



**Federal Energy Regulatory Commission  
June 21, 2007  
Open Commission Meeting  
Statement of  
Commissioner Marc Spitzer**

**Item E-1: Market-Based Rates for Wholesale Sales of Electric Energy,  
Capacity and Ancillary Services by Public Utilities (Docket No. RM04-7-000)**

"For many years this Commission has struggled with the appropriate standard to evaluate whether a public utility can exercise market power with regard to its wholesale sales. This rule, in conjunction with other actions we have taken in the past year, will ensure that market-based rates charged by public utilities are just and reasonable and that the wholesale energy markets will remain competitive.

We had to make some difficult decisions in the Final Rule. However, given our ultimate duty of ensuring that utilities charge just and reasonable rates, I believe that the balances achieved in the Final Rule are the correct ones.

I am particularly pleased that we are now actually issuing this rule. The industry has been operating under an interim market power test and has been awaiting a decision for several years. Having read the rule and other related papers, I understand and appreciate why we needed to take the time that we did. However, I think we all agree that the industry, including consumers, will benefit from our action today because we are now providing regulatory certainty as to how market power filings will be reviewed and processed. Although the Final Rule does not make drastic changes to the interim measures we have followed over the past few years, we are providing more certainty with respect to our requirements, and that benefits industry, consumers and energy markets.

Finally, I'd like to thank staff for their hard work and persistence over the past few years. Each of their contributions has made this Final Rule a better product.

For these reasons, I support the Final Rule."