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May 16, 2013

Commissioner Philip D. Moeller

STATEMENT

FEDERAL ENERGY REGULATORY COMMISSION

Docket Nos. ER13-193-000 & ER13-196-000

Item No. E-1

Statement of Commissioner Philip D. Moeller on ISO-NE Order No. 1000 Compliance Filing

"Every few years this Commission engages a new generic theory on how rates can become more just and reasonable. Today we are implementing Order No. 1000, and a theory that transmission plans will be better if the planners of the grid can compete for the right to own the projects that they propose. While this theory should be encouraged, we must respect that contracts are the underpinnings of every transaction in this industry, and contracts require certainty in both the near and long term.

"The majority acknowledges that in 2004 the Commission approved the Filing Parties' request to protect certain provisions of the Transmission Owners' Agreement under a Mobile-Sierra public interest finding. However, the majority believes the generic reasoning provided in Order No. 1000 is legally sufficient to make a public interest finding in New England. Unlike the majority, I do not find that the continued effectiveness of these provisions now harms the public interest to such a degree that justifies invalidating them, nor do I find that the majority has made a particularized showing of the manner in which the contract harms the public interest in this region. While Order No. 1000's goal to foster competition in transmission development is both important and appreciated, protecting the sanctity of the contracts is even more paramount.

"Ultimately, like Commissioner Clark, I do not see how severe harm will result from a failure to adopt theories underlying Order No. 1000, as ISO-NE offers just and reasonable rates despite not having already adopted those theories. The failure to adopt certain components of Order No. 1000 does not threaten the solvency of ISO-NE, and consumers are not in danger of extraordinary rate increases. While the public interest should protect these contractual arrangements, it sadly does not in this instance."