



FEDERAL ENERGY REGULATORY COMMISSION

June 17, 2010

Docket No. RM10-23-000

Item No. E-9

Commissioner Marc Spitzer

Statement of Commissioner Spitzer on Transmission Planning and Cost Allocation Notice of Proposed Rulemaking

"Thanks to the team for the helpful summary of today's NOPR. I support this effort and look forward to reviewing the comments filed in response to the Commission's proposal.

I recognize that today's NOPR will generate great interest, so I would like to stress a few points to put today's proposal in context and to illustrate that what this Commission is proposing today is a balanced response to important issues we can no longer avoid.

There is little, if any, dispute among regulators or market participants that this country needs to build more transmission facilities. Transmission is critical to the Commission fulfilling its obligation under the Federal Power Act to ensure that reliable wholesale electric service is provided at just and reasonable rates. More transmission is also necessary for states to achieve their public policy requirements.

But in any serious discussion about transmission, two questions arise again and again: who should plan for the new transmission and who should pay for the transmission facilities. I am now convinced that, until these questions are answered in a fair and reasonable manner, necessary transmission will not be built. There is uncertainty over the development of generation resources. This problem is compounded by uncertainty over who will plan for, and who will pay for, transmission. Today's NOPR proposes a framework for the Commission, with input from our state colleagues and from industry, to address the questions of who will plan and who will pay for transmission. Thus, I see today's proposal as a necessary step to eliminating uncertainty that has impeded the development of transmission.

I am certain that our effort to establish transmission planning and cost allocation rules up front is good thing to do. While I anticipate legitimate differences of opinion on cost allocation, we as a country can no longer be encumbered by piecemeal or facility-by-facility decisions. Developing rules that provide certainty and clarity up front is necessary to foster much needed investment in transmission, which benefits the nation's consumers. That said, although the NOPR proposes *ex ante* principles for transmission providers and planning regions, the NOPR leaves to the regions in the first instance decisions as to the best way to meet these criteria. The NOPR does not advocate a uniform approach nationwide; it allows for regional differences in planning and cost allocation.

Another issue I would like to address is commonly referred to the right of first refusal. Today's NOPR proposes to remove from any FERC-approved tariff or agreement those provisions that give a right of first refusal to the incumbent utility. But I stress that FERC is not proposing to preempt any state or local law or regulation that establishes a right of first refusal. All that FERC is proposing is that no FERC-approved tariff or agreement be the source of undue discrimination. Nothing in the NOPR seeks to change or preempt any state or local laws or regulations. If we are serious about getting transmission built, then FERC should not erect barriers to an entity that demonstrates that it has the financial and technical expertise to construct, own, operate and maintain transmission facilities. The right of first refusal provision in the NOPR only seeks to give a fair shot to all eligible developers as another means to foster much-needed transmission.

Again, I thank the team for their hard work on this NOPR and I look forward to reviewing the comments."

