FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT

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

Commissioner Marc Spitzer

Statement of Commissioner Marc Spitzer on Standards of Conduct for Transmission Providers

"For years, the Commission has been grappling with the Standards of Conduct that were adopted in Order No. 2004. The Commission has held numerous outreach meetings and conferences across the country on these Standards. Our staff has spent thousands of hours answering compliance questions and there seems to be no end in sight as to the questions put to our staff on these issues. In sum, significant resources have been expended by the Commission, as well as the industry, in an attempt to facilitate compliance with Order No. 2004. Despite these efforts, however, the confusion and questions regarding the Standards of Conduct are as prevalent today as they were when Order No. 2004 was first issued.

Moreover, as we heard at our recent enforcement conference, the industry wants to comply with the rules but needed the Commission to clarify the rules. Today the Commission does so.

I commend the Chairman for his leadership on this effort. Instead of simply applying a band-aid to an existing but broken program he ultimately determined, and I agree, that the Standards themselves were the problem. Marginal changes or simple edits cannot fix the problem with the existing Standards. Under the Chairman's leadership, we undertook a comprehensive review of the policies underlying the Standards of Conduct. Thus, today we are issuing a NOPR proposing meaningful changes to the Standards adopted in Order No. 2004. I also must commend Cyndy Marlette and Susan Court for their leadership and I thank their staffs for acknowledging the problems inherent in Order No. 2004 and for drafting a coherent NOPR that, in the end, will benefit consumers by facilitating compliance with, and enforcement of, meaningful rules.

I support the NOPR's proposals to: (1) return to an employee functional approach instead of a corporate functional approach; (2) strengthen the no conduit rule by prohibiting both passing and receipt of transmission function information; and (3) increase transparency so undue discrimination may be detected, corrected, and sanctioned. Specifically, I believe that the proposal to require transmission function employees to function independently of marketing function employees will facilitate compliance because the relevant terms are defined and this restriction is appropriately tailored to those employees who actually engage in marketing functions, rather than all employees of a marketing affiliate. I also support the no conduit rule, which proposes to prohibit all employees from passing restricted information to marketing function employees. Last, we propose to continue to ensure transparency by maintaining posting and recordkeeping requirements.

I look forward to reading the comments on the NOPR."