



October 16, 2014

Commissioner Tony Clark

FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT

Docket Nos. : ER13-366-001, ER13-366-002, ER13-366-003, ER13-367-001, ER13-75-002, ER13-75-004, & ER13-100-001

Item No. E-1

## Statement of Commissioner Tony Clark on Southwest Power Pool Order No. 1000 Compliance Filing

"I support the decision in today's order to allow SPP to recognize state and local laws and regulations, but dissent from the finding requiring SPP to eliminate its federal right of first refusal (ROFR) for Byway facilities (operating above 100 kV and below 300 kV). As stated previously,<sup>1</sup> I do not believe transmission providers should be forced to remove federal ROFRs in every instance where regional cost allocation is applied.

"In the 2010 order accepting the Highway/Byway cost allocation methodology, the Commission evaluated a power flow analysis of the SPP region and found compelling evidence that Highway facilities (300 kV and above) provide significantly greater support to regional power flows than lower voltage facilities, including Byway facilities.<sup>2</sup> The Commission used this analysis, including the assessment that Byway facilities are used "more locally," to approve SPP's cost allocation methodology.<sup>3</sup>

"While the Commission continues to uphold SPP's Highway/Byway cost allocation methodology, it refuses to acknowledge the local nature of Byway facilities in a way that allows for flexibility on the federal ROFR. This approach oversimplifies transmission planning and creates perverse incentives<sup>4</sup> for RTOs trying to capture the efficiencies that Order No. 1000 once promised.<sup>5</sup>

"For these reasons, I respectfully dissent in part from this order."

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<sup>1</sup> See *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059 (2013) (Clark, Comm'r, dissenting in part).

<sup>2</sup> *Southwest Power Pool, Inc.*, 131 FERC ¶ 61,252 (2010) at P 73.

<sup>3</sup> *Id.* at P 78 ("[B]y distinguishing between the types of facilities that are used on a regional and zonal basis, the Highway/Byway Methodology will ensure that allocations of costs are roughly commensurate with associated benefits. [Highway] facilities that are used more regionally will be allocated on a regional basis, and lower voltage facilities that are used more locally will be allocated on a local basis.").

<sup>4</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215, at P 518 (2013). See also *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059 (2013) (Clark, Comm'r, dissenting in part, noting MISO's elimination of regional cost allocation for Baseline Reliability Projects so as to retain a federal ROFR for such projects).

<sup>5</sup> See Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 2.