

the conference committee with the House. We spent well over 100 hours in negotiation. To say the President's assertion that he "pushed for" the farm bill is within hailing distance of the truth is to totally rewrite history.

Those who were involved in writing the farm bill have quite a different recollection of the history of that period than the President now portrays it. Let's go back to the time when we were negotiating the farm bill and see what the administration said then and see if it stacks up to the claim he is making now that he pushed for the new farm bill.

When the House of Representatives was working on the farm bill, on October 3, 2001, the President put out this Statement of Administration Policy:

[T]he Administration does not support H.R. 2646 and urges the House of Representatives to defer action on the bill.

Does that sound like pushing for the bill? Or is that pushing for delay of the bill?

Then the statement of administration policy said:

[N]ow is not the appropriate time for consideration of this bill.

And

More time is needed for the fiscal picture to clear.

Then the administration said:

The Administration believes that acting now on the significant fiscal and policy commitments of H.R. 2646 would be premature.

Does that sound like they were pushing for the farm bill, or were they pushing for delay of the farm bill?

Then when the Senate turned to the farm bill, the administration put out another Statement of Administration Policy. This is what they said:

The Administration believes it is unwise, in this time of uncertain and changing federal resources and priorities, to enact policies that create unknown and potentially huge future demands on taxpayers.

Was that pushing for the farm bill? Or was that pushing for delay of the farm bill?

The President now claims he was pushing for the farm bill. The truth is, he was pushing for delay. He was pushing for deferment. He was pushing to wait.

What would have happened had we followed that advice? What would have happened?

First, the money that had been set aside in the budget for the farm bill would have run out. Then with the deteriorating fiscal condition of the Federal Government, resources for a new farm bill would have evaporated. In addition, a new estimate was about to come out about the cost of a farm bill that would have increased the cost and made it impossible to write the farm bill that was written.

For those who are concerned about taxpayers, they should understand, the farm bill that was written has thus far cost significantly less than projected. That almost never happens around here. The farm bill was projected to

cost \$18 billion this year alone. Instead, it will cost \$14 billion, dramatically less than forecast.

But it is not just that savings. The even larger savings is to compare the current policy with the previous policy. If we make that comparison, we find the savings under this farm bill are even more dramatic, a huge reduction in expenditure, and yet this is a much more favorable piece of farm legislation for which the President now says he pushed. But at the time what he was pushing, he was pushing for delay. The fact is, delay would have killed the farm bill.

I remember working feverishly to convince my colleagues to move ahead, telling them that from my position on the Budget Committee I could see where this was all headed. If we had followed the Secretary of Agriculture's advice in this administration, we would have waited and waited and waited and the opportunity would have been lost.

The PRESIDING OFFICER. The Senator from Washington.

ENERGY RELIABILITY

Ms. CANTWELL. Madam President, I rise this morning to talk about our legislative priorities, and something I think this body needs to address before we adjourn next week. It is the issue of the reliability standards for our electricity grid and the fact that I think we are still putting the grid in jeopardy by not adopting reliability standards.

Even Enron activities in California, by its own admissions, jeopardized the reliability of the western electricity grid. That is certainly unacceptable. We need to have in place rules that explicitly ban market manipulation and rules that make reliability standards mandatory and enforceable.

In the documentation that has now been acquired through the Enron task force, federal agencies and organizations such as the Snohomish County Public Utility District, which is trying to get out of lawsuits and manipulated contracts that Enron is pursuing against it, it became clear that Enron continued to manipulate the market until its bankruptcy. Even in one scheme, called Get Shorty, Enron discussed in detail, and I quote from their comments and documents:

This [Get Shorty] is obviously a sensitive issue because of reliability concerns. It would be difficult to justify our position if the lights go out because ancillary services were not available. The reason these services were not available is because we were selling them without actually having them in the first place.

In the Enron documentation and memos shared among various employees in the company about ways to scheme and make more money, they very well knew they were manipulating the market. They did not have these services, but sold them anyway at a higher cost, and thereby jeopardizing reliability.

Another summer is upon us and we have yet to take action on legislation that would move us forward in ensuring the integrity of the electricity grid by protecting consumers from these market manipulation schemes and putting regulatory standards in place for reliability.

Next month, in fact, will mark the first anniversary of the blackout in the Northeast and the Midwest that caused basically 50 million consumers and businesses in the Northeast and Midwest to lose power. In some cases that power was lost up to 4 days.

That blackout could have been avoided. When you think about not just the inconvenience to consumers but the fact it cost our economy \$4 to \$10 billion as a loss of economic activity, it is outrageous we are not stepping up and passing electricity reliability standards legislation as a stand-alone bill before we recess for the summer.

We know why the blackout occurred. A few months ago, in April, the U.S.-Canadian power system outage task force issued a report and the Department of Energy, together with the Canadian counterpart, convened a panel of experts that concluded this was something we could avoid if we put reliability standards in place. In fact, the No. 1 recommendation of that task force, which was reported to various Members of Congress and various committees, is to "make reliability standards mandatory and enforceable, with penalties for non-compliance."

That was the No. 1 recommendation out of that task force that investigated what happened in the Northeast and what happened in the Midwest.

So the question is, Why are we not passing reliability legislation before we adjourn, to make sure there are mandatory enforceable rules in place? After the task force's 7-month investigation was complete, Congress has been given an opportunity, many times on the floor, to pass reliability standards. Yet we have not done that. I think some of my colleagues are trying to get a larger energy bill passed first. There are many aspects of the comprehensive Energy bill this Senator would support and many I would not. But I guarantee you this, when this electricity reliability standards bill comes to the floor and is voted on, it will have unanimous support.

So the question is, why are we not peeling off something as important as reliability standards as we approach the summer's hottest months, to make sure businesses and utilities know they will have electricity supply and blackouts will not occur. What if the lights go out again this summer? What if they go out in August? God forbid they go out in September as many of my colleagues will be in New York doing their business and having meetings.

We know various Western States now, such as in Arizona, are putting in place programs to reduce demand because they have concerns. In a BusinessWeek article, FERC Chairman

Pat Wood basically described the summer as “a rosary bead summer” in California because he has concerns that religion is going to have some close calls.

We also know, according to the North American Electric Reliability Council’s own Reliability Assessment for 2004, New York City “might be susceptible to reliability problems” again this summer.

So folks across the country could be affected by the cascading outages that happen to them or in nearby areas. In the words of Michael Gent, who is the president of the North American Electric Reliability Council:

Whether legislation is adopted on a stand-alone basis or as part of a comprehensive energy bill, passage is essential. If reliability legislation had been enacted when first proposed, I believe that the blackout would not have occurred.

Why is that? Because right now, while consumers may think there are standards by which supply needs to be on the grid and reliability maintained, there are actually no mandatory rules. What happened in the Midwest and in New York was the fact that people did not have the supply available at a time that the demand was really there, or the transmission available to move the power. So consumers were caught in the dark—many senior citizens, individuals in hospitals. A whole variety of things occurred that were very unfortunate circumstances.

Now, we in the Northwest know this situation all too well. It was actually my predecessor, Senator Gorton, who first proposed this legislation and actually passed it out of this body, and then it languished in the House of Representatives. We waited again in 2002 and 2003 to get this legislation moved forward through the process. So I think it is critically important before this body adjourns next week that we pass the reliability standards legislation and implement it.

UNANIMOUS CONSENT REQUEST—S. 2236

So, Madam President, I ask unanimous consent that the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system; that the bill be read a third time and passed, and the motion to reconsider be laid on the table, without any intervening action or debate.

THE PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, reserving the right to object, we have had an energy bill pending that has been filibustered by our colleagues on the other side. We are not in a position where one Senator, unfortunately, can pass a bill. There may be many bills I would like to pass. We do not pass bills in this manner. We should get on with passing an energy bill. And, therefore, I object.

THE PRESIDING OFFICER. Objection is heard.

Ms. CANTWELL. Madam President, I hope my colleagues on the other side of the aisle will reconsider their position because we are not, in the next 5 to 6

days of legislative action, going to get a comprehensive energy bill. But we can get an energy reliability standards bill passed and put in place, and send a message sent to electricity providers across the country that there are going to be reliability rules and standards in place.

We cannot continue to hold hostage good energy reliability legislation for a comprehensive bill when consumers are at risk. We cannot continue to deny the reports across the country that more blackouts are coming. We need to act.

Now, Madam President, I would like to take a few minutes to expand on some of the other news and events that relate to this energy policy.

As my colleague mentioned an energy bill, I certainly would like to get an energy bill that did something to prevent market manipulation, or even just a stand-alone bill that would prevent market manipulation. We in the West have been astounded by the lack of response by the Federal Energy Regulatory Commission to the news and information about markets being manipulated.

I do not mean there is speculation about manipulation; I mean there are documents that have now been uncovered through organizations such as Snohomish County PUD; they are actually signed documents by various day traders at the Enron Trading Portland office that showed exactly how the trading schemes worked. While those utilities harmed will continue to pursue their case legally, it is absurd that the Federal energy regulators who are supposed to do their job in protecting consumers are failing to do anything. Basically they are the policemen on the watch and they are letting the crime continue to be committed.

When I say “continue to be committed,” I would like to submit for the record an article that was recently published that shows the chances that these schemes might still be continuing in the State of Texas. The Texas Public Utilities Commission has an ongoing investigation, and there are a couple of companies down there that are actually pursuing this case. Some of the same Enron traders who were involved in the Portland office in these schemes have now moved on to other companies. CBS and others now have audiotapes showing that some of these Texas power giants might still be manipulating the market in the same ways that Enron did. So the question is, When are we going to stand up and do something about this?

I ask unanimous consent to have printed in the RECORD an article entitled “Accusation: Trader Recordings Show TXU Schemed to Spike Power Prices.”

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CBS-11, July 8, 2004]

ACCUSATION: TRADER RECORDINGS SHOW TXU SCHEMED TO SPIKE POWER PRICES

(By Robert Riggs and Todd Bensman)

Audiotapes allegedly show traders for Texas power giant TXU carrying out illegal market manipulation schemes to spike electricity prices, much as Enron traders now stand accused of doing in California, according to several state competitors who claim the schemes damaged them.

CBS-11 obtained 250 hours of previously sealed telephone recordings of TXU trader transactions from Allen-based competitor Texas Commercial Energy. Company executives say the recordings prove TXU cornered Texas’s newly deregulated electricity market last year and refused to sell until prices spiked many hundreds of dollars per megawatt hour above normal rates.

Officials for TXU, by far the state’s largest energy company, deny that its traders ever illegally cornered Texas energy markets or squeezed competitors and said state regulatory investigators cleared the company of any wrongdoing.

The recordings of telephone trader transactions surfaced from a Texas Commercial Energy anti-trust lawsuit that claimed illegal market manipulation schemes by TXU drove the nascent energy company into bankruptcy after several cold fronts last year. A judge dismissed Texas Commercial Energy’s lawsuit in June on grounds that the court did not have proper jurisdiction.

The company says it will appeal for a trial on the actual merits of its allegations.

“Now, the consumers get a chance to hear what their intentions were and how they were being damaged,” said Steve Ousley, President of Texas Commercial Energy.

In one tape reviewed by CBS-11, TXU traders appear to gloat about excessive prices charged to Garland Power & Light.

TXU Trader 1: “They got a little power plant out there. I think they’ve got 250, 300 (megawatts). And if they’re short, you know, they buy it from me sometimes.”

TXU Trader 2: “Is that right?”

TXU Trader 1: “When I, when I bend them over the bench and give it to them (laughter).”

TXU spokesman Chris Schein dismissed the discussion about the city of Garland as mere “boasting” and “verbosity.”

“It’s embarrassing, but there is no factual basis to what he said in terms of taking advantage of that customer,” Schein said.

Texas Commercial Energy and other competitors tell CBS-11 that many other audio recordings prove that TXU imported and then put to use, during several 2003 cold fronts, the kind of market manipulation schemes that have resulted in federal action against traders for Enron, and also the Houston-based Reliant Energy Services, for trading abuses California.

In April, the Houston energy company Reliant and four of its officers were indicted in San Francisco on six counts of creating false energy shortages to spike prices.

In the course of its investigation of the TXU allegations, CBS-11 News learned that TXU had hired five ex-Enron traders, including one who came under FBI investigation for his previous work in Enron’s indictment-plagued Portland, Ore. office and figures prominently in some of the Texas tapes.

“I think Texans should be outraged that they have adopted these Enron-like market manipulation schemes and even hired some of the same people that implemented the schemes out in California,” Ousley said. “In Texas, market manipulation is all about the money. At the end of the day the consumers are going to end up paying for the market manipulation.”

Until now, TXU has largely escaped the kind of public allegations of illegal market manipulation that has recently bedeviled former Enron traders and Reliant Energy. Last month, the release of the so-called "Grandma Millie" tapes of foul-mouthed Enron traders in Portland boasting of illegal trading schemes spurred widespread condemnation and pressure on Congress to investigate other energy companies.

Many of the taped TXU trader conversations reviewed by CBS-11 News are infused with jargon and would be difficult for industry outsiders to interpret. Interpretation of the Texas tapes has become central to the emerging controversy over them.

TXU's Chris Schein said his firm's interpretation of the tapes is that they show no wrongdoing at all.

"The kinds of shenanigans that you saw in California did not take place in Texas," he said. "And state regulators have been very concerned about that occurring."

Little is known about four of the five former Enron traders who have come to work for TXU, and Schein said affiliation with the scandal-plagued company should not automatically preclude employment at TXU.

But a fifth former Enron employee, Holden Salisbury, was hired by TXU from Enron's scandal-plagued Portland office in 2002, the company confirms.

Those who worked the Enron office remain under an active FBI investigation for market manipulation schemes known euphemistically inside the office as "Deathstar," "Get Shorty," and "Fatboy," California authorities say. Federal prosecutors have indicted and convicted several of Salisbury's former Enron supervisors on charges that they used market manipulation schemes, including Deathstar, to rip off millions from California ratepayers.

The 31-year-old Salisbury, who shows up repeatedly in the Texas tape recordings, has not been indicted or accused of any crime. His trading logs from Portland, obtained by CBS-11, indicate that he conducted multiple "Deathstar" transactions while working there.

In a brief interview with CBS-11 outside his Allen home, Salisbury would not say how he came to work for TXU but insisted he has done nothing wrong as a trader for either Enron or his current employer.

"I don't think I did anything wrong in Portland, and I don't think I have done anything wrong in Dallas," he said, declining to talk further without TXU permission.

TXU's Schein said the company would not allow Salisbury to talk further and that executives were angry that CBS-11 had tried to interview him at home.

Robert McCullough, a former utility executive in the Pacific Northwest, has worked as an expert witness in lawsuits against TXU and Enron. He said he was surprised TXU would hire anyone else from Enron's tainted Portland office.

"We found hundreds, literally hundreds, of documents where the different traders would sign off on specific schemes," McCullough said. "So it's very surprising to us that you would actually want one of those people on your team."

Asked why TXU would hire a trader from Enron's Portland office, Schein said Salisbury had passed a TXU background check. He later indicated the FBI had fully investigated and cleared Salisbury.

FBI officials in San Francisco, Ca., however, say the investigation of the personnel in Enron's Portland office was by no means complete and could yet yield additional cases.

"The FBI is in no way vouching for the character of Mr. Salisbury," said Special Agent LaRae Quyn.

Salisbury figures prominently in some of the TXU recordings made during last year's February ice storm in North Texas.

Texas Commercial Energy officers and lawyers say the scheme Salisbury and others used involved buying up as much available energy on the open market as bad weather approached and then, cutting TXU's scheduled sales. According to Texas Commercial Energy, TXU traders would then refuse to sell, even lying to customers about ostensible shortages, until average \$50 prices per megawatt hour spiked to a rare \$1,000 per hour high.

In the following days, they say, TXU traders working together maintained tight control over prices, keeping them artificially high, but not so high as to trigger the unwelcome attention of state regulators.

Company officials say this 10:12 a.m. conversation on Feb. 25, 2003 between Salisbury and buyer Norm Berthussen of Cirro Energy occurred after an extended buying spree by TXU. They say it is but one of many recorded conversations supporting their contention that TXU traders conspired to withhold energy from the market.

Holden Salisbury: "TXU, this is Holden."

Norm Berthussen: "Hey Holden, Norm Berthussen at Cirro."

Holden Salisbury: "Yes sir."

Norm Berthussen: "Anything happening here in some of the short term power?"

Holden Salisbury: "Um, it's not looking too good right now. I don't think I'm going to have anything. . ."

Norm Berthussen: "Where's all the energy going?"

Holden Salisbury: "It's cold man."

Norm Berthussen: "I mean, it is, but hell, nobody's at work. Very few people. I mean. . ."

Holden Salisbury: "I don't know. . ."

Norm Berthussen: "Strange. . . Strange how we can have 56,000 available in the summertime and we can't get 40 together in the wintertime."

Holden Salisbury: "Yeah. I don't know. I mean there's (power plant) units that are down in the state."

Norm Berthussen: "What units are down?"

Holden Salisbury: "I don't know, but I know there are some. . . Look I've gotta go man."

Norm Berthussen: "Alright."

In an interview with CBS-11, Berthussen said he was suspicious that something nefarious was afoot but didn't know for sure until much later.

"I believe as a result of those actions that took place in February 2003 there may be a lot more overview from the (Public Utilities Commission) side of the fence in terms of monitoring some of this activity," he said.

TXU's spokesman, Chris Schein, said the recording shows no wrongdoing. He said Salisbury's apparent refusal to say which plants were off was in line with federal regulations prohibiting the trader from divulging such protected details.

Texas Commercial Energy officials point to recordings a month earlier as further evidence that TXU traders carried strategy of using market dominance to set prices at artificially high levels.

Traders Tim Drennan and Jim Dunkin discuss the "strategy."

Tim Drennan: "It's sitting at, uh, thirty-five percent. . . uh thirty four point, uh. . . thirty four and a half percent. . . uh forty six bucks, forty five bucks."

Jim Dunkin: "Yeah."

Tim Drennan: "So, eh, pretty much right in there where I think you wanted to be."

Jim Dunkin: "Excellent, excellent."

Tim Drennan: "Yeah. No, I agree. I eh, we eh, we're all on board with the, the, eh—with what we're doing here."

Jim Dunkin: "Good."

Later in the same discussion, according to Texas Commercial Energy officials, traders talk about cutting large amounts of scheduled energy deliveries to create an artificial scarcity in the market, thereby driving prices up.

Jim Dunkin: "What are you doing?"

Jerry 'Doc' Gatty: "I'm pulling my thumb wondering what Tim's gonna do here."

Jim Dunkin: "Well, cut it." (laughter)

Jerry 'Doc' Gatty: "We, we've got some big cuts in for nine o'clock, so. . . I'm ready to get to 9 o'clock and get it cutting so I know where I'm going. No, I know where I'm going."

Jim Dunkin: "To the bottom."

Jerry 'Doc' Gatty: "To the bottom."

Several hours later, according to Texas Commercial Energy officials, prices began to rise sharply to nearly \$274, and the traders demonstrate that they have achieved control of prices.

Jim Dunkin: "That's just like yesterday. Everything's goin' just like we planned yesterday, except eh, except eh. . . on the prices. But that's fine. I mean, I don't really want to bump the prices unless we're 40 percent."

Tim Drennan: "I understand. . . We'll just keep them where they're at here, uh, for the rest of the day, unless we're, uh, unless we're super long. You know, if it gets over 40 percent, maybe I'll take em up to over a hundred. But right now. . ."

Jim Dunkin: "You can take them back up over to that. . ."

Tim Drennan: "Okay."

Jim Dunkin: ". . . if you get up over 40 percent."

Tim Drennan: "I understand, I understand."

Four hours later, the traders discuss price manipulation strategy for the following day by "cutting the load," or reducing scheduled energy sales, to create the appearance of shortages, according to Texas Commercial Energy officials.

Jim Dunkin: "I'd still go the same strategy tomorrow of having plenty on, but cut the load."

Tim Drennan: "Hey, cut-cut the load, go short, but just hold the price below 100 bucks."

Jim Dunkin: "Yeah, hold the price below 100 bucks. But I wouldn't roll a hundred bucks until I got the CT."

After some additional discussion about price bidding, Drennan said "And what we'll do is we'll just. . . we'll pull those prices back and keep it under 100, and I'll pass that on to Chad. And we're going to be fine."

Said Texas Energy Commission Vice President Bill Silliman: "They've got control over the prices. They only want to double the price, not create a five-fold increase that everyone would notice."

TXU's Schein says the recordings fall far short of proving that anyone at TXU has ever committed a crime or behaved unethically in business. He called the price spikes that occurred last winter "anomalies" due to a variety of natural causes and normal market circumstances.

"Those things don't occur, have not occurred in Texas," TXU's Schein said. "All of the market anomalies have been thoroughly investigated and found to have been no wrongful activities."

Schein was referring to a January 2004 staff inquiry into the allegations by the Public Utilities Commission's Market Oversight Division.

"At this point," the report concluded, in part, staff "has found no evidence of widespread, egregious price gouging in the. . . energy market by TXU."

But commission spokesman Terry Hadley conceded that investigators were only able

to listen to a tiny fraction of the recordings, very late in their inquiry, before issuing the report in January. And, he said, court-ordered restrictions at the time prevented Texas Commercial Energy attorneys from helping investigators interpret the recordings beforehand. By contrast, TXU did work with investigators before the report was completed, Hadley said.

The investigation remains open, he said.

"Obviously, we don't have the resources to listen to everything," Hadley said. "They were considered to the extent that some had been reviewed. With our resources, we're not able to review all the thousands of hours of recordings. But . . . we can continue to review the situation.

Robert McCullough, the former utility executive who worked as an expert witness in lawsuits against TXU and Enron, questions whether the utility commission is capable of investigating anything. The number of investigators available to enforce complex deregulation rules, he said, is pitifully small.

"Unfortunately, in Texas, we don't have many police. We have one small office," McCullough said. "I don't doubt that those gentlemen work very hard, but it's like one policeman to patrol Dallas at the moment.

"The budget for the state PUC is \$600,000," he said. "That amount of money could be holed, taken from the consumers in an hour. It's like having the entire budget for the police force for the city of Dallas being the same amount as what's in the till of a Ma and Pa grocery store."

Ms. CANTWELL. The issue is really before us in the sense that we need to continue to push the Federal regulators to do their job, the Federal regulators being the Federal Energy Regulatory Commission. They have failed to do their job. We had an Enron collapse and scandal in which markets were manipulated, shareholders were conned, books were cooked, and various aspects of this investigation and prosecution are taking place. My hat is tipped to DOJ in their effectiveness in pursuing this case against various Enron employees, including their recent indictment of Ken Lay, even though that is a process in which Mr. Lay has his opportunity and will have his day in court. But I take great offense to Mr. Lay's PR campaign in which he goes on television saying that all that happened in California was California's fault, that it was wrong for them because they deregulated without proper supply.

Well, I think it is very clear there has been market manipulation as shown by the documents that are being provided, and it is a question of whether the Federal regulators are going to do their job.

Madam President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post from this week in which the paper criticized the Federal energy regulators for not doing their job. I think that is what we need, more attention to show that those Federal regulators have not had the bright light of day shown on them and that they are failing to do their job.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 2004]

ENRON'S LEGACY

It has long been clear that ill-starred Enron Corp., whose founder and chief executive, Kenneth L. Lay, was indicted last week, deliberately manipulated electricity markets to intensify the California power crisis of 2000-01, forcing electricity prices up across the West. But recently released tapes of conversations between Enron traders have reminded the victims of just how cynical that manipulation really was. "I want to see what pain and heartache this is going to cause Nevada Power Company," gloats a trader on one of the tapes, just before completing a deal. "I'm still in the mood to screw with people."

The ratepayers of Nevada—and the rest of the West—are right to feel angry about what Enron did and right to feel aggrieved about the billions of dollars they overpaid for electricity as a result. It's hardly surprising that their anger has spread to Congress, particularly during an election year. Rep. Anna G. Eshoo (D-Calif.) recently got the House to pass an amendment to an energy appropriations bill, effectively requiring the Federal Energy Regulatory Commission (FERC) to give the public easier access to Enron documents. Some, including Sen. Maria Cantwell (D-Wash.) and Sen. Dianne Feinstein (D-Calif.) want the Senate to do the same.

But while calling for access to documents lets off political steam, it doesn't address the more fundamental problems with federal energy regulation, as many in Congress know perfectly well.

The much larger concern is that FERC's failure to resolve quickly the gaggle of multimillion-dollar lawsuits and regulatory cases filed by public utility commissions across the West has hampered investment and left energy markets in turmoil.

The fault is partly FERC's. Each case involves different legal issues, but on the whole, the commission's reaction to them has been slow, overly cautious and narrowly legalistic. At the same time, Congress has refused to heed the regulators' continued pleas for more powers, and particularly for the right to exact the same kinds of civil penalties other regulatory bodies do. Because FERC was set up in a different era, it is a quasi-judicial body, with little ability to enforce rules. Its commissioners argue that they have acted according to their interpretation of the law, which among other things does not allow them to invalidate old contracts retroactively. Spokesmen also point out that some of Enron's behavior was ugly but legal, which limits what FERC can do now. Indeed, much of what happened can be attributed to the poor design of California's electricity markets—a design that FERC opposed.

Nevertheless, it is becoming clear that FERC's overly cautious approach to the Enron aftermath, the fault of both FERC and Congress, has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers, and it doesn't deserve more powers. Yet the future success of deregulated energy markets depends on the existence of a reliable regulator, with enhanced powers to enforce standard market rules and to penalize companies that fail to comply with reliability requirements or that manipulate markets. It's probably too late to undo all of the damage, but in upcoming cases FERC should take far more seriously the spirit of the law, which was designed to protect consumers, and Congress should quickly act to

give FERC the powers it needs to prevent market manipulation.

Ms. CANTWELL. The article basically says:

. . . FERC's overly cautious approach to the Enron aftermath . . . has damaged the regulatory commission's standing and even its ability to oversee market regulation in the future. In California, Nevada, Washington state and elsewhere, the acronym FERC has become a byword for impotence. Its job was to protect consumers, the argument goes; it didn't protect consumers. . . .

So I think we need to continue to push. In fact, the editorial goes on to say:

. . . Congress should quickly act to give FERC the powers it needs. . . .

We must do our job in continuing to protect consumers from this market manipulation. When we have evidence now that shows it has taken place, and we cannot get the cop on the beat to investigate, and we now have documentation and suspicion that it may still be going on in other parts of the country, Congress needs to do its job.

Just as we did with the SEC in passing new accounting rules, we need to make sure the Federal Energy Regulatory Commission does its job on regulating wholesale power rates, making sure that they are just and reasonable and that the manipulation stops.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

(The remarks of Ms. COLLINS and Mr. BOND pertaining to the introduction of S. 2659 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IRAQ INTELLIGENCE

Mr. BOND. Madam President, I come to the Senate floor once again this week to talk about the Intelligence Committee report and what we know and what we have learned about the intelligence prior to this body authorizing the President to go into Iraq.

We have seen over the past year a concerted effort by outside groups, partisan attack machines, and even Members of this body going after the credibility and attacking the President and Vice President, sometimes personally. We have seen breathless media coverage of every word of those who profess to be nonpartisan but who prove to be anything but nonpartisan.

We have seen headlines alleging all types of wrongdoings. We have heard accusations of lying and misleading repeated as if they were the simple, obvious truth.

Now, after the Senate Intelligence Committee spent a year painstakingly reviewing these accusations, attacks, and smears, we can set the record straight, while only hoping that the media will devote at least some of the same attention to the facts as they did to the accusations and unfounded allegations. Yes, we found there were significant problems with the intelligence