

**Comments by**  
**Richard S. Mroz**  
*President, New Jersey Board of Public Utilities*  
**FERC Technical Conference**  
*June 27, 2016*

When I took up the position of President of the NJBPU in 2014, I pulled out the statutes to review our authority – and my responsibilities. Since then I have spoken about the role of state utility regulators to audiences in my state. I took a step back to review this role as much to reinforce to audiences – including those we regulate - that I understood the role I was assuming - as well to remind myself of the obligations.

We need to ensure the financial viability, to ensure safety and soundness, ensure reliable service, and ensure that rates are just and reasonable. We need to balance these interests which often come from inconsistent requests or demands of the companies we regulate and ratepayers – especially while we put demands on the industry for increasing levels of reliability or security or convenience. Nevertheless, we must balance these in our work – and if for no reason other than when these decisions are made – and it impacts bills – it is most likely that I (like counterparts on state commissions) are the first people to get the calls from ratepayers – or the elected officials that represent those ratepayers. So, at the end of any regulatory process I need to have a level of confidence that the costs of any initiative is “appropriate” aka “just and reasonable”.

Coming from a state with a deregulated marketplace, I have limited oversight of transmission development. I believe, however, that my need to be vigilant is no less important in the efforts whether for planning functions that remain for us in deregulated states – for transmission or areas like generation. But regarding transmission – as we discuss today – there is a need to have confidence that decisions around the planning, scoping, engineering, procurement and delivery of such projects are all made with a consideration around cost – regardless of who regulates.

While I will not refer today to any particular project or matter – I can tell you that my opinions are formed by specific matters or projects. I can tell you that I am concerned that issues of cost are not sufficiently focused upon – whether in the planning, scoping, engineering, procurement or delivery

While many who are following this issue will refer to the “cost containment “– I feel that label describes a tactic or procedure. It does not sufficiently describe the perspective that I believe needs to prevail. For us all – whether state or federal regulators – or developers or the RTOs that administer the process – there needs to be a sense of “cost consciousness”

All of us in our respective responsibilities should be considering if cost has been taken into account during the various steps in the process; whether in the planning or the procurement or construction. For me then I can be assured that the cost impact – the rate impact – is indeed appropriate when I get those calls.

This Commission has specifically asked how RTOs can improve processes for evaluating cost containment provisions. I have worked professionally for years in and around complex projects – both in the public and private sectors – with construction, engineering, and development companies and interests so I present some suggestions:

- 1) RFPs need to be specific and need to be informed with costs estimates - not rely on “office estimates” that may understate the complexity and/or cost of the project.
- 2) The Scope of Work should be drafted in a manner that invites responses with engineering AND permitting detail and cost calculations that allow for meaningful comparisons.
- 3) If the Scope of Work must provide for significant latitude to determine the scope of the project THEN the Selection Criteria should be drafted to state how the cost (and thus rate impact ) of competing proposals is evaluated.

- 4) Also the Scope of Work or Selection Criteria should be drafted to convey how other costs (i.e. environmental impact mitigation) of competing proposals will be evaluated.
- 5) A possible approach to a broadly stated RFP is a two-step process - where the RTO requests design plans or specific technical proposals — that include siting, interconnection, and permitting details.
- 6) Then a second phase would be a selection among the proposals, inviting opportunity for the filing of exceptions and then a final determination about the project design.
- 7) Practically, if the RTO does not have the procurement, construction management or other necessary expertise on staff – THEN the RTO should:
  - a) Have an independent third party construction engineering consulting firm advising - whether on contract or as an “extension of staff”.
  - b) If conflicts limit the RTO’s ability to hire consulting firms, an alternative is to pursue the two step process discussed above to engage the bidders to propose the solutions and use the exceptions process to aid the RTO evaluation of the best project design - including cost evaluation.
- 8) Firm cost control provisions are a must - and competitively offered projects should have all components and total project cost stated in bid and capped.
- 9) If exemptions are granted - they should be clearly stated and narrowly drawn to not undermine the policy objective of securing cost effective transmission development projects through competition.
- 10) Projects should also offer out to the capital markets for the lowest cost financing (e.g., via an RFP) and make such results transparent and use the actually-acquired financing cost as the basis for FERC’s regulatory determination of the allowed rate of return for ratemaking purposes.
- 11) Verification and confirmation and “monitoring” of the costs should be a part of the process, because ultimately these costs are borne by the customer.

By adopting an overall perspective of “cost consciousness” everyone will have greater confidence in the end result – and you and I as regulators and have confidence that ratepayers receive the benefits the Commission aimed to provide in Order 1000.