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Commissioner Tony Clark

STATEMENT

FEDERAL ENERGY REGULATORY COMMISSION

Docket Nos. ER13-366-000, ER13-367-000, ER13-75-000 & ER13-100-000

Item No. E-2

## Statement of Commissioner Tony Clark on SPP Order No. 1000 Compliance Filing

"I dissent in part today because I am concerned that certain changes mandated by the Commission in this order will not actually lead to a more efficient and cost-effective regional transmission planning process, as intended by the Commission when it adopted the Order No. 1000 reforms. Instead, today's order could work counter to these stated goals by requiring SPP to ignore critical inputs to its transmission planning process and requiring it to redefine local transmission projects based on a bright-line test not suitable for the SPP region.

"In its compliance filing, SPP proposes to retain much of its Commission-approved Integrated Transmission Plan process, as well as its Highway/Byway and Balanced Portfolio cost allocation methods. The most dramatic reforms submitted by SPP pertain to the designation of transmission project developers. To comply with Order No. 1000's requirements to remove a federal right of first refusal, SPP proposes a competitive solicitation process for transmission facilities, referred to as "Competitive Upgrades." SPP also proposes certain exceptions to allow it to forgo its competitive solicitation process, including an exception to acknowledge relevant laws and an exception for local projects. My concern here is that the Commission's decisions with respect to SPP's proposed exceptions will lead to a plan that looks good on paper, but that fails to consider the realities needed to actually build projects and meet the needs of the region.

"In this order, the Commission once again refuses to allow transmission planners to reference the statutory constructs that govern, and sometimes limit, the bounds of transmission planning. As part of its compliance filing, SPP proposes to define a Competitive Upgrade as a transmission facility located where the selection of a transmission owner pursuant to the competitive bidding process does not violate the relevant law where the transmission facility is to be built. However, instead of allowing SPP to incorporate a reference to these laws directly into its planning process, today's order requires SPP to remove its reference and effectively ignore a significant constraint for project development. I disagree with this outcome and believe SPP's proposal should have been accepted as a necessary precursor to a well-informed and efficient transmission planning process.

"In addition, I believe it was premature and overbroad to require as part of Order No. 1000 the elimination of federal rights of first refusal for projects receiving any amount of regional funding. Instead of allowing for regional flexibility during the compliance phase, Order No. 1000 found that any local reliability project that receives any amount of regional funding is no longer local for purposes of removing the federal right of first refusal. As a result, projects that are primarily built to resolve local reliability problems now face a potentially lengthy, litigious bidding process. Today's order places SPP's Byway facilities in this position, even though the Commission just recently found that lower voltage facilities - including Byway facilities - tend to support local power flows. Given no evidence that the physical nature of SPP's transmission system has changed since the Commission characterized these facilities as primarily local, I cannot support the decision in today's order to require SPP to remove its federal right of first refusal for Byway facilities. I would have instead found an exception here for SPP in order to avoid the uncertainty now surrounding SPP's Highway/Byway cost allocation mechanism.

"When viewed in light of other Commission Order No. 1000 compliance decisions, one can see a particularly perverse set of outcomes developing. Indeed, in order to escape the fate now overshadowing SPP's Byway facilities, MISO simply eliminated regional funding for its Baseline Reliability Projects. MISO, with the Commission's blessing, has now



redefined Baseline Reliability Projects as “local,” thereby eliminating a cost allocation methodology that has historically recognized broader regional benefits. The end result: MISO’s Baseline Reliability Projects (i.e., projects with voltage greater than 100 kV) are now classified as local simply to retain a federal right of first refusal, while SPP’s Byway projects (i.e., projects with voltages between 100 kV and 300 kV) are considered regional. I fail to see how this result will produce more efficient and cost-effective transmission planning.

“While it remains to be seen how SPP will respond to today’s decision, I believe the Commission is too rigidly enforcing its previous decisions, without fully appreciating the potential real-world consequences of its actions. SPP has indicated the result may be the undoing of certain regional cost allocation plans, or at least the injection of substantial uncertainty into what were fairly settled cost allocation mechanisms. Given the outsized importance of cost allocation issues in the greater scheme of transmission planning and construction, I cannot help but ask if the Commission has missed the proverbial forest for the trees.

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