



July 19, 2012

Commissioner John R. Norris

FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT

Docket Nos.: EL12-69-000, EL12-24-000 & EL12-28-000

Item Nos.: E-13, E-14 & E-15

## Statement of Commissioner John R. Norris on Transmission Complaints

"Each of these three orders, though different with respect to their circumstances, are similar in that they involve transmission developers that took the initiative to propose innovative solutions to transmission needs that would address congestion and/or reliability concerns.

In *Primary Power*, the Commission rejects arguments that PJM improperly designated two incumbent transmission owners instead of non-incumbent Primary Power to construct and own two transmission projects that PJM had determined were needed.

In *Pioneer* and *Xcel*, the Commission rejects arguments from Pioneer and ATC that they are entitled to construct and own in their entirety the transmission projects that they proposed. Our orders find that the MISO Transmission Owner Agreement establishes a right of first refusal that requires the incumbent transmission owners who own the facilities to which the project would interconnect to share equally in the construction and ownership of the project.

Each of these cases resulted in the innovators losing all or part of the projects that they invested time and money to develop. Importantly, these projects would improve the grid for consumers. This situation concerns me because of the potential chilling effect it could have on potential transmission developers pursuing innovative solutions and developing advanced technologies to build a more efficient transmission grid to meet the needs of our nation's energy future.

While the existing regional transmission organization tariffs and agreements prevented a different outcome in these three orders, I believe this issue is important to highlight as we approach the deadline for compliance with Order No. 1000. In Order No. 1000, we sought to support competition and innovation in meeting our energy needs and broader energy goals through the elimination of the federal right of first refusal and the establishment of planning processes that identifies efficient and cost-effective solutions to transmission needs. I remain committed to the elimination of the federal right of first refusal as outlined in Order No. 1000 and believe that we will accomplish that goal by closely monitoring compliance with this Final Rule.

I note that there may also be competition issues beyond what we addressed in Order No. 1000. As the compliance filings in each region are developed and competition is implemented by public utilities, we will have to assess if further action is needed to attract competition and innovative solutions to meet consumer needs and build a more efficient energy system."