



September 16, 2014

Commissioner Philip D. Moeller

**STATEMENT**

## Statement of Commissioner Philip D. Moeller on FERC's Lack of Action in Docket No. ER14-1409-000

"While a tariff filing rarely takes effect without an order by the Commission, such a result will happen when a four-member panel finds itself deadlocked. However, notwithstanding the Commission's lack of action on ISO-NE's filing, two colleagues have recorded an objection in this docket. In light of the FCA 8 results being accepted by operation of law, here too are my thoughts on this matter.

"According to ISO-NE, FCA 8 was a non-competitive auction resulting from an abrupt change in the supply and demand balance of forward capacity in New England. As described in ISO-NE's filing, nearly 3,000 MW of capacity, including 1,535 MW from the Brayton Point station, submitted Non-Price Retirement Requests in the fall of 2013, after the qualification deadline closed for new resources seeking to participate in FCA 8. Anticipating a situation where the auction would have insufficient competition (as the amount of capacity offered from all existing resources at the start of the auction was less than the net installed capacity requirement), ISO-NE announced that various administrative price rules would be applied to this auction.

"My colleagues claim that ISO-NE has not carried its burden of establishing that the FCA 8 results are just and reasonable, but I disagree. Although the auction may have lacked sufficient competition due to a large number of retirements, I find that ISO-NE properly conducted FCA 8 in accordance with its Tariff and its independent market monitor and auctioneer both took actions, consistent with the Tariff, to mitigate the possibility for pivotal suppliers to exercise market power or set the capacity price. Based upon my review of the resulting rates, I find them to be just and reasonable.

"While we can all agree that the auction resulted in high capacity prices, my objecting colleagues raise a valid point, that is, can an auction process that has previously been found to be just and reasonable produce results that are not just and reasonable? While such circumstances are not common, the answer is most certainly yes. However, in this case, while the prices resulting from FCA 8 were much higher than in prior auctions, the existence of very tight supply and demand fundamentals are primarily responsible for the FCA 8 results.

"Higher prices obviously merit more scrutiny from this Commission, and I have reviewed these prices more extensively than any prior auction. While markets do not always result in a low price, they will establish the best price to enable a matching of supply and demand. Accordingly, if I had the opportunity to vote on an order in this proceeding, I would have voted to find that the auction resulted in just and reasonable rates."