

Griffen A. H. Bishop

*Post Blackout: FERC's Pricing Incentives Must Be Tailored to Improve Grid Reliability and Efficiency*

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Abstract by Aurora Hartwig De Heer

The author gives the background to and describes in detail the Federal Energy Regulatory Commission's (FERC) Proposed Pricing Policy of January 15, 2003. The author argues that the Proposed Pricing Policy is ineffective as a means to improve the power grid, and its implementation violates both court precedent and the administrative rules on setting pricing incentives forth in FERC's Order No. 2000.

This Comment discusses FERC's Proposed Pricing Policy's incentive program for transmission owners to grant control of their operations to Regional Transmission Organizations (RTOs), who are then supposed to facilitate open access to transmission lines for smaller power plants. However, the author points out continuing concern among states and industry experts that RTO formation is not the most appropriate vehicle for enhancing the power grid and preventing future blackouts. Furthermore, the author suggests that the Proposed Pricing Policy violates the "just and reasonable" standard set forth by the Supreme Court in *FPC v. Hope Natural Gas Co.*, as well as FERC's own guidelines set forth in Order No. 2000 which requires structuring incentives to be "formulary." The author's own suggestion for structural change is for FERC instead to offer utilities an incentive that varies with the overall effect the RTO has on the quality of service and price to consumers.

Part I of the Comment illuminates the historical background to the Proposed Pricing Policy, highlighting the major problems with the existing structure of the power grid and explaining FERC's regulatory environment. Part II defines the Proposed Pricing Policy's financial incentives, while Part III argues that the Policy is inconsistent with the guidelines and policy objectives of Order No. 2000 and court precedent. Finally, Part IV recommends restructuring the Proposed Pricing Policy to make it attractive to transmission owners while adequately compensating them for improving the power grid in compliance with statutory, agency, and court mandates.