Statement of Francis Blake
Deputy Secretary
before the Subcommittee on
Energy and Air Quality,
House Committee on Energy and Commerce
National Electricity Policy:
Federal Government Perspectives
September 26, 2001

Mr. Chairman and Members of the Subcommittee, I welcome the opportunity to testify before you today on national electricity legislation.

Last Week's Terrorist Attack

Before I address the subject of this hearing, I would like to briefly address the energy issues arising out of the vicious and cowardly attack on our country last week.

The terrorist attack on our country had a significant impact on the energy infrastructure in lower Manhattan. The fire and building collapses destroyed two substations located under the World Trade Center as well as power transformers, circuit breakers, underground cable and other distribution equipment. Multiple transmission lines were damaged, resulting in the outage of a third substation. Con Ed is restoring limited temporary service by deploying mobile generators and reconfiguring portions of the affected distribution system. New power lines are being installed above ground to replace damaged underground cable. Normal electricity service in areas where there is limited physical damage is being restored, but restoration to areas where there is significant damage will take much longer. There also has been a disruption to natural gas service in lower Manhattan. The attack on the Pentagon had no impact on the energy infrastructure in the Washington, D.C. area.

Last week's attack raises issues relating to the security of our energy infrastructure. Outside of lower Manhattan, our energy infrastructure was not affected, and there were no specific threats to oil refineries, oil and gas pipelines, electric transmission lines, and generation facilities, including nuclear power plants.

Notwithstanding, the security of our energy infrastructure was upgraded in the wake of the attack. Commercial nuclear power plants were placed on their highest alert status, the North American Electric Reliability Council, an industry organization responsible for maintaining bulk power system reliability, recommended that transmission operators implement heightened security measures, pipeline owners were put on high alert after the attacks, and security at oil refineries was upgraded.

As you know, there were isolated reports of gasoline price gouging in the wake of the attack last week. In response, the Secretary of Energy determined there was no supply disruption to justify reported prices and issued a public statement that these high prices were unjustified. The Federal Trade Commission also threatened to take enforcement action. Gasoline price spikes receded in wake of these actions.
responsibility over wholesale electricity markets and the transmission of electricity in interstate commerce.

The Administration believes that electricity legislation should focus on core Federal issues that are beyond State authority.

**Regulation of Interstate Commerce**

Electricity markets are increasingly regional in nature. Under the Constitution, States have no authority to regulate interstate commerce and regulation of interstate commerce is a Federal responsibility. The national energy policy proposes a solution to that problem: increasing transmission rates. For example, the transmission capacity has increased by 2.1 percent per year, whereas transmission capacity has increased by only 0.8 percent per year. There is widespread recognition that there is a need to expand the transmission system, remove bottlenecks, and provide for open access. Since the transmission system is both interstate and international, regulation of the grid is a Federal responsibility.

Transmission

Assuring that our transmission system can deliver reliable electricity supplies is a core Federal issue. As the National Energy Policy noted, investment in new transmission capacity has failed to keep pace with growth in demand and with changes in the industry's structure. Since 1989, electricity sales have increased by 2.1 percent per year, yet transmission capacity has increased by only 0.8 percent per year. There is widespread recognition that there is a need to expand the transmission system, remove bottlenecks, and provide for open access. Since the transmission system is both interstate and international, regulation of the grid is a Federal responsibility.

There are various reasons why transmission constraints exist. In some cases, the problem is a lack of economic incentive. The national energy policy proposes a solution to that problem: encouraging the Federal Energy Regulatory Commission (FERC) to develop incentive rates to promote transmission expansion. FERC has great flexibility under current law to set transmission rates at a level to attract investment. Recently, FERC has shown flexibility in considering nontraditional transmission rates. For those reasons, it does not appear legislation is needed to address transmission pricing.

In other cases, the problem is the siting process itself. Under current law, transmission siting is an exclusively State function. That law was written 66 years ago, at a time when power plants were located right next to customers, and decades before transmission lines interconnected States and regions. Congress did not provide for transmission siting by the Federal government because it did not foresee the transmission system would develop into not only an interstate but also an international grid.

Much has changed since 1935. The transmission grid is the interstate highway system for electricity. It should not be a system of local toll roads.

Electricity legislation can remove transmission bottlenecks by providing for siting by the Federal government of transmission facilities used for interstate transmission. The Administration believes legislation should preserve State transmission siting authority, but should provide for Federal siting of transmission facilities that are in the national interest, based on effects on reliability, interstate commerce in electricity, and on competition in wholesale electricity markets. We believe Federal siting decisions should rely in large part on recommendations made by regional siting boards.

We also believe that Federal electricity legislation should grant FERC authority to require State and municipal utilities and rural electric cooperatives to provide open access to their transmission systems, in the same manner as jurisdictional transmitting utilities. This is a step towards establishing one set of rules to govern the transmission grid.

Reliability

Ensuring the reliability of the interstate transmission system is also a Federal responsibility. Since the 1960s, the reliability of our transmission system has been based on voluntary compliance with...
unenforceable reliability standards. That is no longer tenable, and Federal legislation is needed to provide for enforceable standards developed by a self-regulating organization subject to FERC oversight.

Market Power

The Administration believes that FERC needs to be able to mitigate market power. However, the debate about market power often starts with a misunderstanding about FERC authority under current law. Under the Federal Power Act, FERC is responsible for ensuring that rates charged by public utilities are just and reasonable. As a general matter, the ability to set rates is the ability to prevent the exercise of market power. An exercise of market power generally entails charging rates that are higher than those produced in a truly competitive market. For that reason, FERC can prevent the exercise of market power through its authority over wholesale rates and by ordering refunds of unjust and unreasonable rates.

In our view, a discussion of market power issues must start with an understanding of FERC authority under existing law and a determination of whether existing FERC authority to address market power is inadequate.

Legislation can strengthen FERC authority to address market power. For example, the Administration believes legislation should amend the refund provisions of the Federal Power Act and provide that refunds are effective on the date of complaint, not 60 days later. The Administration believes there is a need to increase the penalties for criminal violations of the Federal Power Act and expand the scope of the civil penalty provisions to include any violation of the Federal Power Act, not just the provisions added by the Energy Policy Act of 1992.

The Administration believes that FERC should retain its authority to approve mergers and asset dispositions, given its expertise on the electricity industry. We also believe it is appropriate to clarify FERC authority to approve holding company mergers and mergers and asset dispositions involving generation facilities.

Electricity Supply

The lack of uniform interconnection standards appears to have contributed to the difficulty in developing independent power plants in some regions of the country. Federal legislation can help assure adequate electricity supplies, by providing for uniform Interconnection standards and reforming FERC authority to issue interconnection orders.

Consumer Protection

Electricity markets are regional in nature, and are no longer confined neatly within individual States. For that reason, there is a need for electricity legislation that protects consumers against "slamming" and "cramming," strengthens the bargaining power of consumers through aggregation, protects consumer privacy, and ensures that consumers have the information to make informed decisions to meet their needs.

Federal Electric Utilities

Another core Federal issue is defining the role of Federal electric utilities like the Tennessee Valley Authority (TVA) and Bonneville Power Administration in competitive electricity markets. Obviously, States have no authority over Federal electric utilities. Legislation is needed to provide open access to transmission systems operated by the Federal electric utilities and ensure that one set of rules governs the entire Interstate transmission system. There is a need for other specific TVA and Bonneville reforms. I assure the Subcommittee that the Administration intends to work closely with the Congressional delegations from these regions on these reforms.

Reform of Federal Electricity Laws
There is a need to reform Federal electricity laws, such as the Public Utility Holding Company Act of 1935 (PUHCA) and the Public Utility Regulatory Policies Act of 1978 (PURPA). With respect to PUHCA, each of the past four presidents has supported PUHCA repeal. PUHCA repeal is an idea whose time came a long time ago. There is also a need to repeal the PURPA mandatory purchase obligation prospectively.

**Jurisdiction**

Federal legislation should also clarify Federal and State jurisdiction. One jurisdictional issue is State authority to charge public purpose fees. The Administration believes that States are in the best position to develop public purpose programs to suit their needs. Some States may prefer to develop strong low-income assistance, while others focus on rural assistance, while still others concentrate on conservation. States have different needs, and need the flexibility to craft programs to suit those needs. These programs can be funded through the distribution charges - an area where States have exclusive jurisdiction - or charges on retail sales of electricity.

Electricity legislation can clarify the authority of States to impose fees to fund public purpose programs that meet their needs and avoid bypass of State fees. We believe this is a better approach than imposing a Federal tax to fund a Public Benefits Fund. One concern relating to a Public Benefits Fund that has not received much attention is equities in allocating funds. There is no assurance that fees raised in one State to finance a Public Benefits Fund will not be spent in other States.

**Energy Efficiency and Renewable Energy**

A stable power supply should consist of a clean and diverse portfolio of domestic energy supplies - including renewable and alternative supplies - that are available right here in the United States. The National Energy Policy includes several recommendations on ways that new and emerging technologies can help us provide for increased generation of electricity while protecting the environment, as well as on ways to increase use of renewable and alternative energy supplies. These recommendations should be considered as electricity legislation is developed.

By no means is this intended to be an exclusive list and there are other issues that may be appropriate to address in Federal electricity legislation.

**Conclusion**

We have a rare opportunity to learn a lesson from the California experience and act to prevent a future electricity crisis. Congress normally passes energy legislation in the wake of a crisis, and it is rare for Congress to act to prevent an energy crisis.

Mr. Chairman, Congress has been slowly reforming Federal electricity laws for over twenty years. This process began with the Public Utility Regulatory Policies Act of 1978, which encouraged the development of independent power producers. This process continued with enactment of the Energy Policy Act of 1992, which provided greater access to the transmission system and further encouraged the development of independent power producers. The time has come for Congress to take another step, a bigger step, one that can make electricity markets more competitive and result in lower electricity prices, and ample and reliable electricity suppliers.

The Administration looks forward to working closely with the Committee to develop comprehensive electricity legislation.

I appreciate the opportunity to testify before you today.

Date: September 20, 2001
QUESTION FROM SENATOR WYDEN

Promotion of Development of Geothermal and Other Renewables on Federal Lands

Q2. I would like you to provide your views on the effort to develop a geothermal energy project on Federal lands in the Glass Mountain area near the Southern Oregon border. The entire process has literally dragged on for decades. It involved getting the Bonneville Power Administration to make a commitment to buy energy in the project and the Forest Service and BLM were also involved in a whole series of environmental reviews. Getting each of these agencies on board has involved years of reviews and delays on decisions about the project. Last year, then Energy Secretary Richardson called it "an important test of the future viability of geothermal energy in the West." If that's the case, then I think you would have to give a grade of "needs improvement" on that test. What can this Administration do to promote the development of geothermal and other renewable energy sources on Federal land in an environmentally responsible way?

A2. The Department of Energy supports increasing the use of geothermal energy in the West and has specifically gone on record in support of both the Fourmile Hill and the Telephone Flat projects in the Medicine Lake Highlands near Glass Mountain. While the Department was a participating Federal agency in the process of preparing an Environmental Impact Statements for both of those projects, we did not have the authority or responsibility for issuing either Record of Decision. That responsibility lay jointly with the U.S. Bureau of Land Management and the U.S. Forest Service. Both projects underwent considerable scrutiny during the review process, which was instrumental in helping those agencies formulate mitigation plans to minimize potential impacts from the projects. In the case of the Telephone Flat project, the impacts were judged to be unacceptable, even with mitigation, and the project was denied. However, the Fourmile Hill project was authorized to proceed under rather stringent conditions.

In May of this year, the National Energy Policy Development Group issued its recommendations for reliable, affordable, and environmentally sound energy for
America's future. An entire chapter was devoted to increasing use of renewable and alternative energy, including geothermal energy. It included the following two recommendations relevant to leasing of Federal land for geothermal development:

- The NEPD Group recommends that the President direct the Secretaries of the Interior and Energy to re-evaluate access limitations to Federal lands in order to increase renewable energy production, such as biomass, wind, geothermal, and solar.

- The NEPD Group recommends that the President direct the Secretary of the Interior to determine ways to reduce the delays in geothermal lease processing as part of the permitting review process.

The Department of Energy is working closely with the Departments of the Interior and Agriculture to implement these recommendations and help increase the use of renewable energy, including geothermal energy, on public lands.
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Strategic Program Review Workbook

BIBLIOGRAPHY of EXTERNAL REVIEWS


President's Committee of Advisors on Science and Technology Panel on Energy Research and Development, "Report to the President on Federal Research and Development for the Challenger of the Twenty-First Century," November 1997.


President's Committee of Advisors on Science and Technology, "R&D Priorities For Sustainable Development," January 1997.


From: Doug Faulkner
Sent: Wednesday, July 18, 2001 11:29 AM
To: Cdotfelty, Jimmy; Reed, Craig; Hutto, Chase
Subject: Dept. of Interior meeting: proposed Renewable Energy Summit

fyi: chase, remember that we came up with this summit idea a while ago...

Robert Dixon
07/18/2001 08:19 AM
To: David Garman/EE/DOE@DOE
cc: Doug Faulkner/EE/DOE@DOE, William Parks/EE/DOE@DOE, Peter Goldman/EE/DOE@DOE, Allen Jalacic/EE/DOE@DOE

Subject: Dept. of Interior meeting: proposed Renewable Energy Summit

Dave:

Bob
Who can help us to set this up?
From: Whitley, Michael
Sent: Thursday, May 24, 2001 8:00 PM
To: Burnison, Scott; Hutto, Chase
Subject: RE: NEP briefing for HEWD

I will call them and arrange a briefing.

Thanks.

---Original Message---
From: Scott Burnison
Sent: Thursday, May 24, 2001 4:55 PM
To: CN=Michael Whitley/O=HQ-EXCHC=US@HODDE@CRDOE%HQ-NOTES; CN=Chase Hutto/O=HQ-EXCHC=US@HODDE@CRDOE%HQ-NOTES
Cc: Moss, Adrienne
Subject: NEP briefing for HEWD

Mike and Chase,

Kevin Cook from House Energy and Water Development subcommittee called me and asked if he and Jeanne Wilson could get a briefing on how the National Energy Policy as proposed by the Vice President's Development Group might impact the Energy & Water bill. I am not sure who the most knowledgeable person is to take the lead in such a meeting. How would you like me to handle the request?

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Scott
Average Daily Solar Radiation Per Month

ANNUAL

North-South Axis Tracking Concentrator Tilted at Latitude

This map shows the general trends in the amount of solar radiation received in the United States and its territories. It is a special interpolation of solar radiation values derived from the 1961-1960 National Solar Radiation Data Base (NSRDB). The data on the map represent the 338 sites of the NSRDB.

Maps of average values are produced by averaging all 30 years of data for each site. Maps of maximum and minimum values are composites of specific months and years for which each site achieved its maximum or minimum amount of solar radiation.

Though useful for identifying general trends, this map should be used with caution for site-specific resource evaluations because variations in solar radiation not reflected in the maps can exist, introducing uncertainty into resource estimates.

Maps are not drawn to scale.

National Renewable Energy Laboratory
Resource Assessment Program

file://P:\ANALYSIS\Home%20Page\CG%20NEP%20FOIA%20request\NEP%202001\images\SolarConcAtLatitude.gif

3/14/2002
**Key Driver - Energy Security**

**Highway Carbon Emissions (million metric tons)**

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- **Domestic Oil Production**
- **Heavy Trucks**
- **Light Trucks**
- **Alternative Vehicles**

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*The solar insolation is the midpoint of the highest insolation range covering a significant portion of the state.*
lates population as shown on the NREL average annual solar insolation for flat-plate set at latitude plus 1
5 degrees.
Overview of State Restructuring Actions

Source: EERE/EIA State-by-State Utility Restructuring Database, 1/99

- Legislation Enacted
- Comprehensive Regulatory Order Issued
- Commission or Legislative Investigation Ongoing
- Legislation/Orders Pending
- No Significant Activity

Obtained and made public by the Natural Resources Defense Council, March/April 2002
Average Daily Solar Radiation Per Month

ANNUAL

Flat Plate Tilted South at Latitude ± 15 Degrees

Collector Orientation

- Top of collector room: a cut-off tilted 8 degrees to the zenith of the site plus 15 degrees. To optimize performance in the winter, this 38 degree is most recommended.

kWh/m²/day

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<th>kW/m²/day</th>
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DOE024-0665

Obtained and made public by the Natural Resources Defense Council, March April 2002

NREL
National Renewable Energy Laboratory

R&I 01-04400

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