



# FEDERAL ENERGY REGULATORY COMMISSION

June 17, 2010

**Docket No.** RM10-23-000

**Item No.** E-9

**Commissioner Philip D. Moeller**

## **Statement of Commissioner Moeller on Transmission Planning and Cost Allocation Notice of Proposed Rulemaking**

“As I have repeatedly stressed in my years on this Commission, promoting investment in our nation’s transmission infrastructure has been my top policy priority.<sup>1</sup> Robust electric transmission infrastructure is the ultimate “enabling” energy technology, as it can provide a more efficient electric system, enhanced reliability, increased access to less expensive and often cleaner resources, and the ability to harness location-constrained renewable resources. Conversely, the lack of adequate transmission investments often disproportionately raises consumer rates due to congestion, threatens the reliability of the nation’s bulk power system, and increases reliance on older and dirtier generating resources.

While I am not certain that every policy in this proposed rule will ultimately be adopted, I am certain that building needed transmission lines is often the lowest-cost way to improve the delivery of electricity service. Although the Commission could have addressed regional cost allocation several years ago when it first became apparent that the organized markets were not reaching consensus on the issue, that wait is over and the Commission is now considering specific proposals to resolve cost allocation.

Given that the U.S. Congress is examining cost allocation at this time, our issuance of this proposed rule comes at a potentially sensitive time. While Congress is now considering several measures that deal directly with issues addressed in this proposed rule, I expect that this Commission will defer to the legislative branch as we move forward in our deliberations. This proposed rule, and the comments to follow, will provide the Congress with the framework of the issues that we consider relevant and the opportunity for Congress to provide further guidance to us. Thus, our action today is not intended to interfere with that process, but rather to add helpful information and evidence that will be useful in the formation of federal legislation.

Also controversial will be the question of whether incumbent utilities should retain rights of first refusal that were created under the Commission’s jurisdiction. Alas, the question of whether transmission developers can compete on par with an incumbent transmission-owning utility is no longer theoretical. In recent cases, the Commission has been confronted with particular situations where competitors could be discouraged (or altogether blocked) from building a transmission project if the incumbent utility retains the right of first refusal.<sup>2</sup> While initial rulings have been rendered in these cases, the generic issue is ready for further discussion in this rulemaking.

Resolving controversial issues is rarely easy and I expect today’s proposed rule to be both lauded and criticized. The changes proposed here are significant, but the future success of the organized markets and the nation’s electric transmission system depend on resolving these long-debated and controversial issues.

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<sup>1</sup> *NSTAR Elec. Co.*, 125 FERC ¶ 61,313 (2008) (Moeller, Comm’r, dissenting in part) (“... the Commission should do what it can to encourage capital investment in needed transmission infrastructure projects.”); *Commonwealth Edison Co. and Commonwealth Edison Co. of Indiana*, 125 FERC ¶ 61,250 (2008) (Moeller, Comm’r, dissenting) (“... now is not the time for this Commission to discourage investment in needed transmission infrastructure.”); *New York Indep. Sys. Operator, Inc.*, 129 FERC ¶ 61,045 (2009) (Moeller, Comm’r, dissenting) (“The main issue here is whether needed transmission is being built ... I have encouraged investment in transmission infrastructure ...”); *Southern California Edison Co.*, 129 FERC ¶ 61,013 (2009) (Moeller, Comm’r, dissenting in part) (“The transmission that is needed in this nation will not be built unless the companies that build it can attract adequate investment dollars.”)

<sup>2</sup> *Primary Power, LLC*, 131 FERC ¶ 61,015 (2010) (reh’g pending) and *Cent. Transmission, LLC v. PJM Interconnection L.L.C.*, 131 FERC ¶ 61,243 (2010).



# STATEMENT

Staff's efforts here have resulted in a proposal that will lead to a much needed conversation on how to best encourage needed capital investment. This will not be an easy matter to address when it comes before the Commission for a vote on the final rule, and for that reason this Commission should carefully consider the comments that we will receive. I will do my part to ensure that this Commission does not lose sight of the ultimate goal: a final rule that results in needed capital investment.