. The Commission must share with numerous state and federal agencies its authority to condition licenses. New licenses include additional requirements as a result of heightened environmental concerns and the need to comply with environmental laws, so each relicensing case leads to an additional, ongoing monitoring effort throughout the life of the license. Issues arising after licensing can be very contentious, making resolution and decisions difficult.

Natural Gas Consumption

In Billions of Cubic Feet



Source: Energy Information Administration.
Data for 1999 and 2000 are estimates.

New Challenges for Natural Gas Pipeline Certification. Growing demand for natural gas in New England, the Mid-Atlantic, the Southeast, and the Midwest will continue to drive an increase in applications for major pipeline extensions and new pipelines. Meanwhile, customers have become responsible for their own gas supply acquisition, and they have demanded more flexible arrangements. The Commission expects more applications for storage development and liquefied natural gas facilities to provide peaking capability and supply flexibility. As the national pipeline grid ages, the Commission anticipates a significant number of applications for upgrading facilities in the interests of safety and future growth.

Pipelines are facing increased opposition from landowners as new projects are proposed in more heavily populated areas. In these cases, the Commission must balance the benefits of new or competing supplies of natural gas against the environmental impacts of a project and the potential market impacts of additional capacity. Landowners increasingly question the right of pipelines to use eminent domain in cases where the market determines the need for the project. Also, pipelines have concerns about the timely receipt of various required environmental permits. As the certificate cases become more contentious, the Commission must devise new ways to issue certificates and address the intervening parties' concerns quickly and fairly.

The Commission Meets the Challenges

The changes sweeping the energy industry pose serious challenges to the Commission in its efforts to promote competitive energy markets that provide consumer benefits and to promote sustainable energy projects. To meet the challenges, the Commission is undertaking key policy initiatives, reengineering its procedures, and strategically realigning its organization.

Key Policy Initiatives

Markets Initiatives. The Commission is currently engaged in two major initiatives related to market functioning.

Regional Transmission Organization (RTO) Initiative. The Commission is encouraging pricing and operational innovations in regional market arrangements. RTOs address competitive market issues in the open access environment established by Order No. 888, while stressing the need to enhance the reliability of the transmission grid. In May 1999, the Commission issued a notice of proposed rulemaking (NOPR) on RTOs, issuing the final rule on December 20, 1999 as Order No. 2000. Order No. 2000 requires at least four characteristics for successful RTOs:

- independence;
- appropriate scope and regional configurations;
- adequate operational authority; and
- responsibility for short-term reliability.

In addition, Order No. 2000 states the RTOs must perform eight key functions, such as tariff administration and design. The order relies on flexibility and open architecture rather than specific boundaries or organizational formats. Through its RTO initiative, the Commission is promoting innovations that will foster well-functioning markets. Regionally, markets will enable the industry to price and plan better, ensure reliability, remove opportunities for discriminatory practices, and reduce residual market power.

Gas Policy Changes. The Commission also is undertaking a wide-ranging initiative to improve the efficiency, transparency, and competitiveness of natural gas markets. In the 7 years since Order No. 636 restructured the natural gas pipeline industry and ensured equality for natural gas transporters,

the growth of vibrant natural gas commodity markets has posed challenges for the Commission's regulation of natural gas transportation. Short-term natural gas markets now offer prices at many points around the grid that imply a value for gas transportation that is independent of traditional regulation. The natural gas initiative recognizes the changing structure of the market and offers a new regulatory strategy for transportation to promote competitive commodity markets and protect customers.

The Commission issued a NOPR as part of the natural gas initiative, designed to maximize competition in short-term natural gas transportation markets, while continuing to mitigate market power. The NOPR proposed:

- removal of the rate cap for all short-term transportation services;
- auctions for all short-term transportation capacity; and
- negotiation of terms and conditions of services.

Projects Initiatives. The Commission continues to find ways to improve its processes in the area of energy project authorization and supervision.

Interagency Task Force. The Commission has long recognized that it needs to adopt a more collaborative process for hydropower licensing. Building on its collaborative process for stakeholders established by Order No. 596, issued in October 1997, the Commission has helped create an Interagency Task Force to improve the hydroelectric licensing process. This task force is addressing communication issues and practical ways to improve the overall relicensing process across all agencies. Furthermore, Chairman Hoecker and Department of Interior Secretary Babbitt sponsored a Federal Advisory Committee to provide a forum for nonfederal entities to review and comment on the work of the task force.

Relationships established among all participants, including other agencies, before and during licensing will continue to promote communication during the term of the license. This helps ensure that water resource development and sensitive resources are protected for the life of the license. Participants in the licensing process are becoming aware of the importance of their role in fine-tuning environmental conditions and ensuring their success, and cooperative procedures are helping to achieve post-licensing objectives.

Natural Gas Pipelines Initiatives. The Commission is finding new ways to meet the time-sensitive needs of the competitive market while properly addressing environmental and landowner concerns.

- In April 1999, the Commission issued Order No. 603, expanding the scope of blanket certificates to allow quicker response to changes in market forces, and clarifying filing requirements to avoid unnecessary processing delays.
- In September 1999, the Commission changed its natural gas pipeline pricing policy to avoid the subsidy of pipeline expansions by existing customers. The policy also articulates a balancing test to ensure that the benefits outweigh any adverse affects of pipeline projects. The Commission encourages applications that will minimize adverse effects on all relevant interests.

- In September 1999, the Commission issued Order No. 608, which offers pipelines the option of engaging in a voluntary collaborative process with the public and Commission staff before filing a certificate application.
- In October 1999, The Commission issued Order No. 609 to require early notification of landowners who might be affected by a proposed project, in the interest of having pipelines work out contentious issues in advance of filing.

FERC First: Retooling Work Processes

In FY 1998, the agency recognized that it would need to reengineer most of its existing work processes if it was going to meet the needs of the changing energy industry.

Why Reengineer? In the markets area, the Commission was beginning to replace command-and-control regulation with market-responsive approaches. These approaches increasingly focus on whole markets and regions as well as individual companies. They also will rely more heavily on market monitoring and complaint processes rather than more traditional casework. In both projects and markets areas, the Commission saw the need for more collaboration with other entities — government agencies, reliability councils, and market institutions, as well as traditional parties. All of these changes in the way the Commission operates required new business processes, new organizational structures, and a new leadership culture. It was determined that a complete review and retooling would be necessary for the agency to adapt fully to the new challenges it faced.

Review of Existing Processes. In 1998, the Chairman initiated FERC First, a staff-based management review project, to take a comprehensive look at how the agency does business and how it can improve to meet the needs of customers. FERC First identified internal operations that warranted review. The reviews addressed, among other things, process coherence and coordination, priority setting, layers of review, employee development, IT requirements, speed of IT implementation, and communication.

FERC First identified broad trends in the outside environment. Trends impacting the Commission's economic regulation include increasingly competitive markets, greater reliance on market institutions, industry consolidation, and converging industries. Trends that affect regulation of energy projects are growing environmental accountability, overlapping responsibilities, and greater reliance on consensual decision making. The Commission has a heightened sensitivity to the budgetary disciplines imposed by the Congress and the Administration, which requires it to use resources wisely.

The Commission also solicited the views of external constituents about its operations. Constituents expressed respect for high-quality products, high-caliber professional staff, fair decisions, and the beginnings of electronic filing and information accessibility. They suggested improvements in the areas of timeliness, generic policy decisions, strategic perspective, communication, and attention to small customers. They also asked for more opportunities for electronic filing and greater information accessibility,

Mission, Visions, Values Statement

Mission

The Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.

Vision

Promoting Competitive Markets
Protecting Customers
Respecting the Environment
Serving and Safeguarding the Public

Values

Employees – People are our most valued asset. We provide the support needed for all employees to excel.

Integrity – We maintain the highest level of professionalism and an environment of fairness, trust, respect, and honesty.

Diversity – We value diversity in people and ideas.

Working Together – We clearly communicate expectations, encourage cooperation and teamwork, and share responsibility.

Progress and Innovation – We are creative and flexible, and seek out opportunities to improve.

Action – Prompt and fair resolution of matters before the Commission is essential to our mission.

Reaching Out – Two-way communication with the public is key to our effectiveness.

Public Service – Our ultimate objective is to provide valued services to the public.

review of *ex parte* rules, faster complaints resolution, and for staff to be better educated about the natural gas and electric markets.

Planning Phase. An initial response to this comprehensive review was the development of a coherent vision, mission, and values statement that builds continuous improvement and outreach into what the Commission intends to achieve in its work with customers, including industry, Congress, intervening and other interested entities, and the general public. Key focuses for the future also were identified: Anticipation of restructuring; focus on market power; development of new and innovative approaches to traditional regulation; more real-time and market-responsive processes; an increased emphasis on teaming, productivity, and employee development; early resolution of disputes; reevaluation of facilities and projects consistent with the changing market structure; and a focus on markets, not just companies. Other identified focuses were improving regulations to encourage competitive markets and renewing the Commission's focus on environmental responsibility as part of its regulatory obligation.

FERC First defined seven major process initiatives, covering most of the Commission's work. Each of these initiatives is leading to a key innovation in the way the Commission does its work. Together these innovations represent an integrated package that will enable the Commission to meet the challenges it faces in the new century:

Initiatives	Major Factors
Promoting competitive markets	Market-based Rates and Pro-competitive Solutions, Market Monitoring
Authorizing and monitoring energy projects	Balancing Developmental and Non-developmental Factors
Resolving disputes	Alternative Dispute Resolution, Complaint Rule, Time Line for Initial Decisions, Hotline
Building bridges	Customer Outreach, Better Interagency Coordination, Pre-filing Collaboration
Strategic planning	Customer Responsiveness, Performance Tracking
Managing information technology	Electronic Filing, Posting, and Workflow Management
Developing employees	"Strategic People Planning," Mentoring, Training, Leadership

Change Implementation. During FY 1999, the Commission has been implementing these initiatives. Milestones have included the creation of the Office of Administrative Litigation, combining legal and technical staff to handle litigation; instituting employee and management development plans; finalizing organization plans for the Office of Strategy and Organizational Management, the Office of Markets, Tariffs, and Rates, and the Office of Energy Projects. FY 2000 will see the implementation of the electronic filing pilot, changes to the automated management information system, new process

Office of Administrative Litigation, combining legal and technical staff to handle litigation; instituting employee and management development plans; finalizing organization plans for the Office of Strategy and Organizational Management, the Office of Markets, Tariffs, and Rates, and the Office of Energy Projects. FY 2000 will see the implementation of the electronic filing pilot, changes to the automated management information system, new process pilots, roll-out of new processes and staff training, and the final establishment of the Commission's new organization, Target 2000.

The new FERC will communicate better with constituents, have clear strategic direction and technological sophistication, and make faster decisions. Internal operations will make greater and more effective use of teams, fewer layers of review, and consensus-based resolution of issues. The Commission will enhance employee development through strategic planning, improving leadership skills, making use of new methods for encouraging learning and sharing of knowledge, and giving greater recognition to employee responsibility and empowerment.

FERC First will have a significant impact on how the Commission serves its customers. The Commission's reengineering effort will prepare it for the 21st Century and represents a comprehensive response to both the letter and the spirit of the 1993 National Performance Review and the Government Performance and Results Act of 1993.

Target 2000 Organization

The Commission has begun to implement the Target 2000 organization proposed by FERC First. While the existing organization's offices are segregated by industry, the new offices bring together the experts needed to handle each work process from beginning to end. The reorganization includes several new offices.

Office of Markets, Tariffs, and Rates. The Commission is integrating its economic regulation of the natural gas and electric industries to ease resolution of issues arising from the convergence of the two industries and maximize the realization of economic benefits. A comprehensive energy markets program will consider natural gas and electric industries together and look at short and long term markets together.

Office of Energy Projects. The energy projects office will bring together the environmental and engineering resources of both hydropower licensing and natural gas certification to address developmental, nondevelopmental, and safety issues related to energy projects.

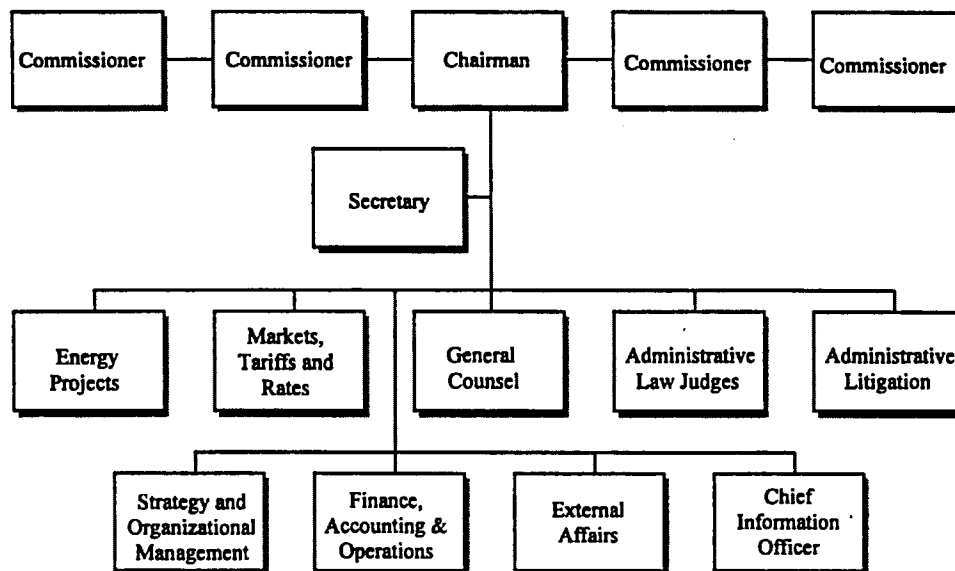
Office of Administrative Litigation. The new Office of Administrative Litigation consolidates technical and legal trial staff for more efficient handling of cases set for hearing.

Office of Finance, Accounting, and Operations. This office includes budget funding, internal and external accounting policy, financial audits, internal controls, the Uniform System of Accounts, procurement, and operation of facilities.

Office of Strategy and Organizational Management. This new office coordinates future management review and change initiatives, and aligns human resources with strategic planning.

The organization is shown in the chart below.

FERC Target 2000 Organizational Structure



ENERGY MARKETS

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1999	FY 2000	FY 2001
	<u>Actual</u>	<u>Estimate</u>	<u>Request</u>
FUNDING	\$55,075	\$59,613	\$61,836
FTEs	610	631	631

Introduction

The Commission's overall objective in regulating energy markets is delivery of reliable, competitively-priced energy services, with customers protected from the exercise of market power. Oil pipeline and natural gas commodity markets have been competitive for some time. Electric power markets are becoming much more competitive in most of the country, placing stress on existing market and regulatory institutions. In each industry, the Commission has fostered the emergence of competitive markets and now must address key market issues by formulating new regulatory approaches.

The electric and natural gas industries are in the process of merging, and the Commission is anticipating their merger by combining electric and natural gas staff into one office to focus on whole energy markets rather than individual companies. This chapter addresses energy markets issues in general, and within each section also addresses each industry separately.

This chapter discusses the Commission's goals for its work in energy markets, key initiatives currently underway for reaching those goals, and ongoing work that also addresses the goals. Achievements in the last year appear in the last section of the chapter.

Goals of the Energy Markets Program

The Commission's goals for energy markets are:

- To promote competitive, well-functioning markets
- To protect customers

At the core of the Commission's efforts is the need to ensure that increasingly competitive energy markets provide real benefits to consumers.

**Promoting
Competitive, Well-
Functioning Markets**

Where market forces in the electric power, natural gas, and oil pipeline industries can discipline prices and behaviors, market-based approaches can generally be relied on to fulfill Commission goals. Toward this end, the Commission unbundled the commodity (electric power or natural gas) from transmission and required open-access transmission. Major Commission initiatives, Order No. 636 in natural gas and Order No. 888 in electric power, have been important contributors to the development of competitive markets.

While the Commission has promoted market-based regulatory strategies for some time, the pace of competition in natural gas and electricity has intensified over the past few years. Open access has been extremely successful, but opportunities remain for regulatory actions to further the goal of competitive markets. The Commission is developing creative responses to the tension between increasingly deregulated commodity markets and transportation markets that are mostly regulated. As the electric and natural gas industries reorganize and converge, the Commission responds to increasingly interrelated regulatory issues.

Energy companies address these issues by developing innovative organizational and technical solutions. Besides maximizing the value of their commodity holdings by investing in risk management or other strategies to improve management of their energy portfolios, they may develop the electric power side of their business to capture the value of natural gas, reorganize, reengineer their own company processes, form new alliances, diversify into telecommunications or information technology, or merge with other firms.

Not all competitive goals can be met simply by identifying areas where market forces can be allowed to work with little or no explicit regulatory guidance. As long as some aspects of the industries are not sufficiently competitive, regulatory action may be needed to ensure overall well-functioning markets for electric power, natural gas, and oil. In many cases, regulatory action is necessary to develop the institutions needed for markets to function competitively. In electric power, a transmission information system, the Open Access Same-time Information System (OASIS), was designed to provide information needed to ensure comparable access to transmission. In natural gas, the Commission fostered the development of a secondary market for pipeline capacity by structuring a program for release of capacity.

As the size of the unregulated portion of competitive energy markets increases, the Commission must pay increasing attention to how its own regulations impact on, or are circumvented by, these changing competitive market forces. This need will be particularly important in the coming years, as the competitive environment becomes more fully realized. Even in areas that do not yet appear competitive, it is important to consider how regulation in these areas affects the functions of areas that are competitive. For example, in examining short-term natural gas markets, the Commission is exploring how more flexible approaches to regulating short-term natural gas transmission will enhance the performance of natural gas markets generally.

Protecting Customers

Although competition has evolved rapidly, key aspects of these industries continue to exhibit monopoly characteristics and may entail disproportionate market power. They therefore require regulation under the Federal Power Act, the Energy Policy Act of 1992, the Natural Gas Act, the Wellhead Decontrol Act, and the Interstate Commerce Act.

Constraints on Market Power. The Commission must continue regulating along traditional lines where competition is not adequate. However, alternatives to traditional cost of service regulation, such as incentive- or performance-based regulation, may lead to better-functioning markets. The goal in either case is to achieve potential efficiencies, while protecting customers by constraining market power through regulation and, if necessary, mediation.

The Commission retains responsibility for ensuring just and reasonable rates for oil pipelines and for transmission and sales for resale of natural gas and electric power. By continuing to apply traditional regulatory approaches to transmission and monitoring markets where necessary, the Commission can protect customers from the exercise of market power. However, the Commission is actively promoting competition, thus rendering traditional regulation less necessary. In its place, the Commission will monitor markets to ensure that market-based regulatory strategies remain effective. Monitoring will be particularly important as the competitive market develops, to identify transitional problems and correct them early.

Grid Reliability. The transition to competition places many new stresses on the electric transmission grid. Today's transmission systems were planned and constructed in an era of monopoly power and traditional regulation. They were not designed to support the diverse actions of many new market players or the large volume and new patterns of trade. The benefits of competition will be lost if these developments are permitted to decrease the reliability of the transmission systems, but no clear federal authority yet exists to establish or enforce standards that would maintain the security of the grid. A proposal currently before Congress would formalize the Commission's role in addressing this issue.

Promoting Goals through Dispute Resolution and Communication

In the interest of promoting competitive, well-functioning markets and protecting customers, the Commission must often address disputes between two or more parties and must facilitate effective communication. The Commission has established a number of processes for resolving disputes and reaching out to customers, and is exploring new ones.

Implementing the Goals through Key Policy Initiatives

The Commission has several key initiatives underway to promote competitive markets and constrain market power.

Electric Policy Initiative

Increasing Reliance on Market Institutions: The RTO Initiative. In May 1999, the Commission issued a Notice of Proposed Rulemaking (NOPR) on regional transmission organizations (RTOs). Informed by numerous public comments, the Commission issued the final rule – Order No. 2000 – on December 20, 1999.

The Commission's objective, as stated in Order No. 2000, is for all transmission-owning entities in the nation, including non-public utilities, to place their transmission facilities under the control of appropriate RTOS in a timely manner. To that end, Order No. 2000 establishes minimum characteristics and functions for appropriate RTOs and a collaborative process by which public utilities and non-public utilities that own, operate, or control interstate transmission facilities, in consultation with state officials as appropriate, will consider and develop RTOS. It also lays out a proposal to consider transmission ratemaking reforms on a case-specific basis; an opportunity for non-monetary regulatory benefits, such as deference in dispute resolution and streamlined filing and approval procedures; and a time line for public utilities to make appropriate filings with the Commission to initiate operation of RTOS. As a result of this voluntary approach, the Commission expects jurisdictional utilities to form RTOS. If the industry fails to form RTOS under this approach, the Commission will reconsider what further regulatory steps are in the public interest.

The order states that RTOs must embrace four core characteristics:

- independence;
- appropriate scope and regional configurations;
- adequate operational authority; and
- responsibility for short-term reliability.

It further states that RTOs must perform eight key functions:

- tariff administration and design;
- ancillary services;
- congestion management (1 year after start-up);
- Open Access Same-Time Information System (OASIS) – determining available transmission capacity (ATC);
- market monitoring;
- procedures to address parallel path flow issues (developed and implemented 3 years after start-up);
- planning and expansion (3 years after start-up); and
- interregional coordination.

The Commission is encouraging the development of RTOs to promote competition and reliability in bulk power markets. Possible changes include improving the OASIS system and reforming transmission pricing. The Commission is committed to ensuring that RTOs are truly independent and can operate the transmission system in a reliable, open, and nondiscriminatory manner. It will undertake regional workshops across the country to involve jurisdictional and nonjurisdictional utilities, state officials, and affected interest groups in this process.

The creation of regional transmission entities under new forms of ownership or control requires the resolution of many contested technical issues to ensure that the reliability of the system is maintained and statutory requirements are met. The Commission is well-equipped to resolve these issues through alternate dispute resolution procedures or, if necessary, through litigation. For the near future, RTOs will require a significant investment of Commission time and resources.

Gas Policy Initiatives

Regulated Rates and Services for Transportation. The Commission's statutory obligations under the Natural Gas Act (NGA), the Natural Gas Policy Act, and the Wellhead Decontrol Act are to maintain just and reasonable rates for natural gas transportation, to protect consumers of natural gas from the exercise of monopoly power, and to establish a regulatory framework that improves the competitive structure of the natural gas industry to maximize the benefits of wellhead decontrol. The current regulatory model is a hybrid that has evolved from total regulatory control of monopoly interstate natural gas pipelines to a regulatory environment designed to foster competition. The basic regulatory tools include control over the price of, nature of, and access to natural gas transportation services, and control over entry into and exit from natural gas transportation markets.

The Commission's open-access policies have spawned many changes in the market. The Commission is now undertaking an initiative to improve the efficiency, transparency, and competitiveness of natural gas markets. Further, it is exploring expanded use of competitive market forces in its oversight of the natural gas transportation market. In large part, this initiative stems from recognition that the current regulatory model in many ways does not fully advance the Commission's mission and goals. The natural gas initiative is intended to generate a regulatory strategy capable of achieving the Commission's goals of promoting competitive markets and protecting customers from abuses of market power. The strategy is also intended to facilitate achievement of the industry's goals of 4 to 8 Tcf of additional gas consumption nationally by 2010.

The Commission issued a NOPR proposing a market-based approach to regulation of the short-term transportation market. The primary proposals include removal of the rate cap for all short-term transportation services, required auctions for all short-term transportation capacity, and negotiation of terms and conditions of services. The NOPR also requested comments on possible changes to the Commission's certificate policies to ensure that needed construction will occur without overbuilding. The Commission simultaneously issued a Notice of Inquiry (NOI) requesting comments on a variety of long-term transportation issues in light of market changes and the regulatory changes proposed in the NOPR. The NOI sought comments on whether the Commission should modify its long-term market pricing policies by moving away from traditional cost-of-service ratemaking or by modifying the current ratemaking methods.

The initiative seeks to foster competitive markets and mitigate residual market power. In selecting regulatory strategies to achieve these goals, subsidiary objectives to be considered are:

- providing appropriate incentives for pipeline operations, customer choices, and optimal level of construction;
- monitoring for discrimination and the exercise of market power;
- minimizing any adverse financial impact from regulatory changes; and
- using fair and administratively efficient regulatory approaches.

Market Need for More Pipeline Capacity. In deciding whether a proposed pipeline project is required by the public convenience and necessity, the Commission must consider the effects of the project on the public. In the NOPR on the regulation of short-term natural gas services, the Commission sought comments on whether its existing policy for authorizing new construction requires changes in light of current market conditions. In September 1999, the Commission approved a new policy clarifying that project sponsors must be prepared to develop the project without relying on subsidization by existing customers. The result is that incremental pricing, in which construction costs are recovered only from customers that benefit from the new project, is preferred to rolled-in pricing. This policy is discussed in more detail in the chapter on Energy Projects.

Oil Pipeline Initiatives

The oil pipeline industry continues to face significant change in areas as basic as locations of supply and delivery, as traditional supply sources are replaced by new origin markets. These changes require both construction of new facilities and more innovative use of existing plant to respond to the market's needs. A prime example of this change is the increased use of Canadian crude oil to feed refineries traditionally served by local area indigenous production.

To allow the oil pipeline industry to cope with rapidly changing circumstances, the Commission has established a generally applicable indexing methodology that allows for greater efficiency and ease in filing rate changes while protecting users of the pipelines' services. It has also delineated three alternatives to that methodology: traditional cost-of-service rates; market-based rates; and negotiated or settlement rates. Most pipelines have taken advantage of the new relaxed regulations when filing rate changes under the simplified indexing program. The pipelines are also using the other modified procedures, such as waiver requests for short-notice filings to streamline filing procedures. Several pipelines also have obtained market-based rates for certain areas of their systems upon showing a lack of market power. As an integral part of the generally applicable indexing methodology, the Commission will conduct a review of the selected index after 5 years of experience, after July 1, 2000. This first review will examine the relationship of the annual change in the index to the actual cost changes experienced by the industry.

The Commission continues to review and modernize its oil pipeline regulations with a view toward reducing the burden it places on the industry.

At the same time, it maintains the proper level of available information for the users of the pipelines' services and for the Commission to perform its mandated regulatory tasks. Future streamlining and burden reduction efforts are expected to focus on electronic submission of tariffs, information, and Form No. 6.

Working Toward the Goals Every Day

In the wholesale electric power, interstate natural gas, and oil pipeline markets, the Commission is promoting competitive, well-functioning markets and protecting customers from abuses of market power where necessary.

Promoting Competitive, Well- Functioning Markets

A key indicator of a competitive market is the range of suppliers. The more suppliers there are to serve a market, the more likely that the market is competitive. To ensure that customers have access to a range of suppliers, the Commission works to assure ease of entry into the market. The Commission also looks to increase the comparability of services so that no one supplier has an unfair competitive advantage. The Commission must ensure that efficient, reliable, nondiscriminatory transmission or transportation access is available for all wholesale electric suppliers, natural gas producers and marketers, and all energy customers.

Key Indicators

Key indicators of competitive, well-functioning market are:

- range of suppliers
- flexibility and liquidity
- ease and costliness of transactions
- innovation

The Commission recognizes that electric, natural gas, and oil pipeline markets are not fully competitive in all areas of the country. In those areas where competitive market forces are not sufficient to protect against the abuse of market power, the Commission works to ensure that the market is functioning well. A well-functioning market will be flexible and liquid, with prices becoming more responsive to changing conditions and prices for a commodity tending to converge. Transactions in the market will be easier and less costly as the market becomes more transparent and choices clearer. Innovative products and services should develop in response to customer needs.

The Commission is engaged in several varied approaches to ensure that the electric and natural gas markets are competitive and function properly.

Electric Markets. Efficient, reliable, nondiscriminatory transmission access for all wholesale electric suppliers and customers is the underpinning of future electric competition. The Commission expects that this competitive market will offer consumers more new products and many new suppliers. Further, as competition develops in the electric industry, wholesale electricity prices should become more responsive to market conditions by reflecting changing supply and demand conditions more quickly. As was evident in the case of natural gas, wholesale electricity price differences within each trading region should narrow as competitive markets evolve.

Market-Based Rates. Recent new entrants into wholesale electric markets include nontraditional sellers, such as independent power producers and

power marketers. They are usually permitted to charge market-based rates because they lack market power in generation and transmission. The Commission may conclude that there is a lack of market power where neither the new entrants nor their affiliates own transmission facilities or control significant amounts of generation. Increasingly, the Commission also is allowing traditional public utilities and their affiliates to sell at market-based rates if they can demonstrate certain conditions. They need to show that they have mitigated generation and transmission market power, and that they cannot keep competitors from entering the bulk power market (through control of other inputs to the production of bulk power, such as fuel). They must also show that they are not engaged, and will not engage, in affiliate abuse or reciprocal dealing.

Power marketers, both independent marketers and those affiliated with traditional utilities, have become a major category of power sellers. Power marketers usually do not produce power themselves, but buy and sell power produced by others. Thus, while they do not increase the capacity available to meet the needs of consumers, they can contribute to increased market efficiency to the benefit of ultimate consumers. While an important indication of a competitive market, power marketers increase the Commission's workload because it must authorize their market-based rate schedules and monitor their actions in the marketplace.

Growing reliance on market-based regulation would place the Commission in a more responsive, as opposed to command-and-control, regulatory posture, making the collection of real-time market data critical for future consumer protection under the FPA and NGA. Under traditional cost-based regulation, where the Commission establishes a cost-based rate for a particular public utility, the Commission requires the utility to file periodically cost-based information useful to the rate-setting process. Under market-based pricing, certain cost-based data may become less important to the Commission.

However, under market-based pricing, the Commission must still ensure that market participants do not exercise market power. The Commission will therefore need to increase its monitoring of the market for wholesale power and refine its capabilities to handle complaints of market manipulation. With lighter handed regulation, there is a need for immediate information to understand markets in real-time. The Commission is already increasing its market surveillance. For example, the Commission put together a task force to study certain very high, short-term energy prices that occurred in the Midwest during the summer of 1998. On the recommendation of this Midwest task force, the Commission established an interdisciplinary price monitoring team that tracks pricing and related market events. The Commission anticipates that this market surveillance effort will grow and will require shifting Commission resources from other areas.

Utility Restructuring. The open access rule and the restructuring activities by many state commissions are leading a large number of utilities to restructure their corporate organizations. FY 2000 is continuing to see a dramatic increase in the number of traditional electric utilities that auctioned their generation plants as a first stage toward state-mandated direct retail access.

These state programs will allow the retail customer to select its power supplier and have the electricity delivered by the local transmission/distribution utility, much as retail telephone customers can now select their own long distance provider. Electric utilities also may choose to reorganize their corporate structures for many reasons, including strategic alliances with other utilities, diversification, or as part of state retail choice programs. Such restructuring often involves a disposition of facilities under the FPA that requires the Commission's authorization.

The Commission continues to see a significant increase in the number and types of proposed corporate reorganizations. In addition to unprecedented numbers of mergers involving combinations of electric utilities, the Commission is receiving a number of proposals for "convergence mergers" – electric utilities merging with natural gas pipelines and distributors. Convergence mergers raise many new and difficult market power issues. Some independent system operator (ISO) proposals are developed as a result of proposed mergers, and others are at the direction of state public utility commissions' initiatives on retail choice. Finally, we expect that the transformation to competitive electric markets may also cause utilities to create separate transmission, generation, and distribution entities to replace the existing vertically integrated corporate structure. Reorganizations along functional business lines, in turn, may include further consolidations in each functional area with new regional organizations.

Mergers. The Commission must ensure that no significant increase in market dominance will result from a merger or other corporate restructuring. The Commission must also ensure that ratepayers will be protected from any negative effects of the merger. When the merger involves a registered public utility holding company, the Commission must know that the merged entity will abide by the Commission's inter-company policies designed to protect ratepayers from affiliate abuse. The Commission employs the Department of Justice/Federal Trade Commission's merger guidelines for these purposes. The Commission also examines barriers to entry of new competitors into the market. Such entry is important in mitigating adverse effects of the corporate mergers.

The Commission recognizes that merger proposals are business decisions made in response to market pressures and opportunities, and are thus entitled to timely decisions and regulatory certainty. Accordingly, in FY 1998 the Commission issued proposed streamlined merger regulations to reduce the regulatory burden on public utilities seeking to merge, while continuing to safeguard the public interest. The proposals included the use of modeling to forecast competitive effects in relative markets.

Merger applications are often contested and extremely complex. For example, competitors who view proposed business combinations as imposing greater barriers to market entry or eroding their relative market share may vigorously oppose mergers and acquisitions. The Commission expects the number of corporate applications filed, including mergers, to increase seven fold between FY 1995 and FY 2001. This increase, combined with the complexity of these cases resulting from the competitive dynamics of

electricity markets, including cases set for hearing, has created a significant workload burden on the Commission.

State Restructuring Initiatives. State restructuring efforts will continue to move the industry toward more competition and retail customer choice of electric power suppliers. Nearly all of the states are actively involved in investigating whether and how to restructure their retail electric power markets. The Commission plays a critical role in implementing state programs because these initiatives involve transmission by public utilities in interstate commerce, over which the Commission has exclusive jurisdiction.

Some restructuring proposals, such as California's, require a large commitment of Commission time and staff resources because of the sheer magnitude of the institutional changes and the large number of policy and legal calls involved. For example, when a power exchange – a centralized trading institution that receives power from various sellers and provides it to various buyers – is proposed, the Commission must ensure that those wholesale power sellers that are public utilities cannot exercise market power. Where divestiture of ownership or control of transmission assets is proposed, the Commission also must approve the disposition of transmission assets. Some of these proposals may involve innovative transmission pricing proposals. The Commission has adjusted its policies and procedures to fit the special and regional characteristics of these new institutional structures.

Examples of RTOs are Independent System Operators (ISOs), transmission companies (TRANSCOs), grid companies (GRIDCOs), and wires companies (WIRECOs). These new terms can be subject to various definitions.

Regional Transmission Organizations. The Commission supports the creation of regional transmission organizations (RTOS) to help implement electric industry restructuring and reduce the vertical integration of power generation and transmission. RTOs are being encouraged because of their potential to remedy undue discrimination in the provision of transmission service and to consider regional approaches to transmission pricing.

The move to regional institutions represents a major evolution in electric industry structure and is a central element in many state and regional restructuring initiatives. This move has just begun, and the Commission has reviewed and approved only a handful of regional proposals. When fully implemented, the Commission believes these new institutions can resolve many issues that would otherwise consume the Commission's resources. In Order No. 888, the Commission provided guidance to the industry on how to structure ISOs, one kind of RTO, to make them work in a nondiscriminatory manner. The idea underlying ISOs is that the existing owners of transmission facilities would turn over operational control of these facilities, but not ownership, to an independent grid manager. The Commission has approved five ISOs that will operate in California, New York, New England, the Midwest, and the Mid-Atlantic. Four of these are fully operational (California, New England, the Mid-Atlantic states, and New York).

Open Access Same-Time Information System (OASIS). Order No. 889 requires electric transmission providers to use the Internet-based OASIS to inform potential customers of the price and availability of service and other related information. OASIS works to ensure that transmission providers and their affiliates do not have an unfair advantage in selling and reserving transmission capacity.

Market monitoring is the systematic review, evaluation and analysis of market design, rate design, industry structure, attitudes, relationships, and behaviors to determine the most efficient or appropriate market, so that competitive markets are promoted and customers are protected.

Market Monitoring. The Commission is currently developing its monitoring activities. Some areas to be monitored are: market failures, shortages, reliability congestion, price spikes, market design, affiliate/sales function preference and other discrimination issues, information collection requirements and burdens, and forecast evaluations.

In March 1999, the Commission approved, with modifications, a market monitoring plan proposed by the Pennsylvania-New Jersey-Maryland Interconnection (PJM). Under the plan, PJM will establish a market monitoring unit (MMU) with a broad range of responsibilities to ensure competition and prevent any undue influence by participating members. The MMU will monitor all electric power transactions to ensure participants' compliance with PJM's standards and procedures.

Block-Forward Market. The Commission has accepted a request from CalPX Trading Services (CTS), a division of the California Power Exchange Corporation, to establish a Block-Forward Market. This is an optional service available only to participants who meet certain credit criteria and execute a participation agreement. Block-Forward Market transactions will be subject to established trading rules that will be applied on a nondiscriminatory basis. CTS will assess a fee for all participants. Block-Forward Market provides for the trading of power at two delivery points in California during the 16-hour peak periods Monday through Saturday. Customers will submit bids and offers, which they may modify or cancel prior to a match. CTS will match the bids and offers and a match will form a contract binding the parties to deliver or accept power. Sellers and buyers will accomplish actual delivery of Block-Forward Market transactions by submitting bids into the PX Day-ahead market. The PX will schedule the power for delivery.

Next Hour Market Service (NHM Service). In December 1999, the Commission approved the North American Electric Reliability Council's (NERC's) request for NHM service. NHM service is a tool for the electric industry to promote markets and increase flexibility of their transmission services. This allows transmission providers to include in their open access transmission tariffs the right of customers to reserve transmission for a duration of one hour when the request is made within an hour prior to the transaction. This is intended to provide a simplified market for non-firm capacity that turns out to be available for next-hour service. NHM service is beneficial to both customers and transmission providers because it provides customers with an additional service option and should foster a streamlined, efficient opportunity sales market.

Natural Gas Markets. Competition now governs natural gas commodity markets, and market forces play an important role in the Commission's regulation of the transportation of natural gas, even though significant market power remains in the transportation market.

Initial Services. To capitalize on economies of scale and to minimize unnecessary, duplicative construction, the Commission, like the Federal Power Commission before it, regulated natural gas pipeline companies as monopolies. With the restructuring of the natural gas industry, pipelines have shifted from being merchants to transporters of natural gas. The sale of

natural gas has been unbundled from its transportation, allowing many new and varied competitors to enter the market. Thus, a market served by a single natural gas pipeline may be competitive if competitors have access to the pipeline capacity and offer services that compete with those offered by the pipeline.

The work done by the Commission to authorize initial services in large part improves the range of suppliers by bringing new services and suppliers to a market. For example, new natural gas pipeline projects, including pipeline expansions, offshore pipelines, and import projects, can provide competitive alternatives for existing markets. Storage projects can provide supply flexibility for existing markets. Many major projects serve both new and existing markets.

In addition, the Commission expects to continue to receive filings in response to its policy allowing natural gas pipelines to acquire capacity on other pipelines under certain circumstances. Where the costs of new construction and the related environmental impact render construction uneconomic, the policy makes available capacity on upstream or downstream pipelines attractive to markets.

Market-Based Rates. As part of its effort to lighten regulation and rely more on market forces, the Commission offers interstate natural gas pipelines flexibility to charge other than traditional cost-of-service rates for natural gas transportation. If a company lacks market power, competition in the market will ensure just and reasonable rates. The Commission allows market-based rates for services only if the pipeline makes a persuasive case that it lacks market power in the particular market to be served. The Commission considers a variety of factors, such as the number of alternatives a customer has to the pipeline's service, in determining whether a pipeline lacks market power.

Negotiated Rates. Under the negotiated/recourse rate program, the Commission allows a pipeline and shipper to negotiate mutually acceptable rates. If a shipper prefers, however, it will still be entitled to continue with service under the existing cost-of-service rate (the recourse rate). Negotiating different rates for individual shippers allows individually tailored seasonal rates or short-term transactions to meet customers' special needs. The resulting array of rate options offers the potential to increase market responsiveness in pipeline services without protracted disputes regarding pipelines' market power.

Open Access and State Restructuring. The success of the Commission's open access program in the interstate natural gas industry has prompted efforts to extend the benefits of restructuring to the state level. Individual states have begun moving forward with retail unbundling programs tailored to meet specific local needs. The Commission's goal is to ensure an environment in which natural gas users can reap the benefits of the restructured interstate natural gas market created by Order No. 636 and retail unbundling, when they are chosen as preferred policy at the state level.

The Commission recognizes that a generic approach may not work for each state. Therefore, the Commission has encouraged an environment that will allow state commissions and local distribution companies to implement retail unbundling in a manner that also accommodates the Commission's goals for the pipeline grid. An example of this policy involves Atlanta Gas Light Company. The Commission has issued the authorizations necessary to enable Atlanta Gas Light Company to implement the interstate capacity assignment provisions of its retail customer choice program. The Commission also fosters communication with state and industry participants regarding the relationship between the federal regulation of interstate natural gas pipelines and the unbundling of retail natural gas service at the state level.

Natural Gas Industry Standardization. The Commission's ongoing work with the Gas Industry Standards Board (GISB) is a prime example of how the Commission has encouraged a healthy gas market by implementing standardized business practices. As a voluntary organization composed of representatives of many segments of the industry, GISB developed and adopted standardized business practices aimed at simplifying the process of transacting business across the interstate natural gas pipeline grid. The Commission reviews and adopts those standards and subsequently reviews individual filings by natural gas pipeline companies to comply with those standards. By standardizing business practices, transacting business with multiple pipelines and suppliers should be easier for customers. If transactions are easier and less costly, customers should also have more flexibility. As part of its effort to make business transactions easier and less costly, the Commission requires, by June 1, 2000, that natural gas pipelines conduct all business transactions over the public Internet through a dual communication system using standardized interactive web sites and computer-to-computer file transfers.

Flexible Service Regulation. The Commission also authorizes pipeline-specific proposals to implement many new, innovative services. The Commission is receiving and approving pipeline filings for flexible services and negotiated rates to increase capacity use and to meet individual customer needs. For example, the Commission has authorized an hourly firm transportation rate schedule, limited availability services for niche markets, and volumetric and seasonal rates. In particular, specialized tariff services are enabling natural gas pipelines to serve electric generation markets. The Commission also authorizes an increasing array of new services such as parking and lending and market hub services that meet the needs of individual customers.

Monitoring the Natural Gas Industry. To learn how well the natural gas market is functioning, the Commission has increased its monitoring effort as an integral part of its market-oriented approach to regulating the market. While the Commission monitors the marketplace to fulfill its statutory obligations to protect against undue discrimination and the exercise of market power, monitoring is also important to foster competition. The Commission requires pipelines to file various reports and to post information on Internet sites. Current data collections provide the Commission and the public with an array of financial and accounting information and a significant quantity of

transactional data. The data helps the public, other market participants, and the Commission monitor the market.

Gas Research Institute. The question of funding for research, development, and demonstration in the natural gas industry has been an issue since open access and competition have hampered the pipelines' ability to collect the current Gas Research Institute (GRI) surcharge. After exploring long-term funding issues including the funding for a voluntary noncore program with GRI and industry participants, the Commission approved a settlement agreement in FY1998 that results in the continued funding of GRI for a core program that would provide for research and development for the general benefit of the gas-consuming public. The settlement, currently being implemented, provides for the phase-in to fully voluntary funding by the end of its seven-year term.

Oil Pipeline Markets. Since the Commission began more market-driven regulation for the oil pipeline industry, regulations have established filing requirements for market-based studies to guide the industry in using this methodology as an alternative to traditional cost-of-service based regulation. While still relatively more burdensome than the light-handed indexing methodology, several oil pipelines have chosen this alternative for changing rates, to enable responding to market forces. In this past year, the number of oil pipelines requesting market-based determinations has increased by nearly 70 percent over the entire previous ten-year period. As the industry attempts to structure new proposals to more effectively compete in the market, the Commission has become a working partner in resolving problems, while continuing to provide mandated protection of the pipelines' users.

Protecting Customers

In addition to fostering competitive and well-functioning electric and natural gas markets, the Commission must ensure that customers are protected from the exercise of market power. This often involves the application of traditional regulatory techniques such as cost-based rates and service regulation.

Market Power

Market power is the ability to withhold capacity or services to increase prices to customers without related increases in cost or value, or the ability to price discriminate to make higher than normal profits.

Constraining Market Power in the Electric Industry. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, in many parts of the country, significant concentrations of generation are in the hands of one or a few local companies. The Commission must monitor and assess whether utilities can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission's response to market power issues in market-based pricing and in reviewing and mitigating, if necessary, any undesirable effects of mergers on competition must be both appropriate and timely. Market participants must have confidence that electric markets are working fairly and that they will not be subject to market power abuse.

Cost-Based Rates. The Commission is refocusing its electric regulatory efforts by shifting from setting cost-based rates for wholesale power suppliers to allowing market forces to set prices wherever possible. However, the

Commission establishes just and reasonable cost-based rates for transportation services in markets that are not fully competitive. The Commission ensures that rates reasonably reflect the cost of providing that service.

Interlocking Directorates. To prevent adverse effects on the public interest through self-dealing and other abuses, the FPA restricts the activities of public utility officers and directors. Careful review by the Commission of interlocking positions is increasingly critical as public utilities diversify. Moreover, formation of ISOs, which may have officials of other public utilities as directors, will raise new issues regarding interlocking directorates.

Qualifying Facilities and Public Utility Regulatory Policies Act (PURPA) Issues. PURPA authorizes the Commission to certify small power production and cogeneration facilities as qualifying facilities (QFs) and, in certain cases, to exempt them from some federal and state regulations. PURPA regulations require electric utilities to buy electricity from QFs at a rate that does not exceed the utility's cost of producing the electricity itself or acquiring it elsewhere (i.e., the "avoided cost").

An on-going issue concerns purchasing utilities challenging the QF status of generators seeking to invalidate contracts. The Commission expects to see the continued filing of complaints involving allegations of QF noncompliance. Other PURPA-related workload will continue at the current level over the next several years.

Constraining Market Power in the Natural Gas Industry. While the Commission may introduce competition into portions of the natural gas transportation market, residual market power is likely to exist, particularly with respect to captive customers who have limited alternatives. Where residual market power exists, the Commission's responsibility is to mitigate the exercise of market power by protecting against undue discrimination and excessive rates. Mitigating market power also includes the need to use regulatory methods to ensure that pipelines receive the right incentives to build – or not to build – new capacity, and to protect against the exercise of market power by nonpipeline market participants. Constraining market power is the primary goal of most of the Commission's statutory workload.

Service Terms and Conditions. Another important aspect of the Commission's traditional workload is service terms and conditions. The Commission reviews proposals to implement or modify natural gas and oil pipeline services to ensure that those services contribute to a competitive, well-functioning market. The Commission limits service discrimination against captive customers by ensuring that certain customers not receive special services and that all services are published in rate schedules.

Cost-Based Rates. In the natural gas commodity market, prices are set by the market. However, in transportation services, where the markets are not fully competitive, the Commission ensures that rates reasonably reflect the cost of providing the service. By maintaining a price cap on pipeline capacity, cost-based rates restrain a natural gas pipeline's ability to charge monopoly prices during peak periods. By permitting discounting, the Commission's cost-

based rate regulation also supports a competitive market by allowing efficient allocation of capacity at rates below the maximum tariff-based rate.

Constraining Market Power in the Oil Pipeline Industry. The Commission ensures the availability of information customers need for making informed judgements. It also provides a forum for the expeditious resolution of differences. The Commission focuses on reducing burden for both the pipeline industry and the pipeline users.

Other Issues Related to Electric Markets. The Commission is looking at several issues that could affect its future regulation of electricity markets.

Grid Reliability. System reliability is critical to the success of a competitive electric industry. Currently, no clear federal authority exists to establish reliability standards for the bulk power transmission grid or to enforce such standards. Regulators and industry participants have relied on voluntary industry organizations such as NERC and its regional reliability councils to establish rules and standards to maintain the security of the grid. However, compliance with those standards has been neither mandatory nor applicable to all market participants.

As the electric market becomes highly competitive, the number of market participants and the volume of transactions that affect the operational demands on the system are expanding. This has created a situation where reliability standards need to be mandatory and enforced to protect the integrity of the bulk power system.

It is also becoming more apparent that reliability rules may have commercial impacts on competitive electric markets. The Commission has of necessity become involved in determining whether certain reliability provisions are just and reasonable terms and conditions of transmission service under the FPA. Increasingly, the Commission is receiving complaints that reliability rules are being administered in a discriminatory way.

Federal Legislation to Restructure the Electric Utility Industry. As of September 1999, a number of electric restructuring bills had been submitted in both houses of Congress. These bills would address significant issues affecting the electric industry. Several provisions, if enacted, could significantly affect the Commission in FY 2000, FY 2001, and beyond, because they would clarify or expand the Commission's regulatory authorities.

The key issues addressed in most of the pending bills include: making all transmission-owning utilities, including the power marketing administrations and municipal and electric power cooperative utilities, subject to Commission jurisdiction for purposes of ensuring just, reasonable and not unduly discriminatory transmission access; clarifying the Commission's authority to order regional transmission organizations; giving the Commission authority to approve and oversee a private, self-regulating organization that would develop mandatory reliability standards for electric service; repealing the Public Utility Holding Company Act of 1935, with enhanced access by the Commission and state regulators to books and records of utilities to protect

consumers; and prospectively repealing the PURPA provisions requiring utilities to purchase power from qualifying facilities. Most of the bills also encourage development of retail electric markets and clarify the Commission's authority over unbundled retail transmission.

These provisions could significantly affect the resource needs of the Commission's energy markets program and could require increased staffing. However, future needs will depend on the final provisions of any legislation Congress eventually enacts. Because of the uncertain timing and scope of restructuring legislation, the Commission is not requesting additional resources in this budget to address these potential responsibilities.

Resolving Disputes and Communicating Effectively

Some of the processes the Commission uses to work toward its goals involve resolving disputes and promoting effective communication.

Resolving Disputes. It is critical to the development of competitive, well-functioning energy markets that the Commission create and maintain a suitable environment within which energy industries can operate. In this regard, the Commission must be able to assure the users of utility services that utility rates are just and reasonable, and that all terms and conditions of service are fair and not unduly discriminatory. Disputes generally arise when one party believes that it has been treated in an unduly discriminatory manner in an attempt to secure capacity, rates, or terms and conditions of transportation service.

While the Commission approves many settlements, it must, of course, resolve fairly and equitably those cases that do not settle. The Commission has streamlined the process by which complaints and declaratory orders are handled to make this service as fair and expeditious as possible. The Commission uses a variety of processes, including hearings before administrative law judges, litigation teams to represent the public interest, orders and rehearings, and appellate advocacy should a case go to court. Trial staff participates in cases set for hearing before an administrative law judge by providing trial teams, consisting of attorneys and technical experts, to represent the public interest. To facilitate the formal litigation process, the Commission developed expedited time lines applicable to cases set for hearing.

The vast majority of cases sent to litigation are resolved through the negotiation and settlement process – a more cost effective and efficient means of resolution available to the parties, and a point of primary emphasis for the Commission's litigation staff and administrative law judges. Of the cases set for litigation, 80 percent are either fully or partially settled. To maintain and enhance this record where possible, the Commission has trained staff in alternative dispute resolution (ADR) techniques, employs ADR specialists, and has streamlined settlement procedures.

The Commission has also established a service center of excellence for alternative dispute resolution, to promote an environment in which the affected entities can achieve consensual resolution of their disputes. Dispute

Resolution Service staff will provide ADR services throughout the Commission and to the Commission's external customers, when appropriate; function as mediators, facilitators, and neutrals on cases involving external participants; help identify other potential neutrals within and outside the Commission; and conduct educational outreach on the use of ADR techniques. This service is covered in more detail in the chapter on program support. In addition, the Commission has maintained a "settlement judge on-call" service for 2 years and appoints judges to serve as settlement judges and mediators to resolve disputes more expeditiously. These procedures are extremely effective and have resulted in significant cost savings to all parties. The Commission's Enforcement Hotline also provides an informal toll-free call-in service to its customers, in an attempt to resolve disputes in the most cost-effective and timely manner possible.

Communicating Effectively. The Commission is undertaking a systematic effort through its Ombudsman to build relationships with Congress, federal and state agencies, and other stakeholders. The Commission is committed to open and continuous communication with all interested parties in its formulation of generic policy. For example, as part of the RTO NOPR, the Commission moved beyond the normal comment procedures to include staff-level conferences targeted at various segments of the market and the issues they face. These outreach efforts take many forms, such as Commission conferences, staff technical conferences, Congressional staff meetings, and pre-filing meetings.

The story is much the same with the natural gas initiative where the Commission has conducted informal outreach meetings with industry groups. The Commission has also held a series of industry-wide conferences on topics such as state unbundling of natural gas services and projected gas and pipeline capacity demands for the Northeast.

FY 1999 and First Quarter FY 2000 Achievements

Achievements: Competitive, Well- Functioning Markets

Electric Markets Achievements. In FY 1999 and the first quarter of FY 2000, the Commission had several achievements in the area of electric markets.

Electric Policy Initiative. After a lengthy process of conferences, consultations, and a NOPR, the Commission issued on December 20, 1999 its rule on RTOs, Order No. 2000. This policy is discussed in this chapter in the section on key initiatives.

Utility Combinations with Foreign Companies. In June 1999, the Commission cleared the way for the first utility combinations with foreign companies. ScottishPower received permission to acquire PacificCorp. PacificCorp is a public utility serving about 1.4 million customers in six western states. The Commission also approved the purchase of the New England Electric System (NEES) by NGG (part of Britain's National Grid Group). NEES is made of 6 companies in the New England area and serves

about 1.3 million customers in Massachusetts, New Hampshire and Rhode Island. The NGG is the owner and operator of the electric transmission network in England and Wales.

Ancillary Services. In May 1999, the Commission developed a new policy to balance the advantages of a competitive market with the need to guard against potential anticompetitive behavior. The policy allows companies with market-based rate authority for power (and for energy) also to sell ancillary services at flexible rates, if they establish an Internet-based site. The Commission believes that the market for ancillary services – the back-up and support services for reliable operation of the electric transmission grid – is just beginning to develop. Thus it is sometimes difficult for companies to obtain the information necessary for a complete market analysis for ancillary service markets. The Internet site, which would include such information as service availability and prices, would help guard against potential anticompetitive behavior through market monitoring.

Technical Conference on Capacity Benefit Margins. In May 1999, the Commission held a technical conference on capacity benefit margins (CBM). NERC defines CBM as “that amount of transmission transfer capability reserved by load serving entities to ensure access to generation from interconnected systems to meet generation reliability requirements.” Variations in defining and calculating CBM, and its impact on available transmission capacity for open-access transmission, prompted the Commission to hold the conference. This matter has been raised in several individual filings at the Commission. Some customers are concerned that some utilities may be manipulating CBM to disadvantage competitors. Utilities generally support recognition of CBM as necessary to maintain service to customers in case of emergencies.

In July, 1999, the Commission issued an order which provides much needed clarification on the computation of Available Transmission Capacity (ATC) and its critical component, CBM, and goes a long way to ensuring that ATC calculations are clear, transparent, understandable and verifiable. The order requires transmission providers to post their CBM figures; provide clear explanations as to their CBM practices; update their CBM set-asides to capture the benefit of better information as to load, temperature and contingencies; identify precisely what entities can use CBM during generation emergencies; and clarify that CBM is available to any transmission customer on a nonfirm basis. The order also directs transmission providers, working through NERC, to develop a standardized CBM methodology.

Open Access Transmission. The Commission continues to administer the open access transmission tariff. This entails reviewing and analyzing numerous requests for new service and monitoring the rates, terms and conditions for the requested services. Among the requests for new service are an increasing number of filings to revise the open access tariff to accommodate retail access programs and to place retail supplier under the tariff. Throughout the year, the Commission has acted on numerous complaints concerning (1) allegations of excessive open access transmission rates, (2) violations of the functional unbundling requirements under Order

No 888 and standards of conduct under Order No. 889, (3) refusal to offer interconnections, and (4) denial of transmission service. Also, an increasing number of filings involve requests for waiver of Order Nos. 888 and 889 and the filing of new reciprocity open access tariffs.

Reliability and Congestion Management. Over the past year, the Commission issued several orders that implement the framework for transmission reliability in response to the NERC initiatives. In an order dated December 16, 1998, the Commission reviewed NERC's transmission line loading relief (TLR) procedures and directed each transmission operating public utility in the Eastern Interconnection to file revised, interim TLR procedures to address parallel flows associated with native load transactions and network service as well as with point-to-point services. Also in that order, the Commission directed those transmission operating public utilities in the Eastern Interconnection that had not already developed regional congestion management programs through their power pools to identify and file interim redispatch solutions, with particular emphasis on solutions that could be implemented by the 1999 summer period. Subsequently, on May 12, 1999, the Commission accepted NERC's interim TLR procedures along with a proposal to modify NERC's procedures to include a transaction contribution factor to separate flows on constrained transmission facilities between point-to-point uses and network uses. Finally, in an order issued May 17, 1999, the Commission approved a Mid-Continent Area Power Pool (MAPP) redispatch proposal similar to the NERC redispatch program. MAPP's redispatch program provides for redispatch of generating units in lieu of curtailment due to constraints of approved firm point-to-point transmission transactions and approved firm network transmission transactions.

ISO and Restructuring of Markets. Over the past year the Commission has issued orders authorizing the establishment of the Midwest ISO and the restructuring of the New York Power Pool, the New England Power Pool, and the Pennsylvania-New Jersey-Maryland Interconnection. A major concern with each of these proposals is that both members and non-members are treated comparably and pancaked rates are eliminated. The Commission also approved various market rules for ISOs, including rules on how the ISO will determine market prices for various products.

OASIS Phase 1-A. In January 1999, the Commission issued OASIS Phase 1-A, a NOPR that would establish standardized business practices. The NOPR proposes a set of uniform business practices, implementing the Commission's policies on transmission service price negotiation. It also improves interactions between transmission providers and customers over OASIS nodes, and proposes to revise the Commission's current regulations to require compliance with these practices.

Natural Gas Markets Achievements. In FY 1999, the Commission had several achievements in the area of natural gas markets.

Gas Policy Initiatives. The Commission is identifying the essential elements of an efficient model for the regulation of the interstate natural gas pipeline

industry in light of current and expected changes in the industry. The initiatives are discussed in this chapter under Key Initiatives.

Natural Gas Industry Outreach. With the natural gas initiative, the Commission staff has, in FY 1999, conducted about 30 informal outreach meetings with all industry groups to explore issues relating to visions of the future and the regulatory changes that would be required to meet those visions. The Commission has held a series of industry-wide conferences on the following topics: (1) issues relating to state unbundling of natural gas services and how our current regulations facilitate or hinder those efforts; (2) projected gas pipeline capacity demands for the northeastern portion of the United States; and (3) issues relating to revisions to electronic filing requirements.

Service Terms and Conditions. The Commission continued to receive and approve pipeline filings for flexible services and negotiated rates to increase capacity utilization and to meet individual customer needs. In FY 1999, these included hourly firm transportation rate schedules, semi-firm rates schedules, limited availability services for niche markets, and volumetric and seasonal rates.

Gas Industry Standardization. In FY 1999, the Commission adopted additional standards proposed by GISB. These rules will increase coordination and standardization of gas industry business practices and communications to facilitate natural gas transportation of the interstate pipeline grid.

Achievements: Protecting Customers

Electric Regulation Achievements. In FY 1999, the Commission had several accomplishments related to protecting customers in the electric area.

Grid Reliability. In April 1999, the Commission accepted the Western Systems Coordinating Council's (WSCC's) proposed Reliability Management System. The Commission agreed to participate on a limited experimental basis in WSCC's reliability standards by enforcing those standards. The Commission agreed that alternative dispute resolution (ADR) processes should be used before any disputes are sent to the Commission. The Commission also agreed to assume a role in resolving disputes about violations of the WSCC standards.

In May 1999, the Commission approved NERC's revised interim procedures designed to relieve congestion on the transmission systems caused by parallel flows. Transmission loading relief (TLR) procedures are designed to relieve overloads on a transmission facility that could cause that facility to malfunction. The TLR procedures call for the reduction, or curtailment, of transactions that flow across that facility. The Commission also accepted a NERC pilot redispatch program that relies on counterflow transactions to avoid transmission constraints. This pilot program will provide transmission providers and customers with information on potential constraints through a type of electronic bulletin board. Customers would have the opportunity to arrange for counterflow transactions to avoid curtailments.

Also in May 1999, the Commission approved a Mid-Continent Area Power Pool (MAPP) redispatch proposal similar to the NERC redispatch program. MAPP's redispatch program provides for redispatch of generating units in lieu of curtailment due to constraints of approved firm point-to-point transmission transactions and approved firm network transmission transactions. MAPP would grant customers the option of redispatch to prevent curtailment of an approved firm transaction after determining the comparable curtailments among networks, points-to-point, and native loads required on a constrained facility.

Market Surveillance. The Commission established an interdisciplinary price monitoring team, a proactive initiative for market surveillance. The team's work will provide information that will help the Commission, state public utility commissions, and other public policy makers make informed decisions on the necessity for any immediate preventative measures or long-term policy initiatives as wholesale power markets complete their move from cost-based rate regulation to market-based competitive pricing.

QF Recertifications. As an increasing number of non-traditional utility entities (e.g., independent power developers) combine with or acquire generating facilities from electric companies, questions arise regarding qualifying facility status of the projects owned by these entities. In December 1998, the Commission addressed its regulations as they apply to situations where an owner of a qualifying facility changes its status from a non-electric utility to an electric utility. In a series of applications, the Commission reiterated that an entity that changes its status to that of an electric utility cannot hold more than a 50 percent equity interest in a QF on a forward-looking basis.

Natural Gas Pipelines Achievements. In FY 1999, in the natural gas pipeline area, the Commission had a significant accomplishment related to protecting customers.

Conference on Federal and State Regulation of Natural Gas Services. The Commission held a conference to discuss the relationship between the federal regulation of interstate natural gas pipelines and the unbundling of retail natural gas service at the state level. The Commission recognized that the relationship between state retail unbundling and federal regulation of the pipeline system has important implications for the smooth functioning of the natural gas pipeline grid. The dialogue among the Commission, state regulatory commissions, and industry representatives helped further the Commission's goal of encouraging an environment that will allow state commissions and local distribution companies to implement retail unbundling in a manner that also accommodates the Commission's goals for the pipeline grid.

**Achievements:
Resolving Disputes
and Communicating
Effectively.**

All Industries. In FY 1999, the Commission had significant achievements related to energy markets, in the area of resolving disputes and communicating effectively.

Alternative Dispute Resolution. Quick resolution of disputes is essential to the operation of competitive markets. Please see the section on resolving disputes above, and the chapter on Program Support for a discussion of this important Commission effort and accomplishment.

Revised Complaint Procedures. In FY1999, the Commission revised its procedures for handling complaints. The changes will ensure that all complaints will be handled in a timely, efficient and fair manner in light of the significant, market-driven changes occurring in the industries that the Commission regulates. The revised procedures provide an early warning system for identifying potential market problems and enable the Commission to respond more effectively to activities in the marketplace. Timely response to complaints also helps protect the interests of aggrieved parties.

Expedited Time Lines in Cases Set for Hearing. When settlement is not possible or warranted, the Commission's regulatory responsibilities demand the expeditious development, consistent with the due process rights of the parties, of a full and complete record upon which the Commission can base its decisions. To that end, the OAL and OALJ recently developed a set of guidelines that establish expedited time lines within which the majority of processing for individual cases is to be completed. On average the time to litigate many cases will be reduced as much as one third.

Expedited Approval of Uncontested Settlements. The Commission has instituted process improvements that will result in faster approval of uncontested settlements certified to the Commission by OALJ. The new process will provide in the OALJ certification of settlement and draft Commission letter order the information formerly provided to the Commission by staff memorandum, thereby reducing Commission review time. Under this procedure the Commission anticipates approval of the settlement within 45-60 days of certification. An added benefit from this procedure is the fact that all documents will now be public.

Oil Pipeline Achievements. In FY 1999, the Commission had significant accomplishments in the area of oil pipelines regulation.

Oil Pipeline Dispute Resolution and Outreach. In FY 1999, the Commission promoted the use of alternative dispute resolution procedures by setting 4 contested oil pipeline tariff disputes for settlement judge procedures rather than sending them directly to hearing. In the area of outreach, Commission staff has provided expert assistance to other governmental agencies, industry groups, private concerns, and foreign governments in resolving oil pipeline related matters. Staff has been involved in many meetings between Russian government officials and members of the Department of Energy; an interagency governmental group concerning crude oil pricing; presentations to the Association of Oil Pipelines to relate information on Commission oil pipeline requirements; and discussions with Congressional staff concerning the possible alternatives for legislation concerning outer continental shelf oil pipeline regulation.

ENERGY PROJECTS

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1999 <u>Actual</u>	FY 2000 <u>Estimate</u>	FY 2001 <u>Request</u>
FUNDING	\$44,206	\$42,141	\$43,538
FTEs	429	363	363

Introduction

The Commission is responsible for licensing **nonfederal hydropower projects** and certificating **interstate natural gas pipelines**. These projects have economic, environmental, and cultural implications, all of which must be considered in the licensing or certificating process. In addition, the Commission is responsible for the safety of hydropower projects and the operational safety and reliability of liquified natural gas (LNG) storage facilities.

Many hydropower licensing disputes revolve around natural resource issues. While gas certification involves fewer and different environmental issues, both processes require addressing not only the economics and engineering issues of project development but also environmental and community impacts. With this in mind, the Commission is bringing together its environmental and engineering experts in one office.

This chapter discusses the Commission's goals for its work in hydropower and natural gas projects, key initiatives currently underway for reaching those goals, and ongoing work that also addresses the goals. Achievements during FY 1999 and the first quarter of FY 2000 appear in the last section of the chapter. Each section addresses separately the issues specific to hydropower and natural gas projects.

Goals of the Energy Projects Program

The Commission's goals for hydroelectric and natural gas pipeline projects are:

- To protect and enhance environmental and public benefits, including power development
- To ensure the safety of hydropower projects

- To balance the interests of natural gas customers, applicants, landowners, and the environment
- To achieve timely, optimal pipeline project construction

At the core of the Commission's efforts is the need to ensure that energy projects are sustainable environmentally and economically.

**Protecting and
Enhancing
Environmental and
Public Benefits,
Including
Hydropower
Development**

Electricity generated from the power of falling water is economic, renewable, available for peak demand, and without emissions – a valuable contribution to, and a significant component of, the nation's energy mix. But because hydropower projects use and affect a variety of important natural resources, they must adjust to increasing concern for the environment and shared jurisdictional authorities, while competing in rapidly changing energy markets.

Public concern about the environmental impacts of hydropower operations continues to increase. This heightened concern, reflected in a host of environmental laws, results in many additional requirements in new licenses. The Commission is focusing on resolving the many conflicts over licensing that arise before the filing of an application and is continuing staff involvement through post-licensing. Early and sustained collaboration among diverse participants is effective in finding solutions.

While the Commission's responsibility under the Federal Power Act is to strike a balance among the many competing power and nonpower interests, various statutory requirements give other agencies a powerful role in the licensing of projects. The Commission must share its licensing conditioning authority with numerous state and federal agencies. These statutory authorities include the abilities of federal land management agencies to file conditions under section 4(e) of the Federal Power Act, federal fishery agencies to file fishway prescriptions under section 18 of the Federal Power Act, and state water quality agencies to require water quality certificate conditions under section 401 of the Clean Water Act. Shared jurisdiction poses unique challenges to the Commission in issuing timely and balanced licenses. Having everyone at the table early in the process and having better communication among agencies reduce the potential for conflicts.

**Balancing Interests
of Natural Gas
Customers,
Applicants,
Landowners, and
Environment**

One area of the natural gas industry that has remained regulated in a traditional way is the authorization of interstate gas pipeline construction projects. Even there, the Commission is looking at significantly different approaches for meeting the time-sensitive needs of the competitive market while properly addressing environmental and landowner concerns.

The Commission expects to respond to a continuing need to construct new pipelines or expand existing facilities to serve growing markets or to compete in existing markets. New market potential is expanding due to higher demand for gas. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the

geographic mixes of production and consumption. The Commission will encourage efficient gas pipeline construction to provide individual customers and market entrants with increased choice and reliability of service by giving them multiple supply and delivery options.

At the same time, the Commission will continue to balance and protect the competing interests of pipelines, individuals, organizations, and resources affected by the application of eminent domain for new and replacement construction of natural gas pipeline infrastructures. Greater participation by landowners will require increased efforts by the Commission to address their concerns adequately. The Commission has designed its certificate policies to avoid unnecessary environmental and community impacts and to mitigate necessary ones.

Achieving Timely, Optimal Pipeline Construction

The Commission is implementing changes in its regulations and processes to respond more quickly to anticipated market need for additional pipeline facilities. For example, Order 603, issued in April 1999, streamlined the certificate process and clarified filing requirements. This helps applicants to make complete filings, thereby reducing processing time and allowing faster decisions on proposed projects.

Ensuring the Safety of Hydropower Projects

The Commission's internationally-recognized dam safety program ensures that the dams under its jurisdiction are properly constructed, operated and maintained. Because of the increasing number of older dams under the Commission's jurisdiction, continued vigilance is particularly necessary. As engineering technology, tools, and procedures improve, the Commission conscientiously facilitates sharing of knowledge, and it works with licensees, the engineering community, and federal and state agencies to maintain its outstanding dam safety record.

Promoting Goals through Dispute Resolution and Communication

In the interest of resolving differences between stakeholders in the licensing process and furthering understanding and cooperation through communication, the Commission promotes the alternative licensing process and collaborative settlements. Building on the success it has had in these areas, it also participates in the Interagency Task Force, as described below. In natural gas pipelines certification, the Commission holds conferences and meetings to provide information, and comes to agreement with numerous agencies on issues that cross agency lines.

Implementing the Goals through Key Policy Initiatives

The Commission has several key initiatives underway that address its goals for energy projects.

Hydropower Initiatives

Realizing Multiple Benefits: Interagency Task Force. To improve relations with federal and state agencies, the Commission is participating in the Interagency Task Force. It consists of five work groups: federal agency coordination; state agency coordination; *ex parte*; collaborative process; and economics. The goal of these work groups is to improve routine communication, reduce duplication, and find practical ways to work together more efficiently. Thus far, the federal mandates working group has agreed on ways of improving the Commission's noticing procedures and the National Environmental Policy Act (NEPA) process. In addition, the collaborative process work group has developed a set of guidelines for participating in the Commission's alternative licensing process.

The work of the Interagency Task Force will be of significant interest to non-federal participants in the licensing process, such as licensees, Indian Tribes, and non-governmental groups. Accordingly, an advisory committee to the task force was formed under the Federal Advisory Committee Act to provide a forum for non-federal entities to review and provide comments on the deliberations of the task force.

Some efficiencies have already begun. For example, an immediate benefit is that agencies get involved early in the process. By modifying Commission notices to indicate the involvement of federal or tribal lands and to specify license expiration dates, agencies are better aware of their responsibilities. This will help ensure full agency participation early in the process.

Ensuring Safe Projects: Focus on Aging Hydraulic Components. The proper functioning of the hydraulic components of dams is critical to ensuring dam safety. Without proper functioning of the hydraulic machinery, penstocks, conduits, gates, and spillways, the necessary control of reservoirs can be lost, resulting in dam failure. While the Commission's role and responsibility regarding dam safety are quite different from those of other agencies such as the Corps of Engineers, the Bureau of Reclamation, and the Federal Emergency Management Agency (FEMA), all have common technical dam safety concerns. In addition, the rest of the dam safety community, including dam owners, state dam safety agencies, and engineering consultants, has expertise and a vested interest in technical dam safety issues. The Commission is coordinating within the dam safety community to focus attention on hydraulic component safety problems. The goal is to develop the proper technical approach to assuring the safety and adequacy of aging hydraulic components of dams.

The first such endeavor is the Tainter Gate Initiative (see FY 1999 and First Quarter FY 2000 Achievements). Following problem identification, the Commission identified dams with the potential for developing the specific problem, determined the resolution path, and followed through on actions needed to avert the problem development at each site. The Commission recently led a technical workshop on this problem with representatives from the entire dam safety community. This investigative process will be used on new hydraulic component issues and problems as they develop, to produce sound and proper technical approaches.

Natural Gas Pipelines Initiatives

Balancing Multiple Competing Interests: Gas Policy Initiatives. The Commission has undertaken several initiatives dealing with certifying natural gas pipelines.

Streamlining Certification. Order No. 603, issued April 29, 1999, streamlined the gas pipeline certificate process to better fit the unbundled nature of today's pipeline sales and open-access transportation services. The order allows better response to changes in competitive market forces by, among other things, expanding the scope of blanket certificates to let pipelines construct, operate, rearrange, replace, and abandon more facilities automatically. Order No. 603 helps protect both customers and the environment by clarifying the specific information needed for a complete application, and expedites the certification process by establishing procedures to reject patently deficient applications for proposed projects before the Commission spends significant resources unnecessarily. The order requires pipelines to file more complete applications and sets a time limit of 10 days for the Commission to issue a notice of the application or reject patently deficient applications.

The Certificate Policy Statement. The Certificate Policy Statement, approved by the Commission in September 1999, sets forth the steps the Commission will use to balance the public benefits against the potential adverse consequences of an application for new pipeline construction. The Commission will approve an application for a certificate only if the public benefits from the project outweigh any adverse effects. Under this policy, pipelines are encouraged to submit applications designed to avoid or minimize adverse effects on relevant interests including effects on existing customers of the applicant, existing pipelines serving the market and their captive customers, and affected landowners and communities.

Key to this policy is the preference of incremental pricing in which construction costs are recovered only from customers that benefit from the new project, over rolled-in-pricing. A threshold requirement for approval, that project sponsors must be prepared to develop the project without relying on subsidization by the sponsor's existing customers, protects all of the relevant interests.

Collaborative Process. The Commission has also offered natural gas pipelines the option of engaging in a voluntary collaborative process with the public and Commission staff before filing an application for a certificate to construct or abandon new facilities. The goal is to improve communication, expand public participation, and resolve potential conflicts earlier in the filing process. Under the new option, applicants notify the Commission, the public, including landowners, and state and local government officials of their intention to start pre-filing consultations. In addition to resolving disputes at an early stage of the process, applicants also have the option of working with Commission staff and other interested parties to complete environmental studies in advance of a formal filing.

Working Toward the Goals Every Day

Through its ongoing casework, the Commission is working toward its goals for energy projects.

Protecting and Enhancing Environmental and Public Benefits

Hydropower facilities provide tangible benefits to the regions where they are located. These benefits include additional recreational opportunities, economic benefits through commercial development, and the generation of electricity without use of fossil fuels. At the same time, operation of hydropower projects can adversely affect resources such as water quality, fishery resources, water-based recreational uses, terrestrial resources, and cultural resources. The Commission's challenge is to preserve the project benefits, while enhancing environmental resources.

The Commission's licensing and post-licensing processes have the multiple intents of maintaining power generation, enhancing and protecting the environment, and enhancing recreational assets of water resources. Integral to these processes is the participation of a myriad of stakeholders, including local citizen groups, power users, Native American tribes, environmental organizations, fish and wildlife agencies, and the hydropower companies. Through this participation, the Commission's authorizations address the needs of the stakeholders affected by the hydropower facilities.

Hydropower Benefits

Hydropower regulation promotes long term safety and sustainable development of an important renewable resource, and provides economic, environmental, recreational, and other public benefits. Hydropower represents 98 percent of all renewable energy sources.

Over the next 10 years, more than 220 project licenses will expire. Many of these projects significantly affect regionally important environmental resources. In the relicensing process, the Commission will facilitate participation by the many stakeholders to ensure that the outcome protects and enhances the environment while maintaining project generating capacity. To meet these challenges, the Commission will use the alternative licensing process and monitor benefits to environmental and recreational resources.

Hydropower Project Authorizations. Nonfederal hydropower projects must obtain Commission authorization if they are on lands or waters subject to Congressional authority. The Commission issues licenses for terms up to 50 years for projects "best adapted to a comprehensive plan" for improving a waterway for beneficial public purposes. Benefits include power generation, irrigation, flood control, navigation, fish and wildlife, municipal water supply, and recreation. Preliminary permits, issued for 3 years, reserve rights to study the feasibility of hydropower development at a specific site, but do not authorize construction of any hydropower facilities. Exemptions (from licensing), issued in perpetuity, are limited to sites involving existing dams or natural water features, for projects of less than 5 megawatts. The Commission also issues conduit exemptions for small hydropower facilities on conduits that are not used primarily for generation of electricity.

Preliminary Permits. The number of applications for preliminary permits has risen dramatically in the past year. The 187 preliminary permit applications filed in FY 1999 are more than 20 times the number filed in FY 1998. These

Protecting the Public in the Case of License Surrender

The removal of Grist Mill's dam and the restoration of its site on the Souadabscook Stream in Maine was completed with positive local reviews. A previous owner had raised the dam above the authorized level and failed to repair a fishway. After negotiating with staff, the exemptee agreed to surrender the exemption, remove the dam, and restore the site. The Commission staff worked closely with interested local agencies, who provided financial assistance and volunteer labor.

hydropower facilities, purchase new facilities, add capacity to existing projects, or surrender uneconomical projects. In addition, the increased demand for commercial and residential development around project reservoirs has led to more license amendments for such authorizations. During its review of proposed changes, the Commission must consider the environment and the full range of public benefits.

License Surrenders. Licensees and exemptees may decide to surrender their hydropower authorizations because a project is no longer economical or because natural catastrophes have damaged or destroyed project facilities. To protect the environment and the public, a license or exemption may be surrendered only upon agreement between the licensee or exemptee and the Commission. In recent years, the surrender review process has become more complex, with a corresponding increase in staff involvement, because of increased sensitivity to the environmental implications of ending Commission jurisdiction.

If construction of a licensed project has commenced, the Commission consults resource agencies that provided the original terms and conditions. It seeks input from the public to ensure that local environmental issues are considered in the surrender proceeding. It also prepares an environmental assessment of any need for restoration for public safety and environmental integrity. These measures may range from simply locking a perimeter gate to removing a dam.

License Transfers. Electric restructuring is prompting many licensees to reevaluate their generating assets. As a result, the Commission is receiving more applications to transfer hydropower project licenses. Before restructuring, the Commission received an average of about 25 transfer applications per year. In FY 1999, the Commission received 73 applications for transfer, and it anticipates higher numbers in FY 2000 and FY 2001. Before approving a transfer, the Commission reviews the proposed transferee's eligibility and considers potential compliance problems. The Commission also works with transferees to ensure they understand their responsibilities under the license or exemption.

Land Use Issues. Amendment proposals requesting authorization for commercial development create opportunities for the public to enjoy these reservoirs and enhance local economies. They also present challenges for the Commission to provide for a reasonable balance between developmental interests and wildlife and fishery values of the water resources.

One way to reach this balance is to develop shoreline management plans that consider both economic and environmental resource values. The Commission encourages licensees and, in some circumstances, requires them, to develop shoreline management plans, in cooperation with resources agencies, property owners, local governments, and other interested entities. Licensees typically revise these plans periodically, with the Commission's approval, to accommodate changes to environmental and economic circumstances.

Compliance with Authorizations. The Commission's post-licensing compliance program includes monitoring, compliance assistance, and penalty

Shoreline Management Workshop

Commercial and residential development at reservoirs associated with authorized hydropower projects require proactive management of the shorelines. To assist the hydropower industry in developing effective shoreline management, the Commission will provide a forum for staff and licensees to exchange information. Participants will discuss licensee and Commission perspectives on shoreline management, including management tools and techniques, shoreline stabilization, project boundary issues, unauthorized encroachments, and innovative shoreline management programs.

Snake River Relicensing

The relicensing of eight projects on the Snake River in Idaho and Oregon, including the Hells Canyon Project, will create significant interest for the next 5 to 10 years. The Commission's proactive approach includes looking at anadromous fish issues at the Hells Canyon Project, studying potential water use conflicts, and evaluate existing models to assess water quality and flow-related effects.

applications are for projects at U.S. Corps of Engineers or other existing lock and dams and employ new design technology.

The new design involves a faster, cheaper, more environmentally friendly method for installing turbine generators at existing dams. Instead of the conventional design, where the turbine generator is inside the dam or powerhouse, this design installs a turbine generator unit externally, on the face of an existing dam or on a slab built on a river bank next to the discharge area. Using siphons and existing gates and water conduits keeps costs down by minimizing disruption to land and water resources. Installation can take less than eight weeks and construction can be as little as ½ to ¾ the cost of conventionally designed facilities.

The Commission expects an additional 100 permit applications at other existing dams throughout the U.S. by the end of FY 2000. About half these permits are expected to result in license application filings beginning in FY 2002.

Licenses: Alternative Licensing Procedure. The number of applications using this alternative approach is increasing each year. The resulting licenses have been issued in less than half the time required for applications that did not use the collaborative approach, and have demonstrated increased consideration for the environment. The alternative licensing procedure (ALP) gives potential licensees the option of filing a preliminary draft NEPA document with their application. The ALP also promotes early identification of issues, and cooperation and collaboration to resolve issues during the pre-filing consultation phase of hydro licensing.

Working collaboratively with the full range of hydro interests has these benefits:

- enhanced opportunities for stakeholder input in shaping the relicensing process;
- increased regulatory efficiency through state and federal agency cooperation;
- reduction or elimination of unresolved issues at the time license applications are filed; and
- early implementation of environmental enhancement measures.

Exemptions. Very few applications for exemption from licensing are filed each year, and those that are filed take very little effort to process. The result is small but reliable generating facilities, making use of existing potential hydropower sites across the country, with little adverse environmental effects.

Third Party Contractor Qualification. The Commission first qualified contractors for applicant-prepared environmental impact statements 6 years ago. The Commission is now revising its list of qualified contractors. More than 30 companies have filed information on their qualifications.

Changes to Hydropower Project Authorizations. Competitive electric markets and new regulatory frameworks require licensees to continually reevaluate their projects. As a result, licensees may divest themselves of

assessment under Section 31 of the Federal Power Act. The compliance program ensures that licensees observe the terms and conditions of licenses, which are designed to protect and enhance the environment and provide benefits to the public.

Performance-Based Flow Releases

At one project, the Commission required an evaluation of the public's response to recreational flow releases. The results of this study and the input of resource agencies and white water boaters allowed the Commission to revise required flow releases to better accommodate white water boating needs and reduce effects of white water releases on project performance.

Post-Licensing Monitoring. Most licenses issued today require post-licensing monitoring. Monitoring the hydropower project provides data on the performance of mitigative measures, such as fish passage facilities, fishery habitat improvements, wildlife benefits, recreational enhancements, and cultural resource protection. It ensures that the measures are implemented, and also determines whether the measures are sufficient for the level of environmental benefits envisioned at the time of licensing. New licenses frequently incorporate performance measures. These licenses identify goals for environmental resource protection or enhancement and create a mechanism for measuring whether the goal is achieved.

Cooperative procedures have been helpful in achieving post-licensing monitoring objectives. More performance-based conditions are being developed through the collaborative licensing efforts, as parties to the licensing process recognize the importance and necessity of their role to fine tune environmental conditions and ensure their success.

The Commission will continue to help licensees meet their post-licensing monitoring obligations in partnership with other agencies and participants. Early efforts focused on helping project owners with small projects or recently issued licenses and exemptions. In FY 2000 and beyond, the Commission will expand this proactive effort to all licensees and exemptees.

Penalty for

Unauthorized Construction

A licensee paid a \$50,000 civil penalty for starting excavation and construction without prior authorization from the Commission.

Penalty Avoided

Alternative Energy's Brighton Dam Project did not own sufficient rights to perform dam safety work without prior approval of the Washington Suburban Sanitary Commission (WSSC), the owner of the dam. The Commission worked with the parties to allay WSSC's concerns about water supply and help the licensee obtain sufficient rights. Expensive litigation and civil penalty were avoided.

Compliance Audits. In general, compliance audits are on-site field investigations by multi-disciplinary teams. Part of the effort is to anticipate, identify, and solve compliance problems, to focus attention and resources where they are needed most. Compliance audits also provide an opportunity for the licensee's personnel to ask questions of Commission staff and to get to know the people who handle their problems. These face-to-face meetings always improve communications.

Small projects benefit most from audits, because their financial and personnel resources are often limited. Compliance staff provides them valuable expertise and advice. Most important, compliance assistance can spot problem areas before they become safety and environmental concerns.

Civil Penalties. The primary goal of the civil penalty program is to achieve compliance with the terms and conditions in each license, exemption, or permit that protect and enhance environmental resources. The Commission offers technical guidance and support, including several outreach programs. In addition, technical staff meets with industry members and other interested parties to forge solutions to new or complex compliance issues. If all else fails, however, the Commission may initiate a civil penalty proceeding, either to obtain compliance, or to penalize licensees, exemptees, or permittees for violations having serious public safety or environmental implications.

Protecting Endangered Species

In three different instances over the past year, operation of hydropower facilities reportedly resulted in the taking of fish that are either listed or proposed for listing. The Commission thoroughly investigates these cases and requires measures to preclude further taking of the species.

Unexpected Contingencies. Throughout a license term, events occur that require immediate Commission action to arrest environmental problems. These events may be construction problems resulting in fish kills, dam repairs resulting in environmental problems, or project operation endangering recently listed threatened and endangered fish. In each habitat conservation case, the Commission must implement measures to protect affected environmental resources.

With a dramatic increase in the numbers of salmon species on the threatened and endangered species list, conflicts are increasing between operation of existing hydropower facilities and protection of listed species. In this regard, the Commission is currently consulting with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service on operations of several projects in four river basins.

Other Elements of Hydropower Authorization. Other hydropower work includes the following.

Headwater Benefits. Section 10(f) of the Federal Power Act directs that the owners of nonfederal hydropower projects who receive energy benefits from upstream federal storage reservoirs must reimburse the upstream project owners for part of their capital costs. The Commission conducts river basin studies and determines the assessments, which are returned to the U.S. Treasury. Approximately \$6 million is collected annually for benefits received from 116 federal headwater projects throughout the country.

Federal Lands. When federal lands are reserved for waterpower purposes, the Commission must review any applications for other uses of those lands. Other uses may include mining claims, oil and gas leases, mineral leases, rights-of-way and revocations under the FPA. The review allows the Commission and the Bureau of Land Management to protect existing licensed projects from adverse impacts from outside parties. It also allows for federal lands not affected by a project to be opened for other beneficial public uses.

Ensuring the Safety of Hydropower Projects

The Commission is charged with statutory responsibility for the safety of nonfederal hydroelectric projects. Through inspections and studies, the Commission ensures that dams are kept in good shape and monitors them to help prevent unanticipated dam safety incidents. As a second line of defense, emergency action plans make sure that the dam owner and community know how to deal with potential emergencies. Elements of the dam safety program are project inspections, engineering and environmental analyses, Part 12-D safety reviews, and emergency action plan tests.

Project Inspections. Inspections verify the structural integrity of dams and compliance with engineering, environmental, and public safety conditions and regulations. They also identify necessary maintenance and remedial modifications. The Commission is responsible for inspecting more than 2,600 dams and related water retention structures. It conducts periodic inspections starting from the receipt of an application for a proposed jurisdictional project, throughout the term of a license. Types of inspections

are prelicense, construction, operation, instrumentation, exemption, environmental and public use, safety, and special. The Commission's regional offices in New York, Atlanta, Chicago, Portland (OR) and San Francisco conduct the inspections.

Competition Brings Additional Strains To Dam Safety

As some large utilities begin to sell their hydropower projects, the Commission must make certain that the projects are properly monitored and maintained. Through its inspection program, the Commission is aware of changes and observes any resulting effects. These effects may require additional dam safety inspections and communications with licensees.

Inspections during project construction ensure that the constructed project complies with the approved design. They also ensure that project construction complies with all applicable federal and state environmental regulations and includes appropriate environmental protection measures, such as erosion control plans and flow monitoring systems. Construction inspections can uncover unexpected conditions (such as unknown foundation features) and any need for design changes.

When the project begins operation, focus shifts to ensuring safe operation and maintenance of the dams. Periodic, on-site operation inspections ensure that dams are maintained for long-term structural integrity of the project works and are remediated if necessary. They also ensure that licensees comply with license provisions. These inspections safeguard the continued operation of projects, as well as downstream lives, property, and environment.

Special inspections occur when special issues arise. These may involve potential dam safety problems, unauthorized projects, complaints about the construction or operation of projects, potential environmental problems, safety concerns, or compliance issues.

The Commission conducts environmental and public use inspections to confirm that licensees comply with the environmental and public use requirements of the license, and to ensure that the licensee appropriately protects the environmental resources. Commission environmental specialists also periodically review construction activities to ensure that dam safety and maintenance-related construction activities are environmentally responsible. In addition, the Commission makes special environmental inspections to investigate environmental compliance problems and environmental damage after flooding or earth or rock slides, and to determine appropriate protective measures.

Licensees benefit from the Commission's monitoring of advances in field investigative techniques.

Engineering and Environmental Analyses. The Commission keeps abreast of technological advances in field and laboratory investigative and analytical procedures, including innovative designs for proposed remedial modifications. Keeping abreast of advances in analytical techniques and dam technology is an important prerequisite to analyzing data and recommending modifications. The Commission requires licensees to use these new techniques for quality control. These efforts have typically resulted in cost savings associated with remediation and have sometimes eliminated the need for dam safety modification work.

To provide guidance to its engineering staff, dam owners, their consultants, and the rest of the dam safety community, the Commission publishes Engineering Guidelines for the Evaluation of Hydropower Projects. These guidelines specify the criteria, analytical methods, engineering parameters, and other engineering aspects related to the design, construction, monitoring, and operation of safe dams. The dam safety community widely requests and

relies on these guidelines. The Commission updates and expands the guidelines as necessary to ensure consistency with state-of-the-art technology.

Many dams, such as older embankment dams, were constructed without today's knowledge of design and construction practices. As research and technology advance, and as experience is gained on how these dams perform under various loading conditions, new engineering theories and solutions develop. Most dams, even old ones, are stable for most conditions, but the Commission must continually evaluate dams under extreme conditions, such as earthquakes and floods.

As dams age and undergo various stress conditions, such as floods and earthquakes, the Commission increases its monitoring and use of instrumentation data to decide whether the condition of the dams and their appurtenant facilities are changing. This procedure is the key to detecting potential problems before they become serious and deciding whether new remediation is necessary. With monitoring data available, the Commission will require licensees and their consultants to continually evaluate the condition and performance of their dams.

Part 12-D Safety Reviews. The Commission's dam safety program must ensure consistently high safety standards at high and significant hazard potential dams to maintain the lowest probability of failure. In addition to its own periodic visual inspections and evaluations, the Commission requires periodic independent consultant inspections of dams with high hazard potential. These inspections include a complete engineering assessment and inspection of the project works, with a detailed review of the project design and a thorough inspection of project structures. For quality control, Commission dam safety experts approve qualifications of independent consultants. They also thoroughly review all independent consultant inspection reports for validity of the analysis and conclusions and the need for additional studies or remedial measures.

Emergency Action Plan (EAP) Tests. All of the inspections, evaluations, remediation, and monitoring, however, cannot guarantee that emergencies will not occur. Therefore, a second line of defense to protect life, property, and the environment is the development, maintenance, and periodic testing of EAPs. These plans specify actions that owners must take, in coordination with federal, state and local preparedness agencies, in case of flood, earthquake, or project facility failure. The Commission is recognized as a national leader in EAPs and regularly shares its expertise with many other federal and state agencies.

Generally, emergency management service operations face shrinking resources with which to operate. Commission staff works closely with each unique situation to find innovative ways to achieve the shared objectives of saving life and property. In any dam safety emergency, quick, efficient, and effective response is the key to success. By helping the licensees be fully prepared, the Commission is serving the public by saving lives and protecting property and the environment.

Balancing Multiple Competing Interests in Natural Gas

The Commission addresses multiple competing interests and timeliness issues concerning natural gas certificates on an ongoing basis through its casework.

Construction Authorizations. Certification of new pipelines must be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

Pipeline Expansion. The pipeline industry is aggressively pursuing new markets after completing restructuring and gaining operating experience in the restructured environment. In the new competitive environment, pipelines are proposing to serve markets already served by other pipelines. Competing pipelines and landowners who question the need for the new projects vigorously contest many of these proposals. Processing these contested proposals requires significant resources.

Increasing availability of Canadian supplies and the growing market for natural gas in the Northeast will continue to result in large construction projects. The Commission also expects that Canadian gas and oil suppliers will seek additional markets for their products in the U.S., and that producers will explore options to export gas to Canadian and Mexican markets, which may require pipeline construction. Increased competition in these markets and customers' desires for multiple, competing sources of supply will generate more Natural Gas Act (NGA) Section 3 filings and related requests for Presidential permits for importing and exporting gas and oil. The Commission will also continue to see projects related to the extensive exploration effort on the offshore outer continental shelf and construction of pipelines to reach significant new gas supplies.

Growing demand in the New England, Mid-Atlantic, Midwest, and Southeast regions of the country will continue to lead to applications for major pipeline extensions and new pipelines to serve these regions. Meeting construction and service time frames will require analyzing contractual arrangements between parties and monitoring interconnection policies to ensure that competing pipelines may obtain access to markets, and that customers have choices for their gas supply needs. Processing of major construction projects will entail technical conferences and public meetings for environmental scoping and comments on draft documents, as well as the analysis of data responses, comments, protests, and other filings. Where multiple pipelines propose to construct facilities in the same area, either for the same or discrete markets, the Commission may explore options for reducing the cost and environmental impact of the facilities by considering joint facility construction.

Storage Development. The Commission expects to continue to receive applications for storage development for peaking capacity and supply flexibility, since customers will continue to be responsible for their own gas supply acquisition. Anticipated storage facilities include depleted gas fields, new leached-salt caverns, and LNG tanks. Commission review and approval of these projects, many of which will be located near market areas, is likely to generate significant public interest regarding competition, need, and environmental impact. As a result, the Commission may hold technical

conferences and public meetings before making decisions about whether these proposals are in the public interest.

Replacing and Upgrading Facilities. The Commission anticipates many replacement facilities because of the aging of the national pipeline grid. Replacing aging facilities is necessary for safe pipeline operations. A replacement project may be straightforward, with the pipeline proposing to merely remove old pipe and replace it with new pipe of the same diameter in the old right-of-way. Replacement projects can become much more difficult if the pipeline proposes to replace the old pipe with new pipe of a larger diameter, or to leave the old pipe in place, seal it off, and install new parallel pipe. Order No. 603 has streamlined the procedures for pipelines seeking to replace aging facilities by allowing many replacements to be done under the blanket construction certificate. Some of these projects may be done automatically, and some may require prior notice to the Commission before replacement can commence, but all are subject to the environmental conditions required by the blanket certificate.

Other Construction Issues. The Commission will continue to receive filings involving jurisdictional issues on its NGA Section 1(b) and 1(c) and Natural Gas Policy Act Section 311 authority over facilities and services. As retail unbundling accelerates, and the lines between interstate and intrastate commerce continue to blur, the Commission expects growing concern over the different treatment of intrastate and interstate facilities.

Environmental Analysis. Protection of the environment remains a top consideration in the processing of certificate applications. Under NEPA, the Commission will continue to perform required environmental analysis of all gas pipeline construction proposals. The purpose of this analysis is to avoid or mitigate adverse effects on water quality, vegetation and wildlife, historic and cultural resources, soils and geological resources, land use, and air and noise quality. The Commission conducts a thorough analysis of each of these areas before any certificate project can proceed.

The Commission will balance the need for thorough analysis with the need to improve processing time. The Commission continues to encourage the use of third-party contractors and applicant-prepared environmental documents. These alternatives have reduced the resources required for this workload area, and they offer the potential for accelerating the review process. However, Commission resources are still required to review the contractors' work to ensure accuracy and compliance with Commission policies.

Competing Interests. Environmental concerns play a significant role in the review of certificate construction applications. Pipelines are facing increased opposition from landowners as new projects are proposed in more heavily populated areas. When new pipelines propose to serve markets currently served by existing pipelines, the Commission must balance the benefits of alternative supplies of natural gas with the environmental impact of a new project. Landowners increasingly question the right of pipelines to use eminent domain in cases where the market determines the need for the project. Also, pipelines face timing concerns based on various environmental permitting requirements. As the certificate cases become more contentious, the Commission must devise new ways to issue certificates and address the

The Commission will continue periodic meetings with interested groups, such as the Canadian National Energy Board, the Pipeline Contractors Association, the Rocky Mountain Pipeline Contractors, the Interstate Natural Gas Association of America, and public officials representing various constituencies. The Commission will also continue to update its training seminars on environmental compliance, environmental report preparation, and cultural and historical resource requirements. In the past, incomplete filings have impeded the environmental review process. These seminars help applicants prepare complete certificate filings and significantly improve their processing.

The Commission's public information program on pipeline construction also enhances the review process. Informing the public of Commission processes and actions has helped resolve problems more quickly. The public information program includes:

- notification of all landowners whose land is crossed by pipeline right-of-way or who may be affected by noise levels;
- public notification of local environmental scoping meetings on proposed projects;
- public notification of preconstruction site inspections conducted by the Commission staff and other agencies on controversial projects;
- easy-to-understand brochures on the Commission's certification process;
- enhanced coordination with state agencies; and
- outreach programs explaining the Commission's environmental policies.

FY 1999 and First Quarter FY 2000 Achievements

Achievements: Protecting and Enhancing Benefits

In FY 1999 and the first quarter of FY 2000, the Commission had several achievements related to protecting and enhancing environmental and public benefits related to hydropower.

Alternative Licensing Procedure (ALP). With ALP successes building on each other, interest in the ALP has continued to increase. In addition to 6 projects already licensed using the ALP, by the end of FY 1999 the Commission received license applications on an additional 6 projects using the ALP. The Commission received 12 applications using ALP during the first quarter of FY 2000. This includes 9 relicense applications on projects with an existing combined generating capacity of 505.5 MW, and 3 applications for original licenses on small projects. The Commission expects that nearly 40 percent of license applications received between FY 2000 and FY 2003 will use the ALP.

intervening parties' concerns quickly. The Commission's reengineering effort and its gas policy initiative provide new, more effective ways to address diverse concerns, by developing collaborative processes among all affected parties and revising the *ex parte* rules to facilitate open communication.

Other Environmental Considerations. The Commission will continue its field compliance inspections of projects under construction. The Commission expects this work to increase substantially as the major pipelines discussed above are certificated and built. The Commission will also monitor restoration of rights-of-way on pipelines greater than two miles in length, which were built under the automatic blanket authority, and projects completed under Sections 2.55(b) and 284 of the Commission's regulations. Safety and operational integrity inspections of jurisdictional LNG plants will continue biennially according to an agreement with the Department of Transportation.

In coordination with industry groups and other federal agencies, the Commission is exploring an electronic geographic information system to allow the filing of digital maps, graphics, and photographs for use in environmental analysis.

Resolving Disputes and Communicating Effectively

The Commission has a number of methods of resolving disputes and communicating effectively to reach its energy projects goals.

Hydropower. The Commission is working with citizens, agencies, and groups interested in hydropower projects on several fronts. These are discussed extensively in other sections of this chapter (see especially discussions of the interagency task force and the alternative licensing process). The Commission is participating in prefiling alternative licensing processes in 15 states on more than 30 projects. It is also facilitating or participating in post-filing collaborative settlement processes to resolve long-standing disputes on several projects, including the Rock Creek/Cresta, Mokelumne, Santa Ana, and North Umpqua projects. Finally, the Commission continues to refine its outreach program to address specific issues of concern to hydropower constituencies. These efforts encourage as wide as possible participation in hydro licensing, with an emphasis on improving relationships through collaboration and ultimately crafting local solutions to issues.

Natural Gas Pipelines. The Commission holds a variety of meetings and conferences in the natural gas pipeline certificate area to facilitate communication. Often, project developers want to hold prefiling meetings to seek guidance on various aspects of a proposed project. Once a construction certificate application is filed, the Commission holds scoping meetings at various locations along the proposed route of the project to discuss concerns interested parties may have with the project. In addition, the Commission holds technical conferences, as necessary, to address and solve contested issues.

Alternative Licensing Procedure Success

Georgia Power Company prepared its own environmental assessment for its Sinclair Project and received a new license only 7 months after the date the company filed its application. This was the first license issued using the alternative approach to licensing.

Only twelve months after the applications were filed, the Commission issued 50-year licenses, including many adaptive management measures, for International Paper's Riley-Jay-Livermore and Otis Projects in Maine. This longer license term was a direct result of the alternative licensing process.

Recent examples of the benefits of ALP include the collaborative process used for International Paper's Riley-Jay-Livermore and Otis Projects on the Androscoggin River, Maine. There, a collaborative team addressed and resolved a host of complex issues. In addition, members of the collaborative team requested, and the Commission issued 50-year licenses for these projects, virtually unheard-of in relicensing – a direct result of undertaking and successfully completing an ALP.

Another successfully completed ALP is the Avista Corporation (formerly Washington Water Power) application to relicense the existing Cabinet Gorge and Noxon Rapids projects on the Clark Fork River in Montana and Idaho. Avista's application includes a 27-party settlement agreement, including early implementation of protection, mitigation, and enhancement measures, and adaptive management of project-affected resources.

Recreational Fishing. As a member of the National Recreational Fisheries Coordination Council, the Commission developed a plan for enhancing recreational fishing opportunities at its licensed projects, to be implemented by the end of FY 2000. Implementation is ahead of schedule. In FY 1999, the Commission promoted recreational fishing at licensed projects through a brochure and a "Fishing Net" page on the Worldwide Web. In addition, the Commission approved or amended 20 recreation plans in FY 1999. These plans typically require the construction or improvement of facilities that provide fishing access to project waters.

Guidebook on Preferred Practices. Commission staff played a key role in developing a hydro licensing "best practices" document. The effort began when the Electric Power Research Institute (EPRI) recognized that common practices and issues could be shared to avoid the necessity for rediscovery with each licensing effort. Commission staff helped to define the purpose and objective of the effort, hosted meetings, participated in a draft, and commented on the guidebook and guidelines. The objectives of this effort are to develop preferred practices, identify solutions to tough issues and, track experiences and identify benchmarks, improve dialogue, and coordinate with other efforts such as the Interagency Task Force.

In January 1999, EPRI published a Draft Guidebook of Preferred Practices documenting hydropower licensing principles and preferred practices. The guidebook was published as a draft so it can be a living document. EPRI also plans to publish a series of guidelines that will identify hydropower's tough issues and solutions. EPRI's efforts are both timely and important, because they represent an objective and credible source of data and information, they are a neutral convener and facilitator of diverse parties, and they do not engage in legislative advocacy. Commission staff believes that EPRI publication of the draft guidebook of preferred practices and subsequent publications will help other stakeholders over the next decade to avoid mistakes.

Achievements: Ensuring Safe Hydropower Projects

In FY 1999 and the first quarter of FY 2001, the Commission had several achievements in the area of ensuring safe hydropower projects.

Tainter Gate Initiative. This first endeavor in the Commission's initiative to jointly address the aging hydraulic components of dams, required owners of significant and high hazard potential dams to perform comprehensive design reviews and physical inspections of tainter gates. Owner response to the initiative has been positive. The concerns identified have included needed remediation and modification to routine operation and maintenance procedures.

The Commission developed and held a Tainter Gate Workshop in October 1999. Workshop participants included professionals from federal and state dam owners and agencies, licensees, engineering consultants, and Commission staff. The workshop allowed members of the dam community to share experiences and knowledge for more effective design, construction, inspection, operation, and maintenance of tainter gates. The Commission will continue to build on these experiences during the Interagency Committee on Dam Safety Seminar on Spillway Gates, which FERC is taking a leadership roll in developing and organizing. The seminar will be held in February 2000. The Commission will continue to build on the success of the tainter gate initiative, which it expects to assist in developing future dam safety initiatives.

Electronic Filing of Inspection Reports. The Commission has developed and is implementing procedures for electronic submission of all regional office inspection reports, which include digitized photographs. This procedure will allow all parties, public and private, to readily obtain copies of Commission inspection reports through the Internet. An additional benefit is the ability for Commission engineers, using digital cameras in the field during project safety-related incidents, to promptly submit photographs of on-the-ground conditions for review by engineering teams and supervisors in the office.

Actions Taken to Improve States' Dam Safety Programs. Congress established the National Dam Safety Program Review Board to advise the Director of FEMA on implementation of the National Dam Safety Program. The Commission's dam safety expertise was influential in the Board's accomplishments in FY 1999. Accomplishments include establishing procedures for the approval and distribution of federal grants to individual state dam safety offices and distribution of grants. The Board is now concentrating its efforts on its leadership role, and is developing a vision and strategy for successfully accomplishing its mission.

Federal Dam Safety Guidelines. In FY 1999 the Commission helped develop new engineering guidelines as a member of the Interagency Committee on Dam Safety, which advises FEMA on issues affecting dam safety. The following publications were issued in FY 1999: *Emergency Action Planning for Dam Owners*, *Hazard Potential Classification Systems for Dams*, and *Selecting and Accommodating Inflow Design Floods for Dams*. Active participation in the development of these guidelines promotes open communication between the federal and state agencies responsible for dam safety.

Seismicity in the Southeast

Large earthquakes have occurred in the southeastern part of the country in the last 120 years, most notably the Charleston earthquake of 1886. Paleoseismology has demonstrated that numerous large earthquakes centered near Charleston have occurred with some regularity in the past 10,000 years and are likely to occur again. Other earthquake sources are the East Tennessee seismic zone and the Giles County, Virginia fault zone. Smaller magnitude earthquakes also occur at random within the southeastern United States, with no apparent definable source zone.

Seismicity in the Southeast. In FY 1999 the Commission staff reviewed several site-specific seismicity studies and seismic stability analyses for projects in the Southeastern part of the United States. The impact of earthquakes on the safety and stability of FERC licensed dams is an area of concern and requires detailed engineering evaluation. Current studies have focused on earth dams constructed in the 1930s, sometimes over loose foundation materials, or constructed with techniques of that era that produced a loose embankment dam susceptible to drastic strength reductions during seismic shaking. These evaluations indicate significant modifications are required at several projects.

Three projects in the southeast where detailed engineering evaluations have shown that the embankment dam structures will perform poorly during the Maximum Credible Earthquake are: P-516, Saluda Dam, P-2232, Wateree Dam, and P-199, Santee Cooper. All of these structures have a high hazard potential classification, and could cause significant loss of life, property damage, and environmental harm if they failed.

Seismicity in the Northwest
Evidence has arisen of very large magnitude earthquakes off the coast of Oregon and Washington and of larger earthquakes than previously thought possible in the Puget Sound area.

Seismicity in the Northwest. In FY 1999, engineering consultants to the Commission conducted several seismicity studies in the Northwest. These studies stem from investigations by federal and state agencies that have revealed that, historically, the Pacific Northwest has been far more seismically active than previously believed. The Commission is requiring that dam owners have their independent consultants perform site-specific seismic evaluations for some Part 12 Reports and revise stability analyses when loading conditions change significantly or when previous methods of analysis are no longer acceptable.

Achievements: Balancing Multiple Competing Interests in Natural Gas

In FY 1999 and the first quarter of FY 2000, the Commission had several achievements related to balancing multiple competing interests, including improving timeliness for certificates.

Streamlining the Certificate Process. The Commission issued Order No. 603 on April 29, 1999, which, among other things, streamlined the certificate process to better fit today's less regulated environment of unbundled pipeline sales and open-access transportation. This order expands on the existing blanket construction authority to allow pipelines to construct, operate, rearrange, replace, and abandon more facilities automatically. Order No. 603 also clarifies the regulations and removes certain outdated and/or unnecessary filing requirements and reports, which will help speed up the processing of certificate and abandonment applications. By removing unnecessary filing requirements and reports, Order No. 603 reduces the existing industry reporting burden by a total of 8,284 hours.

On September 15, 1999, the Commission issued its Certificate Policy Statement, setting forth the steps it will use to balance the public benefits of pipeline construction against potential adverse impacts. On the same day, the Commission issued Order No. 608, which offers pipelines the option of engaging in a voluntary collaborative process with the public and Commission staff before filing a certificate application.

On October 13, 1999, the Commission issued a rule prescribing methods for the early notification of landowners who may be affected by the construction of natural gas pipeline projects. The goal of the rule is to ensure that landowners have sufficient opportunity to participate in the Commission's certificate process. The timely participation of landowners will result in the resolution of issues and in a more comprehensive record, allowing a faster Commission decision.

Certification to Build Major Facilities. The Commission authorized many major projects, including system expansions of such pipelines as Algonquin Gas Transmission Company, Columbia Gulf Transmission Company, Mississippi Canyon Gas Pipeline L.L.C., Northwest Pipeline Corporation, Southern Natural Gas Company, Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, and Viking Gas Transmission Company.

The Commission issued a certificate for Phase II of the Maritimes & Northeast Pipeline, L.L.C.'s project authorizing an additional 205 miles of pipeline with a capacity of 360 Mmcfd. The project will provide natural gas service to consumers in Maine, New Hampshire, Massachusetts and other parts of the Northeast through interconnecting pipelines. The Commission also issued a certificate to Vector Pipeline L.P. for 328 miles of pipeline and a capacity of 1,000 Mmcfd. This project will provide service to consumers in the eastern United States and Canada.

The Commission granted a certificate of public convenience and necessity to Wyoming Interstate Company, Ltd., for a 150-mile lateral pipeline and compressor station. The pipeline will connect new sources of coalbed gas from the Powder River basin in Wyoming to the pipeline in Colorado.

The Commission approved a settlement involving Pacific Interstate Transmission Company (PITCO), Northwest Alaska Pipeline Company, PG&E Gas Transmission, Northwest Corporation, Transwestern Pipeline Company, Pan-Alberta Gas (U.S.), Inc., and Northwest Pipeline Company. The order allowed the abandonment of all of PITCO's facilities and services, with the other parties acquiring facilities, capacity, and transportation and sales obligations.

The Commission issued Presidential Permits and approved exports and imports for San Diego Gas and Electric Company, Tennessee Gas Pipeline Company, Canadian-Montana Pipeline Corporation, and Sumas Energy, Inc.

The Commission issued certificates for the expansion, establishment of storage boundaries, or modification of wells and facilities for storage fields of Columbia Gas Transmission Corporation, ANR Pipeline Company, CNG Transmission Corporation, and Texas Eastern Transmission Corporation.

The Commission also issued a certificate to Transcontinental Gas Pipe Line Corporation for 53 miles of pipeline and compression in the offshore Louisiana area. This project will provide firm transportation capacity for producers and other shippers who want the assurance of firm service for their offshore supplies.

In December 1999, the Commission issued an interim order on the Independence – Market Link project, which prescribed the conditions that must be satisfied to obtain a final certificate. The case generated major concerns among landowners in Ohio, Pennsylvania, and New Jersey.

Initiative for Offshore Facilities. A notice of proposed rulemaking issued in early summer 1999 seeks to impose a more light-handed regulatory approach on the transportation of natural gas from the outer continental shelf to the mainland. The NOPR proposes to implement a regulatory structure for such transportation under the Outer Continental Shelf Lands Act to equalize competition and balance the interests of the marketplace and the consuming public.

Gas Demand Conference. As part of its gas industry review, the Commission held a conference on the anticipated demand for natural gas in the Northeast United States. The conference solicited information on growth projections in natural gas markets in the northeast United States over the next one to two decades and on correlations between these projections and existing pipeline capacity. The conference and comments will help shape future Commission policy on pipeline construction.

Environmental Compliance Monitoring. The Commission has started a pilot program on third party, independent environmental compliance monitoring and reporting. This pilot program allows more frequent construction inspections and fosters quicker decisions on variances from Commission environmental conditions. Third party compliance monitors, hired by the pipeline but under Commission direction, will perform weekly inspections of each construction spread. The monitors will allow minor variances within 3 days, and variances including expanded work areas within 6 days, with the time duration dependent on supervisory review by the contractors and the Commission. This should speed the construction process and result in more frequent compliance inspections, to the benefit of the environment. To ensure compliance with environmental regulations, the Commission monitored pipeline construction and right-of-way restoration activities on 450 compliance trips in FY 1999.

The Commission completed substantial construction compliance work on Portland Natural Gas Transmission System, Northern Border Pipeline Company, and Columbia Gas Transmission Corporation, to allow the start of new natural gas service in the Midwest and Northeast. Compliance inspections are ongoing on major expansions of Alliance Pipeline, Southern Natural Gas Company, and Maritimes Northeast Pipeline.

On a case-specific basis, the Commission also is implementing a landowner compliance resolution process to improve communication and responsiveness, and to decrease tension related to construction impacts. Also, the Commission is issuing notices of required corrective action or response in the field, rather than the more time-consuming notification letters, to speed correction of construction problems observed by field inspectors.

**Achievements:
Resolving Disputes
and Communicating
Effectively**

Hydropower. In FY 1999 and the first quarter of FY 2000, the Commission had several achievements in using dispute resolution and effective communication to attain goals related to hydropower.

Alternative Licensing Process. In December 1998, the Commission began its second round of outreach sessions in Sacramento, California to provide information on alternative licensing processes and other aspects of the Commission's licensing and post-licensing programs. Earlier outreach efforts informed stakeholders of the availability of the alternative licensing process and other licensing and post-licensing programs. In this round, staff provided 165 federal and state agency representatives, industry representatives, non-governmental organizations, and the public with detailed information on the next step of how to implement a collaborative licensing process. The session resulted in two utilities and one municipality deciding to use the collaborative approach to licensing.

Another result was the formation of the California Hydropower Relicensing Roundtable, consisting of electric utilities, federal agencies, tribal governments, nonprofit organizations, water utilities, local governments, and state agencies. The Roundtable will provide a forum for discussing problems and opportunities associated with California relicensings.

The Commission scheduled issue-focused outreach sessions with the American Fisheries Society, U.S. Forest Service, and stakeholders in Alaska. The objective of the sessions is to provide the outreach participants with the knowledge necessary to begin to implement the alternative licensing process. The Alaska meeting focused on lessons learned by the Commission and stakeholders, problem-solving, and better coordination between licensing and the coastal zone consistency process.

Land Use. Land use issues at licensed projects, particularly in the southeastern United States, are becoming increasingly complex and contentious as project reservoirs have become the focus of residential and commercial development. In FY 2000, Commission staff is increasing its efforts to assist licensees as well as other stakeholders to address developmental and environmental issues. In December 1999, Commission staff attended a three-day meeting with Georgia Power Company's lake managers and lands staff to discuss land use issues at its 10 licensed projects. Commission staff will address many of these issues with other licensees during the Commission's ongoing outreach efforts.

Interagency Training. To provide training for those participating in the Commission's hydropower licensing processes, the Commission has helped develop an Interagency Hydropower Licensing Workshop. Other agencies helping to develop the workshop are the U.S. Forest Service, U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, and National Marine Fisheries Service. Participants in the workshop include federal and state resource agency personnel and anyone involved with the hydroelectric relicensing process. While attending the workshop, participants work through a fictional case study as interagency team members and discuss issues, based on presentations by staff from the Commission, other federal and state resource agencies, Indian Tribes, hydroelectric industry, and

EAP Course

Many agencies, including the Bureau of Reclamation, Corps of Engineers, Tennessee Valley Authority, and the Federal Emergency Management Agency (FEMA), have attended the EAP course. Additional participants include licensees, the National Weather Service, the National Emergency Management Association, the Association of State Dam Safety Officials, the Association of State Floodplain Managers, and local emergency response agencies. This integrated approach brings together the viewpoints of key agencies responding to potential dam emergencies, further strengthening the Commission's dam safety program. It also greatly increases communication and understanding among licensees and local, state, and federal contacts.

non-governmental organizations. Thus far, three 5-day workshops have been held in West Virginia, Washington, and California, for more than 100 participants. Future workshops are planned for South Carolina and Alaska.

Expanded Emergency Action Plan Cooperation. The Commission has made improvements to its Emergency Action Plan Exercise Design Course. The primary objective of the course is to help Commission licensees better prepare for the testing of their emergency action planning process. In this latest improvement, Commission staff emphasizes the importance of the emergency management personnel working closely with the dam owner to complete the emergency action plan test. Strengthening the relationship between the emergency management personnel and the dam owner ensures that their roles mesh and that each function is coordinated with the other.

Natural Gas. The Commission has had several achievements in working with other agencies and offices related to natural gas pipelines goals.

Interagency Agreements. The Commission has executed Memoranda of Understanding (MOUs) with the Department of Transportation on LNG and natural gas transportation facilities, and with the Environmental Protection Agency on pipeline facilities contaminated with polychlorinated biphenals (PCBs). MOUs with other agencies are under consideration. The Commission will also reach agreements with other agencies and state historic preservation offices to evaluate the impact of specific natural gas facilities on cultural resources. These agreements will ensure the Commission's compliance with Section 106 of the National Historic Preservation Act.

PROGRAM SUPPORT

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 1999 <u>Actual</u>	FY 2000 <u>Estimate</u>	FY 2001 <u>Request</u>
FUNDING	\$67,255	\$73,196	\$69,826
FTEs	260	256	256

Overview

In previous budget requests, funding and FTEs for support activities were allocated among the Commission's core programs. This year, the Commission recognizes the vital role of its support functions by describing them separately in this chapter. Simultaneously, this approach establishes accountability for an increasingly important set of activities. Operating expenses for program support are higher than the number of FTEs would suggest, because the operating expenses include all Commission training and travel costs, IT contracts, rent, building maintenance and security expenses.

The Commission's support work includes human resources management and development, financial management, procurement, strategic management, information technology, external communications, dispute resolution, and general legal services. Through support activities, the Commission realizes its central values, since they determine how the Commission does its work. In the long run, the Commission's core programs can only be as good as the support programs and central values that stand behind them.

New Focus on Support Work

As part of its reengineering efforts, the Commission is giving increased attention to the program support activities that enable Commission staff to accomplish their work efficiently and effectively. In this budget request, support activities received separate attention because:

- Program support includes many critical processes important to the Commission's success. Many of the Commission's important new initiatives focus on *how* it gets its work done.
- Considering support separately presents a clearer picture of how the Commission uses its resources.
- After salaries and benefits, most discretionary spending is for support services.

Administrative support work is critical to the Commission's ability to remain innovative and adaptable in the faster-changing environment that will accompany increasingly competitive markets.

Program Support Goals

The Commission's goals in the area of program support address timeliness, communication, resolution of disputes, employee and leadership excellence, and fiscal and legal responsibility, among other issues. The sections that follow discuss how the Commission is addressing its support goals through current initiatives and ongoing work.

Goals for Program Support

- ▶ Improve access to information
- ▶ Improve dispute resolution in regulatory programs
- ▶ Ensure a diverse, competent workforce
- ▶ Maintain efficient and effective business practices

Briefly, the goal to improve access to information addresses timeliness and efficiency, reduction of burden to the industry, and communicating effectively. The goal of improving dispute resolution in regulatory programs focuses on the Commission's efforts to increase and improve on the use of alternative dispute resolution. Ensuring a diverse, competent workforce focuses on human resources and workplace issues. And the goal to maintain efficient and effective business practices includes financial, procurement, general law, and strategic planning functions.

Working Toward the Goals Through Current Initiatives

Several current initiatives address program support goals.

Information Technology

Information technology initiatives are critical to implementing more efficient processes. Electronic service and workflow tracking reflect and enhance changes in the way work is accomplished.

Electronic Service. In June 1999, the Commission amended its rules to permit participants in proceedings to voluntarily serve documents on one another electronically. This action gave participants more flexibility in meeting the service requirements and the opportunity to gain experience with electronic service. The change was an important step in the Commission's plan to convert to a broad-based electronic filing policy. The Commission is expanding this initiative to include electronic submission of filings. This will reduce expenses involved with paper filings and service, such as copying, mailing, and messenger costs. It also will make information available to the Commission and interested parties quicker and in a more useful format.

Besides reducing the filing burden on industry by eliminating certain costs, electronic filing will streamline procedures. The Commission will make the content of filings available within minutes or hours, rather than days. Electronic notification and electronic processing of filings will take much less

time than is necessary for paper notification, giving companies earlier access to filed information.

Workflow Tracking. Information technology development within the Commission will make information available more timely through the Commission's web site and will facilitate searching for specific information within the large body of data the Commission maintains. Data will become more accurate and consistent, contributing to well-informed decision-making and streamlined workload processing.

Alternative Dispute Resolution (ADR)

The Commission is fully committed to compliance with the President's directive on resolving disputes consensually and efficiently through a neutral third party. To promote an environment where the affected entities are given the opportunity to resolve their disputes consensually, the Commission formed a service-oriented center of ADR in 1999: the Dispute Resolution Service. It will provide ADR services throughout the Commission and to the Commission's external participants. This small, highly trained group of ADR professionals will:

- screen cases appropriate for ADR;
- function as mediators, facilitators, and neutrals;
- conduct convening sessions to resolve disputes and assist participants in selecting and implementing ADR processes;
- champion ADR services to internal and external participants;
- conduct educational outreach on the use of ADR techniques for resolving disputes; and
- evaluate new uses for ADR processes through participatory management and involvement.

One-year rotational assignments to this center of ADR excellence will be available to Commission employees and managers. This will allow an expanding number of staff to acquire ADR skills and eventually apply those skills in their offices. As a result, other Commission offices have begun using a number of ADR techniques. The Commission will also offer internships to students pursuing graduate degrees in ADR and mediation.

Leadership Training and Continuous Learning

Two current initiatives that focus on ensuring a diverse and competent workforce are LEaD and Continuous Learning.

LEaD. FERC first recognized the need to align the Commission's human resources with its strategic direction and business objectives. The

development of a highly competent and flexible workforce capable of meeting future challenges is a priority. Two programs – Leadership, Education and Development (LEaD) and Continuous Learning – are ongoing initiatives to develop managers and employees.

LEaD is a staff-driven initiative that provides continuing training for current and future Commission leaders. The program enhances participants' skills and improves leadership effectiveness in the following five areas:

- communication;
- direction setting;
- implementation;
- promoting teamwork; and
- fostering trust and commitment.

FERC will benefit from leaders who embody these leadership behaviors. Leaders who exhibit these behaviors will set an example for the entire work force, resulting in a culture of excellence. These leadership behaviors have been incorporated in all supervisors' and managers' performance standards.

Resources that help current supervisors and managers meet their performance standards include training in the five basic leadership behaviors and 360-degree assessments, with individual development planning. Increased emphasis on mentoring for current and future leaders is also a key element. The program will employ a variety of alternative learning activities such as developmental assignments, distance learning technology, and computer-based training packages.

Continuous Learning. The Continuous Learning Program (CLP) provides the support needed for all employees to excel. An outgrowth of FERC First, it is closely tied to the Commission's mission, vision, and values. This systematic approach allows for employees to link individual career goals to organizational needs. The purpose of the CLP is to promote the professional growth and continuous learning of all FERC employees by providing them with comprehensive, mission-focused opportunities to develop their competencies and enhance their careers.

FERC's new approach to employee development will improve its ability to anticipate and respond to change quickly, think creatively, and apply technologically smart solutions. The CLP offers employees the opportunity to develop a broad range of competencies to keep in step with FERC's strategic direction. It provides the opportunity to determine current competencies, compare these to career goals, and develop a specific action plan to build on strengths and target improvements. Hallmarks of this program include competency models, competency development plans, and learning agreements.

Under the CLP, supervisors accept responsibility for coaching and mentoring employees, conducting formal counseling sessions, helping employees set expectations for their career development, and providing useful information

about competency gaps and learning opportunities. Employees are responsible for completing a self-assessment based on the competency model for their career field and preparing a learning agreement based on their own learning needs. Employees take responsibility for selecting appropriate learning opportunities that will increase proficiency and discuss their career goals with their supervisor. A learning agreement between employee and supervisor clearly outlines appropriate developmental activities. Additionally, the learning agreement outlines how an employee will demonstrate that the learning has taken place.

A pilot involving clerical support employees has already established meaningful and candid dialogue between managers, attorneys, and support staff. Focus groups identified expectations and needed competencies for the future. With this information, teams identified critical training needs, including alternatives to formal training. This has improved communication in the office and has clearly defined roles and responsibilities.

Manage to Budget

The Commission will ensure effective management of its budgetary resources by instituting a decentralized budget structure called Manage to Budget. Manage to Budget is a major cost-containment measure that places more resource accountability at the office level. The Commission will reduce FTEs and personnel costs over the next several years. In keeping with increased fiscal responsibility and accountability, the Commission will require all managers to operate within their designated budget allocations. This initiative allows Commission offices direct control of their spending levels in all funding areas, with particular emphasis on salaries, which represent more than 65 percent of total budgetary resources. Ultimately, each office's performance will rely on sound fiscal management of salary dollars and awareness of the impact personnel actions have on their budgets. Additionally, managers and employees will share incentives for achieving personnel cost reductions.

Strategic Management

The magnitude of changes taking place at the Commission requires that Commission resources are focused on the "right things at the right time." As part of its reengineering effort, the Commission has undertaken a strategic management initiative. This will enhance its capability to align diverse efforts and responsibilities so that they reflect a coherent overall strategy and management approach. Business process reengineering efforts and new organizational structures will succeed only if strategic management becomes an integral part of the decision-making process. Managers and employees must understand how and why their work matters. Managers and employees need to understand why new assignments or other actions that require learning new skills are needed. An integrated, strategic management process makes that happen, and the newly formed Office of Strategy and Organizational Management will champion that process. The process

involves assessing internal and external information, defining goals and objectives, and implementing strategies to achieve those goals and objectives. It also involves relating workload categories and strategic initiatives to the Commission's goals and performance measures.

Working Toward the Goals Every Day

Not only special initiatives, but also ongoing work is focused on support goals, as described below.

Improving Access to Information

Information availability is a key element when moving from a heavily regulated environment to one where lighter-handed regulation and market forces combine to assure just and reasonable rates. The Commission will make information more accessible to the public and easier to understand. Electronic developments will make information available more timely through the Commission's web site and will facilitate searching for specific information within the large body of data the Commission maintains. Through better management of information technology, the Commission will set up a largely paper-free environment with electronic filing and posting of documents and automated work flow management. Putting these measures into place will provide complete, accurate and timely information in an increasingly competitive marketplace.

To help define the modern marketplace, the Commission will continue to support the oversight of industry markets by monitoring competitive markets engaged in electronic commerce. Energy companies use a network of information technology and telecommunications systems to share information, coordinate delivery of energy products, and to monitor and control energy operations. The Commission will add to and use that body of information.

The Commission is constantly improving the stability and reliability of its local and wide area networks. Increased network reliability increases individual productivity and helps reduce the cost to those outside the Commission that rely on the Commission's information technology infrastructure to conduct business.

The timely processing of incoming documents ensures that information is channeled to Commission staff for prompt review and action. The Commission continues to make the maintenance and implementation of effective filing procedures a high priority. Information technology initiatives and improvements will ease the burden of handling the massive amount of material filed with the Commission on a daily basis. New automated systems such as the FERC Automated Management Information System (FAMIS) will facilitate the generation of service lists and docket sheets, and will

provide all levels of staff and the public immediate accessibility to this information. Timely and accurate Commission issuances, such as notices, orders, and major rules, continue to promote the flow of information throughout all levels of the agency and to all interested parties.

Ensuring a Diverse and Competent Workforce

Diverse, Competent Employees. People are the Commission's most valued asset. Strategic goals are achieved with a workforce that:

- is knowledgeable, flexible, efficient and resilient;
- recognizes diversity as an asset in achieving organizational goals; and
- reflects strategic planning in the way resources are managed and work is accomplished.

As the Commission faces the challenges of the future, its overall success will depend on workforce planning that aligns strategic goals with people planning. Human Resources programs are being reexamined to ensure that they support changing resources and work requirements. Additionally, employees must be appropriately experienced and educated, but also should come from all walks of life and be optimistic, versatile, energetic, and creative. A rich mix of talents and skills requires people with novel ideas and differing perspectives. A workforce composition that reflects the national workforce provides that.

Commission recruitment efforts will reflect current and future Commission needs. Competencies – the underlying characteristics of people that indicate ways of behaving or thinking, generalizing across situations, and enduring for a reasonably long period of time – will be used constructively to provide a more comprehensive picture of expectations and requirements. The Commission is moving to an environment of teaming, cross training, and continuous learning. As the Commission works differently, the roles and responsibilities of employees are being described differently. New skills and competencies must be defined, conveyed and developed.

A Quality Workplace. Physical and personal security will continue to receive high priority to ensure a safe and secure working environment for all Commission staff. In addition, the Commission provides a variety of services, activities and opportunities to ensure the well-being, satisfaction and motivation of employees. Examples of these services and opportunities are: personal and career counseling, career development, formal and informal recognition, child day care, special leave for family responsibilities, fitness center, and flexible work hours.

Maintaining Efficient and Effective Business Practices

Fiscal Responsibility. The Commission will continue to collect annual charges and provide timely payment of contractors' invoices using electronic funds transfer (EFT). To ensure that all financial requirements are in accordance with applicable laws, statutes and regulations, the Commission

will continue to have external and independent audits conducted where appropriate.

Timely Acquisition of Goods and Services. Implementation of acquisition reform initiatives will continue to expedite procurement of goods and services. These initiatives include using the government-wide credit card, contractors' past performance, and Interagency Agreements, which will streamline the procurement process. Additionally, the Commission will encourage competition by small, minority, and women-owned businesses. Implementation of contracting activities that use the Internet will also speed the contracting process and allow for more timely delivery of goods and services.

Defensible, Legal Administrative Actions. The Commission fosters public confidence by ensuring that its activities comply with all applicable legal and ethical standards. Legal counsel is available to Commission officials and staff before engaging in activities sponsored by industry. This allows the Commission to maintain important channels of communication with industry while avoiding situations that might raise questions about Commission impartiality and objectivity.

Good Working Relationships with Constituents; Informed Staff and Customers. The Commission considers communication with its wide range of constituents (e.g., landowners, utility industries, environmentalists, etc.) to be critical. Good communication will contribute to Commission decision-making, improve constituents' understanding of Commission policies and actions, allow for long-term collaboration between staff and constituents, and establish an external focus on constituents throughout the staff. The Commission has undertaken a systematic effort to enhance relationships with Congress, federal and state agencies, and other stakeholders, to improve overall coordination and communication. More public conferences and information exchange opportunities are being hosted so that industry and other interested parties can meet and exchange information with the Commission and its staff.

FY 1999 and First Quarter FY 2000 Achievements

The Commission had several achievements in program support activities in FY 1999 and the first quarter of FY 2000.

Information Exchange Achievements

FAMIS. The Commission implemented the FERC Automated Management Information System (FAMIS), which represents the reengineering of 3 core, non-Y2K compliant automated mainframe systems. This effort, along with the reengineering of the two other major applications resident on the mainframe, will allow the Commission to retire the mainframe.

FAMIS was designed using cutting-edge technology provided by several integrated products. A thin-client configuration for FAMIS was chosen to reduce implementation and change management costs through reduced client configuration issues. This configuration also eases user training since it utilizes the web browser – an interface familiar to users.

While the systems that FAMIS replaced were largely tracking and list service systems, FAMIS provides a substantial amount of new functions and features, including:

- workflow;
- document management;
- discussion threads;
- news channels; and
- full-text searching.

These new functions will improve the Commissions ability to share work, cut-and-paste from similar work, and search across discussions and documents to make FERC staff more efficient and to facilitate better results due to better access to information.

FAMIS tools were used to help with reengineering processes. FAMIS process pilots were established for the new offices to validate new business rules and flow of information. A large number of changes and enhancements will be incorporated into FAMIS as directed by a control board comprised of users from all Commission offices.

Finally, FAMIS was designed in support of and integrated with the Commission's electronic filing effort. The Commission's goal is to receive filings electronically, enter them into FAMIS, and route them electronically to the appropriate group or individual specialist, who can search other documents and discussion threads to make informed decisions more quickly. These combined efforts support the Commission's goals of reducing the processing time for docketed workload and resolving disputes, minimizing filing burden, and generating better information for use by the public.

Electronic Filing (Structured Data). In January 1999, the Commission updated the software it provides to industry to complete the FERC Form 1, Annual Report of Major Electric Utilities, Licensees, and Others. The upgraded software was a Windows 95/98NT version that replaced the previous DOS version. The new software reduced the filing burden by allowing companies to file Form 1 information via the Internet rather than on diskette. It also improved the data integrity provided by the filing companies through the use of automated validation checks, and provided a number of short-cuts for filers, such as automatically completing the balance forward field based on prior year's balance.

The Form 1 software was used as a basis for building a similar system for filing an automated Form 423, Monthly Report of Cost and Quality of Fuels

for Electric Plants, which is currently in a pilot phase, and an automated Form 6, Annual Report of Oil Pipeline Companies, which is in the development phase. Using a similar approach for structured data filings keeps development, maintenance, and user support costs to a minimum, while benefitting anyone required by the Commission to file multiple forms.

IT Infrastructure Support. The Commission significantly improved the reliability of its local area and wide area networks. Implementation of change management and configuration management of individual computers has significantly improved network stability and security.

Internet and Intranet Expansion. The Commission has continued to improve and enhance the information available to the public and internally to its employees using Internet/Intranet web technology. For example, the Records and Information Management System (RIMS) database is accessible via the Internet to the public (and Intranet for Commission staff) and contains the indexes and images of documents submitted to and issued by the Commission. These documents are available for viewing and printing by the public. The Commission Issuance Posting System (CIPS) on the Web provides timely access to issuances of orders, notices, and rulemakings. The Commission also maintained the working group of the President's Council on the Y2K conversion site for the Oil and Gas sector.

The Commission's Intranet site is undergoing a major restructuring to reflect the changes being brought about by FERC's reengineering project. The new Intranet will have enhanced search capability, a consistent look and feel, and improved navigation, as well as other enhancements.

Management, Administrative, and Payroll System. In partnership with the Department of Veterans Affairs, FERC implemented the Management, Administrative, and Payroll System (MAPS) using the PeopleSoft HRMS for Federal Government software suite. By operating human resources, time and attendance, and payroll within one system, the Commission has linked several administrative functions, eliminating redundant processing and systems. This effort has allowed the reduction of the Commission's human resource staff by 10 FTEs.

MAPS implementation has played a major part in the reengineering efforts of the Commission. It has laid the groundwork for an enterprise-wide system solution integrating all administrative functions. The Commission is reengineering other human resource processes, including training administration and competency management, position management, and compensation management. By using PeopleSoft as the IT tool for these reengineering efforts, all of the Commission's human resource data will be integrated, eliminating redundant data entry. The Commission is also implementing PeopleSoft Financials for Education and Government, in particular the general ledger, purchasing, and accounts payable modules. In so doing, the Commission will establish a direct link between its human resource and financial data, again eliminating redundant processing and

systems. The ultimate goal of MAPS is to allow managers to focus more time on strategic planning and less on day-to-day operations.

Oil and Gas Sector Y2K Remediation. The Commission led the Oil and Gas Sector Working Group of the President's Council on Year 2000 Conversion. The group, which consists of 12 federal agencies and 27 industry groups, served as a valuable forum to survey the two industries on Y2K readiness, facilitate information sharing, and provide timely information to the White House Information Coordination Center. The national Y2K effort raised the nation's overall level of emergency preparedness, created an unprecedented inventory of commercial and industrial business systems and computerized assets, and replaced or updated substantial amounts of equipment. This effort demonstrated how well government and industry can collaborate to solve problems. The international crude oil and liquid natural gas supply chain remained unbroken by the Y2K bug and our domestic oil and natural gas industries provided service reliably and without serious interruption as the rollover occurred.

Y2K Remediation of Internal Systems. The Commission's internal systems successfully rolled over without Y2K incidents. The legacy mainframe applications have been retired or downsized and migrated to Y2K compliant commercial, off-the-shelf system (COTS) application programs running on the Commission's local area networks (LANs). All networked application software has been upgraded to be fully compliant with Y2K requirements and the Windows 95 operating system.

The Commission developed a comprehensive Business Continuity and Contingency Plan (BCCP) and a Day One Strategy and Plan for the preservation of each of the core business processes. The plan identified areas of risk and general mitigation strategies and contingencies. The scope of the BCCP was broad and comprehensive, encompassing the Commission's headquarters and five regional offices.

Dispute Resolution Achievements

Alternative Dispute Resolution. In FY 1999, the Commission formed the Dispute Resolution Service (DRS), a service-oriented center of ADR, to promote the consensual resolution of disputes. DRS staff provides ADR services throughout the Commission and to the Commission's external stakeholders. This small, highly trained professional staff acts as mediators, facilitators, and neutrals on cases involving external participants. The DRS staff conducts convening sessions for disputes referred to DRS and helps identify potential neutrals from within and outside the Commission. Further, DRS champions ADR services to internal and external participants and conducts educational outreach on the use of ADR techniques for resolving disputes. The DRS will continue to work closely with the Department of Justice in advancing the President's message that agencies should consider increasing the use of ADR as a means to resolving disputes quickly and at less cost.

Since the formation of the DRS in late February 1999, the DRS has provided numerous ADR services upon demand at the request of the Commission or outside entities. ADR assignments ranged from providing functions as conveners mediators, facilitators, and third-party neutrals in resolving disputes on Commission-related matters to educational outreach on the services provided by DRS. This includes 12 presentations made by DRS to energy-oriented audiences around the country. Since many disputes at the Commission involve environmental issues in natural gas pipeline certificate and hydropower licensing proceedings, the DRS has partnered with the U.S. Institute for Environmental Conflict Resolution (ECR) and hosted several meetings with ECR and other federal agencies on ADR initiatives, working with multi-parties, and success stories for effective and efficient resolution of disputes throughout the government.

In December 1999, the DRS submitted its first report to the Department of Justice for transmission to the White House on ADR initiatives at the Commission. Since its formation, the DRS had mediated or facilitated resolution of 28 cases at the Commission, 22 of which were resolved in less than 60 days. Through reciprocity agreements with other Commission offices, the DRS has used subject matter experts to assist in resolving some disputes. Cases resolved through ADR have resulted in considerable savings to the Commission and the parties. The DRS continues to conduct outreach on ADR services and is beginning inreach initiatives for training Commission employees on ADR awareness.

Business Practices Achievement

Unqualified Audit Opinion. The Commission's Annual Financial Statement for FY 1998 received an unqualified opinion from its external auditors. This is the sixth consecutive unqualified opinion received since passage of the Chief Financial Officers Act in 1990.

FY 2001 PERFORMANCE PLAN

Introduction

In September 1997, the Commission's Strategic Plan identified strategic goals and objectives for each of its program areas and for administration. It also proposed success indicators that, if measured appropriately, would indicate how well the Commission was succeeding at meeting its goals and objectives. The Commission's programs then were divided on the basis of the industries regulated. The strategic plan acknowledged that the industries the Commission regulated had changed, and it was the first indication that the Commission itself must also change.

Previous performance plans recognized the need to move from traditional regulation to a model more representative of the rapidly evolving energy industry. While these performance plans focused on the Commission's contemporary regulatory model, the organization behind the plan was structured for traditional, industry-based regulation.

Beginning in February 1998, the Commission engaged in an agencywide effort to reengineer its processes and develop a reorganization plan to strategically realign the Commission to meet the needs of the changing industries. The Commission's reengineering efforts and reorganization will be completed in FY 2000. The FY 2001 Performance Plan is the first plan to combine the Commission's new organization structure with its regulatory vision.

The section below explains the changes the Commission has made to its mission, vision, and values statement since publication of its Strategic Plan.

Other sections of the Performance Plan are:

- **Goals of the Commission**
 - ▶ energy markets
 - ▶ energy projects
 - ▶ program support
- **Assessing the Commission's performance**
 - ▶ measures
 - ▶ targets
 - ▶ work categories

Changes from the Strategic Plan

The FY 2001 Performance Plan reflects a number of significant changes from the Commission's strategic plan. The Commission will incorporate these changes into its next strategic plan.

- The Commission has developed a new, simplified mission statement. The previous mission statement focused on traditional, industry-based

regulation. The new mission statement reflects FERC's regulatory focus for the future.

FERC Mission

The Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.

- A four-part vision statement has replaced the vision statement of the original strategic plan.

FERC Vision

*Promoting Competitive Markets
Protecting Customers
Respecting the Environment
Serving and Safeguarding the Public*

- The Commission has articulated a series of eight values that set the parameters for *how* the Commission will pursue its work.

FERC Values

- ▶ *Employees* – People are our most valued asset. We provide the support needed for all employees to excel.
 - ▶ *Integrity* – We maintain the highest level of professionalism and an environment of fairness, trust, respect, and honesty.
 - ▶ *Diversity* – We value diversity in people and ideas.
 - ▶ *Working Together* – We clearly communicate expectations, encourage cooperation and teamwork, and share responsibility.
 - ▶ *Progress and Innovation* – We are creative and flexible, and seek out opportunities to improve.
 - ▶ *Action* – Prompt and fair resolution of matters before the Commission is essential to our mission.
 - ▶ *Reaching Out* – Two-way communication with the public is key to our effectiveness.
 - ▶ *Public Service* – Our ultimate objective is to provide valued services to the public.
- For the first time, the Commission has established direct links between its goals, performance measurements, and workload.

Goals of the Commission

The Commission has developed goals for three key areas. These areas are: Energy Markets (economic regulation of electricity, natural gas, and oil

pipelines); Energy Projects (licensing and safety responsibilities for nonfederal hydropower projects and certification of interstate natural gas pipelines); and Program Support (information technology, dispute resolution, human resources development, and management of business practices).

Energy Market Goals.

- To promote competitive, well-functioning markets
- To protect customers
- To resolve disputes effectively and efficiently

Energy Project Goals.

- To protect and enhance environmental and public benefits, including power development
- To ensure the safety of hydropower projects
- To balance the interests of customers, applicants, landowners, and the environment
- To achieve timely, optimal construction

Program Support Goals.

- To improve access to information
- To promote alternative dispute resolution
- To ensure a diverse and competent workforce
- To maintain efficient and effective business practices

Assessing the Commission's Performance

The performance measurements for FY 2001 are an advance over those previously issued by the Commission. These measurements will continue to be refined and improved. Experience gained in assessing the Commission's performance in FY 1999 and FY 2000 will add needed perspective.

A series of tables accompany the discussions of performance measurements. Each table presents Commission goals and performance measures, target levels for FY 2001, and workload associated with achieving the goals. This allows the Commission to establish direct connections between its goals and its workload categories. In program support, workload categories are being defined for the first time; definitions of these categories are still tentative.

Energy Markets

General Approach. The energy industry, like other major parts of the nation's infrastructure, is evolving rapidly and in unexpected ways. When the industry is evolving so quickly, any specific targets the Commission might set would likely become irrelevant before they could be measured. To illustrate, when Order No. 636 was issued in 1992, most observers thought in terms of monthly markets, and regulations were established this way. However, within a short time, daily trading became commonplace in the

natural gas industry. Today, much trading occurs within the day. If the Commission had established measures and targets at that time, and the targets had been based on monthly markets, they would have become irrelevant within a year.

Because of the uncertainties inherent in the rapid market development of any high-tech or deregulating industry, the Commission has not attempted to identify specific targets for the development of energy markets. Instead, it has developed a suite of diagnostic measures designed to reflect overall market performance in a variety of possible market futures. Each year the Commission will evaluate these measures and make a "state-of-the-market" report. This report will lay out results in all areas and interpret what these results mean taken all together, as to where the market is, where it is headed, what are the danger points, and what are the successes.

The Commission's goal is to promote competitive, well-functioning energy markets. To determine how competitive the markets are and how well they are functioning, there are a number of important key indicators to look at. One deals directly with competition: how many suppliers there are. Having a reasonable range of suppliers from which customers can choose will indicate that commodity markets are reasonably competitive and responsive to customer needs.

Other indicators deal with the functioning of markets: how flexible and liquid the market is; how easy and how costly it is to make transactions. As markets function better, prices should respond to market conditions, prices for a particular commodity should converge, and the cost of doing business should decline. Lastly, how much innovation is occurring is an indication of both competition in the market and the functioning of the market. When markets are functioning well they will spawn new products and services.

Therefore, to evaluate market competitiveness and functioning, the Commission will look at the range of suppliers, price responsiveness to market conditions, price convergence, the cost of doing business, and new products and services. Any one of these indicators viewed in isolation would be misleading, but together they should provide a good indication of the success of the Commission's policies and where improvements are needed.

An example of how this works is provided by the comparison of regulated prices for natural gas transportation and the market value of the transportation. When the Commission compared these measurements, the two values clearly did not match. Based on this observation, the Commission is considering revisions to its regulation of short-term transportation – the gas policy initiative. It is reasonable to expect that taking stock of changes in the electric industry will lead to other improvements in Commission policy.

There is no direct measure for the Commission's success in protecting customers from market power. As explained in more detail in the section on this goal, the Commission will measure the degree to which broad classes of customers agree that market power is constrained.

To Promote Competitive, Well-Functioning Energy Markets

Indicators	Measures	Targets	Workload
Competition	<ul style="list-style-type: none"> Number and size of capacity holders by system Number and size of natural gas and electric secondary market participants Number and size of pipeline suppliers by region and major customer Number and size of electric power marketers 	Analyze the number and sizes, in conjunction with the measures for all indicators	<ul style="list-style-type: none"> Initial Services Market-Based Rates Industry Restructuring <ul style="list-style-type: none"> Mergers Independent System Operators & Transcos Asset Divestiture and Disposition Cogeneration Small Power
Flexibility and liquidity	<ul style="list-style-type: none"> Response of prices to external conditions in natural gas and electricity (e.g., events, weather, plant outages) 	<ul style="list-style-type: none"> Large price changes should normally be associated with some clear external event 	<ul style="list-style-type: none"> Negotiated Rates Market Information & Modeling <ul style="list-style-type: none"> Data Collection (Includes Forms) Market Information Exchange Market Monitoring (Includes Analysis) OASIS EBB/GISB Power Exchange
	<ul style="list-style-type: none"> Incidence of pricing anomalies for natural gas (where price and quantity appear to move in opposite directions) 	<ul style="list-style-type: none"> Anomalies may indicate real market problems, problems in data, or unanticipated changes in how the market is working 	
	<ul style="list-style-type: none"> Level of price volatility and changes in price volatility in electricity and gas 	<ul style="list-style-type: none"> Very high or very low prices can give an early warning for investigation 	
	<ul style="list-style-type: none"> Correlation of commodity prices across regions Narrowing of commodity price differences in the absence of transmission constraints Increased market integration (price changes appear to reflect inter-regional trading) 	<ul style="list-style-type: none"> Correlations should be near 1.0, except when transmission constraints bind and prevent free flow of commodities 	
Ease and Expense of Transactions	<ul style="list-style-type: none"> Increased use of market hub services in natural gas and electricity Growth of electronic services for the commodity and/or transportation Increased economic transmission distance 	Establish a baseline	
Innovation	<ul style="list-style-type: none"> Increase in types of tariffed services offered (e.g., parking and lending in natural gas) Increased services in the market (develop a time line for different services, e.g., new futures exchanges, new types of products (e.g., weather derivatives) and independent exchanges) 	By their very nature, innovations cannot be specified. The Commission will look for patterns of innovation, track and report on them.	

Competition. Customers having a reasonable range of suppliers from which to choose reasonable prices indicates that commodity markets are reasonably competitive and responsive to customer needs.

Order Nos. 636 and 888 put forward basic principles of open access and unbundling for the natural gas and electric industries. These orders were intended to give natural gas pipeline and wholesale electric power customers the ability to choose commodity suppliers. In both cases, the purpose was to increase the options of natural gas and wholesale electric customers who historically had very limited choices of natural gas and electric power suppliers. The Commission collects data from natural gas pipelines on the identities of their customers. Using this data from the Index of Customers, the Commission will assess the range of pipelines being used by individual customers. This data will be supplemented with data for capacity in the secondary market through the Commission's capacity release data. Analysis of this data is expected to show that for most suppliers a range of sources is being used to provide transportation services. Open access in the electric industry is much newer, and the Commission will identify a reliable assessment of the number of suppliers from which customers may choose.

Flexibility and Liquidity. The Commission expects that natural gas and electric power prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly. Both industries are inherently subject to relatively brief peaks in demand that customers cannot meet by storing the commodity onsite. (This differs from, for example, the coal industry, where many customers can ride out short-term market fluctuations using on-site storage.) Performance measurements for market responsiveness must then rest on the collection and analysis of short-term (hourly, daily and weekly) natural gas and electric price information.

The Commission does not collect short-term price data for natural gas or electric power, but several trade press publications publish price information for many points around the natural gas grid. Others have started doing so for electric power also. Each publication uses a different methodology for collecting price data, and even casual review of the data for some peak periods suggests that it is difficult to interpret the published information precisely. Moreover, the reliability of such data depends on the structure of the market in the region. Where the industry has created formal trading hubs, such as those created by Dow Jones and NYMEX in the Northwest and other regions, the data will be more reliable than data that is voluntarily self-reported in the absence of formal market structures. As regional markets mature, one would expect the number of formal trading hubs to expand. The Energy Information Administration (EIA) also collects market data. These data are more reliable than trade press reports, but are not specifically designed for regulatory purposes.

Reliable market information will be essential in the future for the success of the Commission's overall regulatory program, as well as for measuring its performance. The Commission will review its data requirements during the coming year to ensure that it has the information it needs to respond to rapidly changing energy markets. That will include ensuring that the data are accurate, consistent, timely, and capable of meeting the Commission's needs. In the meantime, the Commission will use data available from the trade press and the EIA to track performance as well as possible under the circumstances.

For electric power, the Commission will supplement trade press data with price data from power exchanges when and as such data become available. Since power exchange price information may be more comprehensive and more consistent, it may be more reliable than trade press reports. If so, it may become the primary data source of electric power price information where it is available. Power exchange price information also is likely to have both of the advantages noted above for trade press information.

To determine the responsiveness of markets, the Commission will combine this basic price information with other indicators of market conditions. The most important of these is normally weather in consuming areas. Extreme or prolonged cold weather in key consuming areas increases natural gas demand and should lead to price increases. Similarly, unusually hot weather in the summer typically increases electric demand and should lead to price increases. Weather information is available from the National Oceanic and Atmospheric Administration. Other key factors for natural gas include storage levels and production losses from bad weather in supply areas. For electric power, they include generating plant and transmission line outages.

The Commission also anticipates using price information to diagnose other aspects of market performance. For example, it will measure and report price volatility and pricing anomalies (cases where prices move in counter intuitive ways). The Commission's informal market tracking for natural gas suggests that both volatility and pricing anomalies can point to areas where the market is either (a) not working as well as it could or (b) working in ways that were not anticipated but are beneficial. Either way, the results are important as guides to future policy. This will likely be true for electric power also.

Natural gas prices within each trading region will tend to converge, except to the extent there are demonstrable transportation constraints or costs. Wholesale electricity price differences will also tend to narrow. The Commission also will use trade press and power pool price information to correlate the prices of these commodities across regions. The resulting analysis will be a similar narrative explanation of what the price information shows and how it correlates with measures of transportation costs and constraints. The Commission does not now have formal information on transportation constraints for natural gas (that is, when pipelines are so full that no more gas can move). The Commission will work on developing measures in this area.

Here is an example of how the Commission would apply price information, using natural gas in South Louisiana, an area that is especially rich in pricing points. Within South Louisiana, the Henry Hub is the best known and most liquid market.

- Major price differentials occur only when the industry is under severe strain. The peak price differentials in the figure are large, but there is no clear pattern as to which points have relatively high prices. The Commission does not yet have information that would show whether the differentials occur because transportation links between pricing points become constrained (as the success indicator would suggest) or for other reasons (which would indicate the potential for market improvements).

- Minor price differentials occur almost all the time and are probably larger than one would expect if markets were functioning as well as they could.

Over the next year, the Commission will continue to develop this success indicator by:

- creating data bases with all available pricing point information for both natural gas and electric power; and
- developing indicators of when transportation and transmission constraints occur and where.

A key question for market performance is how well prices adjust to changing supply and demand conditions. The Commission will address this question generically by examining how prices react to changing weather conditions, supply outages, and transmission constraints. It already has a team that examines specific key price anomalies and recommends measures that can improve market performance. This team will continue to examine unusual price patterns and report as needed.

Ease and Expense of Transactions. In a well-functioning market, it will be less costly, administratively speaking, to transact business on the interstate natural gas transportation grid.

Transparent markets make it easier for customers to understand what their choices are. Markets that are easy and convenient lower the administrative costs for all customers using them. In both cases, the result is to lower the cost of using the market for each customer's transactions. With lower transactions costs, more customers will have access to the market, which will be especially important as more states give smaller customers the right to buy gas in the interstate market (rather than only from the local distribution company). In addition, lower transactions costs can increase the liquidity of the market.

The Commission does not have any good information sources that would let it measure success in lowering transactions costs, nor will such information be easily collected. For example, one might propose surveying customers to obtain the information. However, it would be difficult to justify the burden of such a survey, and it is unclear how one could structure questions to get meaningful responses.

As a result, the Commission is proposing to track the increased use of market hub services, the growth of electronic services for both the commodities and transportation, and increased economic transmission distance. Over the next year the Commission will attempt to establish baselines for these measurements.

Innovation. Implementation of open access and unbundling by the natural gas industry has resulted in the continuing development of new transportation services to fill the needs of customers. The electric industry is at an earlier stage of implementation, but the Commission anticipates that similar development will occur in that industry. To provide new services, pipelines

and electric utilities must file revisions to their tariffs governing their offerings. The Commission will track filings that propose new services or expand the availability of existing services. The Commission will also categorize the services that have been proposed, and explain the impact of the service on natural gas and electric customers.

Some innovations will grow directly out of Commission initiatives that encourage the development of new pricing approaches, new services, and new institutions. However, innovations that companies may develop in response to new market opportunities are, by their very nature, hard to predict or set specific targets for. However, the Commission will monitor market activities, and will track and report on innovations as they occur.

To Protect Customers

Indicator	Measure	Target	Workload
Constraining market power	Percentage of respondents perceiving a lack of market power	Establish baseline	<ul style="list-style-type: none"> • Cost-Based Rates • Corporate Applications (Non-merger) • Workload Related to Grid Reliability • Service Terms and Conditions • Kansas Ad Valorem • Abandonments – Services • Compliance Filings – Services

It is a goal of the Commission that market participants will have confidence that natural gas markets, electric markets, and oil transportation services are working fairly and that they are not subject to abuses of market power. Broad customer classes (not necessarily every customer) will agree that buyers and sellers have access to competitively priced commodity markets in the national gas transportation and electric transmission grids. And wholesale customers will generally agree that gas pipeline, electric transmission, and oil transportation rates and services are just and reasonable, fairly balancing the competing interests of the transporting or transmitting companies and their customers.

The Commission proposes to use surveys to measure the perception of various industry groups. Such surveys could provide measures of the Commission's success in eliminating unnecessary market power and in fairly balancing the interests of all when market power cannot be eliminated. In both cases, the best performance indicators will come from discussions with the industry and its customers.

The first consideration relates to *customer perceptions* of how much competition they see. Detailed, quantitative market power analyses are extremely difficult and expensive to perform and almost never tell the whole story by themselves. Non-quantified factors almost always substantially affect the degree to which observed levels of market concentration translate into the possibility of market power abuses. As a result, measuring customer

perceptions is the most cost-effective way of judging the Commission's success in guaranteeing access to competitive markets where feasible. A key point here: industry restructuring often brings both competition and confusion to small retail customers, especially residential customers. In the natural gas and electric industries, retail markets are subject to state, not federal jurisdiction. As a result, the Commission intends to focus its measurement on wholesale customers.

Second, some degree of market power is inherent in the natural gas pipeline, oil pipeline and electric transmission industries. That is why they are regulated in the first place. In controlling market power, the Commission is essentially balancing the legitimate interests of different parties. There is no direct way of quantifying how well the Commission is performing its balancing function. However, broad approval from each major industry sector would not be possible unless the Commission was succeeding in this balancing function.

In an important sense, the Commission is almost always engaged in seeking feedback on both current and potential future policies. In issuing generic proposed rulemakings, it seeks out comment from all parts of the industry affected and uses the comments to fashion its long-term policies. Recent examples of proceedings that have given the Commission widespread feedback on generic policies are proposed rules on secondary transportation markets for natural gas, alternatives to traditional cost of service rate making for interstate gas pipelines and capacity reservation tariffs for electric transmission.

There are several additional ways that the Commission might seek input from the industries on its success for these two indicators. The Commission has used two in the last few years:

- A letter requesting (voluntary) feedback on its performance sent to all major trade and interest groups affected by the Commission's electric, natural gas and oil pipeline regulation.
- A two-day technical conference on the status of regulation in the natural gas industry today.

Both approaches yielded important information about whether the Commission has made appropriate policy choices and whether its administration of the law is up to date. The Commission will refine these two approaches and design further options for measurement that are more precisely targeted as success measures. It will then choose the most cost-effective mix of options as its measurement strategy for the future.

To Resolve Disputes Effectively and Efficiently

Goal	Measures	Targets	Workload
Efficient dispute resolution	Time from case receipt by presiding judge to initial decision	Decrease in average time required to reach initial decision in 10% of comparable cases	<ul style="list-style-type: none"> • Hearings • Settlement judge procedures • Complaints
Effective dispute resolution	External and internal customer satisfaction with Commission's handling of disputed cases	75% satisfaction rate	

While the Commission can settle many disputes informally, it strives to resolve those that are formally filed fairly and equitably. The Commission has streamlined the process by which complaints and declaratory orders are handled to make this service as fair and expeditious as possible. The Commission uses a variety of processes, including hearings before administrative law judges, litigation teams to represent the public interest, orders and rehearings, and appellate advocacy when a case goes to court. To facilitate the formal litigation process, the Commission developed expedited time lines applicable to cases set for hearing.

Measuring Success. The Commission will measure the efficiency of dispute resolution by measuring time spent in trial and arriving at an initial decision. The Commission will measure the effectiveness of dispute resolution through external surveys of various industry groups and internal surveys of Commission staff. Such surveys will measure the success with which the Commission addresses significant case issues; communicates; negotiates; meets procedural schedules; and is perceived as fair, competent, reliable, and responsive.

Energy Projects

The Commission licenses nonfederal hydropower projects and issues certificates for natural gas pipelines. These projects have economic, environmental, and cultural implications, all of which must be considered in the licensing or certificating process. In addition, the Commission is responsible for the safety of hydropower projects and the operational safety and reliability of liquified natural gas (LNG) storage facilities.

The Office of Energy Projects will maintain records of the projects under the Commission's jurisdiction and will be the source of data for these measures. Data may be resident on one or more internal systems or may be culled from case files.

To Protect and Enhance Environmental and Public Benefits

Goal	Measures	Targets	Workload
Protect and enhance environmental and public benefits, including power development	• Percentage of licenses issued that contain adaptive management provisions	• 5% increase over baseline	<ul style="list-style-type: none"> • Hydropower Authorizations • Changes to Hydropower Authorizations • Compliance with Authorizations • Unexpected Contingencies • Other Hydropower Work
	• Percentage of filings containing some form of collaboration	• 5% increase over baseline	
	• License processing time when prefilings collaboration occurred compared to license processing time when prefilings collaboration did not occur	• 10% less processing time	

Hydropower facilities provide tangible benefits to the regions where they are located. These benefits include additional recreational opportunities, economic benefits through commercial development, and the generation of electricity without use of fossil fuels. Operation of hydropower projects also can adversely affect resources such as water quality, fishery resources, water-based recreational uses, terrestrial resources, and cultural resources. The Commission's licensing and postlicensing processes have the multiple intents of enhancing and protecting the environment, and enhancing recreational assets of water resources, while maintaining power generation.

Measuring Success. The Commission will gauge the success of its hydropower licensing and post-licensing processes in three ways. First, the Commission will measure the percentage of licenses issued that contain adaptive management provisions. Adaptive management means issuing licenses with terms that allow the Commission to react to changing public needs and environmental conditions. The target for FY 2001 is an increase of 5 percent over the baseline year in licenses with adaptive management provisions.

Second, the Commission will track the percentage of filings containing some form of collaborative process. Collaborative processes have several advantages, including better opportunities for stakeholder input and reduction or elimination of unresolved issues when license applications are filed. The target for FY 2001 is an increase of 5 percent over the baseline year in licenses containing collaborative processes.

Finally, the Commission will track the time for license processing for those filings that had prefilings collaboration and compare it to the time to process filings that did not have prefilings collaboration. This measure will highlight the quality and efficiency of the collaborative process. The target for FY 2001 is a 10 percent time savings in those filings that had prefilings collaboration.

To Ensure the Safety of Hydropower Projects

Goal	Measures	Targets	Workload
Ensure the safety of hydropower projects	• Percentage of high- and significant-hazard potential dams meeting all current structural safety standards	• 90% of qualifying dams	<ul style="list-style-type: none"> • Project Inspections • Engineering and Environmental Analyses • Part 12-D Safety Reviews • Emergency Action Plan Tests
	• Percentage of dams requiring EAPs that have tested, evaluated plans	• 99% of qualifying dams	
	• Percentage of dams with EAPs that have acceptance and certification from licensees and emergency response agencies	• 90% of qualifying dams	

The Commission ensures that the dams under its jurisdiction are properly constructed, operated and maintained. Through inspections and studies, the Commission ensures that the dams are kept in good shape and monitors them to help prevent unanticipated dam safety incidents. As a second line of defense, emergency action plans make sure that the dam owner and community know how to deal with potential emergencies.

Measuring Success. The Commission will rely on three measures to demonstrate the safety of the projects under its jurisdiction. First, 90 percent of dams designated as being high- or significant-hazard potential structures will meet all current structural safety standards. Second, 99 percent of dams that require emergency action plans (EAPs) will have tested and evaluated plans in place. Finally, 90 percent of dams with EAPs will have acceptance and certification from the licensees and the relevant emergency response agencies.

To Balance Interests of Developer, Landowners, and Environment To Achieve Timely, Optimal Construction

Goals	Measures	Targets	Workload
<ul style="list-style-type: none"> • Balance the interests of customers, applicants, landowners, and the environment; • Achieve timely, optimal construction 	<ul style="list-style-type: none"> • Percentage of cases completed in specified time • Number of stop work orders due to non-compliance • Number of complaints that slow construction 	<ul style="list-style-type: none"> • 82% of cases completed within specified time frames: <ul style="list-style-type: none"> ▸ cases that involve no precedential issues and are unprotected, 159 days; ▸ cases that involve no precedential issues and are protested, 304 days; and ▸ cases of first impression or containing larger policy implications, 365 days • Inspect each major onshore project at least once every four weeks 	<ul style="list-style-type: none"> • Construction Authorization • Abandonments - Facilities • Prior Notice - Facilities • Compliance Filings/Reports - Facilities • Environmental Analysis • Environmental Compliance & Safety Inspections

Growing demand for natural gas is expanding the potential for new markets. At the same time, suppliers seek to compete in existing natural gas markets. The Commission expects to respond to a continuing need to construct new pipelines or expand existing facilities to meet these needs. The Commission will encourage efficient gas pipeline construction to provide individual customers and market entrants with increased choice and reliability of service, by giving them multiple supply and delivery options, while respecting the environment and considering landowner concerns.

Measuring Success. For the construction of natural gas pipelines, the Commission has two goals. First, the Commission must balance the interests of customers, applicants, landowners, and the environment. Second, construction must be timely and optimal. Success in achieving both goals will be determined through three measures.

The Commission will track the percentage of pipeline-related cases processed within specified time frames. Three types of certificate cases are included:

- cases that involve no precedential issues and are unopposed, 159 days;
- cases that involve no precedential issues and are opposed, 304 days; and
- cases of first impression or containing larger policy implications, 365 days.

For FY 2001, the target is to process 82 percent of the cases within the specified time frames for each case type.

Program Support

In keeping with the Commission's new budgetary focus, it has developed for program support a comprehensive set of performance measures. The Commission's support activities fall within four broad goals:

- to improve information exchange;
- to improve dispute resolution for regulatory programs;
- to ensure a diverse and competent workforce; and
- to maintain efficient and effective business practices.

The Commission's support work includes information technology, dispute resolution, human resources management and development, financial management, procurement, strategic management, external communications, and general legal services. In the long run, the Commission's core programs can only be as good as the support programs and central values that stand behind them.

To Improve Access to Information

Goal	Measures	Targets	Workload
Improve access to information	<ul style="list-style-type: none"> Percentage of filings that FERC is capable of receiving electronically 	<ul style="list-style-type: none"> Capability to receive 50% of filings electronically 	<ul style="list-style-type: none"> Electronic filings Information Technology <ul style="list-style-type: none"> Computer hardware Computer software Telecommunications Networking Database management Information Flow Notices Receipts Routing Decisions Issuances Printing/publishing Library
	<ul style="list-style-type: none"> Percentage of filings submitted electronically 	<ul style="list-style-type: none"> 50% of filings FERC is capable of receiving electronically are submitted electronically 	
	<ul style="list-style-type: none"> Timely issuance of Notices/Orders 	<ul style="list-style-type: none"> 95% of gas and electric notices/orders issued within 5 workdays 	

Availability of information is essential when moving from a heavily regulated environment to one where lighter-handed regulation and market forces combine to assure just and reasonable rates. The Commission will make information more accessible to the public and easier to understand through a combination of improved technology and better management of that technology. The Commission is striving for a largely paper-free environment with electronic filing and posting of documents and automated work flow management. Putting these measures into place will provide complete, accurate and timely information in an increasingly competitive marketplace.

Electronic filing initiatives and improvements will ease the burden of handling the massive amount of material filed with the Commission each day. New automated systems will provide staff and the public immediate accessibility to critical information. Timely and accurate Commission issuances, such as notices, orders, and major rules, continue to promote the flow of information throughout all levels of the agency and to all interested parties.

Measuring Success. The first measurement the Commission will rely on is its success at making the transition to electronic filing. By the end of FY 2001, the Commission expects to have the capability to receive electronically 50 percent of all filings submitted. Because electronic filing will be voluntary in certain cases, the Commission expects that at least half of the filings it is capable of receiving electronically will actually be submitted in electronic format. The combination of these targets will result in the Commission receiving electronically 25 percent of the total number of filings received.

The Commission will also track its ability to provide timely issuance of orders and notices. In FY 2001, the Commission will aim to issue 95 percent of gas and electric notices and orders within 5 workdays.

To Promote Alternative Dispute Resolution

Goal	Measures	Targets	Workload
Promote Alternative Dispute Resolution	• Percentage of customers satisfied with ADR procedures at the Commission	• 75% satisfaction rate	<ul style="list-style-type: none"> • Alternative Dispute Resolution (ADR) <ul style="list-style-type: none"> ▸ Case screening ▸ Facilitation, mediation, etc. ▸ Education, training ▸ Outreach
	• Percentage of contested proceedings that achieve consensual agreements	• 25% increase over FY 2000	
	• Number of requests and referrals for ADR services	• Increase by 50% over FY 2000	
	• Percentage of ADR cases resolved or terminated within established time frames	<ul style="list-style-type: none"> • 50% within 100 days ▸ 75% within 150 days ▸ 100% within 200 days 	

Today's competitive markets demand quicker regulatory decisions than were necessary when the industry was more regulated. Business decisions are made faster in today's market, and lingering disputes, which often are litigated, result in inefficient and delayed business decisions.

Litigation can be an expensive and time consuming means for resolving regulatory disputes. Historically, most litigated cases have been resolved through the negotiation and settlement process. This is a cost effective and efficient means of resolution available to the parties, and it is a point of primary emphasis for the Commission. The Commission believes, however, that more can be done to achieve faster resolution of disputes and is establishing time lines to facilitate faster decisions. Also, the Commission will continue to emphasize efficient problem-solving through the increased use of alternative dispute resolution (ADR) processes, whenever feasible.

To this end, the Commission created the Dispute Resolution Service, whose specialists will help identify cases for ADR application, perform ADR services such as facilitation and mediation, champion ADR services to internal and external participants, and conduct educational outreach on the use of ADR techniques to resolve disputes. The Commission's Administrative Law Judges are trained to provide ADR services in cases set for hearing, other cases referred to them by the Commission, or at the request of the parties to a dispute. The new Office of Administrative Litigation is implementing ADR proactively to facilitate the consensual resolution of cases set for hearing. In addition, a new, multi-track complaint process will route as many complaints as possible to ADR processes, and speed resolution of complaints that require a hearing to resolve disputed facts. As more ADR techniques are implemented, the Commission expects to realize an increase in the number of disputes concluded through consensual resolution. The ultimate goal is to aid parties in identifying and meeting their interests, in lieu of determining which party has the better position.

Measuring Success. The Commission will use several measures of the success of its dispute resolution processes. One means will be to survey participants to determine their level of satisfaction. For FY 2001, the

Commission has established target satisfaction rates of 75 percent of surveyed respondents giving positive ratings for the Commission's handling of disputed cases and 75 percent of surveyed respondents giving positive ratings for the Commission's ADR services.

The Commission will also track the percentage of proceedings that achieve consensual agreements. The target is a 25 percent increase over the baseline year of FY 2000. As an additional gauge of effectiveness, the Commission will track the number of requests and referrals for ADR services. For FY 2001, the Commission will seek to increase the number of requests and referrals by 50 percent over the previous year.

As a measure of the efficiency of its ADR processes, the Commission will track the percentage of ADR cases resolved or terminated within determined time frames. For FY 2001, the Commission will use the following targets:

- 50 percent of ADR cases completed within 100 days;
- 75 percent completed within 150 days; and
- 100 percent completed within 200 days.

Data for these performance measurements are maintained by the Commission's Dispute Resolution Service and the Offices of Administrative Litigation and Administrative Law Judges.

To Ensure a Diverse, Competent Workforce

Goal	Measures	Targets	Functions
Ensure a diverse and competent workforce	• Percentage of employees in underrepresented groups	• Increase Hispanic employee population by 5%	<ul style="list-style-type: none"> • Workforce Composition <ul style="list-style-type: none"> ▸ Recruitment ▸ EEO ▸ Compensation ▸ Benefits ▸ Training and Development • LEaD Training • Continuous Learning Agreements
	• Number of minority senior executives	• Increase by 2 over baseline year.	
	• Percentage of senior executives participating in FERC's diversity initiative	• 100% of the office directors will have participated in the first phase	
	• Percentage of supervisory participation in LEaD	• 100% supervisors and managers will have completed training on the 5 leadership behaviors	
	• Number of learning agreements	• 5% increase over FY 2000	
	• Number of mentor/protegee teams	• 10 mentor/protegee teams	

As the Commission faces the challenges of the future, its overall success will depend on a cadre of multi-talented, highly skilled individuals. These employees must be not only appropriately experienced and educated, but also should come from all walks of life, and be optimistic, versatile, energetic, and creative. A rich mix of talents and skills requires people with novel ideas and differing perspectives. Commission recruitment efforts will reflect current and future Commission needs.

Other initiatives, such as Leadership, Education and Development (LEaD) and Continuous Learning – are ongoing initiatives to develop managers and employees. The Commission also will rely more heavily on learning agreements and mentoring to foster a continuous learning environment.

Measuring Success. The Commission plans to measure its efforts at diversity in three ways. First, it will increase the number of Hispanic employees – traditionally the Commission's most under represented group – by 5 percent in FY 2001. It will also show a net increase of 2 minority senior executives over the level of representation in FY 2000. (The Commission regards specific numbers as targets, not quotes. It intends to make every effort to find qualified minority applicants and to choose the best applicant for each individual position.) Finally, all office directors will have participated in the first phase of the Commission's diversity initiative by the close of FY 2001.

By the end of FY 2001, all of the Commission's supervisors and managers are targeted to have completed training in the 5 leadership behaviors that are the core of the LEaD initiative. Using FY 2000 as a baseline, the Commission projects a 5 percent increase in the number of employee learning agreements. Further, the Commission has established as a target the institution of 10 mentor/protegee teams to assist in developing employees.

Data for each of these initiatives is or will be maintained by the Office of Strategy and Organizational Management, which has overall responsibility for human resources management and development.

To Maintain Efficient and Effective Business Practices

Goal	Measures	Targets	Workload
Maintain efficient and effective business practices	• Percentage of respondents giving positive rating for "FERC focusing on the right things."	• 10% increase over baseline year	<ul style="list-style-type: none"> • Strategic Management <ul style="list-style-type: none"> ▶ Strategic planning ▶ Performance planning ▶ Performance measuring and reporting • Manage to Budget • Financial Management <ul style="list-style-type: none"> ▶ Budget ▶ Payables ▶ Receivables/Billing ▶ Financial Statements/Reports • Procurement <ul style="list-style-type: none"> ▶ Contracts ▶ Purchase Awards • Legal Service (General Law) <ul style="list-style-type: none"> ▶ Advisory ▶ Litigation involving support activities
	• Percentage of office directors operating within designated budgets	• 80% of office directors operating within designated salary budgets	
	• Unqualified opinion on external audits	• Unqualified opinion received	
	• Percentage of payments within Prompt Payment Act	• 95% payments are made within Prompt Payment Act requirements	
	• Number of days to award purchase orders	• Purchase orders awarded within 5 days of receipt of notification	
	• Number of days to award contracts	• Contracts awarded within 30 days of receipt of requisition	
	• Number of award fee contracts	• Increase number of award contracts by 10% over FY 2000	

Business practices involve an agency's most fundamental activities. These include the abilities to plan, to budget, to maintain fiscal responsibility, and to obtain the goods and services necessary to operate on a daily basis. As a regulatory agency, the Commission needs to be focused on the concerns of its customers and stakeholders. Vendors need assurance that timely payments will be received for goods and services provided. The quality and timeliness of contracting is of concern to a range of interested parties. While the Commission has measured some of this information in the past, the effort for FY 2001 will be its most comprehensive.

Measuring Success. The Commission will survey its customers and stakeholders to determine the success of its strategic management process. The target for FY 2001 is to increase by 10 percent the number of respondents who rate the Commission above average or higher compared to a baseline which the Commission intends to establish in FY 2000. The Commission will also measure the success of its Manage to Budget initiative by tracking the number of senior managers who function within the constraints of their designated budgets. A target of 80 percent has been set for FY 2001.

Two measures will be used to gauge financial performance. First, the Commission will continue to strive for unqualified opinions in the external audit of the Commission's annual financial statements. Second, 95 percent of payments will continue to be made within the time frames established by the Prompt Payment Act.

The Commission will determine the effectiveness of its procurement activities using three measures. The first two measures track the number of days to award purchase orders and contracts. For purchase orders, the target is an award within 5 days of receipt of notification. In the case of contracts, these will be awarded within 30 days of receipt of requisition. Finally, the Commission will seek to increase the number of award fee contracts by 10 percent over the number in FY 2000.

Data for each of the business practice measurements is maintained by the Office of Finance, Accounting, and Operations. The exception is the survey on strategic management, which will be developed in FY 2000.

APPENDIX A

PROPOSED APPROPRIATION LANGUAGE

Proposed Appropriation Language

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$3,000); [\$174,950,000] \$175,200,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed [\$174,950,000] \$175,200,000 of revenues from fees and annual charges, and other services and collections in fiscal year [2000] 2001, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year [2000] 2001, so as to result in a final fiscal year [2000] 2001 appropriation from the General Fund estimated at not more than \$0.

APPENDIX B

TRADITIONAL WORKLOAD

Quantifying Commission Workload

This appendix shows the part of the Commission's workload covered by the traditional workload categories now in use. These categories have changed only minimally over the years, and are increasingly inadequate for the Commission's future needs. The Commission will develop a new workload tracking system that will mirror the evolving workload mix that the Commission faces now and in the future.

Inadequacies of the Current System

Key problems with the Commission's current workload measurement system include the following:

- Current workload categories are based mostly on traditional inputs and outputs, such as the number of filings received and the number of orders issued. These measures do not capture the substance of much of the Commission's present and future workload.

For example, the effort to monitor markets is likely to be independent of the number of formal filings. Proactive and facilitative approaches to some issues will be specifically designed to reduce the number of formal filings and might better be judged from the number of filings avoided than the number received. Similarly, the same regulatory problem in different regions (for example, establishing regional markets) may come to the Commission as many or few formal filings. Yet the work required is likely to be similar, no matter how many filings are involved.

The Commission will design new workload categories to cover the Commission's nontraditional workload.

- Items in different workload categories require vastly different amounts of staff time and attention. For instance, many electric mergers require extensive involvement from many staff members over a period of many months, while electric power rate filings on average consume much less staff time. The Commission will develop estimates of the level of effort that should be required for items within each future workload category.
- Within a particular workload category, cases may vary greatly as to the staff time and attention necessary to process them. However, each case is counted as one. This confounds the Commission's ability to connect workload trends with changes in resource requirements. For example, some natural gas pipeline construction certificate cases are relatively straightforward and can be resolved quickly. Others are extremely complex and require vastly greater resources. This is another issue the Commission will need to address.

**Future Changes in
Workload
Accounting**

The Commission will redesign its workload measurement system in ways that reflect the Commission's emerging workload and help it to estimate the resources that should be required to address different work items. The latter will help the Commission tie its workload to its resource requirements and will help to clarify the likely effects of changing resource levels on overall agency performance.

The Commission had anticipated completing this process in time for the FY 2001 budget request. Progress has been made. The Commission is committed to revising its method of quantifying its workload, and will report its progress next year. The system of workload categories shown in the Performance Plan has been simplified and made parallel to the Commission's strategic realignment. A crosswalk following the traditional workload tables illustrates these changes.

ELECTRIC POWER WORKLOAD¹

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a comprehensive representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1998 Actual	FY 1999 Actual			FY 2000 Estimate			FY 2001 Estimate		
ELECTRIC POWER	P	R	C	P	R	C	P	R	C	P
<i>Rate Filings</i>	1,055	3,999	4,061	993	3,000	3,300	693	3,100	3,300	493
<i>Formal Investigations</i>	302	102	124	280	150	160	270	150	160	260
<i>Compliance Filings</i>	336	2,272	2,220	388	2,300	2,300	388	2,500	2,500	388
<i>Small Power</i>	2	136	135	3	140	140	3	140	140	3
<i>Cogeneration</i>	15	131	137	9	130	130	9	130	130	9
<i>Corporate Applications</i>	71	121	112	80	150	150	80	170	170	80
<i>Transmission Service</i>	20	3	9	14	2	16	0	5	5	0
<i>Interlocking Positions</i>	10	260	264	6	250	250	6	250	250	6
<i>Securities</i>	9	72	76	5	62	55	12	55	55	12
<i>Financial Audits</i>	62	16	12	66	4	27	43	6	15	34
<i>Contested Accounting Cases</i>	0	0	0	0	0	0	0	0	0	0
<i>FA Refund Reports</i>	4	4	5	3	4	5	2	4	5	1
<i>Federal Rate Filings</i>	4	8	8	4	8	8	4	50	50	4
<i>Declaratory Orders</i>	41	60	29	72	70	70	72	80	80	72
<i>Complaints</i>	47	42	46	43	56	56	43	56	56	43
<i>Rehearings</i>	266	390	273	383	400	400	383	400	400	383
<i>EWG Determinations</i>	7	240	165	82	240	240	82	240	240	82
<i>Accounting Interpretations</i>	1	1	2	0	0	0	0	0	0	0
<i>Depreciation Filings</i>	5	59	34	30	2	32	0	0	0	0
<i>Accounting Approvals²</i>	11	129	119	21	61	61	21	61	61	11

¹Key: R = Receipts; C = Completed; P = Year-End Pending.

²Beginning in FY 1999, this category combines accounting approvals and interpretations.

NATURAL GAS AND OIL PIPELINES WORKLOAD

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a comprehensive representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1998 Actual	FY 1999 Actual			FY 2000 Estimate			FY 2001 Estimate		
CERTIFICATES	P	R	C	P	R	C	P	R	C	P
<i>Construction Activity</i>	85	145	166	64	145	140	69	145	140	74
<i>Prior Notice & Abandonments</i>	112	306	376	42	165	160	47	155	150	52
<i>Meetings & Conferences</i>	0	151	151	0	151	151	0	151	151	0
<i>Compliance Filings & Reports</i>	39	383	381	41	383	390	34	383	390	27
<i>Environmental Analysis</i>	44	333	342	35	316	315	36	306	306	36
<i>Environmental Compliance & Safety Inspections</i>	100	1,050	1,050	100	1,000	1,000	100	1,000	1,000	100
<i>Rehearings, Complaints & Declaratory Orders</i>	93	97	99	91	98	95	94	99	95	98

GAS RATES	P	R	C	P	R	C	P	R	C	P
<i>Rate Filing Activities</i>	120	1,350	1,305	165	1,600	1,600	165	1,277	1,277	165
<i>Intrastate Activities</i>	172	78	53	197	106	141	162	46	195	13
<i>Litigation, Settlements & Opinions</i>	62	69	76	55	88	90	53	88	88	53
<i>Meetings & Conferences</i>	16	160	158	18	172	172	18	180	180	18
<i>Rehearings, Complaints, etc.</i>	118	174	181	111	269	293	87	267	291	63
<i>Industry Analysis Functions</i>	4	1,889	1,888	5	1,735	1,740	0	1,740	1,740	0
<i>Accounting Actions</i>	18	26	22	22	23	42	3	37	25	15

OIL	P	R	C	P	R	C	P	R	C	P
<i>Oil Filings Nonformal</i>	28	512	512	28	520	520	28	520	520	28
<i>Oil Filings Formal</i>	93	26	25	94	35	45	84	35	45	74
<i>Litigation, Settlements & Opinions</i>	96	17	19	94	42	74	62	43	53	52
<i>Rehearings, Rulemakings, & Complaints</i>	19	10	8	21	18	20	19	18	20	17
<i>Meetings & Conferences</i>	0	1,000	1,000	0	1,000	1,000	0	1,000	1,000	0
<i>Accounting Actions</i>	6	39	39	6	39	39	6	39	39	6

HYDROPOWER WORKLOAD

The following numerical report of Commission workload does not reflect many newly emerging aspects of the Commission's work that often entail high levels of complexity (e.g., utility mergers). Furthermore, the level of effort required to process workload items varies greatly among and within workload categories. Therefore, the numbers reported here do not provide a comprehensive representation of the Commission's overall workload. The information is provided purely for consistency with workload presentations in prior year budget documents.

	FY 1999 Actual	FY 1999 Actual			FY 2000 Estimate			FY 2001 Estimate		
Dam Safety & Inspections	P	R	C	P	R	C	P	R	C	P
<i>Operations Inspections³</i>	138	1,621	1,621	138	1,646	1,646	138	1,621	1,621	138
<i>Prelicense Inspections</i>	0	33	33	0	21	21	0	26	26	0
<i>Construction Inspections</i>	50	266	266	50	219	219	50	230	230	50
<i>Exemption Inspections</i>	100	389	389	100	296	296	100	344	344	100
<i>Special Inspections</i>	25	240	240	25	123	123	25	138	138	25
<i>Engineering Evaluation & Studies</i>	149	600	600	149	1,450	1,390	209	393	533	69
<i>Part 12 Reviews</i>	58	216	182	92	174	208	58	157	186	29
<i>Dam Safety Reviews</i>	6	23	22	7	10	12	5	9	11	3
<i>Environmental & Public Use Insp.</i>	53	211	211	53	220	220	53	261	261	53
<i>EAP Tests</i>	1	33	33	1	32	32	1	37	37	1

HYDROPOWER LICENSING	P	R	C	P	R	C	P	R	C	P
<i>Original Licenses</i>	63	8	19	52	10	20	42	10	20	32
<i>Relicenses</i>	78	23	14	87	20	28	79	20	20	79
<i>Exemptions</i>	4	3	7	0	3	3	0	3	3	0
<i>Preliminary Permits</i>	14	187	112	89	100	100	89	50	50	89
<i>Declaratory Orders</i>	1	1	1	1	1	1	1	1	1	1
<i>Rehearings</i>	95	58	60	93	58	60	91	58	60	89

³Includes about 50 inspections in each fiscal year for DOE and NRC.

PROJECT COMPLIANCE & ADMINISTRATION	FY 1999 Actual	FY 1999 Actual			FY 2000 Estimate			FY 2001 Estimate		
	P	R	C	P	R	C	P	R	C	P
<i>Amendments</i>	518	1,463	1,541	440	1,600	1,541	499	1,600	1,541	558
<i>Jurisdiction</i>	11	24	18	17	10	10	17	10	10	17
<i>Federal Lands</i>	3	69	71	1	150	150	1	150	150	1
<i>Headwater Benefits</i>	18	125	132	11	115	115	11	115	115	11
<i>Compliance</i>	155	377	431	101	325	325	101	325	325	101
<i>Penalty</i>	8	1	3	6	6	6	6	6	6	6
<i>Surrenders, Transfers</i>	41	81	91	31	100	60	71	100	60	111
<i>Endangered Species Consultations</i>	0	5	5	0	5	5	0	10	10	0
<i>Abnormal Events</i>	0	2	2	0	2	2	0	2	2	0
<i>Compliance Audits & Assistance</i>	0	20	20	0	20	20	0	20	20	0
<i>Complaints</i>	6	1	3	4	2	3	3	2	3	2
<i>Rehearings</i>	10	45	46	9	40	45	4	40	40	4

WORKLOAD CROSSWALK

New Workload Categories		Old Workload Categories	
Program	Workload Category	Industry	Workload Category
Energy Markets	Initial Services	Natural Gas	Construction Activity (Certificates)
	Market-Based Rates	Electric Natural Gas	Part of Rate Filings Part of Rate Filings
	Industry Restructuring ► Mergers ► Independent System Operators & Transcos ► Asset Divestiture and Disposition	Electric	Corporate Applications
	Negotiated Rates	Natural Gas	Rate Filing Activities Oil Filings Nonformal Oil Filings Formal
	Market Information & Modeling ► Data Collection (Includes Forms) ► Market Information Exchange ► Market Monitoring (Includes Analysis) ► OASIS ► EBB/GISB	Natural Gas	Industry Analysis Functions (Gas Rates) Rate Filing Activities (Gas Rates)
	Power Exchange	Electric	N/A
	Cost-Based Rates	Electric Natural Gas	Part of Rate Filings Federal Rate Filings Rate Filing Activities Intrastate Activities Oil Filings Nonformal Oil Filings Formal
	Corporate Applications (Non-merger) ► Cogeneration ► Small Power	Electric	Corporate Applications
	Service Terms and Conditions	Electric Natural Gas	Part of Rate Filings Transmission Service Rate Filing Activities (Gas Rates)
	Kansas Ad Valorem		
	Abandonments – Services	Natural Gas	Prior Notices & Abandonments
	Compliance Filings – Services	Natural Gas	Compliance Filings & Reports
Energy Projects	Hydropower Authorizations	Hydropower	Original Licenses Relicenses Exemptions Preliminary Permits
	Changes to Hydropower Authorizations	Hydropower	Amendments Surrenders/Transfers
	Compliance with Authorizations	Hydropower	Compliance Compliance Audits & Assistance Penalty
	Unexpected Contingencies	Hydropower	Endangered Species Consultation Abnormal Events

New Workload Categories		Old Workload Categories	
Program	Workload Category	Industry	Workload Category
Energy Projects	Other Hydropower Work	Hydropower	Jurisdiction Federal Lands Headwater Benefits
	Project Inspections	Hydropower	Operations Inspections Preliminary Inspections Construction Inspections Exemption Inspections Special Inspections Environmental & Public Use Inspections
	Engineering and Environmental Analyses	Hydropower	Engineering Evaluation & Studies Dam Safety Reviews
	Part 12-D Safety Reviews	Hydropower	Part 12 Reviews
	Emergency Action Plan Tests	Hydropower	EAP Tests
	Construction Authorization	Natural Gas	Construction Activity (Const & Oper, Export/Import, Section 3, Prelim Determs)
	Abandonments - Facilities	Natural Gas	Prior Notice & Abandonments
	Prior Notice	Natural Gas	Prior Notice & Abandonments
	Compliance Filings/Reports - Facilities	Natural Gas	Compliance Filings & Reports (Sect 2.55, 284.11 & Sp F, Const & Oper Reports, Emerg Trans Curtail, Compliance Filings, GRI)
	Environmental Analysis	Natural Gas	Environmental Analysis (EAs, EA Reports 157.208 etc, EA Reports Sec 380.4, EIS)
	Environmental Compliance & Safety Inspections	Natural Gas	Environmental Analysis & Safety Inspections (Envir Condition Compl, Compl & Safety Insp)
Program Support	<ul style="list-style-type: none"> • Electronic filings • Information Technology <ul style="list-style-type: none"> ▸ Computer hardware ▸ Computer software ▸ Telecommunications ▸ Networking ▸ Database management • Information Flow • Notices • Receipts • Routing • Decisions • Issuances • Printing/publishing • Library 	N/A	N/A
	<ul style="list-style-type: none"> • Alternate Dispute Resolution (ADR) <ul style="list-style-type: none"> ▸ Case screening ▸ Facilitation, mediation ▸ Education and training ▸ Outreach • Proceedings set for hearing 	Electric Natural Gas Hydropower	Electric Formal Investigations Gas Rates Litigation, Settlements and Opinions Oil Rates Litigation, Settlements and Opinions

New Workload Categories		Old Workload Categories	
Program	Workload Category	Industry	Workload Category
Program Support	<ul style="list-style-type: none"> • Workforce Composition <ul style="list-style-type: none"> ▸ Recruitment ▸ EEO ▸ Compensation ▸ Benefits ▸ Training and Development • LEaD Training • Continuous Learning Agreements 	N/A	N/A
	<ul style="list-style-type: none"> • Strategic Management <ul style="list-style-type: none"> ▸ Strategic planning ▸ Performance planning ▸ Performance measuring and reporting • Manage to Budget • Financial Management <ul style="list-style-type: none"> ▸ Budget ▸ Payables ▸ Receivables/Billing ▸ Financial Statements/Reports • Procurement <ul style="list-style-type: none"> ▸ Contracts ▸ Purchase Awards • Legal Service (General Law) <ul style="list-style-type: none"> ▸ Advisory ▸ Litigation involving support activities 	N/A	N/A

APPENDIX C

RESOURCE REQUEST BY SECTOR

RESOURCE REQUEST BY SECTOR**Program Funding
(Dollars in Thousands)**

Program	FY 1999 Actual	FY 2000 Estimated	FY 2001 Request
Electric Power	53,792	60,575	60,619
Natural Gas & Oil Pipelines	62,057	66,285	66,323
Hydropower	50,687	48,090	48,258
Total	\$166,536	\$174,950	\$175,200

Program FTEs

Program	FY 1999 Actual	FY 2000 Estimated	FY 2001 Request
Electric Power	435	453	453
Natural Gas & Oil Pipelines	489	472	472
Hydropower	375	325	325
Total	1,299	1,250	1,250

APPENDIX D

OBJECT CLASS TABLE

OBJECT CLASS SUMMARY (Dollars in Thousands)

<u>Obligations</u>	<u>FY 1999 Actual</u>	<u>FY 2000 Estimate</u>	<u>FY 2001 Request</u>
11.9 Personnel Compensation	\$94,080	\$94,981	\$97,993
12.1 Benefits	19,004	18,993	19,785
13.0 Benefits for Former Personnel	<u>2,127</u>	<u>25</u>	<u>25</u>
Total, Personnel Compensation & Benefits	115,211	113,999	117,803
21.0 Travel & Transportation of Persons	1,746	2,069	2,249
22.0 Transportation of Things	13	10	10
23.1 Rental Payments to GSA	17,693	18,252	18,910
23.2 Rental Payments to Others	499	376	381
23.3 Communications, Utilities & Misc. Charges	2,185	2,591	2,607
24.0 Printing & Reproduction	2,540	2,637	2,713
25.0 Other Services	22,506	29,800	25,992
25.1 Advisory and Assistance	6,309	7,500	7,705
25.2 Non-Federal	12,002	19,397	15,795
25.3 Federal	1,420	2,063	2,274
25.4 Operation & Maintenance of Facilities	741	500	125
25.7 Operation & Maintenance of Equipment	2,034	340	93
26.0 Supplies & Materials	1,235	1,085	1,193
31.0 Equipment	2,838	4,079	3,290
41.0 Grants, Subsidies & Contributions	65	45	45
42.0 Insurance Claims & Indemnities	<u>5</u>	<u>7</u>	<u>7</u>
TOTAL, OBLIGATIONS	\$166,536	\$174,950	\$175,200
Application of Prior Years' Budget Authority	<u>964</u>	<u>0</u>	<u>0</u>
GROSS BUDGET AUTHORITY	\$167,500	\$174,950	\$175,200
Offsetting Receipts	<u>(167,500)</u>	<u>(174,950)</u>	<u>(175,200)</u>
NET BUDGET AUTHORITY	\$0	\$0	\$0

APPENDIX E

STATUTORY AUTHORITY

Statutory Authorization

The Commission's primary sources of authority are the following statutes:

- Federal Power Act;
- Natural Gas Act;
- Department of Energy Organization Act;
- Energy Policy Act;
- Natural Gas Policy Act;
- Interstate Commerce Act;
- Electric Consumers Protection Act;
- Energy Security Act;
- Public Utility Regulatory Policies Act;
- Public Utility Holding Company Act;
- Pacific Northwest Electric Power Planning and Conservation Act; and
- National Environmental Policy Act;
- Administrative Dispute Resolution Act

APPENDIX F

STRATEGIC PLAN

FEDERAL ENERGY REGULATORY COMMISSION STRATEGIC PLAN FY 1997 - FY 2002

Introduction

This document is the Federal Energy Regulatory Commission's first strategic plan. The plan focuses on the most basic questions:

- What strategic role must the Commission play in each industry over the next decade?
- What are the Commission's strategic goals and objectives?
- What are reasonable success indicators for achieving these goals?
- How will the Commission measure its performance in the future?

This document serves as the basis for developing more detailed, results-oriented measures in the annual performance plans. The Commission is developing program evaluations and specific measures for general success indicators.

Congress has charged the Commission with specific but different responsibilities for each of the industries it regulates (see Table 1 on page 120 for an overview). In each industry, the Commission plays key strategic roles specifically assigned by the Congress—for example, to protect consumers through regulating rates and services. Many of the statutes setting forth the Commission's roles date to the 1930s or earlier, but the laws continue to evolve to match changing markets and technology. As a result, the Commission's roles continue to evolve also. This plan lays out the historical context of the Commission's responsibilities, as well as goals and objectives designed to capture the essence of the Commission's ongoing role in each industry. Goals for some of the industries overlap. Therefore, the goals are grouped into broad categories that often span more than one industry.

Mission

The Commission regulates, in the public interest, essential interstate aspects of four of the nation's critical energy industries: electric power transmission and sales for resale, natural gas transportation and sales for resale, oil pipeline transportation, and nonfederal hydroelectric power. The Commission ensures that the rates, terms and conditions of service for the electric power, natural gas, and oil industries are just and reasonable and not unduly discriminatory or preferential, and that licensing, administration, and safety actions for the hydropower industry and other approvals for all four industries are consistent with the public interest. It administers numerous laws and regulations involving key issues, including:

In the electric industry:

- Transmission and sales for resale of electric energy in interstate commerce;
- Certification of exempt wholesale generators and qualifying facilities; and
- Corporate transactions, mergers, and security issues of electric public utilities.

In the natural gas industry:

- Transportation and sales for resale of natural gas in interstate commerce;
- Construction and operation of natural gas pipelines; and
- Oversight of related environmental matters.

Table 1: Key Areas of Commission Jurisdiction

Type of Regulation	Electric Power	Interstate Natural Gas Pipelines	Oil Pipelines	Nonfederal Hydropower Projects
Regulation of Markets and Rates, Terms, and Conditions of Energy Services				
Transmission	Yes	Yes	Yes	No
Sales for Resale	Yes	Yes	No	No
Corporate	Yes	No	No	No
Authorizing and Monitoring				
Siting	No. Under EPAct, the Commission can order transmission service, but states site the lines and generation.	Yes. The Commission issues certificates for construction of pipelines and related facilities.	No	Yes. The Commission issues preliminary permits, licenses, exemptions, and license amendments.
Environmental	No, except for programmatic EISs for some major actions.	Yes, NEPA review and interagency consultation for pipelines to be certificated.	No	Yes, NEPA review and interagency consultation for the above authorizations, except preliminary permits.
Safety	No	No, except as part of initial certification.	No	Yes, dam and public safety.
Related Responsibilities of Other Key Agencies				
States	Retail sales, distribution, siting for transmission lines and generation, some aspects of retail transmission	Retail sales, distribution, some aspects of retail transportation, some environmental permitting	Siting	Projects that do not affect navigable waters, interstate commerce, or Federal lands or dams
Other Federal Agencies	DOE: reliability, PMAs EPA: air quality, emissions allowances NRC: nuclear power licenses	DOT: safety DOI: offshore waters, federal lands, endangered species, national parks USFS: national forests COE: water body crossings Advisory Council on Historic Preservation: cultural resources EPA: PCBs National Marine Fisheries Service: offshore fisheries	DOT: safety	COE, Bureau of Reclamation, and others: Congressionally authorized projects without private development

In the oil pipelines industry:

- Transportation of crude oil and petroleum products by pipeline in interstate commerce.

In the hydroelectric industry:

- Licensing and inspection of nonfederal hydroelectric projects; and
- Oversight of related environmental matters.

Strategic Vision

At the most basic level, the Commission is moving away from a traditional command and control approach to economic regulation, due to the evolving nature of the electric power and natural gas industries and by heightened environmental concerns surrounding construction of energy projects. The Commission will encourage restructuring in the electric industry to promote competitive commodity markets, as it has in the natural gas industry. This may tend to reduce federal regulation over the commodity portion of energy transactions, including natural gas and sales of power, but may mean a continued and even enhanced importance for federal regulation of interstate electric transmission and gas transportation grids. True open access to essential facilities is the underpinning of competitive commodity markets for both electricity and gas and requires constant adjustment to fit the changing industries.

The Commission will increase its emphasis on harmonizing its policies with those of states and other federal agencies, especially in the electric and hydropower programs, since it is clearer than ever that the different responsibilities of each of these entities have implications for all the others. Increasing convergence of energy markets, especially between gas and electricity, will require greater creativity in regulating gas transportation and electric transmission. Of necessity, economic market realities and heightened environmental requirements will also increasingly affect the hydroelectric industry.

The Commission is under some pressure to meet the needs of the industries as they become more competitive. The Commission must be flexible, quick, and innovative to meet these challenges, and will therefore continue its efforts to reallocate staff among its major areas to respond to pressing needs as they develop. As needs for regulation in the industries change, the ways of the Commission must change to respond in real time to industries and intervenors alike. These changes will include better use of electronic technology to facilitate the regulatory process, improved approaches to handle the problems of increasingly market-responsive energy industries, and improvements in environmental reviews.

Historical Perspective

Electric Power

The electric industry is in the early stages of a restructuring that will bring the advantages of competition to the generation and sale of electricity. The generation sector has historically accounted for about 70 percent of the costs of the industry. If structured well, competition promises to bring significant savings to customers throughout the nation, thereby benefiting individuals and making American industry more competitive in world markets. Managing the transition to competition is the most important task facing both this Commission and state public utility commissions around the country.

The electric industry was traditionally a set of local monopolies, regulated at first by the states to prevent abuses of monopoly power. In 1935, Congress passed the Federal Power Act (FPA), giving the Federal Power Commission (FPC, the Federal Energy Regulatory Commission's predecessor agency) the responsibility to regulate interstate aspects of the industry — that is, wholesale power sales and transmission service. The Commission's basic statutory responsibility still traces back to the FPA. The logic that governs its regulation remains the same: the public interest requires curbing abuses of market power in interstate commerce.

The electric industry has evolved substantially since 1935, and the form of the Commission's regulation has changed with it. The economies of scale that made electric power generation a natural monopoly have been almost completely exhausted, so that the public is now far better protected by a system of robust competition in generation rather than traditional regulation. At the same time, transmission and distribution remain natural monopolies. Left unregulated, companies could leverage their ownership of transmission and distribution into a position of market power over generation as well.

In 1978, Congress began introducing competitive pressure into the electric industry by enacting the Public Utility Regulatory Policies Act (PURPA). This act required utilities to buy power from a new class of non-utility generators. PURPA showed that independent generation is feasible.

Over time, it became clear that competition could lower generation costs. The biggest obstacle to competition was that incumbent utilities could often deny independent generators access to the transmission grid. In the late 1980s, the Commission began to encourage voluntary open access where possible (for instance, as a condition for approving mergers). In 1992, Congress passed the Energy Policy Act (EPA), which authorized the Commission to order transmission access for individual wholesale transactions upon request. In 1996, the Commission issued Order No. 888, which required public utilities to offer open access to all wholesale market participants. However, under current law the Commission regulates only 67 percent of electric transmission plant in the U.S. (measured by investment in transmission plant). Increasingly, states are initiating retail access programs that may eventually extend the benefits of a competitive market to retail customers. The future of the industry is likely to entail a more competitive generation sector, supported by transmission and distribution sectors that remain subject to market power and, therefore, to regulation.

Natural Gas

In the natural gas industry, the Commission's actions over the past 15 years have supported Congressional mandates and fostered the emergence of basic competitive market institutions for the commodity. In that sense, the natural gas industry is several years ahead of the electric industry. Now the Commission's main challenge is to continue its regulation of gas transportation in ways that a) maintain existing competitive markets and b) foster a second generation of competitive market institutions that will remove some of the market impediments that remain today and lower the costs of trading.

The early history of the natural gas industry is broadly similar to that of electric power. Gas companies were initially local franchised monopolies, many of whom manufactured gas locally from coal. With the discovery of large natural gas reserves in the southwest in the early part of the century, large interstate pipelines soon became a major sector of the industry, but retained strong features of a natural monopoly. As a result, Congress passed the Natural Gas Act of 1938 (NGA), giving the FPC jurisdiction over interstate sales for resale and gas transportation. Unlike the FPA, the NGA also gave the FPC jurisdiction over the construction of new interstate pipelines, which accounts for the difference in environmental focus between the two programs today. Unlike electric generation, natural gas production has probably never been a natural monopoly. However, a Supreme Court decision in 1954 interpreted the NGA as requiring the Commission to regulate the wellhead price of natural gas sold in interstate commerce just as it did wholesale interstate power sales.

Comprehensive regulation of natural gas wellhead prices proved a failure. By the mid-1970s, there were severe gas supply shortages in the interstate market as a result of artificially low prices. During cold winters (like 1976 — 1977), these shortages translated into delivery curtailments for many customers in the north. Congress began the phased deregulation of natural gas commodity prices with the Natural Gas Policy Act of 1978 (NGPA). During the 1980s, the biggest obstacle to competitive natural gas markets was the inability of customers to gain access through the pipeline systems to competitive gas suppliers. As a result, the Commission issued a series of measures (Order Nos. 436, 500 and 636) that opened pipeline transportation to all on equal terms and that eventually resulted in interstate pipelines' relinquishing their traditional

merchant function. By 1993, the Wellhead Decontrol Act fully deregulated prices for natural gas production. However, continued regulation of the interstate pipeline grid to ensure efficient, nondiscriminatory access to transportation services at just and reasonable rates is the indispensable underpinning for competitive gas commodity markets.

Natural gas open access has been a success. Today the gas market is growing, and customers have more flexible, more reliable service than ever before. Gas supply curtailment of firm pipeline customers is a thing of the past. Prices fluctuate with market conditions, but average prices for all customer classes are lower than they were ten years ago (adjusted for inflation). The competitive revolution in natural gas has also had beneficial environmental effects. Gas is increasingly seen as a reliable, affordable fuel in comparison with other fuels such as coal and oil that tend to have higher emissions affecting the environment, especially air quality.

Oil Pipelines

In 1977, as part of creating the Department of Energy, Congress gave the Commission responsibility for regulating oil pipelines under the Interstate Commerce Act.

The Commission's role in regulating oil pipelines differs from its role in natural gas and electric power, because the petroleum industry differs significantly from the natural gas and electric power industries. The Commission has never been charged to regulate prices for either crude oil or petroleum products. Indeed, markets for these commodities have long been recognized as competitive. Barges and tankers transport much of the crude oil and refined products used in the United States. These parts of the oil transport industry are also widely recognized as competitive. In many cases, they bring competitive forces to bear on oil pipelines. Oil pipelines remain critical transporters of oil to some areas and often have market power, but they do not have the same industry-wide roles that interstate gas pipelines or the electric transmission grid have in their industries. As a result, the Commission has been able to move to lighter-handed methods of regulation in some situations.

Hydropower

Water is one of the nation's most precious resources. River systems satisfy many competing water supply and economic needs, for hydropower, irrigation, domestic and industrial uses, navigation, recreation, and preservation of environmental values. Hydropower generation represents 98 percent of the country's current renewable energy resources. The Commission has jurisdiction over about half the hydropower generation in the United States. Its job is to: (1) look at all aspects of the project proposals that come before it, including the cumulative impacts on given river systems, and consider all competing interests; (2) administer over many decades the projects and associated resource protection conditions it authorizes; and (3) ensure the safety of dams and other structures under its jurisdiction.

The Federal Water Power Act of 1920 authorized the Federal Power Commission to license hydropower projects that are best adapted to the comprehensive development of a waterway. In 1935, the Congress amended and recodified the Federal Water Power Act of 1920 as Part I of the FPA. Later legislation — various flood control and river and harbor acts, PURPA, the Electric Consumers Protection Act of 1986 (ECPA), and EPAct — broadened the Commission's responsibility for overseeing the development of water resources.

The Commission's basic legal obligations have remained much the same, even as hydropower development changed dramatically. By the 1930s, when the FPA was passed, hydropower plants (both federal and nonfederal) had grown to provide 30 percent of the nation's generating capacity and 40 percent of the electric energy. In the 1950s and 1960s, even as additional plants continued to be licensed, some existing hydropower plants were abandoned. Less expensive fossil fuels began changing the economics of energy

generation. The energy embargo of the 1970s reversed the economics and politics of hydropower, while the Energy Security Act and PURPA encouraged the use of clean, domestic resources at facilities producing less than 80 megawatts. Between 1975 and 1991, over 950 nonfederal projects came on line, a majority of them small scale.

In recent years, water issues have become more important than ever, and hydropower's national role has come under greater scrutiny. First, hydropower remains an essential national energy resource. It is domestically produced and renewable. It has very low operating costs and is often a highly flexible resource since generation can be brought on line quickly. This flexibility may be quite valuable in a competitive generation market. At the same time, new hydropower projects may be less attractive to developers. They are capital intensive (and therefore risky), and the measures needed for environmental and safety reasons can be costly.

Second, public concern about environmental issues is far greater now than even a few years ago. These issues include preserving and restoring free-flowing streams, fish populations, water quality, endangered species, and cultural and aesthetic values. The Commission granted many of the licenses that currently govern hydropower projects decades ago, before the passage of the new environmental laws. The environmental issues dealt with in these laws arise when projects come up for relicensing.

Third, other competing uses for water are important and politically sensitive. Continuing growth in both population and industries only creates greater demands for water, power, recreational resources, and resource protection. Hydropower licensing and administration have become part of a larger debate about developing sustainable energy strategies and resources.

The increasing awareness of hydropower development and the Commission's decisions have led to expanded participation of federal and state resource agencies, nongovernmental organizations, and the public in the Commission's regulatory processes. In recent legislation, Congress sought both to clarify the role of other agencies in the Commission's licensing process and to strike a better balance between the developmental and environmental values of concern to these entities. The Commission increasingly is using up front consultation and settlement procedures to resolve conflicts and accommodate the interests of these varied participants.

Commission Administration

The Commission has been working for several years to improve both the way it does business with the industries it regulates and its own internal procedures.

Although the Commission must utilize the fact-finding capabilities of administrative litigation, it has developed a number of alternatives to lengthy and costly formal hearings. It has made extensive use of technical conferences, settlements, settlement judges, and mediators in its casework. It has also made use of generic rules and blanket authorizations where possible. In addition, it has encouraged the growth of regional transmission groups in electric power and development of national standards in natural gas pipeline operations. These groups, composed of all stakeholders, can find fair solutions to potential disputes that would otherwise come to the Commission for decision. For environmental aspects of both hydropower licensing and natural gas pipelines, the Commission uses early staff involvement and prefiling meetings to identify potential areas of conflict early in the review process. It also uses technical conferences, local public meetings, and collaborative processes to promote understanding and compromise among the parties at various stages of the proceedings.

The Commission has introduced electronic filing and electronic bulletin boards. Electronic filing is already in place for many purposes, and computer systems provide access to bulletin board data, Commission documents, and information on obtaining Commission services.

While making these business improvements, the Commission has also reduced administrative staff by 14 percent between FY 1994 and FY 1997.

Strategic Goals and Objectives

A number of the Commission's responsibilities and approaches to meeting those responsibilities are similar across industries. Therefore, the Commission's goals for each industry can be grouped into several broad categories that cut across industries. These broad categories are:

- regulation of markets and rates, terms, and conditions of energy services;
- authorizing and monitoring energy projects; and
- Commission administration.

Industry goals appear below under these categories.

Regulating Energy Markets

Electric Power

The Commission will regulate electric transmission and bulk power markets to

- a) foster the growth of efficient, competitive commodity markets, and
- b) protect customers from excessive transmission rates and service discrimination.

Natural Gas

The Commission will regulate natural gas pipelines to

- a) ensure that pipeline transportation service supports efficient, competitive commodity markets, and
- b) protect customers from excessive transportation rates and service discrimination.

Oil Pipelines

The Commission will ensure fair access to the oil pipeline systems for all customers under just and reasonable rates, terms, and conditions.

Authorizing and Monitoring Energy Projects

Natural Gas

The Commission will regulate interstate natural gas pipelines to ensure that adequate capacity and reliable, flexible service is available in the interstate natural gas transportation systems.

Hydropower

The Commission will regulate nonfederal hydropower projects to

- a) ensure that sustainable hydropower resources are licensed for the public's benefit,
- b) maintain the nation's existing hydropower development to serve all water resource interests, and
- c) ensure dam safety through inspection of facilities and operations.

Commission Administration

All Industries

The Commission will reduce regulatory burden by

- a) reducing the processing time for docketed workload and for resolving disputes,
- b) minimizing filing burdens, and
- c) generating better information for use by industry and the public.

Relationship Between General Goals and Objectives and Annual Performance Goals

Regulating Energy Markets

Efficient, Competitive Markets

Customers will have more new products and a reasonable range of suppliers from which to choose in both the electric and natural gas industries.

The purpose of Commission policy on open access and unbundling for the natural gas and electric industries is to increase the options of customers who historically had very limited choices of natural gas and electric power suppliers. The Commission will assess whether customers have more new products and a reasonable range of suppliers from which to choose as an indication that commodity markets are reasonably competitive and responsive to customer needs.

Natural gas and electric power prices will become more responsive to market conditions — that is, prices will reflect changing supply and demand conditions more clearly and more quickly.

The natural gas and electric industries are both subject to relatively short peaks in demand that customers cannot meet by storing the commodity on-site, despite the existence of substantial off-site gas storage. (This differs from the coal industry, for example, where many customers can ride out short-term market fluctuations using on-site storage.) To analyze how responsive markets are becoming, the Commission will combine basic price information with other indicators of market conditions, such as weather in consuming areas, that will contribute to an assessment of market operations. The Commission's informal market tracking for natural gas suggests that both volatility and pricing anomalies can point to areas where the market is either not working as well as it could or working in ways that were not anticipated but are beneficial. Either way, the results are important as guides to future policy. This will likely be true for electric power also.

Natural gas prices within each trading region will tend to converge, except to the extent there are demonstrable transportation constraints or costs. Wholesale electricity price differences will also tend to narrow.

Convergence of prices within a trading region is one sign that competition is working efficiently.

It will be less costly, administratively, to transact business on the interstate natural gas transportation grid.

This is an important indicator of improved commodity markets. Transparent markets make it easier for customers to understand what their choices are. Markets that are easy and convenient to use lower the administrative costs for all customers using them. In both cases, the result is to lower the cost of using the market for each customer's transactions. With lower transactions costs, more customers will have access to the market, which will be especially important as more states give smaller customers the right to buy gas in the interstate market (rather than only from the local distribution company). In addition, lower transactions costs can increase the liquidity of the market.

Constraining Market Power

Market participants will have confidence that natural gas markets, electric markets, and oil transportation services are working efficiently and fairly and that market participants are not subject to abuses of market power. That is:

- *Broad customer classes (not necessarily every customer) will agree that buyers and sellers have access to competitively priced commodity markets in the national gas transportation and electric transmission grids.*
- *Customers will generally agree that gas pipeline, electric transmission and oil transportation rates and services are just and reasonable, fairly balancing the competing interests of the transporting or transmitting companies and their customers.*

This indicator refers to the Commission's success in eliminating unnecessary market power and in fairly balancing the interests of all parties when market power cannot be eliminated. In both cases, the best performance indicator will come from discussions with the industry and its customers.

The first part of the indicator refers to *customer perceptions* of how much competition they see. The reason for approaching the measure this way is that detailed, quantitative market power analyses are extremely difficult and expensive to perform. Even when performed, such analyses almost never tell the whole story by themselves. Non-quantified factors almost always substantially affect the degree to which observed levels of market concentration translate into the possibility of market power abuses. As a result, measuring customer perceptions is the most cost-effective way of judging the Commission's success in guaranteeing access to competitive markets where feasible.

The second part of the indicator reflects the fact that some degree of market power is inherent in the natural gas pipeline, oil pipeline and electric transmission industries. That is why they are regulated in the first place. In controlling market power, the Commission balances the legitimate interests of different parties. There is no direct way of quantifying how well the Commission is performing its balancing function. However, broad approval from each major industry sector and the ability of each to operate profitably would not be possible unless the Commission was succeeding in this balancing function.

Authorizing and Monitoring Energy Projects

Adequate Natural Gas Pipeline Capacity

The Commission's certification program will allow the appropriate amount of new pipeline capacity to be available to serve the market when needed.

This measure is meant to ensure that adequate capacity and reliable, flexible services are available in the interstate natural gas transmission system, while considering the need to ensure that there are no undue cost shifts or cross subsidization.

Certification of new pipelines will be timely, while fairly balancing the interests of the gas market, project sponsor, landowners, and the environment.

The Commission must be able to process pipeline certificate cases in a fair and timely manner. In general, depending on the level of complexity and the number of opposing parties and type of opposition (e.g., landowner complaints), the Commission will act expeditiously and issue construction certificates to allow the commencement of service in accordance with the general plans of the applicant.

Licensing and Administering Hydropower Resources

Licensing conditions will protect and enhance beneficial public uses, both developmental and nondevelopmental.

Tracking the beneficial public uses that result from licensing conditions and changes in capacity will indicate that sustainable hydropower resources are being licensed for the public's benefit.

Administration of hydropower developments will accommodate increasing public use without diminishing key water resource values.

Tracking the number of recreation facilities at projects, the number of visitor days, and the number of improvements and enhancements made to facilities will indicate that existing hydropower development is serving all water resource interests.

The Commission will reduce processing time under its control, particularly through the use of collaborative procedures and early involvement of staff.

Timely issuances that take into account the interests of all involved entities will help ensure that the Commission's licensing program serves the public interest, taking into account all water resource interests.

Dam Safety

The percentage of high- and significant-hazard dams meeting all current structural safety standards will remain uniformly high.

The Commission's dam safety program must ensure consistently high safety standards at high and significant hazard dams to maintain the lowest probability of failure.

One hundred percent of high- and significant-hazard dams will be inspected annually.

Through inspections the Commission identifies safety problems at projects before they lead to dam failure or jeopardize public safety.

One hundred percent of high- and significant-hazard dams will comply with emergency action plan requirements.

Timely and effective emergency planning and recurrent monitoring should reduce or eliminate any potential threat to life or property.

Commission Administration

To reduce administrative burden, the Commission will:

- reduce the processing time for docketed workload and for resolving disputes;*
- minimize filing burden; and*
- generate better information for use by the industries.*

The Commission will hold a series of symposia during FY 1998, dealing with issues such as expedited complaint procedures, electronic filing, certificate reforms, hydropower relicensing, and the Internet. Participants in the symposia will include key policy makers and technicians from industry, government, and academe, in addition to the Commission's management and staff. Through this process the Commission will develop measurements to gauge progress toward its administrative goals.

Means and Strategies: Regulatory Actions and Adaptations

Electric Power

The Commission's goals for the electric industry reflect the rapid changes in that industry. The Commission's statutory obligations remain the same: to administer the laws and regulations involving issues of transmission and sales for resale of electric energy in interstate commerce, certification of exempt wholesale generators and qualifying facilities, and corporate transactions such as mergers and security issues of electric public utilities. Looking forward, to fulfil this mandate for an industry that is changing as much as the electric industry is changing, the Commission will need to play important new roles:

- Regulating interstate transmission to support competitive generation. Although transmission accounts for only 7 percent of overall investment in the industry, it is critical to generation suppliers who need access to customers. It is the Commission's job to ensure that efficient, reliable, nondiscriminatory access is available for all electric suppliers and customers. This is the underpinning of future competition in generation.
- Addressing market power. The electric industry has been structured as a set of local franchised monopolies for most of its history. As a result, there are significant concentrations of generation in the hands of one or a few local companies in many parts of the country. The Commission will monitor utilities and assess whether they can exercise generation market power that could adversely affect wholesale electric prices in the relevant product and geographic markets. The Commission must respond appropriately to market power issues in the context of market-based pricing and in reviewing the effects of mergers on competition.
- Encouraging efficient wholesale commodity markets. To achieve the benefits of competition, electric markets must function well. The Commission will encourage market structures that allow quick, reliable, flexible trading (a key to capturing the most trade benefits) and have low transaction costs (a key to getting useful access for smaller players).

Addressing External Factors

- Working effectively with states to harmonize regional reforms. Many aspects of the electric industry are regulated at the state level, including both retail sales and distribution services. As more states opt to give retail customers access to the power markets, the result will be unified, regional bulk power markets. However, since most of the electric industry's assets are under the jurisdiction of the states, coordination between the states and the Commission in the restructuring of the industry is critical to realizing the goal of efficient, competitive markets. The Commission will work with states to come up with cooperative solutions to the jurisdictional issues raised by the change.
- Working with other agencies to harmonize regulatory programs. The policies of several other federal agencies have important implications for the future of the electric industry. For example, the Department of Energy has important responsibilities in ensuring the reliability of the electric grid, and EPA's emissions responsibilities will inevitably affect the electric industry. The policies of these agencies are critical to realizing the goal of efficient, competitive markets.

Natural Gas

The Commission's goals for the natural gas industry reflect that industry's continuing change. The Commission's statutory obligations remain the same: to administer the laws and regulations involving the transportation and sales for resale of natural gas in interstate commerce, the construction and operation of natural gas pipelines, and the oversight of related environmental matters. To fulfil this mandate for an

industry that is changing as much as the natural gas industry is continuing to change, the Commission will need to play important new roles. It must:

- Ensure that open access under the Order No. 636 regulations continues to work as intended.
- Encourage efficient gas pipeline construction. Getting gas to market will require expansions in the pipeline transportation and storage grid to handle new supplies and changes in the geographic mixes of production and consumption.
- Take advantage of competition in transportation. It appears possible that some transportation services can be subject to at least some greater competition than seemed likely a few years ago. The Commission will look for ways to take advantage of such competition as a tool to assure just and reasonable rates without reducing protection against the abuse of market power in transportation.
- Encourage improved commodity markets. Natural gas commodity markets can be made to work better by:
 - ▶ continuing efforts to improve standardization among pipeline systems for both information and business practices so that gas can be moved more efficiently;
 - ▶ ensuring fair and effective short-term markets to assure that the parties obtain the capacity and gas they have purchased and to ensure system reliability; and
 - ▶ removing barriers to efficient secondary transportation markets.
- Develop regulatory systems based on Commission monitoring and customer complaints that can respond to the increased pace of the market without unduly burdening market participants.

Addressing External Factors

- Work with states to address market and regulatory issues that arise as states adopt retail unbundling for local distribution companies. State policies on retail unbundling can affect the Commission's goal of ensuring efficient, competitive commodity markets.
- Coordinate with other federal agencies, state agencies, and the public when preparing environmental reviews. Coordination with other entities that have interests in pipeline projects often requires public notices, meetings, and comment periods, and is a factor in the processing time for the Commission's reviews.

The Commission must encourage the industry to solve these and other problems as they arise in the continuing evolution of the gas commodity market. Put differently, the Commission must regulate transportation in a way that fosters the growth of a second generation of gas markets that are more flexible, more responsive to customer needs, and less costly to use.

Oil Pipelines

To meet its goal for the oil pipeline industry, the Commission's role remains to ensure fair access to the oil pipeline systems for all customers under fair terms and conditions at reasonable rates. In some cases, the Commission can do this by allowing market-based rates where markets are competitive. In others, the Commission needs to continue regulation, while remaining flexible, for the pricing of services for new oil pipeline construction.

Hydropower

Despite the changes in the hydropower industry, the Commission's statutory obligations remain the same: to license and inspect nonfederal hydroelectric projects and to oversee related environmental matters. To meet its goals for the changing hydropower industry, the Commission is adapting its regulation to new realities — heightened environmental sensitivity, decision-making responsibilities shared with other authorities, and a new competitive marketplace. This means evolving approaches to regulation that include:

- Ensuring that regulation balances competing demands for limited water resources. The Commission's mandate to foster comprehensive plans of development while considering the overall effect of proposed hydropower development on rivers and river systems changes as society's demands upon water resources change. The Commission will seek to maintain the benefits of hydropower generation while enhancing environmental values and other beneficial uses of water.
- Maintaining vigilance over project operations. The Commission has ongoing responsibilities to ensure that balancing water uses and protecting sensitive resources continues over the life of a project. License conditions are only as effective as the Commission's ability to work with its licensees to ensure they are met. Thus, administering a license over its life — when external circumstances may change unpredictably — is an essential feature of the Commission's regulation. But its administration cannot be heavy-handed. Cooperation and flexibility in achieving the desired ends will be necessary in a more competitive environment.
- Explaining the Commission's hydropower program to new participants. The competitive market may bring new business entities into the industry (just as PURPA attracted new entrepreneurs to develop small-scale hydropower). The Commission will integrate these new entities into its processes and accommodate their concerns and needs as it does for all others.
- Protecting life and property by ensuring the safety of dams and other structures. Here too, the Commission's regulation will evolve. The inventory of dams under the Commission's jurisdiction is aging; many dams are quite old, so vigilance is a necessity. Engineering procedures are improving. The Commission will work with licensees, the engineering community, and the localities where projects are located to ensure that its safety program continues to match the state of the art as it develops.

Addressing External Factors

- Coordinating Commission activities with those of other interested authorities. Although the Commission is charged with making final decisions on actions before it, many other entities have legitimate, recognized interests in the outcome of its cases. These other authorities include federal and state land and resource management agencies, fish and wildlife agencies, water quality agencies, Native American tribes, a variety of nongovernment organizations, and the public. The timing of actions by these other authorities will affect Commission processing times and the degree to which hydropower resources can be developed or sustained.
- Meeting competitive conditions. Although competitive changes are now occurring in the electric marketplace, the final impacts of those changes on sustainable hydropower are not yet known. The Commission will have to assess competition's effects on hydropower development and operation, and in some cases use flexible approaches to accommodate market-driven changes.
- Maintaining the benefits of hydropower regulation in the face of changing scientific and public attitudes. Because hydropower projects operate over many decades, the Commission must be sensitive to long term effects of these changes on resources protected by its licenses.

Commission Administration

Continued change will take advantage of improved information and automation technologies as well as respond to the needs of changing industries. To meet its goals over the next 5 years, the Commission will continue its administrative reforms involving:

- Expediting decisions where practicable, while considering the due process rights of others. Delay of good decisions almost inevitably means delay of benefits for consumers. As the regulated industries become more subject to competitive forces, timing becomes ever more important for companies as well as for consumers. Many of the proposals now coming before the Commission are extremely time-sensitive, because they represent market opportunities that can easily disappear if delayed. Examples include many new gas pipeline construction proposals. In some cases, delay can mean disruption. A proposed electric merger, for example, can bring many other intra-corporate changes to a stop until it is resolved. Delayed licensing and relicensing decisions can postpone the realization of generation, environmental, and safety benefits.
- Developing new procedures for surgical, reactive intervention in markets. Competition is the best customer protection when it is available. The Commission must develop ways to intervene in markets only to the extent needed to correct particular problems. This means monitoring markets rather than trying to manage them, reacting to problems as they arise (for example, through complaints), and taking remedial action that has as little effect on well-functioning parts of the market as possible.
- Improving regulatory certainty. All of the industries the commission regulates are capital-intensive and therefore involve substantial risk. As natural gas and electric power commodity markets become more competitive, both regulated companies and their customers see the underlying risk in the form of changing market prices. It becomes ever more important to ensure that both regulated companies and their customers can count on stable, timely regulatory treatment. If regulation is uncertain, the result would be to add risk to products and markets and therefore to add costs.
- Controlling regulatory costs. Good regulation provides substantial benefits to customers but inevitably involves costs. The Commission has an obligation to ensure that the costs are reasonable in relation to the benefits produced. The Commission will continue to discipline its own costs. For example, it must reduce its overhead costs for administration and the costs of treating similar issues in similar cases. Moreover, the Commission's own cost is only a fraction of the burden that industries incur, since companies pay for the legal and technical expertise needed to bring their cases to the Commission. In controlling regulatory costs, the Commission must be sensitive to these costs also.
- Improving communication and cooperation. Up front staff involvement, technical conferences, public meetings, and collaborative procedures are essential tools for avoiding needless confrontation, shortening processing, and maintaining litigation at appropriate and reasonable levels in all program areas. These efforts are particularly important in gas pipeline construction and hydropower licensing, which typically raise contentious issues that require balancing strong competing interests.
- Taking advantage of new technology, especially for information. The Commission will continue to automate internal processes and make its computerized information more easily accessible to the public and more pertinent to the needs of the changing industries. Of particular importance, the Commission must make all public information available electronically and will work with the natural gas and electric industries to make market-monitoring information available while preserving commercial confidentiality as appropriate.

External Factors

These plans are based on current legislation and the current technological state of the industry. If either of these should change significantly, the Commission would need to change its plans. While the Commission cannot anticipate specific changes in either legislation or technology, the electric industry (especially) is in the midst of a transition that could lead to changes in both. For example, several proposals now before the Congress would lead to a significant further restructuring of the industry nationwide. Similarly, distributed generation may become more economically viable. If it does, it would change some of the Commission's basic assumptions about what parts of the industry can be competitive and in what ways.

Other external factors that can influence the Commission's success in meeting its goals are noted in the section, "Means and Strategies: Regulatory Actions and Adaptations."

Program Evaluation

The Commission is committed to accountability in its programs. For the next year, the most important task is to ensure that specific performance measures are developed along with the quantitative information needed to support them. To do this, the Commission will establish a high level working group, chaired by the Deputy Chief Financial Officer. The working group will include one member from each of five Offices: the Office of General Counsel, the Office of Hydropower Regulation, the Office of Pipeline Regulation, the Office of Electric Power Regulation and the Office of Economic Policy. It will present quarterly progress reports to the Chairman on the status of the Commission's performance measures.

To improve accountability in the longer run, the Commission will institute ongoing assessment reviews at least annually. As part of each review, the Commission will report on how well it is meeting its goals, how and why its goals and objectives should be modified (if at all) and what changes to indicators are needed to improve how well it is measuring its performance. A top priority involves improving its information systems to provide credible measurements of key performance indicators.

FY 2002 BUDGET REQUEST TO THE CONGRESS



**FEDERAL ENERGY REGULATORY COMMISSION
APRIL 2001**

**Curt Hébert, Jr.
Chairman**

FY 2002 BUDGET REQUEST TO THE CONGRESS



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Federal Energy Regulatory Commission

Vision

Promoting Competitive Markets
Protecting Customers
Respecting the Environment
Serving and Safeguarding the Public

Mission

The Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.

Values

Employees – People are our most valued asset. We provide the support needed for all employees to excel.

Integrity – We maintain the highest level of professionalism and an environment of fairness, trust, respect, and honesty.

Diversity – We value diversity in people and ideas.

Working Together – We clearly communicate expectations, encourage cooperation and teamwork, and share responsibility.

Progress and Innovation – We are creative and flexible, and seek out opportunities to improve.

Action – Prompt and fair resolution of matters before the Commission is essential to our mission.

Reaching Out – Two-way communication with the public is key to our effectiveness.

Public Service – Our ultimate objective is to provide valued services to the public.

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INTRODUCTION

Budget Request:
\$181.2 million,
1,200 FTEs

To accomplish its mission and goals in FY 2002, the Federal Energy Regulatory Commission (Commission) requires funding of \$181,155,000 and 1,200 FTEs. The requested funding covers the projected cost-of-living increase for employees. Internal efficiencies will offset inflation of costs unrelated to salaries.

Resources by Program (Dollars in Thousands)

Program	FY 2000 Actual	FY 2001 Estimate	FY 2002 Request	% (+/-) FY 2001 to FY 2002
Energy Markets Funding FTEs	\$55,517 561	\$58,765 569	\$61,997 569	5.5% 0.0%
Energy Projects Funding FTEs	\$43,188 406	\$46,006 388	\$43,594 388	-5.2% 0.0%
Management and Commission-wide Costs Funding FTEs	\$73,881 250	\$70,429 243	\$75,564 243	7.3% 0.0%
Total Budget Authority for Operating Expenses Funding FTEs	\$172,586 1,217	\$175,200 1,200	\$181,155 1,200	3.4% 0.0%
Application of Prior Years' Authority	\$2,364	\$0	\$0	N/A
Budget Authority	\$174,950	\$175,200	\$181,155	3.4%
Offsetting Receipts	(\$174,950)	(\$175,200)	(\$181,155)	N/A
Net Budget Authority	\$0	\$0	\$0	N/A

Funding in each area covers:

Energy Markets: personnel and contracts

Energy Projects: personnel and contracts

Management and Commission-wide Costs: personnel and contracts; rent, building administration, and IT

This budget request does not reflect potential requirements that would result from any possible changes to the Commission's statutory authority.

Full Cost Recovery

The Commission recovers the full cost of its operations through annual charges and filing fees assessed on the industries it regulates. The Commission deposits this revenue into the Treasury as a direct offset to its appropriation, resulting in a net appropriation of \$0.

The Commission and America's Energy Challenge

During 2000, the United States faced a series of problems in meeting its energy needs, including rapid increases in electricity prices in California beginning in the summer and continuing into 2001, and rapid increases in natural gas prices late in the year. Each of these problems affected the public adversely. These problems did not develop overnight. Short-term or disconnected responses will not solve them; rather, they will require long-term policies that fit together to address the basic problems.

Energy Supply. The Nation needs to expand the supply of key energy commodities and the infrastructure to bring them to market. In the long run, the Commission should be growth neutral. The Commission has three primary roles:

- To encourage and support capacity increases for natural gas pipelines and electric power transmission lines to meet the growing needs of an expanding economy.
- To encourage and support the development of market institutions that will send the right price signals for the appropriate amount of natural gas production and power generation.
- To ensure the continued vitality of the non-federal hydroelectric industry, which is a significant component of the Nation's overall energy supply.

Energy Demand. A major problem in some electric markets is the lack of demand response to changing prices. While market issues are traditionally the province of state regulation, the lack of demand response at the retail level strongly affects wholesale markets as well. Over time, wholesale electric power markets must include demand responses on the same footing with supply responses. This is a very different approach from old demand-side management initiatives. Bringing demand into the market avoids administrative decisions on what technologies to favor and encourages demand responses when prices are high and supply is tight.

Risk Management. Electric power is a capital intensive industry with extremely volatile short-term prices. This places a premium on risk management for all parties. As events in California have shown, the failure to manage risk well can be extremely costly and can have a severe impact on reliability. The Commission must ensure that the structure of wholesale power markets allows the use of a wide range of risk management techniques for both buyers and sellers.

The Commission's Principles and Priorities

The Commission's Primary Sources of Authority:

- Federal Power Act
- Natural Gas Act
- Natural Gas Policy Act
- Interstate Commerce Act
- Public Utility Regulatory Policies Act
- Public Utility Holding Company Act
- Pacific Northwest Electric Power Planning and Conservation Act
- Outer Continental Shelf Lands Act

The Commission will play a crucial role in helping the country meet its energy challenges, but it is only one part of a much larger federal system. As a result, the Commission must be clear about both the priorities on which it will focus most directly and the principles that will guide its efforts.

The Commission's priorities reflect the underlying nature of the Nation's energy challenge. They focus on getting in place the infrastructure required to support the Nation's energy needs over the long run. The three key priorities will be:

- *Ensuring that regional transmission organizations (RTOs) are functioning over as much of the country as possible, as soon as possible.* RTOs provide the institutional infrastructure needed to support electric power markets far into the future. They eliminate potential market leverage for companies that own both generation and transmission, ensure broad geographic scope, and eliminate market impediments such as pancaked transmission rates.
- *Supporting infrastructure development.* The Commission will support natural gas pipeline development directly through using its siting authority effectively and efficiently. It will also encourage the development of both electric transmission lines and natural gas pipelines through its economic regulation. For example, it can adjust rates of return allowed to projects to make them more attractive and can entertain novel proposals for financing such projects.
- *Supporting a strong hydropower industry.* Commission-regulated hydropower projects supply about 5 percent of the electric energy generated in the United States. The Commission will ensure that non-federal hydroelectric projects can continue as a significant supply source even as it ensures respect for environmental needs.

The principles that guide the Commission's actions must make clear both its policy direction and the limits of its role. The key principles are:

- Rely on competitive markets wherever possible.
- Respect the role of states.
- Construe strictly the laws that govern the Commission's jurisdiction.

A Business-like Approach to the Future

Like all other government agencies, the Commission has an obligation to the public to operate efficiently. Key parts of our overall approach include:

- *Reducing burden on those who work with the Commission, both regulated companies and others.* This will mean both making communication easier (e.g., e-filing and improved Internet access) and reducing the burden of filing requirements.
- *Improving customer service.* Improved customer service in a regulatory environment translates to producing results faster. This involves – among other things – developing improved tracking systems, setting and meeting realistic targets for workload processing, and making Commission decisions available as quickly as possible. The Commission also will work to stay aware of customer needs.
- *Developing the staff expertise to deal with new problems.* Both the natural gas and electric power industries have changed in recent years. To respond better to their needs, the Commission will upgrade its expertise in the areas of investment incentives for companies not subject to traditional cost-based regulation, market rules and institutions, and risk management.

Overview of the Document

The next three chapters detail plans – for both traditional and non-traditional work – in the energy markets, energy projects, and management programs. The FY 2002 Performance Plan follows the program chapters. Discussions in all chapters flow from the Commission's goals, objectives, and strategies.

ENERGY MARKETS

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 2000 <u>Actual</u>	FY 2001 <u>Estimate</u>	FY 2002 <u>Request</u>
FTEs	561	569	569
Personnel Costs	\$55,203	\$58,730	\$61,482
Contracts	\$314	\$35	\$515
Total Funding	\$55,517	\$58,765	\$61,997

Introduction

Commission Responsibilities in Energy Markets

By statute, the Commission ensures that the rates, terms, and conditions of service for the electric power, natural gas, and oil pipeline industries are just and reasonable and not unduly discriminatory or preferential. Commission responsibilities include: transmission and sales for resale of electric energy in interstate commerce; transportation of natural gas in interstate commerce; transportation of crude oil and petroleum products by pipeline in interstate commerce; corporate transactions, mergers, interlocking directorates, and security issues of electric public utilities; and certification of exempt wholesale generators and qualifying facilities.

The Commission's overall goal for energy markets is to **maximize benefits to consumers and suppliers of energy through open, fair, and flexible regulation**. The Commission intends to ensure delivery of reliable, competitively priced energy services and protection from the exercise of market power. The Commission has fostered the emergence of competitive markets in each industry it regulates – oil and natural gas pipelines and electric power. Oil and natural gas commodity markets have been competitive for some time. Because of recent Commission action, electric power markets are becoming more competitive. Increasing competition in electric power is placing great stress on existing market and regulatory institutions.

For the last several years, the Commission has recognized the importance of facilitating the transition to competitive markets. It has already made many changes needed to assess, oversee and respond appropriately to the markets. It has combined its natural gas and electric organizations to reflect industry trends, to increase regulatory efficiency and consistency, and to share resources better at times of peak workload. It has dedicated an entire division to understanding market developments, identifying problems, and proposing remedies. Further, it has greatly expanded its outreach with market participants of all kinds and speeded up its complaint process.

During the past year, the Commission has provided both the electric power and natural gas industries with a framework for the future. For electric power, the Commission issued Order No. 2000. This Order will lead to the establishment of RTOs that maintain independence from all owners of

generation and operate the transmission system efficiently and fairly for all parties. RTOs will provide crucial support for competition in the electric industry. They will separate control of energy generation from energy transportation and mandate full open access to transportation systems, rationalize transmission rates, and encourage the growth of markets that are geographically regional in size.

For natural gas, the Commission issued Order No. 637. This Order requires pipelines to take a variety of measures to increase the transparency and efficiency of the natural gas pipeline grid. It also temporarily removes price caps from the capacity release (resale) market. Order No. 637 represents the latest incremental addition to market-supporting regulation that the Commission has been developing for the last fifteen years.

Together, Order Nos. 2000 and 637 have laid the foundation for the Commission to provide the regulatory services the competitive energy markets of the future will need.

This section of the budget discusses, by objective, all of the Commission's key initiatives, strategies, and processes for reaching its overall energy markets goal, and in what areas the Commission needs to upgrade its expertise and readiness.

The Commission's objectives for energy markets are to:

- Increase pricing efficiency.
- Nurture competitive market institutions.
- Constrain market power.
- Resolve disputes quickly and fairly.

Achievements during the last year appear at the end of this section.

Working Toward the Objectives

Improving the Commission's understanding of and ability to respond to rapidly changing markets is the most important challenge the energy markets program faces over the next few years. Without this improvement, the Commission will not meet key parts of its first three energy markets objectives. The Commission will not realize its energy markets objectives overnight, nor will progress always follow a straight line. Achieving the objectives will require an iterative process flexible enough to change with developing competitive markets and as circumstances warrant. Recognizing the transitional nature of the industry and regulatory needs, the Commission's intention is to work in partnership with the energy industry to achieve its objectives. This includes interacting more with industry participants to understand industry needs related to market evolution. The Commission will maintain a continuous effort to seek advice, counsel, and input from

stakeholders, encouraging them to play a more active role in formulating regulation.

Increase Pricing Efficiency

In the old regulatory model, a utility agreed to regulation in exchange for being the monopoly provider of energy services to consumers. Rates were based on the costs of providing the service, plus a reasonable return on investments. This arrangement left utilities with few incentives to improve efficiency or to provide new or different services. All parties accepted the costs and inefficiencies of this system as reasonable tradeoffs for protection from monopoly pricing. Allowing competitive markets to price as many services as possible can reduce such regulatory inefficiency. However, because transportation market power will remain in many markets, cost-based ratemaking will continue. The following strategies will support the objective of increasing pricing efficiency.

Promote Innovative, Efficiently Priced Services. Transacting parties need the flexibility to buy or trade for only the services they want, including innovative services, with minimal regulatory interference. The Commission will remove regulatory impediments to more efficient pricing, emphasizing the relationship between the parties, encouraging contracts, and agreeing to honor arrangements between parties. The many alternatives to a cost-of-service regulatory model, including market-based rates, indexing, negotiated rates, and performance-based rates, can reduce the cost and inefficiencies of the earlier regulatory model. The Commission will promote alternatives, some of which we discuss below.

Facilitate Market-Based Rates. If a company lacks market power, competition in well-functioning markets is the best way to ensure just and reasonable rates. To protect customers, the Commission allows market-based rates for commodity services only if a provider can show that it lacks market power in the particular market to be served. The Commission considers a variety of factors, such as the number of alternatives a customer has to the provider's service, in determining whether that provider lacks market power.

While competition is crucial, the way markets operate also is important in ensuring just and reasonable rates. This is especially true in an industry like electric power, where engineering tolerances are very tight and seem unforgiving of imperfections in market design. This is a key reason that one of the Commission's key strategies in its markets program is to encourage the development of strong, well-functioning market institutions.

In markets that are not fully competitive, the Commission must continue to establish cost-based rates. Innovative approaches to rate regulation, such as the following, can offer flexibility and savings to customers.

Use Indexing. One main alternative to traditional cost-of-service rate-making is to index rates to some generally available measure of inflation. Often the index will assume productivity gains from year to year, and so give a company a smaller rate increase than the index would infer. This form of rate-making is simple to use and gives incentives for efficient operation, since the company keeps most or all of the cost savings it reaps. The approach can also be controversial, especially if the inflation does not track changes in the costs of the specific industry.

Following Congress' lead in the Energy Policy Act of 1992, the Commission substantially streamlined oil pipeline ratemaking by using an index – a far less expensive method than litigating individual rate cases. During 2000, the Commission completed its first five-year review of the performance of the index. In an order issued in December 2000, the Commission concluded that the index has reasonably tracked industry costs. The Commission will perform its next review of the index in 2005.

Authorize Negotiated Rates. A second alternative is negotiated rates. The Commission allows natural gas pipelines to use this approach. Under the program, a pipeline and shipper may negotiate mutually acceptable rates. If a shipper prefers, however, it still will be entitled to continue with service under a recourse rate. Negotiating different rates for individual shippers allows individually tailored seasonal rates for short-term transactions to meet customers' special needs. The resulting array of rate options will potentially increase market responsiveness in pipeline services without protracted disputes regarding pipelines' market power.

Encourage Performance-Based Rates. A third alternative is performance-based rates, where the monopoly gains greater profits for providing better performance. In theory, one can design these rates to promote many different forms of behavior. For instance, one might design performance-based rates to maximize throughput, to handle greater volume at peak, or to reduce costs.

A key proposal included in Order No. 2000 is a strategy to encourage RTOs to include alternative rate proposals, such as performance-based rates, in their compliance filings. Related possible changes include improving information systems and reforming transmission rate design. The Commission is committed to ensuring that RTOs are truly independent and can operate the transmission system in a reliable, open, and nondiscriminatory manner.

Promote Reliability by Using Market Pricing to Encourage Capacity Expansion. Reliability is critical for both natural gas and electric power. Often, customers must simply have service, and they have no option of storing the commodity for use later. As a result, the reliability of the transportation systems is a paramount concern. This affects the Commission's work for both natural gas and electric power.

Natural gas. As competitive commodity markets develop, the value of transportation capacity becomes more apparent, especially when the commodity is traded at various locations. In the natural gas commodity markets, various "trading hubs" have developed in several different areas of the country, and in Canada. When energy costs more in one place than in another, one should be willing to pay up to this price difference to move the energy between the points. The difference between the cost of the commodity at one hub and the cost at another is the implicit value of transmission between the two hubs. Imposing regulated rates on the transmission capacity introduces avoidable inefficiencies into markets.

The Commission will therefore rely more on markets for pricing short-term transportation capacity, as evidenced in the recent Order No. 637. By developing secondary markets for unused capacity, the market can determine how to use existing capacity effectively. This also provides information about the value of potential capacity additions in specific places and time frames. Order No. 637 removed the price cap in the secondary market until September 30, 2002, at which point the Commission will evaluate the success of this program.

Meanwhile, the removal of the price cap on capacity release transactions provides multiple benefits to the marketplace. Capacity release transactions are a viable alternative to bundled sales of natural gas. The incentive provided by the alternative will result in more efficient use of existing capacity, storage facilities, and peak shaving devices. Revenues resulting from capacity release transactions can materially benefit customers by reducing cost shifting. Peak and off-peak rates also should benefit customers in future rate proceedings because they reduce both the level and amount of discounts that occur during off-peak periods. Through this rule, the Commission will gain a better understanding of the value of pipeline capacity, especially during peak periods, and will provide proper pricing alternatives to the industry and consumers.

Such a strategy requires the development of effective commodity market institutions, as outlined in the next objective, and effective constraint of market power, as outlined in the third objective.

Electric power. The Commission has no direct jurisdiction over electric reliability. However, the rapid growth of electric markets is affecting reliability in many ways. The Commission has no choice but to consider reliability issues in its daily work of regulating rates, terms, and conditions of electric transmission service.

The electric transmission system developed to meet the needs of many individual local utilities that engaged in relatively limited and predictable long-distance trading. In today's electric industry, entrepreneurs are constantly seeking new trading possibilities that can arbitrage price differences and

provide lower overall costs for generating and delivering power. In finding such opportunities they put the transmission system under stresses that no one designed them to meet.

Similarly, in increasingly competitive markets, market participants will use every aspect of market rules to gain a commercial advantage. Such behavior, while reasonable from a corporate perspective, can threaten reliability. For example, consider the Commission's experience in natural gas. Parties delivering gas into the system (or taking gas from the system) inevitably end up delivering or taking slightly more or less than promised. Pipelines designed rules that everyone intended as a commonsense way to handle such problems – for example, to net out the imbalances at the end of a month. However, market players soon found it in their interest to supply less and take more at times of high prices. Such behavior let the companies pay back the gas they owed at lower prices later. That, in itself, was a commercial problem. When many entities behaved the same way, it also became a reliability issue. In electric power, the engineering tolerances are much tighter and the opportunity for reliability problems are correspondingly greater.

As a result, a key task of designing market institutions is to find ways to use the transmission system optimally without endangering reliability. The Commission has already faced the need to deal with such issues, including use of demand-side alternatives, on-site generation, tagging, capacity benefit margin, and interconnection congestion management, to name a few. New examples are bound to develop over the next few years as reliability and market issues increasingly interact. For these reasons, the Commission needs to upgrade its ability to address reliability concerns, even lacking a new reliability mandate.

Nurture Competitive Market Institutions

The Commission's role is changing rapidly from command-and-control in setting prices and service offerings for individual companies to oversight and monitoring of regional and national markets. Competitive market institutions are key to ensuring fair and efficient markets without the burden of heavy-handed regulation. As described in the strategies that follow, the Commission must nurture these market institutions, foster the exchange and sharing of information, and monitor market developments, intervening only where and when necessary.

Increase Transportation System Integration Through Regulatory Reform. Over the next two years, the Commission will continue to implement Order Nos. 2000 and 637, encouraging increased regional grid integration. Order No. 2000 requires that more than 150 public utilities with transmission facilities file their RTO plans by October 15, 2000, to be operational by December 15, 2001. Order No. 637 required almost 100 pipelines to comply with its new regulations by August 15, 2000, by filing

proposals to promote competition further and to improve flexibility in the natural gas interstate network.

Although these efforts are among the most resource-intensive that the Commission will be undertaking over the next several years, they are critical for supporting system reliability and promoting efficient pricing. Order No. 2000, in particular, is essential if the electric power industry is to develop efficient, effective, competitive markets. Both orders should reduce economic or operational impediments to trade (including the elimination of opportunities for discriminatory transmission), promote a high level of transparency, and facilitate entry or exit for commodity source options. Regional grids also should adapt to changing conditions and institutional learning over time by using open architecture design principles.

Full implementation of both Order Nos. 2000 and 637 will take a couple of years. The issues involved are complicated and require considerable negotiation among all the diverse parties involved.

Implement Order No. 2000 to Improve Access to and Reliability of the Electric Grid. The Commission has identified two major impediments to the achievement of fully competitive electric power markets: (1) engineering and economic inefficiencies inherent in the current operation and expansion of the transmission grid, and (2) continuing opportunities for owners of transmission systems to discriminate in favor of their own or their affiliates' marketing activities. Order No. 2000 initiates the Commission's solution to these problems, through the creation of RTOs. These bodies will provide the scope, structure and governance to ensure fully competitive and reliable electric power markets.

- RTOs. For at least three reasons, RTOs are essential building blocks for the future of the industry. First, they establish that transmission operators are independent of other market players. This is necessary both to ensure a level playing field for all and to establish the credibility of markets that one controlling party could otherwise manipulate. Second, RTOs will establish the institutional foundation for truly regional markets. By ensuring regional integration of transmission service and rates, they will facilitate trading and increase market liquidity. Finally, RTOs could plan grid expansions rationally – a critical component of a future well-functioning, competitive industry. The sooner RTOs come into being, the quicker the overall transition.

After FY 2002 or FY 2003, when RTOs are operating successfully, they should reduce the traditional workload the Commission faces in the electric area. Today, the Commission must examine the transmission rates, terms and conditions offered by approximately 160 investor-owned utilities (IOUs). Without RTOs, the Commission would still need to regulate all these companies individually. In practical terms, the

regulation would necessarily be both costly and of uneven quality. It would be very difficult for the Commission to know how different companies' tariffs interacted to affect the market, and it would not consider many publicly owned systems at all. However, with functioning RTOs, the Commission will do a better job of regulating fewer entities that cover more of the country. That will also make it much easier to regulate commodity rates in bulk power markets. RTOs will encourage more competition, firming the ground for further use of market-based rates.

- **RELIABILITY.** System reliability is critical to the success of a competitive electric industry. Currently, no clear federal authority exists to establish reliability standards for the bulk power transmission grid or to enforce such standards. Regulators and industry participants have relied on voluntary industry organizations such as the North American Electric Reliability Council (NERC) and its regional reliability councils to establish rules and standards to maintain the security of the grid. However, compliance with those standards has been neither mandatory nor applicable to all market participants.

As the electric market becomes highly competitive, the number of market participants and the volume of transactions that affect the operational demands on the system are expanding. As a result, adherence to reliability standards is more important than ever to protect the integrity of the bulk power system.

It is also becoming more apparent that reliability rules may have commercial impacts on competitive electric markets. The Commission has of necessity become involved in determining whether certain reliability provisions are just and reasonable terms and conditions of transmission service under the Federal Power Act. Increasingly, the Commission is receiving complaints of discriminatory administration of reliability rules.

Implement Order No. 637 to Promote Competition and Improve Scheduling Flexibility in the Natural Gas Grid. As the industry integrates the natural gas transportation grid, capacity mismatches will become more apparent. In particular, the Commission recently revisited the natural gas industry reforms introduced by Order No. 636. In the unbundled environment, the value of gas transportation, particularly during peak periods, was clearly not related to the maximum rates allowed for the transportation.

Thus, in Order No. 637, the Commission waived the price ceiling for short-term released capacity (less than one year) until September 30, 2002. The Commission will assess the effectiveness of this unregulated secondary market for short-term capacity after the trial period. The Commission also permitted pipelines to propose contracts for capacity with peak/off-peak and term-differentiated rate structures. Finally, Order No. 637 improves scheduling

flexibility and reporting requirements to provide better service, requires more transparent pricing information, and requires more effective monitoring for the exercise of market power and undue discrimination.

Increase Transparency of Commission Policies and Availability of Market-related Information. Historically, energy markets have been subject to a wide range of information reporting requirements, because energy is so important to the Nation's economy and security, and because the regulatory compact led to intense scrutiny of utilities' costs. As competition increases, tension grows between the need to maintain effective regulatory policy and the need for private firms to protect trade secrets and other proprietary information. The Commission is committed to reducing reporting burdens where appropriate. Further, it will maintain reporting requirements that give the Commission information necessary to protect the public interest and ensure efficient market outcomes. Several specific steps support this strategy:

Expand e-Commerce Initiatives. Open-access initiatives and greater competition in energy markets mean that information must be reliable, available in real time, and in more useful formats. The Commission recognizes that electronic alternatives must replace paper-based transactions. E-commerce initiatives should also quicken the pace of decisionmaking, increase access to data, and reduce the time and cost of making electronic transactions.

The Government Paperwork Elimination Act (GPEA) requires federal agencies, by October 21, 2003, to allow individuals or entities the option of submitting information or transacting business with the agency, and to maintain records electronically. To comply with GPEA, the Commission will develop the capability for electronic filing of all major submissions to the Commission. This includes the ability to submit standard forms using software that is readily available and easy to use.

The Commission will make information more accessible to its customers. It will improve system reliability, reduce access times, and provide text search functionality for all documents, whether filed electronically or on paper. The Commission will also provide improved search tools and educate customers so that searches are more efficient. Further, it will also serve documents electronically to the parties in a proceeding and adopt procedures that will promote electronic service between parties. In addition, the Commission will work closely with the National Archives as they define standards for efficient electronic archiving.

Finally, the Commission will monitor and respond to e-commerce trends in the electric, gas, and oil industries. This will facilitate the growth of reliable, secure, and accurate e-commerce transactions.

Support Industry Standardization and Information Sharing. When appropriate, the Commission will play a leading role in establishing and refining industry standards and information sharing mechanisms. The Commission's ongoing work with the Gas Industry Standards Board (GISB) is an example of how the Commission has encouraged a healthy gas market by implementing standardized business practices. GISB, a voluntary organization composed of representatives of many segments of the industry, develops and adopts standardized business practices for transacting business across the interstate natural gas pipeline grid.

The Commission reviews and, as appropriate, adopts proposed standards and subsequently requires compliance with the standards when reviewing natural gas pipeline filings. Standardized business practices simplify customers' business transactions with multiple pipelines and suppliers. Easier and less costly transactions also increase flexibility for customers. The Commission also requires that natural gas pipelines conduct all business transactions over the Internet through a dual communication system using standardized interactive web sites and computer-to-computer file transfers. This is part of the Commission's effort to make business transactions easier and less costly.

Provide Accounting and Financial Reporting Policies to Effectively Monitor Markets and Ensure an Efficient Compliance Program. The Commission must ensure that market participants understand its accounting and financial reporting requirements and their rationale. Clear and timely guidance informs market participants of where they stand and allows for comments and effective dialogue. This will also facilitate consistent, accurate, and comparable reporting.

Monitor Accuracy of Mandated Web Sites, such as OASIS and Electronic Bulletin Boards. The Open Access Same-Time Information System (OASIS) network plays a key role in the ability of market participants to understand whether a specific transaction is possible. The real-time posting of transmission availability (such as available transmission capacity, or ATC) is very important when buyers and sellers are seeking to arrange delivery of energy. The Commission can help with market operations by providing ongoing technical support and by reviewing the accuracy of these postings.

Assess Energy Markets. The experience of California electricity markets in the past year shows dramatically how important it is for the Commission to understand marketplace developments as they happen and to respond to them quickly. Accordingly, we need to upgrade our expertise in: (1) market operations, (2) risk management, (3) investment strategy, and (4) tracking and analysis of market information. To meet this challenge, the Commission will need to improve its market assessment capability substantially, by upgrading both the skills of its staff and its IT capability.

Upgrading Markets Expertise. Recent events have highlighted several areas in which the Commission does not have sufficient expertise today.

- **MARKET OPERATIONS.** While the Commission has considerable academic understanding of the importance of market rules, it has few people with practical trading experience. This circumstance limits the Commission's understanding of the markets.
- **RISK MANAGEMENT.** As competition takes hold in electric markets, the inherent volatility of electric prices becomes ever more apparent. Volatility puts a premium on risk management for all market participants. A major problem in California arose because some market players did not or could not take full advantage of hedging opportunities. More generally, good risk management will be at the heart of future electricity markets, just as cost-of-service rates have been in the past. The Commission needs more expertise in this area.
- **INVESTMENT STRATEGY.** A key issue in future electric markets will be the investment in generation and transmission assets. The Commission has considerable expertise in analyzing investment incentives for regulated assets, such as transmission lines. However, it has much less expertise in analyzing investment strategies for assets that are not subject to traditional regulation. It needs to develop this expertise. The Commission's regulatory policies inevitably affect the investment climate by creating or alleviating risks that investors must consider in making their investment choices. Understanding how Commission policy affects investment in generation and transmission is essential for the Commission of the future.
- **MARKET INFORMATION ANALYSIS.** During a Commission investigation of bulk power markets in the fall of 2000, it became clear that the Commission does not have enough people who can analyze market information. This shortage relates both to skills in finding, manipulating and analyzing large data sets, and to economic and other experts who can focus information analyses on critical market questions and interpret the results.

Transmission service rates, terms, and conditions affect market transactions. The Commission needs to develop much greater understanding of how transmission terms and conditions support or impede electric power competition. In the future, the Commission will need much more specific understanding of the effects of terms and conditions and will need to be able to respond quickly to dramatically changing conditions. This will require the Commission to develop new types of expertise among existing staff.

To develop these and related areas of expertise, the Commission will use several approaches. Sometimes, training of existing staff will be sufficient.

In other cases, hiring new staff members will be necessary. In still other circumstances, the Commission will contract for the expertise it needs.

Overall, however, the development of a market oversight and assessment capability must supplement the Commission's other work rather than replace it. While smooth market functioning is becoming critical to a healthy energy industry, the Commission retains all of the other functions (such as rate-making) that it has always had. While the Commission has achieved greater productivity in these traditional programs, and will continue to reduce real costs in many of these areas, it must continue to devote resources to such efforts.

Upgrading Market-related Information Technology (IT). The Commission currently has little capability to follow market developments directly as they unfold or to identify significant potential problems before they become serious. Addressing these problems will require redirecting investments in IT capabilities to complement improved expertise. Key IT improvements needed to support the markets functions include:

- **ELECTRONIC TRACKING OF MARKETS.** The Commission needs the capability to track the activities of market participants as they operate so it can be aware of crucial developments in real time and better understand the operations of the energy markets. This requires gathering, organizing, storing, analyzing, and reporting on large amounts of real-time data, which influences or characterizes market operations. Some critical types of information include: commodity prices, bids and offers for products traded on several on-line data services, actual and forecast weather data for cities around the country, and available capacity and other operational or contractual information posted on independent system operator (ISO), natural gas pipeline, and other industry Internet sites.
- **AUTOMATED INFORMATION ANALYSIS.** The Commission must take the wealth of data conveyed by energy markets and organize it, make it relational, and deliver it in a form to help analysts identify crucial market developments and gain an understanding of market behavior.

Constrain Market Power

Promoting competition, efficient pricing, and monitoring results are not enough to ensure fair, well-functioning markets. Unrestrained market power can cause losses to consumers, distorted price signals, and reduced incentives for efficiency. To constrain market power, the Commission will use the following strategies.

Perhaps the greatest threat to establishing competition in the electric industry is that malfunctions in newly emerging markets may provoke a public backlash against restructuring. If the Commission is to respond to market malfunctions in a way that inspires public confidence, it must do so in a matter of days or hours, not months. That will be both a necessity and a challenge.

Rapid response is a necessity because of the nature of markets. Suppose market prices rise to very high levels because of problems in the way the market operates. Regulation that relies on a traditional approach of trying to make all parties whole after the fact will fail. Aggrieved customers will demand refunds for their perceived overpayments (as would have been normal in a traditional cost-of-service regime). However, even if the Commission could order such refunds, from whom would it order them? Presumably, the answer would be from generators and marketers who had received the high prices. However, obtaining such refunds would create at least two further problems. First, the use of refunds would dampen investment in an industry that desperately needs it. After all, under market-based rates generators and marketers have no guarantee of cost recovery if prices are low. Taking away the possibility of market-driven profits would discourage investment in new plant. Second, hedging and secondary market transactions against price risk will complicate knowing who is responsible for making refunds.

In fact, the only good way to address such issues is to identify and remedy market malfunctions quickly before after-the-fact measures such as refunds are necessary. Given that some market problems are probably inevitable in an industry with constraints as tight as they are in the electric industry, the Commission must find quicker ways to address problems than in the past.

That will be a challenge. The Commission may face a practical necessity of acting quickly. It also has a legal obligation to ensure due process for all parties. Figuring out how to achieve due process while still acting very quickly is among the most difficult of the Commission's tasks over the next year or two.

Detect and Respond to All Forms of Market Power. The Commission's market assessment function, as described in the preceding section, will allow it to understand, identify, and respond to market developments. Thus, market assessment will address, to some degree, market power concerns. However, in specific instances, the Commission must evaluate, and where necessary, respond to the existence of market power.

The purpose of merger analysis is to assess whether the merger would have potential adverse effects on competition. Ongoing reevaluation of the Commission's merger policies and procedures is a necessary part of the overall markets strategy. Mergers require market analysis, potential conditioning to address market power issues, and an oversight role for the Commission regarding market structure (as mergers change market structures). The Commission will continue to improve its merger application process and its analytical capabilities, leading to better understanding and response to the effects of specific mergers on potential market power abuses.

In a competitive market, the stakes are higher than ever when Commission policy requires remedies for anti-competitive behavior or other market power

problems. The Commission also must identify appropriate remedies and develop guidelines for their application. Such remedies can affect firms' competitive positions and incentives.

As part of an overall market power strategy, the Commission will seek to eliminate opportunities for affiliate abuse, which can threaten efficient market outcomes in several ways. By pursuing an appropriate policy on affiliate abuse, the Commission can prevent harm to other market participants and enhance the credibility of the energy markets overall. Specific elements of such a policy may include evaluating affiliate regulation efficiency based on codes of conduct, differences in affiliate regulation by industry, and the need for further asset unbundling. They may also include using audits further to discourage affiliate abuse and following through with strong enforcement.

Use Enforcement and Litigation as Necessary to Remedy Anti-competitive Behavior. When market power problems arise, the Commission will evaluate and implement appropriate remedies. The Commission will attempt to use such remedies as consistently and effectively as possible. All the tools at the Commission's disposal must be considered in the broader context of more competitive markets.

Resolve Disputes Quickly and Fairly

In the interest of promoting competitive, well-functioning markets and protecting customers, the Commission must often address disputes between two or more parties. The process of enabling efficient markets does not guarantee fewer disputes; it may, at least in the early stages, lead to an increase in the number of disputes. This may be particularly true as the Commission implements the RTO rule (Order No. 2000) and short-term gas transportation rule (Order No. 637). However, in the increasingly fast-moving energy industries, the Commission's customers no longer have the luxury of litigating every dispute that arises. To facilitate dispute resolution, the Commission has developed the following strategies.

Promote Informal Procedures to Resolve Issues, Especially the Use of Alternative Dispute Resolution (ADR). The Commission has several means at its disposal for resolving disputes when they arise. The issues in controversy do not always justify the cost and time required of all participants for investigation and trial-type hearing. While some cases require the full evidentiary records produced by such hearings, many others will benefit from alternative, quicker courses of action. These less formal procedures include resolving issues simply based on the filings submitted, addressing issues through a technical conference, and using a settlement judge or other ADR process. The Commission is applying best practices and an extensive program to educate its staff in ADR processes, promoting new uses of ADR, and enhancing existing ADR practices. In FY 2002, the first formal evaluation of ADR services will assess the Commission's use of ADR, for both cost avoidance and qualitative benefits.

No matter the procedural path chosen, the preferred result is most often for all participants to achieve a mutually acceptable, negotiated agreement. The Commission increasingly emphasizes consensual decisionmaking in all its processes. Such results are usually more timely, less costly, and longer lasting than decisions reached through an adversarial litigated process. Indeed, the Commission ultimately resolves most disputes brought before it through the settlement process, usually with the assistance of Commission staff.

Target Litigation for Those Cases Where it Makes Sense. Situations will always arise where formal investigation and hearing procedures are required. The Commission will be selective, setting appropriate disputes for full investigation and hearing.

Still, the fast pace of events in today's markets demands that the decision-making process be expedited as much as possible while giving consideration to due process. In recognition of this demand, the Commission has applied expedited time lines to cases set for hearing, according to the complexity of the issues involved. These time lines reduce the average time required to reach an initial decision by as much as 25 percent. In addition, the Commission will continue to look for opportunities to further expedite final resolution of matters set for trial-type hearing.

FY 2000 Energy Markets Achievements

During FY 2000, the Commission had several significant achievements that helped promote its energy markets objectives. Because the objectives support each other, many of the achievements below actually promote more than one objective, but appear with the objective to which they relate most.

Achievements: Increasing Pricing Efficiency

Issued Policy Statement Providing Guidance for Pricing Pipeline Facilities Without Customer Subsidies. The Commission's September 15, 1999, policy statement announced that a pipeline project that shows it is financially viable without subsidies from existing customers is preferable to rolled-in pricing. The new preference changes the Commission's past pricing policy, which had a presumption in favor of rolled-in pricing (allowing recovery of construction costs from existing customers). The Commission will now favor incremental pricing to recover construction costs only from customers benefitting from the new project. The policy statement will allow the market to decide whether a project is financially viable. In view of the new framework for analyzing pipeline certificate applications, the Commission issued Order No. 615 on July 14, 2000, removing the optional certificate regulations.

Issued Orders to Support Electric Reliability and Improve Congestion Management. In response to NERC initiatives such as clarifications to

transaction curtailment procedures, market redispatch efforts to help with congestion management, and facilitation of access to critical system information by system operators, the Commission issued orders that set up the framework for transmission reliability. The Commission also approved a tariff filed by the East Central Area Reliability Council, a regional council of NERC, designed to improve reliability by creating a settlement system that encourages proper system operation. In addition, the Commission took decisive action to support the reliability efforts of the electric industry in preparation for the summer of 2000. In a May 17, 2000 notice, the Commission identified five actions to address short term reliability through September 30, 2000, including waiving certain filing requirements and making Commission staff available to help with questions and suggestions related to reliability issues. Subsequently, on June 28, 2000, the Commission issued a supplemental notice responding to comments received and clarifying its short term actions.

Issued Order on Well Determination. On July 14, 2000, the Commission issued Order No. 616, reinstating regulations to make well category determinations under section 503 of the Natural Gas Policy Act of 1978 (NGPA). An NGPA determination will make certain natural gas eligible for a tax credit under Section 29 of the Internal Revenue Code.

**Achievements:
Nurturing
Competitive Market
Institutions**

Issued Order No. 2000. After a lengthy process of conferences, consultations, and a NOPR, the Commission issued Order No. 2000 on December 20, 1999, which encouraged participation in RTOs.

The Commission's objective in Order No. 2000 is for all transmission-owning entities in the Nation, including non-public utilities, to place their transmission facilities under the control of appropriate RTOs in a timely manner. To that end, Order No. 2000 establishes minimum characteristics and functions for appropriate RTOs and a collaborative process by which public utilities and non-public utilities that own, operate, or control interstate transmission facilities, in consultation with state officials as appropriate, will consider and develop RTOs. It also lays out a proposal to consider transmission ratemaking reforms on a case-specific basis; an opportunity for non-monetary regulatory benefits, such as deference in dispute resolution and streamlined filing and approval procedures; and a time line for public utilities to make appropriate filings with the Commission to initiate operation of RTOs. Because of this voluntary approach, the Commission expects jurisdictional entities to form RTOs.

To initiate the implementation of Order No. 2000, the Commission held and facilitated industry discussion at five separate regional workshops around the country. A considerable amount of outreach and staff support for these regional collaborative efforts continues.

Issued Order No. 637 – Changes in Gas Pipeline Regulation. With Order No. 637, the Commission made important changes to its regulatory framework and policies governing the interstate gas markets and transportation grid. The rapid development of competitive markets for natural gas presented challenges to the existing regulatory model. The Commission realized that its regulatory policy must seek to reconcile the objectives of fostering an efficient market that provides good alternatives to as many shippers as possible while creating a regulatory framework that is fair and protects captive customers without good alternatives. The order provides new economic opportunities and improves efficiency within the marketplace. It temporarily removes price ceilings for certain short-term transactions, permits peak/off-peak and seasonal rates, revises transaction procedures such as scheduling, narrows the right of first refusal, and improves reporting requirements to provide more transparent pricing information.

The Commission expects these changes to create greater transnational liquidity and more competition. To ensure they do, the Commission will obtain and make available better information about availability and price, enabling shippers to make more informed decisions.

Initiated Industry Outreach. Besides the important and unprecedented outreach efforts that began the implementation of Order No. 2000, several other efforts promoted communication with energy markets stakeholders. Commission staff conducted 19 informal outreach meetings with trade associations and energy, environmental, and consumer organizations to explore issues relating to visions of the future and the regulatory changes required to meet those visions. The Commission also held a series of industry-wide conferences on: (1) issues relating to state unbundling of natural gas services and how our current regulations facilitate or hinder those efforts; (2) projected gas pipeline capacity demands for the northeastern portion of the United States; and (3) issues relating to revisions to electronic filing requirements.

Established RTO Time Line. The Commission established deadlines for the filing and implementation of RTOs. Public utilities that own, operate or control transmission lines had to file by October 15, 2000. Public utilities that are members of existing transmission entities approved by the Commission for conformance with the ISO principles in Order No. 888 must file by January 15, 2001. In that filing, a utility must explain the extent to which the transmission entity in which it participates meets the minimum characteristics and functions for an RTO. Further, the utility must propose to modify the existing institution to become an RTO or explain the obstacles to conforming with the RTO characteristics and functions. The Commission proposed that all public utilities participate in an operational RTO by December 15, 2001. In addition, the Commission contemplated implementation of the congestion management function by December 15, 2002, and of inter-regional parallel

path flow coordination and transmission planning and expansion by December 15, 2004.

Streamlined Rate Schedule Sheet Designation Procedures for the Electric Industry. On March 31, 2000, the Commission issued a final rule (Order No. 614), amending its regulations to require the inclusion of proposed designations for all rate schedule sheets filed with the Commission by public utilities. The rule streamlines rate schedule sheet designation procedures for the Commission and the electric industry. The rule will also conform public utility tariff filing procedures with those for interstate natural gas and oil pipelines. This revision to the regulations accommodates the movement toward an integrated energy industry and facilitates the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets.

**Achievements:
Constraining Market
Power**

Investigated Bulk Power Markets. On November 1, 2000, the Commission staff issued a report on its bulk power investigation in the Western markets and the causes of the Summer of 2000 price abnormalities. Investigation findings show that the California wholesale electric market structure is seriously flawed. On November 1, 2000, the Commission staff issued a similar report on markets in the Eastern interconnection covering the summer period. On February 1, 2001, it issued a report on Northwest markets covering the summer period, November, and December 2000.

Investigated Issues Related to California Electricity Markets. On December 15, 2000, the Commission addressed a complaint by San Diego Gas & Electric Company by ordering sweeping changes to the State's electric power market. These changes included a major overhaul of the California ISO and power exchange rules, imposition of a temporary "soft" price cap, and measures to increase market participants' use of long term contracts. The Commission cautioned that inadequate supply would continue to produce high prices unless California also addresses problems in siting generation and developing demand-side responses. On February 1, 2001, the Commission staff reported on its investigation of increased plant outages for California generators, finding no evidence that generators contrived shortages to raise market prices.

Conducted Merger Analyses. The Commission completed several analyses of merger applications, including one for the American Electric Power Company, *et al.* The Commission's merger policy is focused on two objectives: (1) allowing industry to restructure and adapt to changing market conditions and (2) not allowing that restructuring to work to the detriment of the evolving markets (*i.e.*, lead to inefficient results, such as increased potential for the exercise of market power).

Revised Merger Filing Procedures. On November 15, 2000, the Commission issued Order No. 642, clarifying public utility merger procedures. The merger rule revises filing requirements for consistency with the Commission's 1996 Merger Policy Guidelines, providing more detail for industry in developing competitive market analyses. The rule continues the existing screening process for mergers with potential horizontal competitive concerns and establishes informational requirements for vertical competitive analyses. It also streamlines filing requirements for transactions without competitive concerns.

**Achievements:
Resolving Disputes
Quickly and Fairly**

Reduced Time Lines in Cases Set for Hearing. When settlement is not possible or warranted, the Commission's regulatory responsibilities demand the expeditious development, consistent with the due process rights of the parties, of a full and complete record upon which the Commission can base its decisions. To that end, during FY 2000 the Commission developed new time lines for cases set for hearing before the Commission's administrative law judges, to speed the processing of cases. The time lines offer a predictable schedule and are likely to result in substantial savings for customers. The time required to litigate many cases will decline by an average of one fourth.

Expedited Approval of Uncontested Settlements. The Commission made process improvements that will result in faster approval of uncontested settlements certified to the Commission by the administrative law judges. In the future, the information formerly provided to the Commission by staff memorandum will be provided in the judge's certification of settlement and draft Commission letter order, thus reducing Commission review time. Under this procedure, the Commission anticipates approval of the settlement within 45 to 60 days of certification. An added benefit from this procedure is that all documents will be public.

Promoted ADR. The Commission participated in multiple efforts within and outside the Commission to communicate alternative dispute resolution (ADR) values and practices. These efforts included:

- development of an advanced negotiation course in effective, assisted negotiations for the Commission as a whole;
- revising the Commission's procedures to include the option of using ADR for Equal Employment Opportunity and non-EEO employee disputes, labor/management disputes, and contractor disputes;
- participation in a panel discussion at the American Bar Association's annual meeting on Commission ADR services, and at the New York Financial Times on the development of an electricity market using ADR;

- participation in three outreach sessions to groups in the Midwest, the Southeast, and the Northwest on ADR initiatives in the Alternative Licensing process for hydroelectric facilities;
- initiation of ADR training programs within the electric and the hydroelectric industries; and
- continuation and creation of partnerships with external organizations such as the Interagency ADR Working Group Civil Enforcement Section, the Environmental Center for Conflict Resolution, the Bureau of Indian Affairs, the National Park Service, Native American Rights Fund, Indian Dispute Resolution Service, leaders of the Federal Bar Association's Indian Law Section, and the Great Lakes Tribal Council.

The Federal Preservation Officer (FPO) now resides in the Commission's Dispute Resolution Service. The FPO coordinates the Commission's historic preservation activities and helps the Commission and outside parties to resolve disputes involving historic properties and properties to which Indian tribes attach religious and cultural significance. The FPO coordinates with several offices within the Commission and with outside entities such as the Advisory Council on Historic Preservation, State/Tribal Historic Preservation Officers, and other organizations and persons having an interest in cultural resources and the effects of projects on those resources.

ENERGY PROJECTS

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 2000 <u>Actual</u>	FY 2001 <u>Estimate</u>	FY 2002 <u>Request</u>
FTEs	406	388	388
Personnel Costs	\$40,096	\$38,976	\$39,685
Contracts	\$3,092	\$7,030	\$3,909
Total Funding	\$43,188	\$46,006	\$43,594

Introduction

The Commission's goal for energy projects is to foster economic and environmental benefits for the Nation through the approval and oversight of hydropower and natural gas transportation projects that are in the public interest.

The Commission licenses nonfederal hydropower projects and certifies the construction of and authorizes the abandonment of interstate natural gas facilities and services. These projects have economic, environmental, and other societal implications, all of which must be considered in the licensing or certificating process. In addition, the Commission ensures the safety of hydropower projects, environmental compliance of natural gas pipeline facilities, and the operational safety and reliability of liquefied natural gas (LNG) storage facilities.

The hydropower projects and natural gas facilities that the Commission oversees are critical components of the Nation's energy portfolio. Hydropower projects are a major source of electric power and are especially important in the Western United States, which has experienced electricity shortages. Adequate natural gas facilities, particularly pipelines, are essential to meet the national growing demand for natural gas, including the demand from many new gas-fired electric plants. Indeed, the ability to construct new facilities is critical to the continued functioning of a competitive natural gas commodity market.

The Commission's challenge is to balance and protect competing project interests, both economic and environmental, while understanding the need to

act quickly and responsibly. For natural gas projects, the Commission must consider the interests of the pipelines, existing and new customers, affected landowners, other agencies, and the environment, while ensuring that needed pipeline infrastructure is available to serve the growing demand for natural gas. For hydropower licensing, the Commission must balance the interests of the licensees, customers, affected stakeholders, such as local citizen groups and recreational users, and the environment. The Commission seeks to optimize the economic and environmental benefits of energy projects.

Both the hydropower licensing and gas pipeline certificates processes involve economic and engineering issues and community and environmental impacts. Therefore, the Commission combined its hydropower and natural gas pipeline engineering and environmental experts into one office. Combining the staffs increases the Commission's ability to shift resources to meet changing case workload and allows cross training in both processes.

This section discusses, by objective, the Commission's key initiatives, strategies, and processes for reaching its energy projects goal. Achievements during the last year appear at the end of this section.

The Commission's objectives for energy projects are to:

- **Facilitate responsible natural gas pipeline development:** foster a regulatory environment that facilitates the responsible development of transportation capacity to meet potential increases in market demand for natural gas to 25 Tcf in 2005 and 30 Tcf in 2010¹;
- **Optimize hydropower benefits:** optimize hydropower benefits by improving the environmental performance of projects while preserving hydropower as an economically viable energy source; and
- **Improve dam safety:** maintain and improve the safety of hydropower projects.

Working Toward the Objectives

Achieving these objectives will require the Commission management and staff to work in partnership with the energy industry and other interested parties. Interacting with industry participants, customers, affected landowners, environmental groups, and other stakeholders, the Commission continuously gives and receives information to develop its policies and regulations.

¹The estimates are from non-Commission sources and are subject to revision.

**Facilitate Responsible
Natural Gas Pipeline
Development**

To meet the growing demand for natural gas, the Commission must respond to the need to expand existing pipeline facilities and construct new facilities. Indeed, nearly all forecasts of future gas demand indicate substantial increases in gas use, particularly to fuel new electric generation. Therefore, a robust gas pipeline infrastructure is critical now, not only to meeting traditional natural gas use requirements, but also to preserving the reliability of the Nation's future energy supply. The Commission encourages efficient gas pipeline construction to respond to the need for increased pipeline capacity. The Commission is looking at creative ways to speed application processing to respond more quickly to market forces and to ensure that existing and newly developed supplies reach the market quickly.

With this growing demand, the Commission will receive more applications for increasingly large, complex construction projects and could, in addition, receive an increased number of applications. Applicants are more likely to propose pipeline routes to and through densely populated metropolitan areas, often to reach newly constructed gas-fired electric generation or to compete with existing pipelines. Constructing pipeline capacity in these areas is more difficult, because of lack of open space, many environmental issues, and multiparty interests, such as landowners' concerns. Also, with the increasing natural gas demand, companies are developing supplies from new areas. Transporting gas from new areas requires new or expanded pipeline capacity to reach the market. In addition, parties are exploring new interconnections between the United States, Canada, and Mexico and a potential Alaskan pipeline.

Natural gas markets, like the electric markets they supply, are becoming truly continental. To support the existing competitive natural gas markets and the developing electricity markets, it is vitally important that the Commission process applications expeditiously, despite their number and complexity.

The Commission will consider the competing interests of pipelines, individuals, organizations, landowners and the environment. Greater participation by landowners and other interested parties will require increased efforts by the Commission to address the concerns of many different parties. The Commission has designed its certificate policies to minimize and mitigate environmental and community impacts.

Process Cases Expeditiously. The Commission is committed to faster processing of applications for natural gas pipeline facilities. The Commission restructured many of its regulations and policies to permit applicants to construct, operate, rearrange, replace, and abandon more facilities automatically, *i.e.*, without specific Commission review. Also, the restructured regulations and policies provided clear and precise guidance to applicants, resulting in more complete filings and, subsequently, reducing application processing times. Additionally, the Commission set clear targets

for processing times on different application categories. The actual completion times for cases terminated in FY 2000 is significantly below the target in each application category. Further, the Commission hopes to improve coordination with other agencies that play a key role in the pipeline approval process as a way of further expediting the authorization process. During FY 2001, the Commission will review the target times for the application categories and, based on the results, will reestablish the target times for FY 2002.

The Certificate Policy Statement, issued in September 1999, gives industry clear guidance and more certainty about how the Commission will evaluate proposals for authorizing new pipeline construction. The Policy Statement explicitly states the analytical process the Commission will use to authorize pipeline facilities and the way it will balance all factors, including economic and environmental concerns. The Commission will approve an application for a certificate when the projects' public benefits outweigh its adverse effects. The Commission expects to issue certificates expeditiously when the applicant makes this showing. Key to this policy is the Commission's preference for incremental pricing, in which costs are recovered only from customers that benefit from the new project, over rolled-in-rates. Project sponsors must be prepared to develop the project without relying on subsidization by existing customers. As of March 1, 2001, the Commission certificated 56 projects under the Policy Statement.

To process applications expeditiously, the Commission will set technical conferences and public meetings for environmental scoping and comments on draft documents, and will analyze data responses, comments, protests, and other filings. Commission staff also prepared a report reviewing the history of the proceedings under the Alaska Natural Gas Transportation Act, including the statutes and relevant orders. The Commission expects to continue to receive applications for storage development for peaking capacity and supply flexibility. Anticipated storage facilities include depleted gas fields, newly-leached salt caverns, and possibly some LNG facilities for some period of time. Commission review and approval of these projects, many of which will be located near market areas, is likely to generate significant public interest about competition, need, and environmental impact. Additionally, as storage fields age, the Commission expects more applications for new wells and additional acreage for buffer zones. Because of the aging national pipeline grid, the Commission anticipates a need to replace many facilities. Replacing aging facilities is necessary for safe pipeline operations.

Increase Regulatory Certainty and Market Flexibility in Determining Need and Rate Structure. The Commission provides guidance to applicants and interested parties about Commission requirements. The Commission will carry out the policies detailed in the Policy Statement. The Commission believes these new policies will produce greater regulatory certainty and will aid in developing appropriate new pipeline facilities.

In the Policy Statement, the Commission expanded the ways a pipeline can show need for proposed new facilities by shifting from relying primarily on precedent agreements and contracts to considering other evidence of market need. In addition, for expansions of existing pipelines, the Commission is giving greater deference to market forces by showing preference for incremental rates, eliminating its bias toward rolled-in rates that result in existing customers subsidizing new customers. Incremental rates recover construction costs only from customers that benefit from the new project rather than rolling those costs into existing rates. This approach protects all relevant interests and sends the proper signal for the market to decide if expanded pipeline capacity is financially viable.

In February 2000, the Commission issued Order No. 637. This order significantly increases the opportunities for pipelines to structure flexible pricing and terms in their contractual arrangements with shippers. It removes short-term transportation price ceilings, permits peak and off peak rates, and revises transaction procedures. With increased regulatory certainty and market flexibility and more rate structure options, the industry may propose applications that are more market-oriented.

Improve Information Availability. The Commission intends to improve information availability to all interested parties. In September 1999, the Commission issued the Landowner Notification Rule. The rule requires pipeline companies to notify affected landowners early in the process of locating routes for proposed natural gas facilities. Informing all affected landowners early allows landowners a chance to participate in the Commission's pipeline certification process, recognizing the landowners' property rights. Early landowner participation avoids processing delays caused when landowners become aware of the project late in the process. These efforts should lessen the need to use eminent domain authority. Coupled with the outreach effort described below, the Commission expects more complete applications, which it will process quicker.

In FY 2000, the Commission began conducting an outreach program with interested parties, such as pipeline companies, landowners, state and federal agencies, and pipeline customers. The purpose of the outreach effort is to determine ways for gas pipeline applicants to identify and successfully resolve issues with interested parties as much as possible before filing an application with the Commission. Because of this outreach program, the Commission expects to: (1) develop a toolbox of options applicants could use to gain faster Commission approval; and (2) receive more complete and less contentious applications. The outreach program results likely will reduce the Commission's time for completing application processing. As the Commission gains information, it will catalog the industry's and other parties' best practices and will publish a report on these practices. Also, the Commission is encouraging applicants to work closely with Commission staff

at the earliest stages of project development. Early staff involvement may speed the certificate process.²

Other Strategies. The Commission has identified other strategies that, while contributing to its goals for natural gas projects, do not fit within the other categories. These include:

- Further improve information availability and exchange by increasing reliance on electronic filings and data bases and by making greater use of appropriate information technology tools.

In September 2000, the Commission issued an Instant Final Rule to allow parties to file certain documents electronically. Increased use of electronic filings will reduce burden and expense for all parties and will make information available faster and more efficiently. Beginning November 1, 2000, the rule allows parties to submit certain protests and comments electronically, including comments on environmental documents. In addition, the Commission is considering a pilot project with appropriate stakeholders to assess data needs and specifications for environmental review and future electronic filing requirements.

- Minimize environmental impacts by inspecting natural gas facilities for adherence to environmental mitigation measures prescribed in their certificate authorizations.

Under the National Environmental Policy Act, the Commission will continue to perform required environmental analyses of all gas pipeline construction proposals. The purpose is to avoid or mitigate adverse effects on water quality, vegetation and wildlife, historic and cultural resources, soils and geological resources, land use, and air and noise quality. The Commission conducts a thorough analysis of each area before approving any certificate project. The Commission will balance the need for thorough analysis with the need to improve case processing time.

In FY 1999, the Commission initiated a pilot program for third party compliance monitoring of large projects. Since the pilot was successful, the Commission expanded the program in FY 2000 and continued it into FY 2001. In FY 2002, the Commission will continue the program, possibly expanding it to small and mid-size projects. The program allows more frequent construction inspections and fosters quicker decisions on company requests for construction variances because inspection personnel are in the field full-time.

²One possible approach to early involvement is for the applicant to engage in a voluntary collaborative process with the stakeholders and Commission staff before filing an application with the Commission.

- Ensure that certificate holders or potential certificate holders comply with all applicable regulatory requirements.

The Commission reduces regulatory uncertainty by giving applicants complete explanations of its regulatory requirements and expectations, using a three-part process. First, to provide a forum for applicants to seek and receive guidance on regulatory matters, the Commission conducts outreach meetings and prefiling conferences. Second, in its orders the Commission addresses matters requiring clarification, making parties aware of the pertinent regulatory requirements related to the filing. Finally, as part of the Commission's ongoing compliance effort, the Commission audits gas pipelines to determine the extent to which they comply with the Commission's regulations. This process ensures that parties understand and comply with the applicable regulatory requirements.

Optimize Hydropower Benefits

Hydropower is a necessary component of the Nation's energy supply and of efficient, competitive markets. The Commission's regulation of nonfederal hydropower promotes sustainable development of this important renewable energy resource, while providing economic, environmental, recreational, and other public benefits. Hydropower represents 98 percent of all renewable energy sources. Hydropower projects must compete in rapidly changing energy markets and amid public concern about the environmental impacts of hydropower operations.

Not surprisingly, parties have diverse views about the projects. To accommodate the diversity, the Commission focuses on resolving the many conflicts that arise before the filing of an application with the Commission. Early and sustained collaboration between diverse participants and other agencies is effective in resolving issues and reducing the potential for conflicts. Various statutory requirements give other agencies a powerful role in project licensing, requiring the Commission to share its license conditioning authority with numerous state and federal agencies.

With the electric industry restructuring, hydropower projects are valuable assets. Vertically integrated utilities are selling many hydropower projects to generation-only companies. These projects provide ancillary services, such as load following, that bring reliability to the competitive energy market. In FY 2000, the Commission acted on about 50 requests to transfer licenses to new owners.

Over the next decade, about 220 hydropower project licenses will expire. These projects represent 20 percent of the Nation's hydropower installed capacity and include some of the largest projects under the Commission's jurisdiction, such as the FDR-St. Lawrence project in New York (912 MW) and the Cowlitz River project in Washington (460 MW). During FY 2002,

the Commission expects to receive about 23 licensing applications and about 50 preliminary permit applications to study site feasibility for constructing new hydropower projects. The Commission also expects to receive during FY 2002 from existing licensees and exemptees more than 1,500 filings related to existing license terms and conditions, e.g., compliance filings and proposed amendment applications.

Address Increasing Project Capacity During Relicensing. Beginning in FY 2001 and continuing in FY 2002, when a relicensing case uses the Alternative Licensing Process (ALP) or other collaborative process, Commission staff will work with participants to promote examination of the viability of installing additional capacity at the project site. These examinations will include such factors as streamflow records, turbine hydraulic capacity, potential to improve generating efficiency, regional need for power, avoidance of impacts to environmental resources, and economics. During FY 2002, Commission staff will apply the FY 2001 results to meet its FY 2002 target of 25 percent of relicensing cases using the ALP or other collaborative process examining the viability of installing additional capacity.

Use Interagency Coordination. Interagency Task Force (ITF) representatives from the Departments of Commerce, the Interior, and Agriculture and the Commission identified reforms to improve the hydropower licensing process. In a May 2000 Joint Statement of Commitment, those parties agreed to implement the reforms. These agencies established the Interagency Hydro Committee (IHC) to maintain communication among the agencies, and to implement the ITF recommendations. In FY 2001, the ITF will develop and implement a program to brief regional and headquarters staff fully on the intricacies and importance of the ITF recommendations in the Joint Statement of Commitment. Subsequently, in late FY 2001 and continuing in FY 2002, IHC will: (1) monitor the implementation of recommendations and address any problems that arise, and (2) address issues that the ITF was previously unable to address or resolve.

Promote Collaborative Efforts. Collaborative processes facilitate greater participation and communication, promote cooperative efforts, and encourage agreement on and settlement of major environmental issues. The Commission intends to promote collaborative processes, particularly by encouraging participation in the ALP and other similar efforts. The ALP is a voluntary process designed to improve communication among interested parties and to be flexible and tailored to the facts and circumstances of the particular project. It also allows Commission staff to provide assistance to participants early in the licensing process.

In FY 2001, the Commission will promote collaboration and the ALP through Interagency Hydropower Workshops, stakeholder consultation meetings, and

outreach efforts. In FY 2001 and FY 2002, the Commission will continue to promote collaboration and ALP participation at several forums.

Evaluate and Improve Effectiveness of Required Environmental Enhancement and Mitigation Measures. The Commission has issued many licenses with requirements designed to protect or enhance the affected environment. Beginning in the 1990s, the Commission started requiring licensees, as part of their relicense conditions, to develop plans to monitor the results of the environmental resource protection conditions. Knowing the effectiveness of certain measures will help the Commission to find out if such environmental measures are appropriately protecting, mitigating, and enhancing environmental resources. The Commission will develop an evaluation system to track the effectiveness of the required measures and to decide which measures are the most effective. The Commission then will disseminate the effectiveness information to licensees, potential licensees, and other interested parties.

In FY 2001, staff is conducting 4 site visits to evaluate the effectiveness of specific mitigation measures, holding two regional meetings to disseminate information about effective methods to comply with license conditions, and distributing two resource reports describing the methods that work for licensees to use in better managing the environmental compliance of their projects. In FY 2002, staff is planning to conduct 6 site visits, hold 2 regional meetings, and complete and distribute additional resource reports at regional meetings. Commission staff will continue to evaluate the environmental monitoring reports licensees submit to the Commission pursuant to their license conditions, the environmental and public use inspection reports, and existing data bases designed to track license conditions. The evaluations resulting from staff's review and analysis, along with information obtained from site visits, will improve the environmental measures included in future licenses.

Advance the Use of Resource Standards, along with Adaptive Management Provisions, During the Relicensing Process. The Commission will use the lessons learned from evaluating and improving effectiveness of enhancement and mitigation measures at targeted projects and the Commission's resource reports to craft license articles to advance the use of the resource standards approach. The use of the resource standards and adaptive management approaches provide a more flexible approach, allowing the stakeholders cooperatively to decide the best and most cost-effective way to meet license objectives. The Commission has already initiated the use of these approaches in recent licensing orders. For example, adaptive management provisions in one case provided staged flow increases over a 20-year period. This allows the licensee to monitor fish population during the staged increases until levels are adequate to meet the sustainable fishery resource standard.

**Improve the Safety
of Hydropower
Projects**

The Commission has statutory responsibility for the safety of about 2,600 nonfederal hydropower dams. The Commission protects life and property by ensuring the safety of dams and related structures. Through inspections and studies, the Commission ensures that dams are kept in good condition. The Commission staff's on-site presence is critical to ensuring safety. Staff's ongoing knowledge of individual projects aids in identifying project-specific problems. In addition, the Commission requires independent consultants to evaluate the safety of dams to provide another professional viewpoint. Commission staff, independent consultants, and project owners cooperate to provide the framework within which the Commission monitors dam safety, identifies problems, and requires timely and environmentally sensitive remediations. Emergency action plans make sure that the dam owner and the community know how to deal with potential emergencies.

Because of the increasing number of older dams under the Commission's jurisdiction, continued vigilance is particularly necessary. As engineering technology, tools, and procedures improve, the Commission conscientiously facilitates sharing of knowledge, and works with licensees, the engineering community, and federal and state agencies to maintain an outstanding dam safety record. Because of electric industry competition, caused by deregulation, utilities may sell their hydropower projects. Through this transition and while under new ownership, the Commission must ensure the proper monitoring and maintenance of projects.

Most dam safety strategies involve multiple years of work to complete. Therefore, the FY 2002 strategies are a continuation of the FY 2001 initiatives, adjusted for ongoing improvements and refinements.

Protect Life, Health, Property and the Environment. Dam safety responsibility is distributed between the Commission and many stakeholders, such as project owners, engineering consultants, and federal and state resource agencies. The Commission's effort to form cooperative partnerships is growing as the number of identified stakeholders expands. By coordinating the Commission's activities and working cooperatively with other stakeholders, the Commission more easily achieves its objectives, and usually enhances its outcomes. Part of the Commission's responsibility is to develop the right combination of owner, consultant, and federal/state government involvement in a cooperative dam safety effort.

Commission staff are active board and committee members in many dam safety organizations, including the Interagency Committee on Dam Safety (ICODS), the U.S. Committee on Large Dams (USCOLD), the Association of State Dam Safety Officials (ASDSO), and the National Dam Safety Program Review Board (NDSP). Through these organizations, Commission staff shares valuable information, helps develop technical guidelines, discusses research needs and progress, and develops dam safety training.

The Commission maintains direct coordination with state agencies through joint inspections, sharing independent consultant inspection report results, providing emergency action plan training, and working under individual state memoranda of agreements. The Commission also coordinates with other federal and state agencies before, during, and after the Commission's environmental inspections. The Commission staff invites federal and state resource agencies to accompany them on environmental and public use inspections. By working with these other agencies, staff shares and gains important information about area resources and project effects. Project owners gain, as well, by having representatives from several agencies on-site at the same time to discuss any issues. Face-to-face communication provides the best opportunity for meaningful discussion, and having that communication at the project site is even more productive.

During FY 2002, the Commission will continue to coordinate with interested parties to involve participants in the Commission's processes.

Commission staff is ultimately responsible for ensuring the licensees build, operate, and maintain safe projects. Accordingly, Commission staff in 5 regional offices will conduct about 2,700 inspections in FY 2002, providing a valuable field presence for the Commission and other stakeholders.

Develop and Maintain State-of-the-art Dam Safety Criteria. These strategies reflect continuing initiatives that the Commission started in prior years.

Addressing Aging Hydraulic Components. The Commission is continuing a multi-year initiative started in FY 1999 to lead an industry-wide, systematic effort to review, analyze, and address the aging hydraulic dam components. Proper functioning of hydraulic dam components is critical to ensuring dam safety. Without proper functioning of the hydraulic machinery, penstocks, conduits, gates, and spillways, reservoir control could be lost, resulting in dam failure. While the Commission's dam safety role and responsibility are different from that of other agencies, such as the Corps of Engineers, the Bureau of Reclamation, and the Federal Emergency Management Agency, all have common technical dam safety concerns. In addition, the rest of the dam safety community, including dam owners, state dam safety agencies, and engineering consultants, have expertise and a vested interest in technical dam safety issues. The Commission is coordinating the dam safety community to focus attention on hydraulic component safety problems. The Commission identifies dams with the potential for developing a specific problem, determines the resolution, and follows through on actions to avert the problem. The Commission followed this process in FY 2000 to complete the highly-successful Tainter Gate Initiative. The Commission will use this process on new hydraulic component issues to identify problems and produce sound technical approaches to solve those problems.

In FY 2001 and FY 2002, the Commission staff will likely review all gates and valves at dams. This new information availability will enable all dam owners to operate their projects better and ensure project integrity and overall safety.

Engineering Guidelines. To provide guidance to Commission staff and the dam safety community the Commission publishes the Engineering Guidelines for the Evaluation of Hydropower Projects. The Engineering Guidelines establish the criteria and analytical approach, important elements of a sound dam safety program, for the dam safety community to use to evaluate dam safety. In FY 2002, the Commission staff expects to publish a chapter on Performance Monitoring of Dams and to complete revisions to the chapters on Gravity Dams and Embankment Dams.

Focus on High Risk Projects. This strategy focuses on those projects that present the greatest potential risk to life, health, property and the environment.

Emergency Action Plan (EAP) Tests. Although the Commission inspects, monitors, evaluates, and oversees remediation, it cannot guarantee that emergencies will not occur. Therefore, the Commission requires each project to develop, maintain, and periodically test an EAP. These plans specify actions that owners must take, in coordination with federal, state and local preparedness agencies, in case of flood, earthquake, or project failure. The Commission is recognized as a national leader in EAPs and regularly shares its expertise with many other federal and state agencies. By helping licensees be fully prepared, the Commission is serving the public by saving lives and protecting property and the environment. In FY 2002, the Commission will continue to provide innovative leadership in this area.

Heightened Emphasis on Performance Monitoring. As dams age and undergo various stress conditions (e.g., floods and earthquakes), they are subject to different ranges of structural stress. Thus, assessing dam safety requires more performance monitoring. In FY 2002, the Commission will increase its level of attention to performance monitoring – the method of applying the correct technology and instrumentation to each unique situation to detect and evaluate deficiencies early, before a serious problem develops. The Commission uses monitoring and instrumentation to detect whether dam conditions are changing. This is key to detecting potential problems early and to determining if remediation is necessary. With monitoring data available, the Commission expects licensees and their consultants to evaluate continually the project's condition and performance.

FY 2000 Energy Projects Achievements

In FY 2000, the Commission had several significant energy projects achievements.

Achievements: Facilitate Responsible Natural Gas Pipeline Development

New Policies. In September 1999, the Commission issued the Certificate Policy Statement, setting forth the steps it will use to balance the public benefits of pipeline construction against potential adverse impacts. In addition, in October 1999 the Commission issued the Landowner Notification Rule, which prescribed methods for applicants to notify affected landowners about pipeline construction early in the process. The goal of the rule is to ensure that landowners have sufficient opportunity to participate in the Commission's certificate process. Both the Certificate Policy Statement and the Landowner Notification Rule should result in faster Commission decisions. Also in March 2000, the Commission issued a final rule under the Outer Continental Shelf Lands Act, which requires most Outer Continental Shelf (OCS) pipeline transporters to make affiliate, rate, and terms and conditions of service information readily available. The rule's purpose is to make previously inaccessible OCS transportation information available to offshore producers and to the market overall.

Certification to Build Major Facilities. In FY 2000, the Commission authorized many projects that expanded the natural gas infrastructure throughout the United States. For example, the Commission authorized the controversial Independence project, which is estimated to cost more than \$1.3 billion, extend 625 miles, and transport up to 916 MMcf per day. This project will provide natural gas service from the Chicago area to markets in Pennsylvania, New York, and New Jersey and to other parts of the Northeast through interconnecting pipelines. In addition, the Commission issued a certificate to a new pipeline company, Questar Southern Trails Pipeline, to convert an existing oil pipeline to a gas pipeline extending from Utah to California. In total, the Commission authorized projects that will result in 1,710 miles of pipeline and 301,816 horsepower of compression, provide almost 4.4 Bcf per day of new capacity, and cost about \$2.2 billion.

Case Processing Times. For FY 2000, the Commission established specific time targets for expeditiously processing each of several types of certificate cases. These targets applied to the vast majority of certificate cases coming before the Commission. In FY 2000, the Commission met or exceeded all of its targets.

Outreach Program. In FY 2000, the Commission designed an outreach program to develop a toolbox of options applicants could use to gain faster Commission approval of their applications. The Commission held the first outreach seminar in Albany, New York on September 26, 2000. More than

125 people from the industry, federal, state, and local agencies, and the public participated, giving presentations and participating in interactive discussions.

Environmental Compliance Monitoring. In FY 2000, the Commission made 386 trips to ensure compliance with environmental regulations and certificate conditions. Commission staff inspected all major onshore construction projects at least once every 4 weeks during construction and at least once following construction completion. For all construction projects more than 2 miles long, the Commission had a 99 percent inspection rate (88 out of 89 projects).

In FY 2000, the Commission expanded its third party monitoring inspection program. The program allows pipeline companies to hire third party compliance monitors who work under the Commission staff's direction, to perform daily inspections. Having full-time inspectors in the field results in more frequent compliance inspections and fewer construction delays.

**Achievements:
Optimize
Hydropower
Benefits**

Beneficial Public Uses, Developmental and Nondevelopmental. The Commission requires licensees to file plans to implement measures to protect and enhance beneficial public uses and to report on the implementation status. In FY 2000, staff reviewed more than 570 plans and reports to learn the effectiveness of the required measures and whether the requirements are working to achieve the desired result.

Increasing Public Use Without Reducing Water Resource Values. The Commission tracks the number of public uses resulting from license conditions to learn if hydropower projects are meeting increasing public use demands while conserving key water resource values. Public uses include recreational facilities, the number of visitor days, and the number of improvements and enhancements to recreational facilities. In FY 2000, the Commission further automated this information, allowing parties to retrieve the information easily and to use it to make the best comprehensive decisions for recreation in a geographical area.

Reducing Processing Time Through Collaborative Procedures. In FY 2000, the Commission's collaborative efforts resulted in several accomplishments.

Interagency Task Force (ITF). The Commission finds that using a collaborative process generally speeds the license processing time. To promote the collaborative process with federal and state agencies, the Commission participated in the ITF along with the Departments of Commerce, the Interior, and Agriculture. In FY 2000, the ITF prepared reports on noticing procedures, the National Environmental Policy Act (NEPA) process, studies, Endangered Species Act consultation, enforceable license conditions, alternative licensing procedures, off-the-record

communications, economics, sections 4(e), 10(j), and 18 of the Federal Power Act, and adaptive management. In early FY 2000, the ITF recommended reforms to improve the hydropower licensing process. In May 2000, the ITF participants signed a Joint Statement of Commitment for An Improved Hydropower Licensing Process, obligating the parties to carry out the ITF recommendations. Carrying out the recommendations will encourage collaborative efforts and settlements.

Applicant-Prepared Environmental Assessment (APEA). Under the Commission's alternative licensing program (ALP), licensees and applicants can choose to submit an APEA or third-party contract Environmental Impact Statement (EIS) as part of their application. During FY2000, 49 projects used the APEA and the Commission issued three licenses using the APEA process.

Major Collaborative Efforts. In February 1999, Avista Corporation (formerly Washington Water Power) filed an application and settlement agreement to relicense the existing Cabinet Gorge and Noxon Rapids projects, which abut on the Clark Fork River in northwest Montana and northern Idaho and have a combined generating capacity of 697 MW. By February 2000, the Commission issued a license order, approving the comprehensive settlement agreement, signed by 27 parties. The license application for the 215-MW Mokelumne River project, located in California on land within the El Dorado and Stanislaus National Forests, has been pending before the Commission since 1972. In May 1999, Commission staff began working with the many interested parties to reach consensus on the outstanding environmental issues, and, in FY 2000, the licensee filed an application with a settlement agreement.

Third Party Contractors Re-qualification. To update the Commission's 1993 list of contractors qualified to prepare EISs, the Commission solicited qualification statements from contractors seeking that status. In FY 2000, a technical panel of Commission employees determined that 28 contractors met the qualifications. The Commission added the list of approved contractors to its Internet site.

Electric Power Research Institute's (EPRI) Hydropower Relicensing Forum. In 1998, EPRI convened a National Review Group to improve hydropower relicensing by discussing and assessing the activities of hydropower operators, agencies, Indian tribes, and public-interest groups. In FY 2000, EPRI placed on its Internet site draft sections on *Stakeholder Education and Involvement*, *Relicensing Process*, and *Protection, Mitigation & Enhancement*. The group reviewed and revised these draft sections in late 2000.

Headwater Benefits. The Commission collects about \$6 million annually, which it returns to the U.S. Treasury, to recover from licensees part of the federal funds spent to develop federal water resource projects for the benefit

of the licensee. The Commission approved a major headwater benefits settlement agreement for the Columbia River Basin, which paid almost half the total amount the Commission assessed in FY 2000.

Civil Penalties. In FY 2000, a licensee agreed to pay \$10,000 for violating its license by failing to take reasonable measures to prevent soil erosion and stream sedimentation that resulted from a ruptured line. Also an exemptee agreed to pay \$10,000 for failing to submit an independent consultant's report identifying potential dam safety problems and an emergency action plan. Each agreed to take remedial action.

**Achievements:
Improve the Safety
of Hydropower
Projects**

High- and Significant-Hazard Potential Dams. In FY 2000, the Commission inspected 100 percent of high-and significant-hazard potential dams and 88 percent of high-and significant-hazard potential dams met all current structural safety standards. The remaining 12 percent are dams involved in some phase of dam safety modification work. All but three high-and significant-hazard potential dams (all in a single project development) complied with their EAP requirements. The jurisdiction of the three dams is in dispute.

Inspections and Dam Safety Modifications. In FY 2000, the Commission conducted 2,400 dam safety inspections. At the end of FY 2000, 121 dams were undergoing remedial modification. Since 1981, the Commission's inspections and evaluations resulted in 554 dam safety modifications, costing \$806 million.

Tainter Gate Initiative. In FY 2000, the Commission held a Tainter gate (a type of spillway) workshop for federal and state dam owners and agencies, licensees, engineering consultants, and Commission staff. The workshop allowed members of the dam safety community to share experiences and knowledge about more effective tainter gate design, construction, inspection, operation, and maintenance.

Increased Electronic Access to Dam Safety Information. During FY 2000, the Commission made the Dam Safety and Inspections Operating Manual, Engineering Guidelines for the Evaluation of Hydropower Projects (Engineering Guidelines), Public Safety Guidelines, and other information Internet available. Staff also used the Internet for peer review of draft engineering guidance documents and to advertise the Commission's emergency action plan exercise design classes.

Engineering Guidelines Revisions. In FY 2000, the Commission added new information to the Engineering Guidelines on arch dams and on determining the probable maximum flood.

National and International Promotion of Emergency Action Planning.

In FY 2000, a Commission staff member was a panelist in a 90-minute educational video entitled "Dam Safety: Emergency Action Planning for Dams." The Federal Emergency Management Agency (FEMA) produced the video, which was broadcast nationally via an educational satellite through EENET.

Actions Taken to Improve States' Dam Safety Programs. In FY 2000, Commission staff significantly contributed to the National Dam Safety Program Review Board's work. Congress established the Board in FY 1997 to advise FEMA about implementing the National Dam Safety Program to reduce the risks to life and property from dam failure by establishing and maintaining an effective national dam safety program.

Seismicity in the Northwest and Southeast. Determining the potential impact on dam safety and stability of significantly large earthquakes requires detailed engineering evaluations. In FY 2000, working with consultants, the Commission identified eight dams at three projects with structures that will perform poorly if subjected to severe earthquakes. In FY 2000, Commission staff and consultants began remediation design work for three dams. The other five dams are under investigation for seismic stability and remediation design.

Operating Expenses

(Budget Authority Dollars in Thousands)

	FY 2000 <u>Actual</u>	FY 2001 <u>Estimate</u>	FY 2002 <u>Request</u>
FTEs	250	243	243
Personnel Costs	\$23,353	\$23,578	\$24,401
Rent	\$16,570	\$18,910	\$20,266
Administrative	\$15,018	\$11,997	\$10,692
Information Technology	\$18,940	\$15,944	\$20,205
Total Funding	\$73,881	\$70,429	\$75,564

Introduction

The Commission's management goal is to develop Commission-wide, efficient, effective, accountable business practices to support evolving agency priorities.

The Commission's Management Program

The management program is a collection of activities that enable the Commission to successfully pursue its core processes. The Commission's management work includes human resources management and development, financial management, procurement, strategic management, information technology, external communications, dispute resolution, and general legal services.

Important management functions and initiatives are integral to the Commission's ability to carry out its core responsibilities concerning markets and projects. The Commission's management functions apply to both core processes, enabling the Commission to meet the needs of its regulated industries and the public.

Changes in the Commission's jurisdictional industries include the ongoing expansion of technology, development of a knowledge-driven economy, increasing demand for value, the changing nature of government interaction, and the emergence of the digital economy. These changes affect the nature of regulation and challenge both the Commission's policies and the way it works. For example, some key initiatives address human resources issues – how to develop the right workforce to meet changing needs because of the changing industries. Others address information needs, such as electronic filing. Additionally, new regulatory approaches assume ongoing dialog with customers to learn their needs and to evaluate how well current services are meeting those needs. As part of its strategic realignment, the Commission focused its management functions in a separate program for efficiency and consistency across the Commission.

This approach underscores the essential role of the agency's management functions, and it establishes accountability for an increasingly important set of activities. Because management expenses include – among other costs – centralized training funds, information technology support contracts, rent, building maintenance and security expenses, the funding levels for management appear higher than the number of FTEs might suggest.

The Commission has developed a single goal for its management activities: to develop Commission-wide, efficient, effective, accountable business practices to support evolving agency priorities. Three objectives, with supporting strategies, aim at achieving the Commission's management goal. These objectives are:

- Align human resources to achieve strategic goals.
- Provide effective information and technology resources.
- Practice fiscal responsibility.

The following sections discuss how the Commission is addressing its management objectives through current and ongoing work.

Working Toward the Objectives

The management program provides support in key areas to both the markets and projects programs. Management functions are integral to the Commission's ability to carry out its core responsibilities, enabling the Commission to meet the needs of its regulated industries and the public.

Practice Fiscal Responsibility

Ensure Effective Management of Resources. The Commission will ensure effective management of its budgetary resources through a decentralized budget structure called "Manage to Budget." Manage to Budget is a major cost-containment measure that places more resource accountability at the office level. In keeping with increased fiscal responsibility and accountability, the Commission will require all managers to operate within their designated budget allocations. This initiative allows Commission offices direct control of their spending levels in all funding areas, with particular emphasis on salaries, which represent more than 65 percent of total budgetary resources. Ultimately, each office's performance will rely on sound fiscal management of salary dollars and awareness of the impact personnel actions have on their budgets. Additionally, managers and employees will share incentives for achieving personnel cost reductions.

Implement Acquisition Reform. Implementation of acquisition reform initiatives will continue to speed procurement of goods and services for the Commission. The initiatives include maximum use of the Government-wide credit card program, using contractors' past performance as a major evaluation factor, and continued use of interagency agreements to streamline

competition by increasing the use of small, minority-owned, and women-owned businesses. Advertising competitive procurements through the Internet also will speed the contracting process.

Align Human Resources to Achieve Strategic Goals

The Commission's people are its primary resource and investment. Successfully meeting its markets and projects responsibilities depends on how well it aligns its decisions about people – and the work they do – with the strategic goals it is trying to achieve. Ongoing efforts to reduce levels of management, establish a better alignment of staff, and increase the proficiency and productivity of staff will continue. The Commission is currently upgrading staff skills in a quickly evolving, performance-centered and often computer-based work environment.

Focus Agency Resources on Priorities. The Commission will align employees' work with its most important strategic goals. Throughout the Commission, coordinated efforts to deploy available human resources will be flexible to match resources best to changing work requirements. The Commission will set specific operational priorities to guide program and employee work efforts. The Commission will ensure all employees understand the priorities most applicable to their programs' missions and most directly related to their individual work.

Meet the Continuing Need for Talented People. The Commission will manage its human resources strategically. To attract and make the best use of talented people, the Commission will focus more attention on how it recruits, retains, and deploys employees. To build and maintain a diverse workforce, the Commission will take advantage of innovative recruitment and assignment flexibilities. Also, it will continue promoting worklife programs that increase employee satisfaction.

As part of an overall strategy to gradually incorporate diversity into all processes and systems related to human resources, the Commission initiated a Diversity Council. The primary goal is to help managers and supervisors understand the necessity and importance of a diverse workplace, and to help them in gaining and using innovative techniques to recruit, manage, and develop the next generation of workers. The Commission will continue to educate managers and staff about the benefits of diversity and foster opportunities for all employees.

Inspire People to Do Their Best. As the Commission faces the challenges of the future, its overall success will depend on its leaders creating a climate of excellence by clearly communicating their vision, values and expectations. The Commission will also need to create an environment for continual learning for all employees. Further, it will recognize and reward excellence with financial and non-financial incentives, taking timely action to both reward and improve performance appropriately.

Leadership Program. The Commission's leadership program reinforces managers' and supervisors' accountability for achieving excellence through balanced measures that focus on achieving business objectives and promoting employee growth and development. The program emphasizes managers' responsibilities for communicating, setting direction, implementation and achievement, fostering teamwork, and building trust and commitment. These leadership behaviors are incorporated into all supervisors' and managers' performance standards.

Learning and Development Program. The Commission promotes the professional growth and continuous learning of FERC employees by providing them comprehensive, mission-focused opportunities to develop their skills and attributes and enhance their careers. Allowing employees to link individual career goals to organizational needs closely ties learning to the Commission's mission, vision, and values. This linkage will improve employees' abilities to anticipate and respond to change quickly, think creatively, and apply technologically smart solutions. Supervisors and managers will work in partnership with employees to ensure they reach their full potential.

Performance Management. The Commission has initiated a multifaceted effort to improve performance management. First, performance evaluations will take into account job accomplishments and the success of learning activities. The Commission will:

- emphasize accomplishing performance goals;
- give supervisors more responsibility for coaching and developing employees;
- ask employees to help chart their career paths;
- give first-level supervisors more authority to control award funds; and
- de-link awards from the year's final rating.

The revised performance management program is an ongoing communication and collaboration effort to plan, monitor, and appraise employee performance. The performance management system will align human resources processes with the Commission's strategic focus, promote better communication between managers and employees, heighten mutual commitments, meet changing work demands, support cultural change, and help realize the Commission's values.

Provide Effective Information and Technology

Providing a reliable information technology (IT) infrastructure supports the flow of information within the Commission, delivers timely information to the public, and enables e-filing. The Commission constantly improves the stability, reliability, and security of its IT infrastructure. That infrastructure supports a local area network, a wide area network, an internal Intranet, video conferencing, an electronic library, and several systems important to both Commission staff and the public. Customer service will depend on a first-rate

system of electronic filing. Teaming will depend on a virtual environment that encourages collaboration among people who are physically separate.

IT will drive many of the Commission's future changes. *Government Executive* recently reported on a study conducted by a Virginia-based market research firm. This study reported that private industry's investment rate in e-business is growing at 20 to 25 percent per year. The outcome of this spending became evident at a recent meeting of the Energy Bar Association, when one analyst predicted that by 2003, 85 percent of wholesale energy trading will be online transactions. The same analyst also predicted that wholesale trading will reach an estimated \$450 billion by 2005. The same study cited by *Government Executive* also reported that traditional federal IT budgets are growing at just 5 percent per year.

The Commission's ability to oversee the operation of energy markets, particularly with the widespread use of electronic trading, will depend on its ability to identify and use accurate data from all over the country. Investment in state-of-the-art technology has become a necessity for the Commission.

Reduce Processing Times for Docketed Workload. As the Commission's focus shifts from traditional regulation, it needs new tools to support the oversight of industries increasingly engaged in e-commerce. The Commission is responding through a network of IT and telecommunications systems to share information. As the Commission updates and upgrades its software, it will develop new tools to support agency oversight of energy markets, such as "spiders" to access real time data, analytical tools to "digest" information, and decision support systems to evaluate market performance.

The Commission is currently implementing an automated workflow system, which will also track workload and give the Commission a new tool to measure results. This system provides improved workflow and workload tracking capabilities, and facilitates generating service lists and docket sheets. While the Commission has already developed some automated workflow processes at a high level, it needs to establish more detailed work flows as newly created offices develop more specific processes. The Commission needs additional software development to implement e-filing fully, to get documents to the right person at the right time, and to route work products through the appropriate processes – including issuance by the Commission.

The Commission also is investing in hardware and software to update the agency's electronic library, known as the Resource and Information Management System (RIMS). This initiative will improve system reliability, automate records management functions, and make it easier to search for information, download and print files, and view large maps and drawings.

Minimize Filing Burden. IT initiatives support reducing the filing burden to industry through electronic filing, and more efficient processing of

docketed workload through automated workflow and workload tracking systems. Enabling e-filing also will permit the Commission to post filings more quickly on its Internet site.

On November 1, 2000, the Commission initiated a pilot under which it accepts comment filings via the Internet instead of paper filings. In February 2001, the Commission added the capability to receive protests and interventions electronically. These categories represent 35 percent of the Commission's filings. By 2003, the Commission plans to provide electronic mechanisms for more than 97 percent of filings it receives.

The move to electronic filing will reduce expenses to industry related to paper filings, such as copying, mailing, and messenger services. Given the complexity of the various issues facing the Commission, filings are larger than ever before. As it embraces e-filing, the Commission will need to invest in new, more powerful file servers to maintain the stability of its local and wide area networks and give industry a reliable gateway to electronic government.

Generate Better Information for Use by Industry and the Public. As energy markets become more competitive and the Commission moves toward lighter-handed regulation, effective regulation must include having useful information for industry and the public available quickly through the Internet.

The Commission's Internet site provides a portal for e-filing and making information available to industry and the public. Current Internet site development efforts focus on improving server reliability, providing a more powerful search engine, making it easier to navigate the site and find information, and making notices and orders by the Commission available to the public within minutes or hours of issuance. As the Commission implements e-filing initiatives, it will route electronic submissions automatically to RIMS, where they will be available to the public even more quickly via the Commission's Internet site.

The Commission Issuance and Posting System also is available through the Commission's Internet site. Timely and accurate Commission issuances, such as notices, orders, and major rules, continue to promote the flow of information throughout the agency and to all interested parties and the public.

The public, regulated industries, and agency staff all benefit from having a stable and reliable IT environment that supports access to agency information 24 hours a day, 7 days a week. Maintaining a stable and reliable IT environment requires the Commission to invest in powerful new hardware and software to enable those needing access to the Commission's information to have it while protecting that data from unauthorized intrusion.

Agency-wide Information Security Program. The Commission will implement a comprehensive security program that includes:

- Implementing timely security patches for known vulnerabilities, especially for those systems that are accessible via the Internet;
- Assessing the risk to IT systems and processes and maintaining adequate security commensurate with that risk;
- Conducting vulnerability assessments, audits, testing, and evaluation of security practices to ensure that program officials and security managers understand and mitigate the risk to agency systems; and
- Implementing a security awareness training program.

The Commission will continually upgrade its firewall infrastructure and intrusion detection system, enhance its e-mail filtering mechanisms, implement the capability to submit filings of privilege and proprietary materials using encryption, and establish technology to provide a digital signature capability for electronic filing. It will evaluate which of its resources are most important to protect or restore in an emergency. It will then implement and test contingency plans and disaster recovery procedures that will operate within acceptable time frames.

FY 2000 Management Achievements

The Commission had several achievements in management activities during FY 2000.

Achievements: Practicing Fiscal Responsibility

MAPS. The Commission has participated in and implemented PeopleSoft/MAPS, a fully integrated on-line system in the financial services, training and benefits administration, and payroll functions. By using PeopleSoft as the IT tool for these administrative functions, the Commission will integrate all its human resources data, eliminating redundant data entry. The ultimate goal of MAPS is to allow managers to focus more on strategic planning and less on day-to-day operations.

Unqualified Audit Opinion. The Commission's Annual Financial Statement for FY 2000 received an unqualified opinion from its external auditors. This is the seventh consecutive unqualified opinion received since passage of the Chief Financial Officers Act in 1990.

**Achievements:
Aligning Human
Resources
Strategically**

Diversity Council. The Commission established a Diversity Council to develop strategies ensuring that each employee's talents and skills are fully used. The ultimate goal is to incorporate diversity into all human resource processes and systems. Diversity will help managers and supervisors in meeting workplace challenges, which include developing strategies for improving recruitment, productivity, and teaming through a more diverse workforce. The fundamental premise of this initiative is to create an environment in which all individuals feel their work has value.

Leadership. In FY 2000, the Commission addressed leadership development in two programs.

- *LEaD.* All supervisors, managers and Senior Executive Service staff have been placed on leadership performance standards that focus on communicating, setting direction, teamwork, trust and commitment, and implementation and achievement. All supervisors and managers have received mandatory training in these five LEaD behaviors.
- *Fellows Program.* Commission employees from different offices participated in a year-long leadership development program sponsored by the Council for Excellence in Government. In addition to handling their normal workload, Fellows took part in an intensive, interactive program, using team activities and interaction with employees from other agencies. Together they developed such leadership skills as analysis and problem solving, individual and small group coaching, and benchmarking successful organizations.

Learning and Development. The Commission supports levels of training and development activities to assure a technically competent and diverse workforce. Doing this in a resources-constrained environment requires a centralized approach for some training activities. To this end, the Commission develops an annual central training plan. The driver behind this approach is the need to coordinate training management and to centralize training activities that have crosscutting program applications. The training plan aligns with the Commission's vision, mission, values, and goals. The training plan incorporates the objectives and actions needed to improve and maintain the competence of a talented, diverse workforce in an integrated, cost-effective, and quality manner.

Performance Management. The Commission is piloting a program to help employees understand performance objectives and engage in regular dialogues with supervisors about performance standards and ways to improve. The Commission also has implemented a recognition program to reward employees appropriately, timely, and equitably, based on their performance accomplishments.

Organizational Management. Within the past year, several Commission offices have reorganized. One result has been to reduce the number of management levels throughout the Commission. During reorganizations, offices seek help to implement meaningful organizational designs, develop clear and concise position descriptions, and generate timely actions that formally notify employees of organizational changes. It is essential that offices operate in a way that enables them to accomplish agency requirements. Planning and then implementing effective and efficient organizational structures are key. After major reorganizations, dialogue continues to reassess and improve organizational structures to meet changing needs.

**Achievements:
Providing Effective
Information and
Technology**

Electronic Filing Pilots. In FY 2000, electronic filing pilots began testing the interface between the Commission's Internet site and the FERC Automated Management and Information System. Pilots include comments, protests and interventions, which collectively account for 35 percent of filings with the Commission. The Commission received its first completely paperless filing in FY 2000, and automated Form 423, Monthly Report of Cost and Quality of Fuels for Electronic Plants. The Commission can apply the e-form software to all 14 of its forms, which account for nearly half a million pages filed annually. Further, the software is flexible enough to adapt to changes to data to be collected in the future.

FERC Automated Management and Information System. The Commission developed this system to track workload, automate processes where possible, and create an electronic work space for staff to collaborate on projects requiring input by multiple staff. The system permits managers to assign work to specific staff and to track the progress of each assignment.

The first phase focused on replacing several workload tracking systems and service list systems that resided on the non-Y2K compliant mainframe computer. The new system went into production in October 1999, with initial access limited to users of the systems migrated from the mainframe. This allowed the Commission to retire its mainframe computer.

During FY 2000, access to the new system became agency-wide. Agency staff have begun to work in collaborative work spaces, and managers are beginning to use system features to assign workload to staff automatically. The Commission established high-level workflow processes to move work products through reviews needed for document issuance. The Commission posts issuances on its Internet site, where they are available to the public.

System implementation includes establishing an infrastructure to support e-filing in a variety of formats, developing interfaces with the workflow and tracking components, and routing the e-filing to the Commission's electronic library (RIMS) where it is available to the public via the FERC Internet site. When the Commission fully enables e-filing processes and develops core

program processes, the system will route documents to the appropriate group or individual automatically, and to RIMS.

IT Infrastructure Support. The Commission is continuously upgrading and updating its hardware and software to ensure the reliability and stability of its IT systems, and provide staff the latest versions of the tools needed to accomplish their work. The Commission's IT systems also support the FERC Internet site, which provides a means for the public to access information from the agency 24 hours a day, 7 days a week.

The Commission has increased efforts to improve the security of its Internet site, Internet e-mail, local and wide area networks, and individual personal workstations. New software filters viruses and removes them before they can reach the network or individual personal computers. The Commission also established a full-time computer security officer, and has ongoing consultation with Department of Energy security specialists.

During FY 1999 and the first quarter of FY 2000, the Commission's Chairman served as leader of the Oil and Gas Sector Working Group of the President's Council on Y2K Conversion. The group, which consisted of 12 federal agencies and 27 industry groups, served as a valuable forum to survey the oil and natural gas industries on Y2K readiness, facilitate information sharing, and provide timely information to the White House Information Coordination Center. The international crude oil and liquid natural gas supply chain remained unbroken and continued to provide products and services reliably during the rollover transition.

After testing all of its internal systems for Y2K compliance and remediating or retiring software and hardware systems as appropriate, the agency's internal systems rolled over without any Y2K incidents. As part of preparing for Y2K, the agency developed a comprehensive Business Continuity and Contingency Plan (BCCP). The Commission also developed a Day One Strategy and Plan to preserve each of the core business processes that identified areas of risk, and general mitigation strategies and contingencies. The BCCP encompassed the Commission's headquarters and all five regional offices. The plan continues to serve as a blueprint for agency response in case of an unexpected emergency.

APPENDIX A

PROPOSED APPROPRIATION LANGUAGE

Proposed Appropriation Language

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$3,000); [\$175,200,000] \$181,155,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed [\$175,200,000] \$181,155,000 of revenues from fees and annual charges, and other services and collections in fiscal year [2001] 2002, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year [2001] 2002, so as to result in a final fiscal year [2001] 2002 appropriation from the General Fund estimated at not more than \$0.

APPENDIX B

WORKLOAD TABLES

This appendix shows the portion of the Commission's work that can be objectively counted by workload category in energy markets and energy projects.

ENERGY MARKETS WORKLOAD¹

	FY 1999 Actual	FY 2000 Actual			FY 2001 Estimate			FY 2002 Estimate		
RATES AND TARIFFS	P	R	C	P	R	C	P	R	C	P
<i>Gas Certificates and Rate Evaluations</i>	44	71	82	33	86	89	30	85	85	30
<i>Market-Based Rates</i>	312	744	738	318	1,152	1,320	150	1,200	1,200	150
<i>Negotiated Rates</i>	16	60	51	25	301	311	15	300	305	10
<i>Cost-Based Rates</i>	1,259	2,717	2,827	1,149	2,380	3,349	180	2,200	2,300	80
<i>Service Terms and Conditions & Order 637</i>	144	552	524	172	720	812	80	750	750	80
<i>RTO, ISO, Transco & Power Exchange Filings</i>	38	74	62	50	464	413	101	400	450	51
<i>Compliance Certificate and Rate Filings</i>	759	1,776	1,625	910	1,027	1,837	100	1,100	1,100	100
<i>Compliance Refund Reports</i>	60	152	100	112	134	197	49	80	100	29

CORPORATE APPLICATIONS	P	R	C	P	R	C	P	R	C	P
<i>Interlocking Positions</i>	6	277	263	20	240	245	15	240	245	10
<i>Mergers</i>	7	14	19	2	12	12	2	12	12	2
<i>Asset Acquisition or Disposition</i>	41	130	151	20	150	150	20	160	160	20
<i>Cogen, Small Power Producer & QF</i>	106	322	376	52	319	346	25	300	300	25
<i>Compliance & Other Corporate Filings</i>	16	49	43	22	89	79	32	85	95	22

LEGAL MATTERS AND INVESTIGATIONS	P	R	C	P	R	C	P	R	C	P
<i>Cases Set for Hearing</i>	78	71	86	63	80	75	68	75	75	68
<i>ADR – Third Party Neutral</i>	4	57	57	4	66	66	4	78	78	4
<i>Complaints and Declaratory Orders</i>	110	133	109	134	112	119	127	111	113	125
<i>Rehearings and Remands</i>	482	332	381	433	319	433	319	358	352	325
<i>Audits and Accounting</i>	87	130	123	94	119	176	37	100	110	27

¹Key: R = Receipts; C = Completed; P = Year-End Pending.

ENERGY PROJECTS WORKLOAD

	FY 1999 Actual	FY 2000 Actual			FY 2001 Estimate			FY 2002 Estimate		
CERTIFICATES	P	R	C	P	R	C	P	R	C	P
Construction Activity	64	146	144	66	145	144	67	145	144	68
Prior Notice & Abandonments	42	79	87	34	78	90	22	78	90	10
Meetings & Conferences	0	151	151	0	151	151	0	151	151	0
Compliance Filings & Reports	73	269	271	71	269	271	69	269	271	67
Environmental Analysis	43	155	160	38	155	160	33	155	160	28
Environmental Compliance & Safety Inspections	100	1,013	1,013	100	1,000	1,000	100	1,000	1,000	100
Rehearings, Complaints & Declaratory Orders	91	105	108	88	105	108	85	105	108	82

HYDROPOWER LICENSING	P	R	C	P	R	C	P	R	C	P
Original Licenses	44	3	11	36	4	19	21	5	2	24
Relicenses	97	21	9	109	19	35	93	18	35	76
Exemptions	0	1	0	1	1	2	0	1	1	0
Declaratory Orders	0	2	1	1	1	1	1	1	1	1
Rehearings and Remands	52	46	50	48	31	61	18	31	38	11
Cases Set for Hearing	1	2	1	2	2	2	2	2	2	2
ADR – Third Party Neutral	0	2	2	0	6	5	1	8	7	2

PROJECT COMPLIANCE AND ADMINISTRATION	P	R	C	P	R	C	P	R	C	P
Amendments	440	1,525	1,552	413	1,400	1,341	472	1,400	1,341	531
Jurisdiction	17	11	13	15	12	12	15	14	13	16
Federal Lands	1	64	64	1	100	100	1	150	150	1
Headwater Benefits	11	113	114	10	115	115	10	115	115	10
Compliance	101	422	472	51	400	400	51	325	325	51
Penalty	6	3	4	5	6	6	5	6	6	5
Surrenders, Transfers	31	49	54	26	50	60	16	50	60	6
Conduit Exemptions	0	2	2	0	3	3	0	3	3	0
Environmental Inspections and Assistance ²	205	285	306	184	350	379	155	350	350	155
Preliminary Permits	69	25	60	34	50	50	34	50	50	34
Complaints	15	1	5	11	1	6	6	1	5	2
Rehearings	82	22	66	38	21	40	19	25	35	9

²This category includes environmental and public safety inspections, which previously appeared under Dam Safety and Inspections. These were expanded as of March 1, 2001, to include proactive assistance to licensees.

	FY 1999 Actual	FY 2000 Actual			FY 2001 Estimate			FY 2002 Estimate		
DAM SAFETY AND INSPECTIONS	P	R	C	P	R	C	P	R	C	P
<i>Operations Inspections³</i>	1,419	1,742	1,410	1,751	1,160	1,863	1,048	1,204	1,776	476
<i>Prelicense Inspections</i>	25	18	25	18	20	26	12	25	27	10
<i>Construction Inspections</i>	162	224	196	190	166	243	113	194	248	59
<i>Exemption Inspections</i>	275	308	311	272	245	385	132	295	342	85
<i>Special Inspections</i>	84	154	134	104	107	131	80	110	132	58
<i>Engineering Evaluation & Studies</i>	166	2,621	2,217	570	1,599	1,782	387	1,675	1,813	249
<i>Part 12 Reviews</i>	426	177	317	286	164	240	210	214	258	166
<i>Dam Safety Reviews</i>	3	11	13	1	13	14	0	13	13	0
<i>EAP Tests</i>	17	35	23	29	38	43	24	39	41	22

³Includes about 50 inspections in each fiscal year for DOE and NRC.

APPENDIX C

RESOURCE REQUEST BY INDUSTRY SECTOR

RESOURCE REQUEST BY INDUSTRY SECTOR

Program Funding (Dollars in Thousands)

Program	FY 2000 Actual	FY 2001 Estimated	FY 2002 Request
Electric Power	55,300	55,913	60,001
Natural Gas & Oil Pipelines	65,698	65,778	67,219
Hydropower	51,588	53,509	53,935
Total	\$172,586	\$175,200	\$181,155

Program FTEs

Program	FY 2000 Actual	FY 2001 Estimated	FY 2002 Request
Electric Power	398	400	400
Natural Gas & Oil Pipelines	468	452	452
Hydropower	351	348	348
Total	1,217	1,200	1,200

APPENDIX D

OBJECT CLASS TABLE

OBJECT CLASS SUMMARY (Dollars in Thousands)

<u>Obligations</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Estimate</u>	<u>FY 2002 Request</u>
11.9 Personnel Compensation	\$94,357	\$98,165	\$99,794
12.1 Benefits	20,305	19,826	20,503
13.0 Benefits for Former Personnel	<u>719</u>	<u>25</u>	<u>25</u>
Total, Personnel Compensation and Benefits	115,381	118,016	120,322
21.0 Travel and Transportation of Persons	1,822	2,162	2,152
22.0 Transportation of Things	10	10	10
23.1 Rental Payments to GSA	16,570	18,910	20,266
23.2 Rental Payments to Others	346	381	392
23.3 Communications, Utilities and Misc. Charges	2,140	2,303	2,355
24.0 Printing and Reproduction	2,412	2,679	2,834
25.0 Other Services	25,310	25,227	26,115
25.1 Advisory and Assistance	5,308	7,045	4,322
25.2 Non-Federal	4,804	4,797	4,290
25.3 Federal	1,067	1,112	1,087
25.4 Operation and Maintenance of Facilities	507	125	125
25.7 Operation and Maintenance of Equipment	13,624	12,148	16,291
26.0 Supplies and Materials	809	1,116	1,178
31.0 Equipment	7,595	4,354	5,489
41.0 Grants, Subsidies and Contributions	35	35	35
42.0 Insurance Claims and Indemnities	<u>156</u>	<u>7</u>	<u>7</u>
TOTAL, OBLIGATIONS	\$172,586	\$175,200	\$181,155
Application of Prior Years' Budget Authority	<u>2,364</u>	<u>0</u>	<u>0</u>
GROSS BUDGET AUTHORITY	\$174,950	\$175,200	\$181,155
Offsetting Receipts	<u>(174,950)</u>	<u>(175,200)</u>	<u>(181,155)</u>
NET BUDGET AUTHORITY	\$0	\$0	\$0

