



**Federal Energy Regulatory Commission
February 15, 2007
Open Commission Meeting
Statement of
Commissioner Marc Spitzer**

**Item E-1: Preventing Undue Discrimination and Preference in
Transmission Service (RM05-17-000, RM05-25-000)**

"A decade ago the Commission implemented the open access transmission tariff rule, known as Order No. 888, to ensure non-discriminatory transmission service over the nation's bulk power grid. Order No. 888 produced many positive outcomes. But changes to energy markets since 1996 have compelled changes to the OATT. Under Chairman Kelliher's leadership the Commission tackled the arduous and complex process of reforming the open access tariff.

The OATT reform initiative (Order No. 890) required a careful balancing of competing interests – the policy and Congressional mandate for competitive generation's access to the grid against the transmission owners' obligation to serve native load, also codified in statute. The FERC staff and industry commentators worked tirelessly on the details and the Commission crafted Order No. 890.

In non-organized markets, high voltage transmission is arguably a natural monopoly. It is, therefore, an "unnatural" economic construct for a transmission owner to be compelled to open up a valuable asset to its competitors. Order No. 888 was the first step in surmounting that hurdle and I believe that Order No. 890 will further foster competitive wholesale markets for electricity generation without unduly burdening transmission owners.

I address three significant areas in which I believe Order No. 890 will be a success:

I. INFRASTRUCTURE AND RELIABILITY

American consumers place a high value on the reliable delivery of electricity. Yet, net investment in transmission has declined in real terms over the past twenty years. Moreover, the transmission siting process is difficult because opponents of new transmission projects typically argue the absence of need. Public opinion will not be swayed to support the need for new transmission to achieve grid reliability until infrastructure proponents can legitimately assert that the existing transmission infrastructure is being used with maximum efficiency. Indeed, open access is impossible without a robust grid. Order No. 890 changes the OATT in a manner that will ensure maximum efficiency of the existing transmission grid.

Second, the regional planning provisions of Order No. 890 will promote a public dialogue that I am hopeful will result in new transmission investment where it is needed. In the West, for example, regional planning processes have identified constraints, determined appropriate transmission corridors and galvanized the public and decision-makers to address the reliability, economic and environmental imperatives of transmission projects. The open planning required by Order No. 890 will be a highly valuable and therapeutic sunshine process that will ultimately spur the development of needed transmission. I believe that regional planning will be used to bring new parties to the table, low income consumer groups most notably, to argue for the economic and environmental benefits of access to new sources of generation.

II. COMPETITION

Order No. 888 succeeded in bringing new, competitively-priced power alternatives to American consumers. Organized markets (RTOs, ISOs, ICTs) have flourished, and competition has emerged in non-RTO regions as well. EAct 2005 affirmed the Congressional mandate for wholesale competition. The Commission was granted new tools to police competitive markets and to root out and to prevent manipulative practices. Order No. 890 enhances the pro-competitive effects of the OATT in a number of material respects including standardization in the computation of Available Transfer Capability and new rules for redispatch and conditional firm service.

III. ENVIRONMENT

Since the enactment of PURPA in 1978, Congress has consistently recognized the former monopoly regime for power supply did not, to say the least, benefit the environment. The transmission grid must deliver to the wholesale markets:

- A. Thermal generation that burns cleaner burning fossil fuel;
- B. Renewable resources; and
- C. Appropriate and adequate valuation of demand response.

I believe that Order No. 890 is the most pro-environment and pro-renewable energy order ever issued by the FERC. OATT reform substantially enhances the access of intermittent renewable resources, most notably wind generation but also large scale solar resources, to the transmission grid. Adequate transmission has been a barrier to delivery of remote renewable generation reaching load. Order No. 890 removes a major impediment to wind developers' financing and construction of major projects.

Many states have recently adopted renewable portfolio standards, including my home state of Arizona. The Commission recognizes the Federal government should partner with the states, particularly where our respective jurisdictions intersect at the wholesale and retail markets. Opening up new and/or existing transmission to renewable resources favors environmental and competitive Federal and State policies, and in this regard, Order No. 890 is a major step forward.

In conclusion, I am grateful to my predecessors on this Commission, my colleagues, and the patient and tireless efforts of Commission staff in achieving OATT reform. I proudly support FERC Order No. 890."