



July 21, 2011

Commissioner Marc Spitzer

STATEMENT

Docket Nos. RM10-23-000

Item No. E-6

Statement of Commissioner Marc Spitzer on Transmission Planning and Cost Allocation

Let me add my thanks to the Team for their extraordinary efforts on the Rule. I appreciate their long hours and hard work.

The Commission's statutory mandate is to ensure reliable wholesale electric service is provided at just and reasonable rates. Throughout my tenure at the Commission, I have worked to meet our mission through the metaphor of my oft-cited "three-legged stool" - markets, infrastructure and rule of law. I support the Rule because it meets this standard.

The bulk transmission system is integral to the infrastructure leg of the stool. Under the *status quo*, the only thing certain about transmission planning and cost allocation is uncertainty. Uncertainty is contrary to the rule of law and impairs the financing of capital intensive transmission projects to the detriment of ratepayers. Accordingly, the Commission today adopts up-front process and certainty.

Among other things, the Rule requires that a region's stakeholders come together to determine *ex ante* what they believe are appropriate transmission planning and cost allocation rules. While I recognize there are legitimate differences of opinion on transmission planning and cost allocation, the grid should no longer be plagued by piecemeal, *ad hoc*, facility-by-facility determinations. Rules that provide certainty and clarity up-front on a regional basis will engender much needed investment in transmission, which in turn benefits our nation's consumers.

The Rule also requires that local and regional transmission planning processes consider transmission needs driven by public policy requirements. Moreover, the Rule requires neighboring regions to coordinate the plans they have adopted. I would also observe that the Rule leaves to the stakeholders in the first instance to determine what is best for their region. Today's Rule adopts a framework through which regions, with open participation from all stakeholders, determine what best fits their needs. The Rule does not mandate a uniform approach nationwide. In other words, the Rule does not require interconnection-wide planning or cost allocation. Instead, the Rule allows for regional differences in transmission planning and cost allocation. The Rule provides a sound basis for financial and public support for electricity infrastructure.

With regard to the market leg of the stool, the Rule advances just and reasonable rates through greater participation in the transmission planning process. This is achieved in part through the expansion of the Order No. 890 local planning principles to the regional planning process. Market principles are also advanced by ensuring an opportunity for more transmission projects to be considered in the transmission planning process. The Rule finds that a federal right of first refusal (ROFR) in Commission-jurisdictional tariffs and agreements undermines the potential for more cost-effective or efficient transmission solutions to regional needs, and therefore requires removal of those ROFRs, with certain exceptions. The unleashing



of competitive forces will help ensure just and reasonable rates. The Commission is serious about getting transmission built. FERC-jurisdictional tariffs and agreements should not permit a barrier to entry of an entity that demonstrates that it has the financial and technical expertise to construct, own, operate and maintain transmission facilities. The Commission only seeks to give a fair chance to all eligible developers as another means to support competition to the benefit of ratepayers. I note that the Commission is not preempting any state or local law or regulation that establishes a right of first refusal.

The Notice of Proposed Rulemaking that led to today's Rule received considerable attention from a numerous and broad array of stakeholders. I have learned from and appreciate their comments. We listened, and on certain issues crafted significant departures from the original proposal. However, given the magnitude of this Order and its complexity, I urge all to read the Rule carefully before passing judgment on what we have done today. The Rule strikes the proper balance between competing interests for the ultimate benefit of consumers.

Again, I thank the Team and my personal advisors for their hard work on the Rule.