FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT

Date March 20, 2008
Docket No. RM07-1-000
Item No. M-1

Commissioner Suedeen G. Kelly

Statement of Commissioner Suedeen G. Kelly on Standards of Conduct for Transmission Providers

"A wise man once said, "Look to the past for guidance into the future." I believe that the past can help us map a course into the future and, today, as we approve the Standards of Conduct NOPR this advice rings especially true. The NOPR returns to the employee functional approach found in Order Nos. 497 and 889 with additions that provide a clearer roadmap for entities to follow in complying with these Standards and also facilitate Commission enforcement. The Standards include three core elements: (1) the Independent Functioning Rule; (2) the No Conduit Rule; and (3) the Transparency Rule.

Why do we need a revised approach? The current Standards have proven unreasonably difficult to comply with and to enforce. I note that the bulk of No Action Letters involve the Standards. The Commission has received 107 waiver requests regarding the Standards since the issuance of Order No. 2004. A tremendous amount of staff time has gone towards answering questions regarding the Standards. The Commission has also held four Standards of Conduct conferences in three years. Further, the overly broad scope of the Standards impedes efficient business operations. The reasons why we have the Standards remain the same. We have industries, particularly our electric industry, where market participants include those that participate in the competitive (generation) market and that also hold the monopoly essential facility of the transmission system. Standards of Conduct ensure that all competitors are on the same playing field, ensuring confidence in and competitiveness of the market.

While I believe that the overall approach that the Commission is taking to be a good one, I urge NOPR commenters to share their thoughts with us on our general approach and if we need to revise this approach to further strengthen the Standards. I also note that, while the Standards of Conduct provide specific rules that transmission providers must follow, the Commission continues to have the tools it needs under the Federal Power Act and Natural Gas Act to address instances of undue discrimination and preference, regardless of whether they are specifically enumerated in the Standards. Thank you."