

**Federal Energy Regulatory Commission
May 18, 2006 Commission Meeting
Statement of
Commissioner Suedeen Kelly**

E-1: Open Access Transmission Tariff (OATT) Reform (RM05-25-000)

“First, let me thank the staff team for the tremendous work that you put into this NOPR.

I think that when members of the industry read this document, your hard work on all of the various issues and sub-issues that make up this NOPR will be obvious to them as well.

Given the importance of this task, I have been particularly comforted by the broad range of experience and background represented by the staff team.

The team included not only rates staff, who deal with tariff filings at the front end, but also audit staff, who monitor and enforce tariff provisions down the line.

It included not only people with the economic and legal backgrounds that you would often expect on this sort of thing, but also engineers with real-world experience in the electric industry.

In short, it was the kind of well-balanced team representing multiple points of view that we always hope is working on highly important issues like this.

While every single proposal made here will not necessarily be liked by everyone who reads this NOPR, I believe that every reader will have to conclude that this NOPR was the product of an earnest team of career public servants working in the finest traditions of this honorable profession; in other words, you drafted the NOPR to do what you believe will best serve the public interest.

No one could ask for more and I thank you for it on behalf of the American people who will be the ultimate beneficiaries if we get this right.

I also want to thank the many parties who participated in this proceeding and whose comments helped form the basis for many of the proposals we make today.

Finally, I would just like to add my own highlights to a couple of the areas in this draft NOPR that I believe are particularly important.

First is the proposal to amend the pro forma OATT to require coordinated, open, and transparent transmission planning on both a sub-regional and regional level.

While the state of the industry prior to the original Order 888 was certainly not the nirvana that some may wish to remember, it is nevertheless widely recognized that transmission infrastructure improvements over the period since Order 888's issuance have not kept pace with the changing needs of the industry, nor for that matter even with minimum load growth requirements in many instances.

In part, I think that this may be attributable to an unfortunate tendency over this period to leave all such concerns to be addressed by market forces.

While I generally believe that market forces can, and do, work on the generation side of the industry, transmission is a very different animal.

Transmission is not just a natural monopoly in its own right, but a key enabling infrastructure for the

generation side; in other words, without sufficient transmission, generation can not be as competitive as we need it to be.

Accordingly, I sincerely believe that the transmission planning requirement we propose here today is not only good for the nation but absolutely necessary to achieve the nation's goals for the electric industry and to meet the legal requirements of the Federal Power Act to ensure just and reasonable rates for generation.

At the same time, while we are proposing a transmission planning requirement here, we recognize that we are not the only entity with jurisdiction over aspects of transmission planning and expansion and it is my hope that the other various entities with jurisdiction will view this proposal as a constructive step that can aid them in their own work and, of course, not interfere with that work.

The second area I want to briefly discuss involves the proposed increase in the minimum requirements for a rollover right from one year with a 60-day notice to five years with a one year notice.

I was initially reluctant to take this step although I had sympathy for many of the arguments made in support of this change.

I was very concerned about the potential anti-competitive impact of a change that essentially makes it more expensive for unaffiliated entities to secure transmission on a basis similar to what transmission owners enjoy.

In the end, I was able to get comfortable with this change because of the other proposals we make that should increase the value and, thus, the re-marketability of the transmission purchased for this longer term.

In other words, while customers will now need to enter into longer-term contracts for transmission in order to secure rollover rights, it should be easier for them to redirect or resell any unneeded portion of these rights.

This will benefit everyone by helping to maximize the use of the grid and it will allow independent generators to maintain their competitiveness.

A detailed study of this draft NOPR will show that it reflects many such careful attempts to balance competing interests.

I am pleased to vote for this NOPR because I believe it embodies an appropriate set of balanced policies and that it will improve open, nondiscriminatory and full access to the transmission grid.

I look forward to seeing what the industry thinks and to the comments to come.

Thank you"