



FEDERAL ENERGY REGULATORY COMMISSION

May 21, 2009

Docket No. EL09-20-000

Item No. E-33

Commissioner Marc Spitzer

Statement of Commissioner Marc Spitzer on Northeastern Utilities and NSTAR Electric's Petition for Declaratory Order

"I thank the Team for their presentation and for their hard work on this Order granting Applicants' Petition for Declaratory Order.

Today's Order approves the Northeast Utilities and NSTAR proposal to develop a cost-based participant-funded transmission project that includes a long-term bilateral transmission service agreement between the Petitioners and H.Q. Energy Services. Based on the facts of this case, I support this outcome.

I find Petitioners' proposal to be just and reasonable under the specific facts of the case. I will briefly discuss four salient issues:

- With respect to precedent: This is not a merchant transmission project – it is a participant-funded project. This Commission has previously permitted participant funding of transmission facilities with prior rights to use those facilities.
- With respect to rates: Petitioners will charge a cost-based transmission rate. Petitioners will file with this Commission under Section 205 the Transmission Service Agreement and Transmission Operating Agreement, including supporting cost documents, to ensure that the proposed cost-based rate is just and reasonable. Moreover, Petitioners state that they must demonstrate to the appropriate state commissions that the power purchase agreements related to the power carried over the proposed line represents a fair deal for customers in order for the transaction to go forward.
- With respect to planning: The project will be vetted through the ISO New England stakeholder planning process. Petitioners will also have to go to their relevant state commissions on siting matters.
- With respect to control: Ultimate control over the operations of the transmission line will be transferred to ISO New England – the independent system operator.

I have considered the protestors' concerns regarding anti-competitiveness and undue discrimination. I believe this Order does not violate the open access principles articulated in Order Nos. 888 and 890 and is consistent with Commission precedent and policy. For these reasons I support this Order Granting Petition for Declaratory Order."