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Today the Commission is publishing a White Paper to set forth its assessment of how the electric utility industry should move forward to achieve long-term benefits for electricity customers, and how it intends to change the rule proposed in the above docket on July 31, 2002, to meet the concerns that have been raised in rulemaking comments.

The White Paper is being placed in the record of this rulemaking docket. It will also be available on the Commission's Web site at http://www.ferc.gov/Electric/RTO/mrkt-strct-comments/discussion_paper.htm.

The Commission welcomes public comment on this document. All comments will be available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. Comments may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

The Commission also intends to begin holding regional technical conferences in the near future, to discuss with states and market participants in each region reasonable timetables for addressing wholesale market design issues discussed in the White Paper and ways to tailor the Commission's final rule to benefit customers within the region. We will issue notices of the conferences shortly.

By direction of the Commission.

Magalie R. Salas,
Secretary.

White Paper; Wholesale Power Market Platform

The Federal Energy Regulatory Commission's core mission under the Federal Power Act is to achieve wholesale electricity markets that

produce just and reasonable prices and work for customers. The Commission's July 2002 proposal to harmonize wholesale power markets sought to advance this core mission in the context of the new realities of regional electricity markets.¹

The industry has been evolving toward a market-based approach for well over a decade and active long-term wholesale bilateral markets exist in all regions of the country. However, short-term wholesale markets with transparent prices and market structures that will reliably produce just and reasonable prices are not likely to develop without strong Commission action. Wholesale electricity markets do not automatically structure themselves with fair behavioral rules, provide a level playing field for market participants, effectively monitor themselves, check the influence of market power, mitigate prices that are unlawful, or fix themselves when broken. These are the responsibilities of the Commission under current law, and our proposal was made with these responsibilities in mind.

Our proposal was informed by the experiences of this country and other countries in electric market design, including the effects of supply shortages, demand that does not respond to high prices, lack of price transparency in the marketplace, and the importance of market monitoring and market power mitigation. Based on the extensive comments we have received during the past nine months, we are issuing this White Paper to set forth our assessment of how best to move forward in the electric industry for the long-term benefit of electricity customers, and how we intend to change our proposed rule to meet the concerns that have been raised.

Our goals continue to be reliable, reasonably priced electric service for all customers; sufficient electric infrastructure; transparent markets with fair rules for all market participants; stability and regulatory certainty for customers, the electric power industry, and investors; technological innovation; and efficient use of the nation's resources. Further, providing regulatory certainty for the industry and investors in order to build needed infrastructure is a critical need facing the energy industry and requires Commission action.

Under the Final Rule, we intend to focus on the formation of regional transmission organizations (RTOs) and on ensuring that all RTOs and

independent system operators (ISOs) have good wholesale market rules in place.² We will eliminate the proposed requirement that public utilities create or join an Independent Transmission Provider. Instead, in light of the fact that almost all public utilities already have joined, or committed to join, an RTO or ISO, the Final Rule will require public utilities to join an RTO or ISO.³ Further, we intend to adopt a Final Rule that allows for phased-in implementation and sequencing tailored to each region and that allows modifications to benefit customers within each region. In addition, if for a specific RTO or ISO it can be demonstrated to the Commission that the costs of implementing any feature of the market platform outweigh its benefits, the Commission will not require implementation of the feature for that particular RTO or ISO.⁴

For the basic wholesale market platform, we intend to build upon the existing rules adopted in Order No. 2000 for RTOs by adding features that we have learned are necessary for effective wholesale power markets.⁵ For example, Order No. 2000 did not include market power mitigation measures and does not prevent flawed market designs. Wholesale electric markets will not be able to deliver full customer benefits in the future without the oversight and transparency that regional independent transmission organizations can provide. Healthy and well-functioning wholesale power markets are central to the national economy, and we believe that regional, independent operation of the transmission system, with proven market rules in place, is the critical platform for the future success of electric markets. Divestiture is not required to achieve independent operation of the transmission system. Companies may remain vertically integrated under an RTO or ISO.

In the years since Congress enacted the Energy Policy Act of 1992, competition among power plants for wholesale customers' business has largely replaced traditional cost-of-service regulation of wholesale power sales. The Department of Energy found

² For the purposes of the Final Rule, all of the characteristics and functions for RTOs would apply to Independent System Operators (ISOs), except for scope and regional configuration.

³ The requirements of the Final Rule will not apply to Commission-jurisdictional electric power cooperatives that serve only retail load.

⁴ We intend to commence technical conferences in each region and to work with states and market participants to develop reasonable timetables for moving forward.

⁵ Details of the wholesale power market platform and a comparison of them to the requirements of Order No. 2000 are included in Appendix A.

¹ Notice of Proposed Rulemaking, Docket No. RM01-12-000, issued July 31, 2002.