



FEDERAL ENERGY REGULATORY COMMISSION

October 16, 2008

Docket No. RM07-1-000

Item No. M-1

Commissioner Philip D. Moeller

Statement of Commissioner Philip D. Moeller on Standards of Conduct for Transmission Providers

“I hope you can discern a trend in my comments when it comes to enforcement: it is the government's responsibility to provide clear rules to the industry so that the regulated entities are able to comply with the rules. If entities do not comply with our rules, we should be able to vigorously enforce them. I support the final rule that provides further guidance and attempts to establish clearer standards of conduct for transmission providers.

As I have noted previously, the primary purpose of our reforms is to strengthen the Standards of Conduct by making them clearer. Clarifying these rules will better prevent affiliate abuse in the manner most likely to foster compliance by the industry and strengthen our enforcement efforts. In addition, adopting the employee functional separation approach, expanding the no conduit prohibition and enhancing transparency will refocus these rules in the areas where there is the greatest potential for affiliate abuse: transmission providers unduly discriminating in favor of their marketing affiliates. Also, importantly, I do not think today's approach offers any less protection for the consumer. I recognize that transmission dependent entities may be concerned by our actions here, but I believe today's rule protects them. Moreover, some of their fears can be allayed by our efforts under Order No. 890 requiring more transparent and open regional transmission planning.

We have heard concerns from several western states that argued that the Standards of Conduct hampered integrated resource planning. We are taking today's action in part to respond to my colleagues' request at the state commissions throughout the West for a more manageable way to plan for the future.

One of the impetuses that led to the reforms in this rule was that the corporate separation approach of the former Standards created difficulties for public utilities engaged in long-range planning. Such planning activities frequently encompass both transmission and generation issues, and because under the existing Standards none of the employees of a marketing or energy affiliate (except for shared employees) could interact with the transmission function employees of a transmission provider, it was difficult for planning personnel to gather needed information and to consult with appropriate personnel in order to make decisions on such basic matters as whether to build generation or to buy power. We do not seek to interfere with legitimate planning activities that are necessary for the continued efficient operation of both the electric and natural gas industries. Adopting the employee functional approach permits most company employees to interact with one another, and eliminates the wholesale walling off of all marketing and energy affiliate employees from the transmission function employees of the transmission provider.

To advance our goal of removing barriers to planning efforts, in this rule we provide further important clarifications. For example, the revised definition of transmission functions, limiting it to the day-to-day operation of the transmission system, should enable the free flow of the type of transmission information needed for planning purposes. Another example is our decision to remove purchases from the definition of marketing functions. This change should expand the category of personnel who are permitted access to



STATEMENT

the type of information necessary to engage in long-range system planning and competitive solicitations, whether conducted pursuant to state mandate or not.”