



March 17, 2011

Commissioner Marc Spitzer

**STATEMENT**

Docket Nos. RM10-17-000 (Order No. 745)

## Statement of Commissioner Marc Spitzer on Market-Based Demand Response Compensation Rule

"I support the Final Rule the Commission issued earlier this week.

I have often observed that government is about the balancing of competing interests. The question of the appropriate compensation for demand response resources in the organized wholesale markets raises a series of complex and competing interests that need to be balanced. Those competing interests include: generation versus demand response resources, demand response participants versus load, uniformity versus recognition of unique regional circumstances, and federal versus state interests. These competing interests interrelate, which adds to the complexity of this proceeding.

As is apparent from the record, this compensation question generates a debate over both theory and practice, on which reasonable minds may differ. To that point, I respect the views of my colleague Commissioner Moeller who does not agree that payment of full locational marginal price (LMP) to demand response resources in the organized wholesale markets is appropriate. However, I believe the result achieved in the Final Rule correctly balances the many competing interests to the ultimate benefit of ratepayers.

I remain sensitive to the concerns of the generators. I continue to support development of energy infrastructure, including supply resources. However, I also support the elimination of barriers so that all resources may compete on a level playing field. I have concluded that the Final Rule balances those objectives.

An important reason for my support for the Final Rule is that it improves upon the Notice of Proposed Rulemaking by requiring compensation of demand response resources at full LMP only when capable of balancing supply and demand and can do so in a cost-effective manner. In determining "cost-effectiveness," the Final Rule recognizes that each RTO/ISO will differ depending on the individual profile of its region. The Final Rule also respects state interests while exercising appropriate authority over the organized wholesale power markets under the Federal Power Act.

There is one particularly challenging aspect of this Final Rule as a matter of law. The regulatory outcome mandated herein precludes other potential outcomes arising from RTO/ISO stakeholder processes. As one who respects regional stakeholder deliberations, this conclusion does not come easily. However, a request we heard from a majority of the commentors in this docket is that the Commission provide regulatory certainty in the Final Rule rather than use the Final Rule to send policy questions back to the stakeholders for further meetings and discussions. Regulatory finality is as important as regional diversity, particularly in a sector as capital intensive as electricity. Moreover, settled law allows for the determination of business and regulatory plans for demand response participants, generators, load serving entities,



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RTO/ISOs, state regulators and consumers, on a predictable and stable basis. This virtue of the Final Rule in my view exceeds any potential limitations it imposes.

I thank the Team and all of my colleagues who devoted so much time and effort to this case.”