

E-4. Docket Number: EC05-103-000

**Statement of Chairman Joseph T. Kelliher on Duke-Cinergy Merger
December 15, 2005**

The order authorizes the proposed merger between Duke Energy Corporation and Cinergy Corp., finding that the merger is consistent with the public interest.

The Commission analyzed the merger under Section 203 of the Federal Power Act as it existed before enactment of EAct. EAct provided that the changes made to Section 203 did not apply to mergers pending when the law was enacted.

The merger was examined under the Merger Policy Statement test, which considers the impact on competition, rates, and regulation. The Commission concluded the merger will not harm competition in any relevant market, and will not have an impact on rates or regulation.

This merger is significant in size, but the merger analysis was straightforward.

Merger analysis focuses on potential harm caused by the merger, not pre-existing conditions. There is very little overlap between the Cinergy and Duke markets. MISO is an unconcentrated market. The Duke market is highly concentrated, but is not made more concentrated by the merger.

I support the order.