

## **SUBMITTED COMMITTEE REPORTS**

As a general policy, the Federal Energy Bar Association does not take positions in published Committee Reports on substantive issues that are the subject of pending litigation.



## REPORT OF THE FERC ADMINISTRATION COMMITTEE

The Federal Energy Regulatory Commission (FERC) had an eventful year and further changes to the Commission's organization and staffing are anticipated over the coming months. This report outlines the administrative changes most likely to be important to counsel appearing before the Commission in the coming year.<sup>1</sup>

### I. *FERC First!* COMMISSION SELF-EXAMINATION AND REORGANIZATION

In early 1998,<sup>2</sup> Chairman James J. Hoecker announced that the Commission would re-evaluate the structure and function of its key program offices. The *FERC First!* program was originally announced in a senior staff conference in December 1997. Several of the Commission's staff members have been provided details about the program. Hoecker intends to use the re-evaluation as an agency-wide self-assessment, which is geared toward modernizing the FERC's internal processes, business styles, and procedures.

As part of *FERC First!*, the Commission selected staff and consultants from Andersen Consulting. These consultants examined staff deployment, the FERC's budget, shifts, and increases in workloads among the FERC's operating bureaus and general agency responsiveness to parties and the public. At press time, the *FERC First!* program had released an initial report of its findings. Chairman Hoecker has indicated that he will review any such finding *de novo*, and that he does not wish to "predetermine" the results of the project.<sup>3</sup>

Some preliminary findings already have been presented by the staff and consulting team to the *FERC First!* steering committee, which is composed of Chairman Hoecker, Executive Assistant Karen A. Tomcala, Deputy General Counsel David N. Cook and each office director. The steering committee will supervise any final action taken in connection with the *FERC First!* program. Commission spokesman Don A. Chamblee acknowledged that, while the ultimate results of the program cannot be predicted in advance, there is some possibility that the Commission may reorganize certain staff functions, resulting in potential changes to existing delegations, offices and staff officials.<sup>4</sup>

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1. If Federal Energy Bar Association (FEBA) members have questions not addressed in this report, the officers of the Committee on FERC Administration invite non-privileged inquiries for administrative assistance, and will refer them to appropriate bureaus within the FERC.

2. In "*FERC First!*" Commission Will Take Hard Look at Way it Does Business, Inside FERC, Feb. 9, 1998.

3. *Id.*

4. Telephone Interview with Don A. Chamblee, Spokesman with the FERC, in Washington

A Commission release indicated that the Commission intends to centralize essentially all rate, competitive and related review functions in a single staff office, which will apparently absorb the FERC's current Office of Electric Power Regulation and Office of Pipeline Regulation. Certain environmental review and permitting functions relating to hydroelectric projects and the gas pipeline industry may be consolidated later into a single environmental staff. The FERC's trial staff, staff witnesses and other employees involved in public advocacy work will be relocated to an Office of Administrative Litigation, which will remove the FERC's trial attorneys from the Office of General Counsel. An Office of Dispute Resolution will conduct alternative dispute resolution (ADR) and related settlement proceedings. Certain personnel, finance and information management functions, now consolidated under the Executive Director, will be divided into separate offices.

## II. COMMISSIONERS AND EXECUTIVE STAFF

The arrival of Commissioner Curt L. Hebert, Jr. brings the Mississippi Public Utilities Commission's former Deputy Staff Director, Walter Ferguson, back to Washington D.C. Ferguson, a Georgetown University Law Center L.L.M. graduate, is Hebert's Chief of Staff and hydroelectric advisor. Joshua Z. Rokach (electric) and Kathleen M. Dias (gas) also serve in Commissioner Hebert's office. Former Mississippi Public Utilities Commission staff member, Michelle Myers, is Hebert's administrative assistant.

Commissioner Linda K. Breathitt named former Kentucky Public Utilities Commission economist Michael D. Alexander as her electric advisor, and is assisted by Mary E. Bengé (electric) and Christopher A. John (gas).

Commissioner Vicky A. Bailey named the FERC's long-time Deputy Assistant General Counsel, Robert H. Solomon, as her electric advisor, following the departure of Larry Bruneel for the private sector.

Chairman Hoecker made several important management appointments. Former Department of Energy Deputy General Counsel Douglas W. Smith is now the Commission's General Counsel. He is assisted by Senior Policy Counsel Robert Y. Hirasuna, previously a gas attorney on the Commission's staff and in private practice. Administrative Law Judge William J. Cowan was named Deputy Chief Administrative Law Judge. Judge Cowan had been the judicial liaison to the *FERC First!* Program office and previously served as General Counsel and Chief Administrative Law Judge with the New York State Public Service Commission. He was also Policy Director for the National Independent Energy Producers' trade group.

As part of the *FERC First!* program, Economic Policy Assistant Director Charles S. Whitmore was designated Acting Director for Strategic

and Organizational Management.

Former Commission Executive Director and Chief Financial Officer, Christie L. McGue, returns to the FERC, again as Executive Director and Chief Financial Officer, after serving in the Department of Energy's Office of Deputy Secretary, Elizabeth A. Moler. McGue is also serving temporarily as the Implementation Coordinator for *FERC First!*

Former Department of the Interior and Department of Energy official Carol L. Sampson was appointed director of the Office of Hydropower Licensing, filling a position which lacked a permanent incumbent for a number of months.

Chairman Hoecker named Katie Hirning as the Commission's first Chief Information Officer. Hirning has held positions with several West Coast technology development firms, and with the Dun & Bradstreet Corporation in New York. In California, she was a Democratic candidate for the U.S. House of Representatives in 1994 and 1996.

### III. REMOTE COMPUTER ACCESS

Both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS) are now available on the FERC's official Internet web site at <<http://www.ferc.fed.us>>. CIPS, a compilation of Commission orders and decisions, can be searched by docket type, docket number, company name and date. Specific term and multi-variable and multi-document searches are available. CIPS documents can be searched examined on-line and printed. Web site CIPS searches date back to 1994.

RIMS, a compilation of real-text filings which parties have made with the Commission, can be searched by outside author, Commission staff addressee, Commission staff author, party, docket number and document number. Multi-variable and multi-document searches are available on RIMS as well. RIMS documents on the web are available in real-view format, which includes the Commission's staff docket notations and document numbering, providing additional cross-referencing data for each document retrieved. RIMS searches can be conducted within up to a one-year window, and documents dating from 1995 can be searched, examined on-line and printed. The Commission hopes that this expanded remote access will speed access to records and reduce demand for in-person service at the Commission's public records and reference facilities. Help desks, established for non-FERC staff CIPS and RIMS users can be reached at 202.208.0371.

The Commission's web site also includes information on major rule-making and policy statement proceedings, the Commission's agenda, and most Commission staff offices. Commission press releases, news items and text concerning each Commissioner are available on the site, as well as a link to the FEBA's home page at <<http://www.febo.org>>.

The Commission intends to investigate the reduction of paper requirements in connection with its new policy statement proceeding, enti-

ted *Public Access to Information and Electronic Filing*.<sup>5</sup> The Commission is interested in reducing the paper contents of filings, improving internal and external electronic access to filings, supporting materials and orders and reducing paper handling and processing times by relying to a greater degree on "paperless" submissions. In this proceeding, the Commission will take public comments, convene a technical conference and appoint working groups to report to the Commission with recommendations.

#### IV. DISTINGUISHED SPEAKERS' PROGRAM

Chairman Hoecker has instituted a distinguished speakers program at the FERC. The FERC's first distinguished speaker, Assistant Attorney General for Antitrust, Joel I. Klein, discussed the Commission's primacy in the energy industries and encouraged the Commission and its staff to take an aggressively pro-competitive posture in their work. Assistant Attorney General Klein indicated that the Department of Justice's role in energy restructuring was secondary to that of the Commission and urged the Commission and staff not to view the Justice Department's authority as a substitute for the FERC's.

Council on Environmental Quality Chairwoman Kathleen McGinty discussed the Administration's environmental priorities, particularly air emission and global warming issues, in the context of electric restructuring.

#### V. THE FERC'S OPERATING BUDGET

At press time, the Senate had passed and returned to the House of Representatives (House) an amended salary and expense budget for the FERC of \$ 168,898,000.<sup>6</sup> The House had originally selected a lower budget level, reflecting no significant increase over the FERC's prior appropriation. The FERC's salary and expense budget is reported by the Appropriations Committee's Energy and Water Development subcommittees as a single collective item, and does not reflect program unit costs. The FERC's budget provides funds for the highest level of Commission docket activity in its history. During the last 22 years, Congress has added a substantial number of new filing and review docket categories to the Commission's menu, while the Commission's full-time-equivalent employment is at its lowest level in nearly 20 years.

Mark C. Williams, Chair

Alan J. Statman, Vice Chair

George D. Billinson

William M. Vermette

William A. Williams (Past Chair)

Duke R. Ligon

Robert A. O'Neil

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5. Docket No. PL98-1-000 (May 13, 1998).

6. H.R. 4060, 105th Cong. (1998).