



October 21, 2010

Commissioner John R. Norris

FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT

Docket Nos. ER10-1562-000 and ER10-2254-000

Item No. E-1

## Statement of Commissioner John R. Norris on Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.

"In today's order, the Commission makes certain preliminary findings and offers guidance to Duke Energy in response to the company's proposal to move its Ohio and Kentucky operating company affiliates from the Midwest ISO into PJM.

This order represents just the first initial step in Duke's proposed RTO realignment. There will be further Commission proceedings to address, among other things, the specific actions Duke will take to satisfy its obligations under the Midwest ISO Transmission Owners Agreement, and whether the specifics of Duke's proposed replacement arrangements (*i.e.*, its membership arrangements with PJM) are just, reasonable and not unduly discriminatory.

Today's order makes clear that RTOs are voluntary. This is a settled Commission policy that I support.

The fact that RTOs are voluntary, however, does not mean that they do not represent a commitment on the part of those utilities that choose to join them. When planning and making decisions, other market participants and stakeholders rely on the fact that certain utilities have accepted the obligations that come with RTO membership. As a result, when an entity chooses to leave an RTO, those that remain can be effected.

The Commission has historically addressed the potential for impacts on third parties by ensuring that a utility choosing to exit an RTO fulfills all of its contractual obligations to that RTO. In this regard, our order correctly emphasizes that Duke must satisfy its financial obligations under Article V of the Midwest ISO Transmission Owners Agreement. The scope of these financial obligations will be the subject of future proceedings before the Commission, where we will ensure that Duke has met all of its contractual commitments to Midwest ISO and its remaining members.

While I support our action today, I do want to note some of the concerns raised by intervenors in this proceeding regarding the broader questions that RTO membership changes like this may present. Parties such as the Indiana and Ohio Commissions suggest that the Commission should take a broader look at RTO membership changes than it has to date, to assess whether those changes comport with the broader public interest, and to ensure that customers will ultimately benefit and will not be harmed. They suggest that these moves could create significant uncertainty in a number of areas, including transmission planning, cost allocation and planning for resource adequacy.

While I believe it is critical that we preserve the voluntary nature of RTO membership, I share some of the concerns expressed in the record here regarding the impact of RTO withdrawals and realignments on overall market certainty and the ability of RTOs and stakeholders to plan for the future. Moreover, I do have some concern that a utility can use the ability to withdraw its membership as leverage in its dealing with an RTO and stakeholders.

Today's order elects to maintain our current approach to reviewing RTO withdrawal requests, and I support the decision to apply our current policy to Duke's application. Under that policy, we must carefully review Duke's future filings to ensure that it is meeting its withdrawal obligations to the Midwest ISO, which will help ensure that customers are not negatively impacted.

However, going forward I believe that we should be mindful of the potential implications of our current policy, and consider whether certainty and planning could be upset and whether customers could be harmed. This consideration



may be particularly important if we see an increase in entities choosing to exercise their contractual rights to leave an RTO. I hope such moves will be rare.

I want to offer my thanks to the Team for their hard work on this order and the presentation this morning. I look forward to working with you going forward as we continue to review Duke's realignment plans."