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FEDERAL ENERGY REGULATORY COMMISSION

2013 REPORT ON ENFORCEMENT

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Prepared by the Staff of the

Office of Enforcement
Federal Energy Regulatory Commission
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The matters presented in this staff report do not necessarily represent the views of the Federal Energy Regulatory Commission, its Chairman, or individual Commissioners, and are not binding on the Commission.

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INTRODUCTION

The staff of the Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) is issuing this report as directed by the Commission in its Revised Policy Statement on Enforcement.[1] This report informs the public and the regulated community of Enforcement's activities during Fiscal Year 2013 (FY2013),[2] including an overview of, and statistics reflecting, the activities of the four divisions within Enforcement: Division of Investigations (DOI), Division of Audits and Accounting (DAA), Division of Energy Market Oversight (Market Oversight), and Division of Analytics and Surveillance (DAS).

Enforcement recognizes the importance of informing the public of the activities of Enforcement staff and prepares this report with that objective in mind. Because much of the investigative work of Enforcement is non-public, most of the information the public receives about investigations comes from public Commission orders approving settlements, orders to show cause, publicly released staff reports, and notices of alleged violations. However, not all of Enforcement's activities result in public actions by the Commission. As in previous years, the FY2013 report provides the public with more information regarding the nature of non-public Enforcement activities, such as self reported violations and investigations that are closed without any public enforcement action. This report also highlights Enforcement's work auditing jurisdictional companies, compiling and monitoring data from forms and reports submitted to the Commission by market participants, and performing surveillance and analysis of conduct in wholesale natural gas and electric markets.

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[1] *Enforcement of Statutes, Regulations and Orders*, 123 FERC ¶ 61,156, at P 12 (2008) (Revised Policy Statement). A current Enforcement organizational chart is attached as Appendix A to this report.

[2] The Commission's fiscal year begins October 1 and ends September 30 of the following year. FY2013, the subject of this report, began on October 1, 2012 and ended on September 30, 2013.

OFFICE OF ENFORCEMENT PRIORITIES

The Commission's Strategic Plan announced its mission of assisting consumers in obtaining reliable, efficient, and sustainable energy services at a reasonable cost through appropriate regulatory and market means.[3] The Strategic Plan identifies two primary goals in order to fulfill this mission: (1) ensuring that rates, terms, and conditions of jurisdictional services are just, reasonable, and not unduly discriminatory or preferential; and (2) promoting the development of a safe, reliable, and efficient energy infrastructure that serves the public interest. To further those goals, Enforcement's four divisions gather information about market behavior, market participants, and market rules to assist the Commission in its obligation to oversee regulated markets. The divisions will continue to work to bring entities into compliance with applicable statutes, Commission rules, orders, regulations, and tariff provisions.

Enforcement has selected priorities for its four divisions. In FY2013, Enforcement continued to focus on matters involving:

- Fraud and market manipulation;
- Serious violations of the Reliability Standards;
- Anticompetitive conduct; and
- Conduct that threatens the transparency of regulated markets.

Enforcement does not intend to change these priorities in FY2014. Conduct involving fraud and market manipulation poses a significant threat to the markets overseen by the Commission. Such intentional misconduct undermines the Commission's goal of providing efficient energy services at a reasonable cost because the losses imposed by fraud and manipulation are ultimately passed on to consumers. Similarly, anticompetitive conduct and conduct that threatens market transparency undermine confidence in the energy markets and harm consumers and competitors. Such conduct might also involve the violation of rules designed to limit market power or to ensure the efficient operation of regulated markets. Enforcement focuses its efforts on preventing and remedying misconduct involving the greatest harm to the public, where there may be significant gain to the violator or loss to the victims of the misconduct.

The Reliability Standards established by the Electric Reliability Organization and approved by the Commission protect the public interest by requiring a reliable and secure bulk power system. This office enforces these standards and focuses primarily on violations resulting in actual harm, through the loss of load or other means. Enforcement also focuses on cases involving repeat violations of the Reliability Standards or violations that present a substantial risk to the bulk power system. In addition, the office enforces safety and environmental standards established by the Commission in order to promote the development of a safe, reliable, and efficient energy infrastructure with an emphasis on cases involving actual harm or a high risk of harm.

Enforcement continued its commitment to these priorities in FY2013. DOI staff opened 24 new investigations while bringing 29 to closure with no action, a settlement, or a formal enforcement proceeding. Enforcement's settlements in FY2013 included the largest civil penalty

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[3] The Federal Energy Regulatory Commission, The Strategic Plan (Oct. 2009 (updated Feb. 2012)), *available at* http://www.ferc.gov/about/strat-docs/FY-09-14-strat-plan-print.pdf.

the Commission has assessed to date. During FY2013, staff obtained a total of over $304 million in civil penalties and disgorgement of almost $141 million in unjust profits.

Staff from DAA reviewed the conduct of regulated entities through 29 financial, compliance, and performance audits of public utilities, natural gas pipelines, and gas storage companies. DAA's audits resulted in 360 recommendations for corrective action and directed refunds totaling more than $15.4 million.

Market Oversight continued its analysis of market fundamentals, including significant trends and developments, market structure and operations to identify market anomalies, inadequate or flawed market rules, and potentially improper behavior by market participants. As in prior years, Market Oversight presented its annual State of the Markets report, assessing significant events of the previous year. In addition, Market Oversight continued ensuring compliance with the Commission's filing requirements for Electric Quarterly Reports (EQR) and various Commission financial forms.

Finally, in FY2013, DAS reviewed numerous instances of potential misconduct and referred matters to DOI for investigation. The Commission also issued a final rule and a Notice of Inquiry in FY2013 that greatly enhance DAS's ability to conduct surveillance of the natural gas and electric markets and to analyze individual market participant behavior.

DIVISION OF INVESTIGATIONS

A. Overview

The Division of Investigations (DOI) conducts public and non-public investigations of possible violations of the statutes, regulations, rules, orders, and tariffs administered by the Commission. Investigations may begin from self reports, tips, calls to the Enforcement Hotline, referrals from organized markets or their monitoring units, other agencies, other divisions in Enforcement, other offices within the Commission, or as a result of other investigations. During most investigations, DOI staff coordinates with other divisions in Enforcement and subject matter experts in other Commission offices. Where staff finds violations of sufficient seriousness, staff reports its findings to the Commission and attempts to settle the investigation for appropriate sanctions and future compliance improvements before recommending that the Commission initiate a public show cause proceeding.[4]

The Commission continues to increase the transparency of Enforcement activities and promote consistency in Enforcement actions. In FY2013, the Director of Enforcement directed the Secretary to issue 12 notices of alleged violations. The notices involved alleged violations of the Commission's prohibition of market manipulation, tariffs, regulations, and Reliability Standards. The notices identified the subject of the investigation and the alleged violations with a concise description of the alleged wrongful conduct.[5]

In FY2013, DOI continued to focus on the enforcement of the Reliability Standards. Through Enforcement's investigations, with the assistance of technical expertise from the Office of Electric Reliability (OER) and in conjunction with the investigative efforts of the North American Electric Reliability Corporation (NERC), the Commission addressed and resolved findings of numerous Reliability Standards violations.[6]

Notably, during this fiscal year the Commission approved its largest settlement to date, resolving an investigation into significant violations of the Commission's anti-manipulation rule and its rule barring the provision of inaccurate and misleading information to Regional Transmission Organizations and Independent System Operators (RTOs/ISOs). The settlement included, among other remedies, $410 million in combined civil penalties and disgorgement of unjust profits. In addition, based on Enforcement's investigation and report of its findings to the Commission, the Commission ordered Barclays Bank PLC to disgorge $34.9 million in unjust profits and to pay, with certain of its traders, more than $450 million in civil penalties.

The work of DOI in FY2013 included obtaining multiple settlements resolving investigations concerning manipulative conduct, submission of inaccurate and misleading information, violations of the Standards of Conduct for Transmission Providers, violations of the Reliability

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[4] For a discussion of the processes by which Enforcement staff conducts and concludes investigations, *see* Revised Policy Statement, *supra* note 1.

[5] *See* Appendix C to this report for a complete listing of the notices of alleged violations that Enforcement issued in FY2013.

[6] In prior years, Enforcement has played a central role in facilitating Commission review of Notices of Penalty filed by NERC, which reflect the activity by the eight Regional Entities enforcing the Reliability Standards. In March 2013, OER took full leadership of the Commission's internal process of review, and Enforcement remains involved in reviewing Notices of Penalty only on an as-needed basis.

Standards, violations of Open Access Transmission Tariff (OATT) provisions, violations of rules and regulations related to Market-Based Rate authority, violations of hydropower license provisions, and violations of the Commission's natural gas open access policies. In addition to investigation-related work, DOI continued its rigorous analysis of self reports, Enforcement Hotline calls, referrals, and other matters within the Commission. DOI staff continues to provide guidance and assistance as requested by other program offices on advisory matters.

B. Significant Matters

1. JP Morgan Ventures Energy Corporation (JPMVEC)

On July 30, 2013, the Commission approved a settlement between Enforcement and JPMVEC resolving an investigation of JPMVEC's bidding practices.[7] The investigation arose from referrals by the Market Monitoring Units of the California Independent System Operator Corporation (CAISO) and the Midcontinent (formerly Midwest) Independent System Operator, Inc. (MISO).

Enforcement's investigation focused on JPMVEC's bidding strategies during the course of almost two years. Enforcement determined that JPMVEC violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2, by engaging in twelve manipulative bidding schemes in CAISO and MISO. These schemes distorted a well-functioning market in several ways, including but not limited to, misleading CAISO and MISO into paying JPMVEC at rates far above market prices; submitting bids that were expected to, and did, lose money at market rates, as they were not driven by the market forces of supply and demand; defrauding the ISOs by obtaining payments for benefits that JPMVEC did not deliver; and displacing other generation and influencing energy and congestion prices.

JPMVEC admitted the facts set forth in the agreement, but neither admitted nor denied the violations. Pursuant to the agreement, JPMVEC paid $285 million in civil penalties, $124 million in disgorgement to CAISO ratepayers, and $1 million in disgorgement to MISO. In addition, the company agreed to waive its claims that CAISO owed it money from two of the strategies that staff had investigated, and to conduct a comprehensive external assessment of its policies and practices in the power business.

2. Barclays Bank, PLC, Daniel Brin, Scott Connelly, Karen Levine, and Ryan Smith (Barclays and Traders)

On October 31, 2012, the Commission issued an order to show cause and notice of proposed penalty to Barclays and Traders. The Commission's order alleged that Barclays and Traders engaged in loss-generating trading of next-day, fixed-price physical electricity on the Intercontinental Exchange with the intent to benefit financial swap positions at primary electricity trading points in the western United States. On July 16, 2013, the Commission determined that this conduct by Barclays and Traders violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2, and assessed civil penalties of $435 million against Barclays and $18 million against the Traders.[8] The Commission also ordered Barclays to disgorge $34.9 million plus interest in unjust profits. Barclays and Traders elected to challenge the penalty in

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[7] *In Re Make-Whole Payments and Related Bidding Strategies*, 144 FERC ¶ 61,068 (2013) (order approving stipulation and consent agreement).

[8] *Barclays Bank PLC, Daniel Brin, Scott Connelly, Karen Levine, and Ryan Smith*, 144 FERC ¶ 61,041 (2013) (order assessing civil penalties).

federal district court, and Enforcement filed an action to affirm the Commission's assessment in the United States District Court for the Eastern District of California on October 9, 2013.

3. ISO-NE Day-Ahead Load Response Program (DALRP)

Based on an Enforcement investigation of Rumford Paper Company (Rumford), Lincoln Paper and Tissue LLC (Lincoln), Competitive Energy Services, LLC (CES), and Richard Silkman (the CES managing partner), the Commission in July 2012 issued each subject an order to show cause alleging that their conduct related to the DALRP in the ISO New England market (ISO-NE) violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2. As discussed below, Enforcement and Rumford settled the allegations against the company, which the Commission approved in March 2013.[9] On August 29, 2013, the Commission issued Orders Assessing Civil Penalties to Lincoln, CES, and Silkman,[10] finding that the subjects fraudulently inflated load baselines and repeatedly offered load reductions at the minimum offer price in order to maintain the inflated baseline. Enforcement found that the scheme involved uneconomic energy purchases that served no legitimate purpose and were designed to increase DALRP payments that would not have otherwise been obtained. The Commission determined that this scheme misled ISO-NE, inducing payments to these entities based on the inflated baselines for load reductions that never occurred.

Should the subjects not pay the amounts due, Enforcement will file a petition in federal district court on behalf of the Commission seeking affirmation of the penalty.

4. BP America, Inc. and Affiliates (BP)

On August 5, 2013, the Commission issued an order to show cause to multiple BP entities alleging violations of the Commission's anti-manipulation rule, 18 C.F.R. § 1c.1. In the order, the Commission questions certain trading by BP of next-day, fixed-price natural gas at the Houston Ship Channel that Enforcement found to be uneconomic and part of a manipulative scheme to increase the value of BP's financial position based on Houston Ship Channel natural gas prices. The order proposes that BP pay a civil penalty of $28 million and disgorge $800,000 in unjust profits.

BP filed its answer on October 4, 2013, denying that it committed any violation. BP has asked the Commission to dismiss the proceeding, or in the alternative set it for a full evidentiary hearing before an Administrative Law Judge to address the contested issues of material fact.

5. Deutsche Bank Energy Trading, LLC (Deutsche Bank)

On January 22, 2013, the Commission approved a settlement between Enforcement and Deutsche Bank resolving an order to show cause proceeding arising from an Enforcement investigation.[11] Enforcement investigated Deutsche Bank's trading in the CAISO markets at the Silver Peak intertie for the period January 29, 2010 through March 24, 2010 upon referral by the Market Monitoring Unit of CAISO.

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[9] *Rumford Paper Co.*, 142 FERC ¶ 61,218 (2013) (order approving stipulation and consent agreement).

[10] *Lincoln Paper and Tissue, LLC*, 144 FERC ¶ 61,162 (2013) (order assessing civil penalty); *Competitive Energy Services, LLC*, 144 FERC ¶ 61,163 (2013) (order assessing civil penalty); *Richard Silkman*, 144 FERC ¶ 61,164 (2013) (order assessing civil penalty).

[11] *Deutsche Bank Energy Trading, LLC*, 142 FERC ¶ 61,056 (2013) (order approving stipulation and consent agreement).

In the agreement, Deutsche Bank stipulated that it held financial Congestion Revenue Rights (CRRs) at Silver Peak and that, after a derate at Silver Peak caused that position to lose value, Deutsche Bank initiated a physical export strategy that raised prices at the intertie and caused its CRR position to gain value. To facilitate this strategy, Deutsche Bank designated most of its physical exports as wheeling-through transactions even though it did not have a resource or a load outside CAISO and therefore was not in fact wheeling power.

Enforcement concluded that Deutsche Bank violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2, through cross-product manipulation in which it traded physical exports at Silver Peak that were not profitable with the intent to benefit its CRR position. Enforcement also determined that Deutsche Bank's false designation of its physical trades as wheeling-through transactions violated the Commission's regulation requiring accurate communications to RTOs/ISOs, 18 C.F.R. § 35.41(b). Based on these conclusions, the Commission ordered Deutsche Bank to show cause why it should not be subject to a penalty assessment. After submitting its brief in response to the Commission's order to show cause, Deutsche Bank agreed to settle the allegations with Enforcement for $1.5 million in civil penalties and $172,645 in disgorgement. In the settlement, Deutsche Bank did not admit or deny the allegations, and agreed to submit to compliance monitoring for at least one year.

6. Constellation Energy Commodities Group (CCG) Post-Settlement Proceeding

In FY2013, Enforcement staff participated in a proceeding before a Commission Administrative Law Judge to determine appropriate distribution of disgorged funds arising from a settlement between Enforcement and CCG that was approved by the Commission in FY2012.[12] Pursuant to the settlement, based on Enforcement's findings of violations of the Commission's anti-manipulation rule and requirement of accurate communications to the Commission, CCG paid $110 million in disgorgement and $135 million in civil penalties. Of the disgorgement, $104 million was deposited into a fund for electric energy consumers in the affected states of the New York Independent System Operator (NYISO), ISO-NE, and PJM Interconnection (PJM) markets. The remaining $6 million was divided equally among the six RTOs/ISOs – NYISO, ISO-NE, PJM, MISO, Southwest Power Pool (SPP), and CAISO – for the purpose of enhancing their respective surveillance and analytic capabilities.

Deputy Chief Administrative Law Judge Bobbie McCartney, assigned to preside over the disbursement of these monies, directed the eligible state agencies within the NYISO, ISO-NE, and PJM footprints to file proposed allocation and distribution methodologies for their footprint's portion of the disgorgement fund. After these plans were approved by the Judge, disbursement of the funds to each state began in November 2012 and the final disbursement was made in June 2013. On May 22, 2013, Judge McCartney issued a final report to the Commission describing the final disposition of the disgorgement fund.[13] Regarding the $6 million distribution to the RTOs/ISOs, each of them has consulted with Enforcement and selected projects that will make use of the funds.

7. Brian Hunter

On March 15, 2013, the United States Court of Appeals for the District of Columbia Circuit issued its decision on the appeal of Brian Hunter, who sought to overturn the Commission's 2011

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[12] *Constellation Energy Commodities Group, Inc.*, 138 FERC ¶ 61,168 (2012) (order approving stipulation and consent agreement).

[13] *Constellation Energy Commodities Group, Inc.*, 143 FERC ¶ 63,008 (2013) (final report).

order assessing the former Amaranth Advisors L.L.C. trader a civil penalty of $30 million.[14] After the Commission denied rehearing in November 2011 of its order finding that Hunter violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.1, Hunter appealed the order and penalty to the D.C. Circuit. The Court granted the petition for review, overturning the Commission's 2011 orders regarding Hunter, on the ground that the conduct at issue fell within the exclusive jurisdiction of the Commodity Futures Trading Commission.[15]

8. Quntum Energy, LLC

On July 23, 2013, the United States Court of Appeals for the District of Columbia Circuit affirmed the Commission's 2011 order finding that Moussa I. Kourouma violated 18 C.F.R. § 35.41(b) and assessing a civil penalty of $50,000. The Commission's order followed a non-public investigation of Kourouma's submission of misleading information to the Commission and an RTO/ISO concerning ownership of his company, Quntum Energy, LLC. The D.C. Circuit rejected all challenges to the Commission's order and penalty assessment that Kourouma raised on appeal, and upheld the Commission's position that intent is not required for a violation of 18 C.F.R. § 35.41(b). The Court also determined that the Commission acted reasonably by considering Kourouma's financial condition when assessing the penalty and offering a five-year payment schedule for the penalty.

C. Settlements

In FY2013, the Commission approved settlement agreements between Enforcement and 17 separate subjects to resolve pending investigations. The Commission also approved an additional two settlements with Deutsche Bank Energy Trading, LLC and Rumford Paper Company to resolve pending proceedings on orders to show cause. The settlements assessed a total of over $304 million in civil penalties and disgorgement of almost $141 million plus interest.[16]

Since 2010, when the Revised Penalty Guidelines[17] were issued, almost every Commission-approved settlement guided by the Penalty Guidelines has fallen within the Penalty Guidelines' established range. An organization's civil penalty can vary significantly depending on the amount of market harm caused by the violation, the amount of unjust profits, an organization's efforts to remedy the violation, and other culpability factors, such as senior-level involvement, prior history of violations, compliance programs, self reporting of the violation, and cooperation with Enforcement's investigation. For example, under the Penalty Guidelines, an organization's culpability score can be reduced via favorable culpability factors to zero, lowering the base penalty by up to 95 percent.[18] Because a number of factors can influence the civil penalty in each case, the amount of disgorgement of unjust profits (if any) often does not have a direct relationship to the amount of the civil penalty.

In FY2013, the Commission approved settlement agreements that resolved Open Access Transmission Tariff violations by three entities, violations of the Reliability Standards by three

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[14] *Brian Hunter*, 130 FERC ¶ 63,004 (2010) (Initial Decision), *reh'g denied*, 137 FERC ¶ 61,146 (2011).

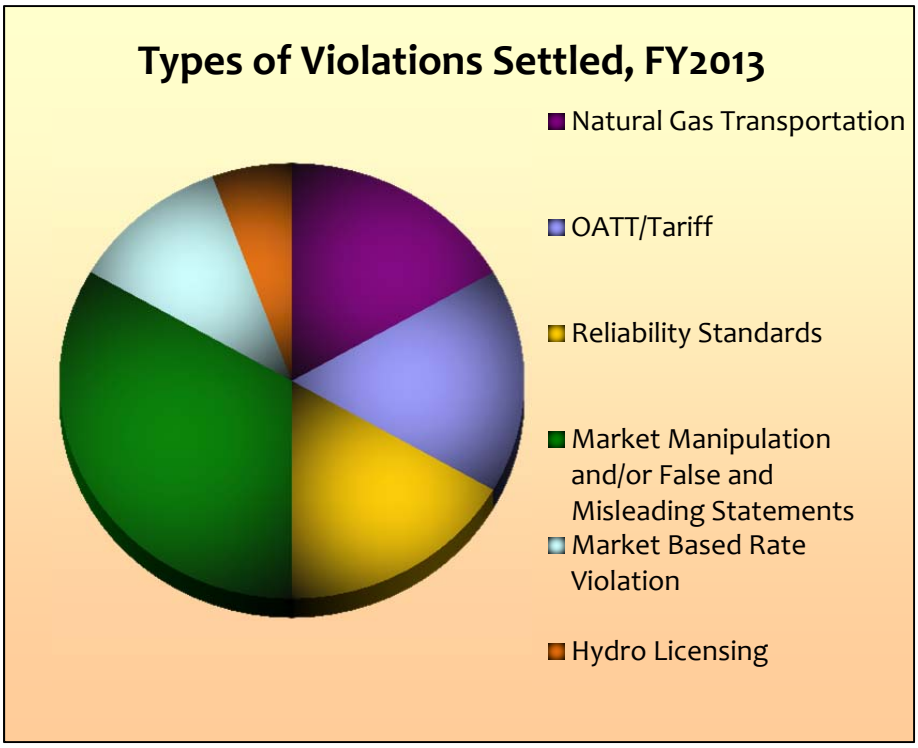
[15] *Hunter v. FERC*, 711 F.3d 155 (D.C. Cir. 2013).

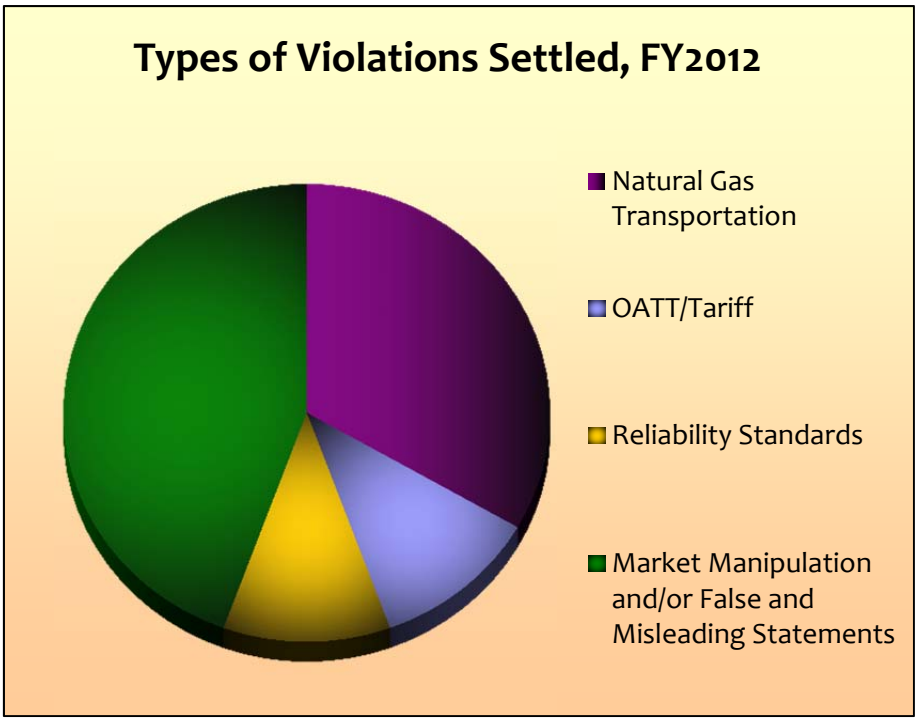
[16] A table of FY2013 Civil Penalty Enforcement Actions, both those resolved through settlement and those resolved through agency proceedings, is attached to this report as Appendix B.

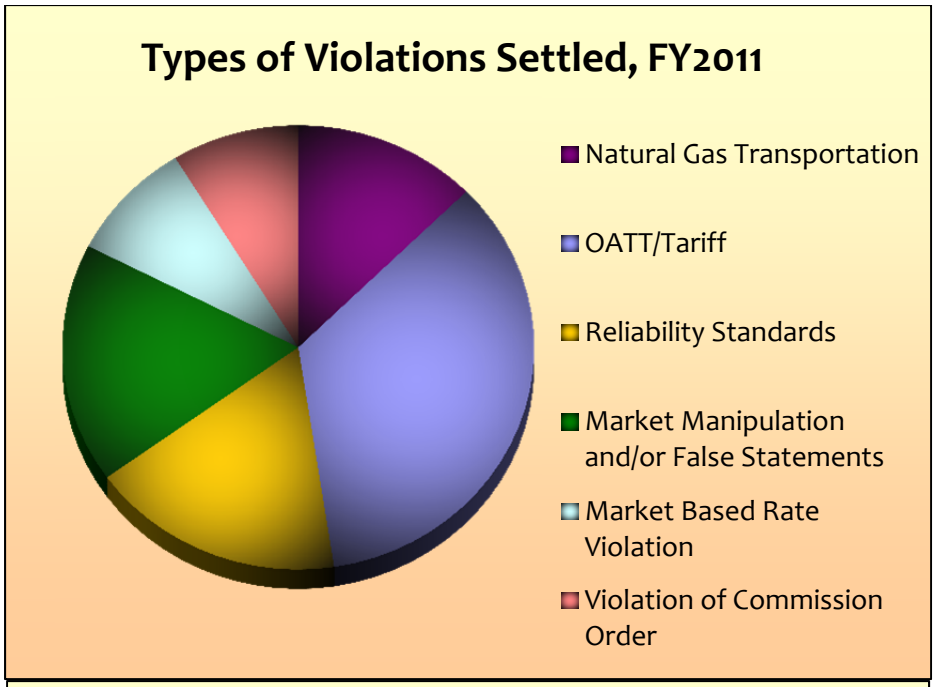
[17] *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216 (2010) (Revised Penalty Guidelines).

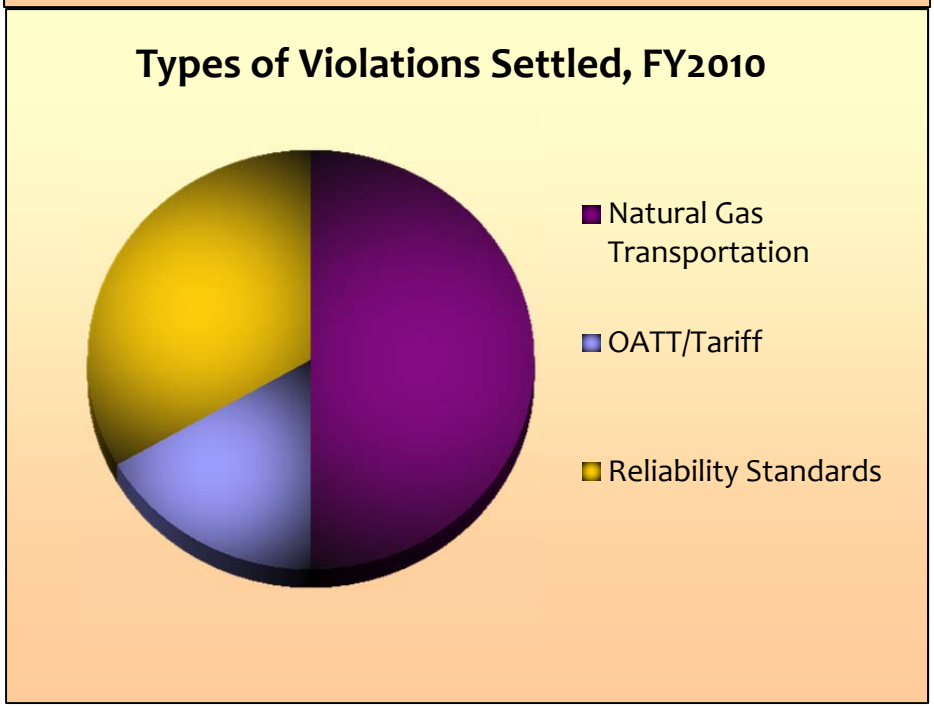
[18] Revised Penalty Guidelines, 132 FERC ¶ 61,216 at P109.

entities, violations of natural gas open access transportation rules by four entities, violations of regulations related to Market-Based Rate (MBR) authority by two entities, violations of hydropower license provisions by one entity, and violations of the Commission's regulations prohibiting manipulation in natural gas and electric markets by six entities.









A number of FY2013 settlement agreements are summarized below:

Gila River Power, LLC (Gila River). On November 19, 2012, the Commission approved a settlement in which Gila River admitted that it violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2, by improperly using wheeling-through transactions to engage in cross-product manipulation.[19] Enforcement found that Gila River traded energy exports (purchases) with the

[19] *Gila River Power, LLC*, 141 FERC ¶ 61,136 (2012) (order approving stipulation and consent agreement).

intent to benefit its imports sourced from the Gila River plant and imported (sold) at the same point. Gila River also admitted that its false designation of its physical trades as wheeling-through transactions violated the Commission's truth and accuracy regulation, 18 C.F.R. § 35.41(b). Gila River agreed to pay $2.5 million in civil penalties, to disgorge $911,553 in unjust profits, and to be subject to compliance monitoring.

California Independent System Operator Corporation (CAISO). On December 14, 2012, the Commission approved a settlement resolving Enforcement's investigation related to CAISO's load shedding in the San Diego area on March 31 and April 1, 2010.[20] In the agreement, CAISO admitted violating four requirements of the Reliability Standards plus one local requirement that 25% of load in the San Diego Gas & Electric (SDG&E) footprint be served by generation internal to the area. CAISO admitted that it violated two Reliability Standards related to training, PER-002-0, Requirements R1 and R3.1; and also two related to operational planning, TOP-002-2a, Requirements R1 and R6. CAISO agreed to pay $200,000 in civil penalties, to incorporate the 25% requirement into its market software, to increase planning for and training about the 25% requirement, and to submit to compliance monitoring.

EnerNOC, Inc. and Celerity Energy Partners LLC (EnerNOC and Celerity). On December 17, 2012, the Commission approved a settlement in which EnerNOC, and its wholly-owned subsidiary, Celerity, agreed to pay civil penalties and disgorge unjust profits to resolve violations of the ISO-NE tariff, Commission regulations, and its Market-Based Rate tariff.[21] Enforcement found that EnerNOC failed to exercise adequate due diligence and resolve significant data quality issues for five assets it registered as demand response, thereby inducing overpayments from the ISO and violating the due diligence requirement in the ISO's tariff. Enforcement concluded that Celerity violated 18 C.F.R. §§ 35.7, 35.7(a)(1), and its Market-Based Rate tariff, when it failed to file its updated market power analysis, its Category I seller classification request, and its baseline tariff. EnerNOC and Celerity neither admitted nor denied the violations, but paid a civil penalty of $820,000, and $656,806 in disgorgement of unjust profits. They also agreed to develop a comprehensive compliance program and to submit to compliance monitoring.

Westar Energy, Inc. (Westar). On January 25, 2013, the Commission approved a settlement between Enforcement and Westar concerning an investigation of whether Westar violated § 28.6 of the SPP OATT by using secondary network integrated transmission service for the purchase of electricity to facilitate off-system sales.[22] Section 28.6 prohibits the use of secondary network transmission service for purposes other than to serve network load. Westar neither admitted nor denied violating the SPP OATT, but agreed to pay a $420,000 civil penalty, to disgorge $758,816 to its non-affiliated firm transmission customers, to disgorge $395,020 to SPP, and to submit compliance monitoring reports.

In re PJM Up-To Congestion Transactions. On February 1, 2013, the Commission approved a settlement resolving Enforcement's investigations in which Enforcement concluded that the trading of Up-To Congestion transactions in the PJM Interconnection by Oceanside Power, LLC

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[20] *In re Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,209 (2012) (order approving stipulation and consent agreement).

[21] *EnerNOC Inc. and Celerity Energy Partners San Diego LLC*, 141 FERC ¶ 61,211 (2012) (order approving stipulation and consent agreement).

[22] *In re Westar Energy, Inc.*, 142 FERC ¶ 61,066 (2013) (order approving stipulation and consent agreement).

(Oceanside) and its principal trader, Robert Scavo, violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2.[23] Scavo scheduled Up-To Congestion transactions that were intended to eliminate profits and losses from price differentials in the market; he could thereby schedule large amounts of these transactions and their associated transmission reservations, which made them eligible to receive a pro-rata distribution of the surplus line loss charges that PJM collects through the marginal calculation of line losses (the MLSA). Enforcement found that these trades were not legitimate market transactions arbitraging price differentials in the market and resulting in net losses before receipt of the MLSA. Instead, the trades served as a means to artificially inflate Oceanside's share of the MLSA and thereby pay Oceanside based on trading volume. Oceanside and Scavo neither admitted nor denied the violations. Oceanside agreed to pay $29,563 in disgorgement and $51,000 in civil penalties. In addition, Oceanside agreed to require all of its personnel to attend compliance training and Scavo agreed not to trade in Commission-regulated electric markets, or in products or instruments that are based on the price of electricity, for one year.

Rumford Paper Company (Rumford). On March 22, 2013, the Commission approved a settlement resolving Enforcement's findings that Rumford had engaged in fraud in ISO-NE's DALRP.[24] Enforcement found that Rumford inflated its load baseline and then repeatedly offered load reductions at the minimum offer price in order to maintain the inflated baseline; through this scheme, Rumford misled ISO-NE to pay it, based on its inflated baseline, for load reductions that never occurred. The order to show cause alleged that this conduct violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2. To resolve the pending proceeding, Rumford neither admitted nor denied committing the violation, but agreed to pay a civil penalty of $10 million, to disgorge $2,836,419.08, and to implement new compliance measures.

Entergy Services, Inc. (Entergy). On March 28, 2013, the Commission approved a settlement between Enforcement and Entergy involving numerous violations of Reliability Standards.[25] Enforcement's DAA discovered reliability concerns during an audit and referred them to DOI for further examination. Enforcement determined that Entergy violated 27 Requirements of 15 Reliability Standards related to (1) protection system maintenance; (2) facility ratings; (3) system modeling; (4) operator qualification; and (5) communications systems. Entergy neither admitted nor denied the violations, but paid a civil penalty of $975,000. Entergy also committed to significant reliability mitigation and compliance measures and agreed to submit to compliance monitoring.

Seneca Falls Power Corporation (SFPC). On April 23, 2013, the Commission approved a settlement in which SFPC agreed to pay a civil penalty and invest in project improvements to resolve longstanding violations of its hydropower license.[26] In a compliance order, the Commission referred SFPC to Enforcement for an investigation of its failure to abide by certain license requirements. Enforcement determined that SFPC violated its license by failing to obtain adequate property rights, to monitor wetlands, to construct fish passages, to construct a recreational facility, and to properly monitor or maintain lake-level elevations. Pursuant to the

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[23] *In re PJM Up-To Congestion Transactions*, 142 FERC ¶ 61,088 (2013) (order approving stipulation and consent agreement).

[24] *Rumford Paper Co.*, 142 FERC ¶ 61,218 (2013) (order approving stipulation and consent agreement).

[25] *Entergy Services, Inc.*, 142 FERC ¶ 61,241 (2013) (order approving stipulation and consent agreement).

[26] *Seneca Falls Power Corp.*, 143 FERC ¶ 61,063 (2013) (order approving stipulation and consent agreement).

settlement, SFPC must pay a civil penalty of $150,000, undertake $300,000 in project improvements, and submit to compliance monitoring.

Enerwise Global Technologies, Inc. (Enerwise). On June 7, 2013, the Commission approved a settlement resolving findings that Enerwise violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2, and a provision of the RTO tariff for PJM concerning demand response.[27] In its investigation, Enforcement determined that Enerwise registered its customer, the Maryland Stadium Authority (MSA), for a load reduction amount it knew MSA could not reliably achieve; it then instructed the MSA to artificially increase its electric load prior to an August 2009 test event in order to demonstrate a larger load reduction. Enforcement also found that Enerwise took actions to misrepresent to PJM the functionality of MSA's back-up generators during the August 2009 test event. Enerwise neither admitted nor denied the violations, agreed to pay a civil penalty of $780,000, to pay disgorgement of $20,726 plus interest of unjust profits, and to invest $500,000 in technology improvements. In addition, Enerwise agreed to submit to compliance monitoring.

Southwest Power Pool, Inc. (SPP). On July 10, 2013, the Commission approved a settlement in which Enforcement staff of the Commission and NERC settled findings that SPP, in its capacity as Reliability Coordinator, had violated certain Reliability Standards.[28] The Commission and NERC learned, through a 2008 audit of SPP, that in late 2007 SPP lost visibility at its primary control center as a result of activity on its communications network involving a firewall configuration change. In the settlement, SPP neither admitted nor denied that it violated Reliability Standard IRO-015-1, Requirement R1 and Reliability Standard EOP-004-1, Requirement R3. The settlement resolved findings that SPP did not follow its own emergency procedures and notify neighboring Reliability Coordinators when it had need to switch to its alternate control center; and that SPP did not notify NERC in the wake of the event that it lost partial use of its control center. SPP agreed to several compliance measures and monitoring, and paid a $50,000 civil penalty to NERC and the United States Treasury.

Enterprise Texas Pipeline LLC (Enterprise Texas). On August 26, 2013, the Commission approved a settlement between Enforcement and Enterprise Texas resolving an investigation arising from a self report.[29] In September 2012, Enterprise Texas reported that it had been charging shippers an unauthorized Title Transfer Tracking (TTT) fee without posting the fee in its Statement of Operating Conditions (SOC) filed with the Commission. Enforcement determined that this conduct violated NGPA § 311 and 18 C.F.R. § 284.123, and that Enterprise Texas improperly collected over $7 million in TTT fees over almost 8 years. In settling the matter, Enterprise Texas neither admitted nor denied violations of NGPA § 311 or the Commission's regulations, but agreed to pay $315,000 in a civil penalty and to improve its compliance procedures with respect to its NGPA § 311 business. Enterprise Texas also refunded its customers over $7 million plus interest.

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[27] *Enerwise Global Technologies, Inc.*, 143 FERC ¶ 61,218 (2013) (order approving stipulation and consent agreement).

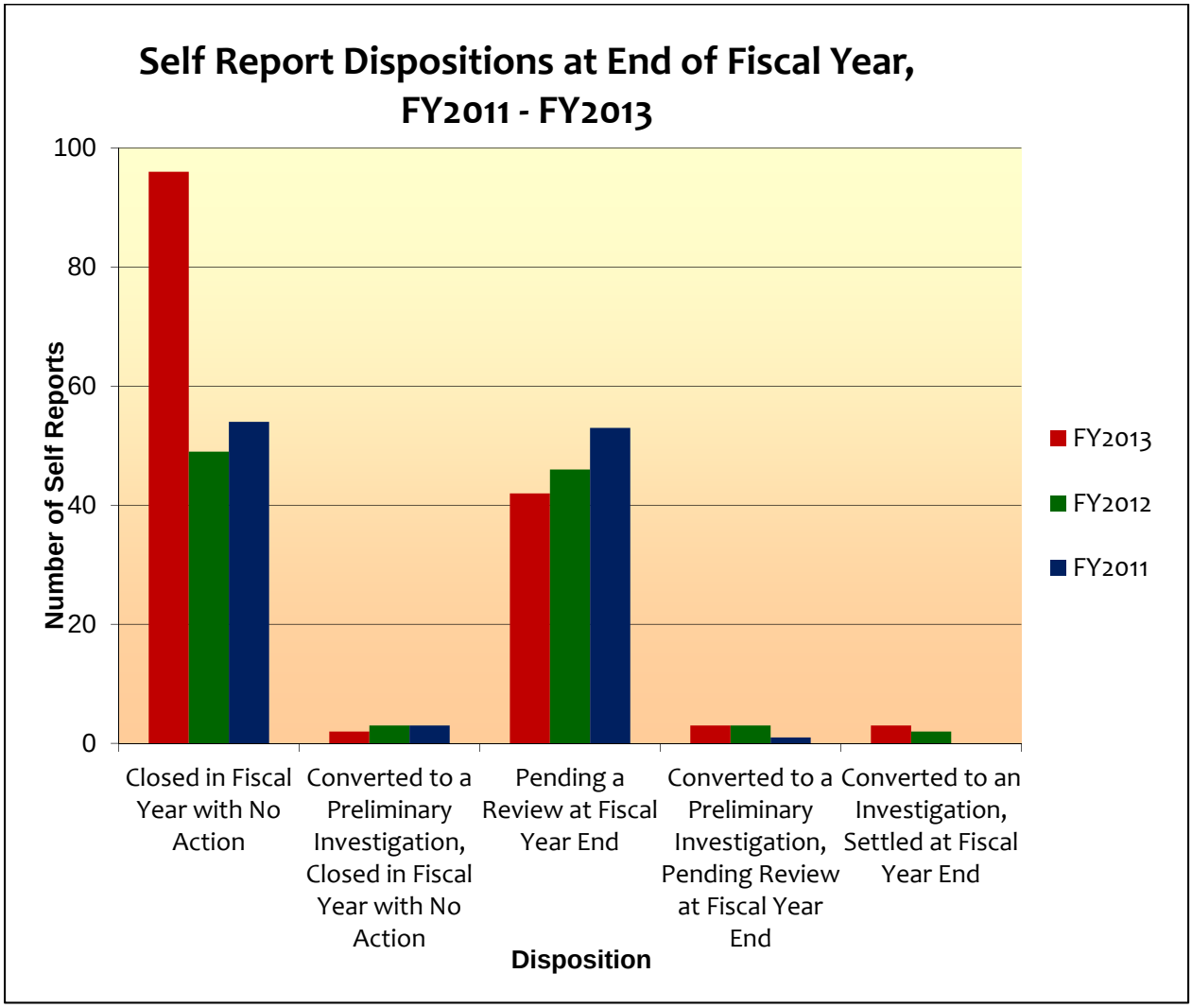
[28] *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,019 (2013) (order approving stipulation and consent agreement).

[29] *Enterprise Texas Pipeline LLC*, 144 FERC ¶ 61,156 (2013) (order approving stipulation and consent agreement).

D. Self Reports

From issuance of the first Policy Statement on Enforcement in 2005[30] through the end of FY2013, staff has received a total of 594 self reports. Of those, 496 have been reviewed and closed without action; 60 have been converted to an investigation.

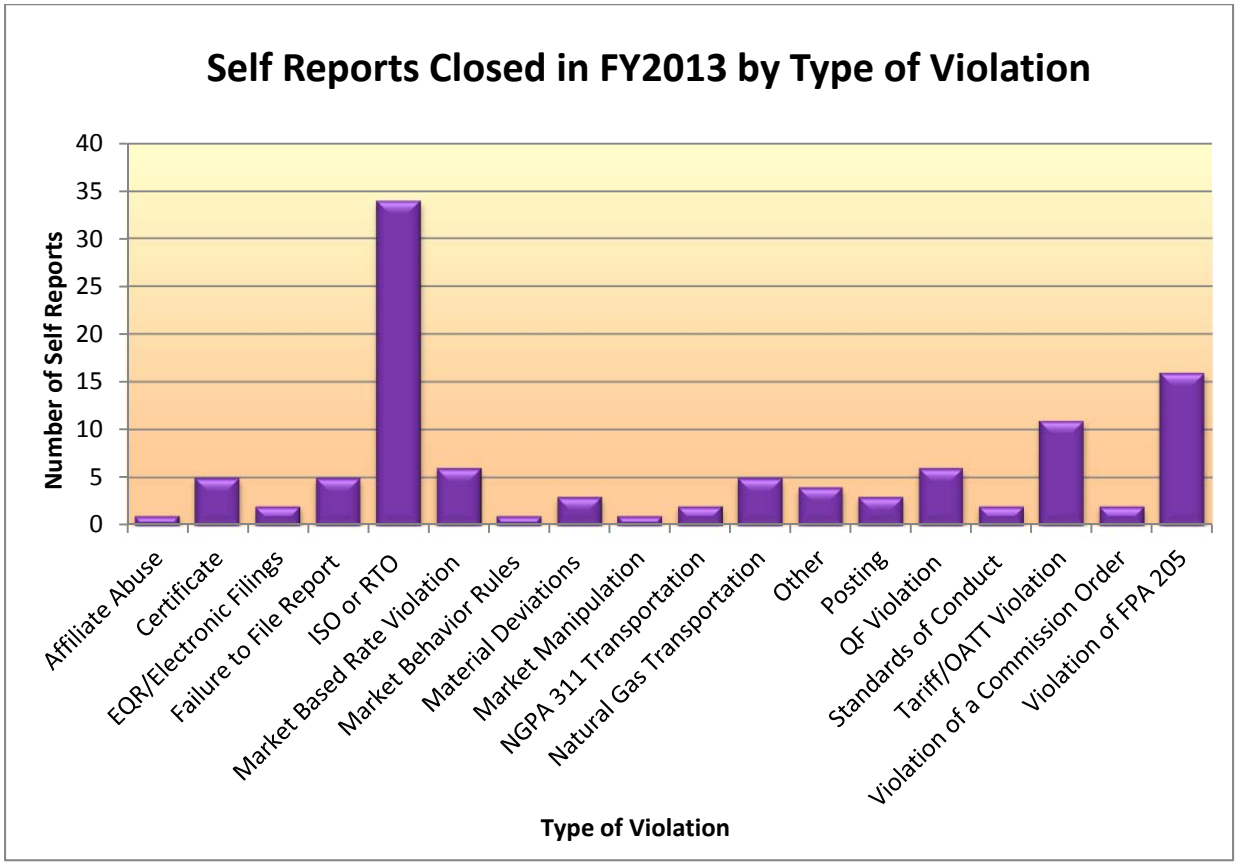
In FY2013, staff received 75 new self reports. Staff closed 94 self reports, including some pending from fiscal years 2012 and 2011. As of the end of FY2013, 42 self reports received in this and prior fiscal years remained pending. Staff received self reports from a variety of market participants, including power marketers, electric utilities, natural gas companies, and RTO/ISOs. The Penalty Guidelines emphasize the importance of self reporting, providing credit that significantly mitigates a penalty when a self report is made.[31] Staff continues to encourage the submission of self reports and views self reports as evidence of a company's commitment to compliance.

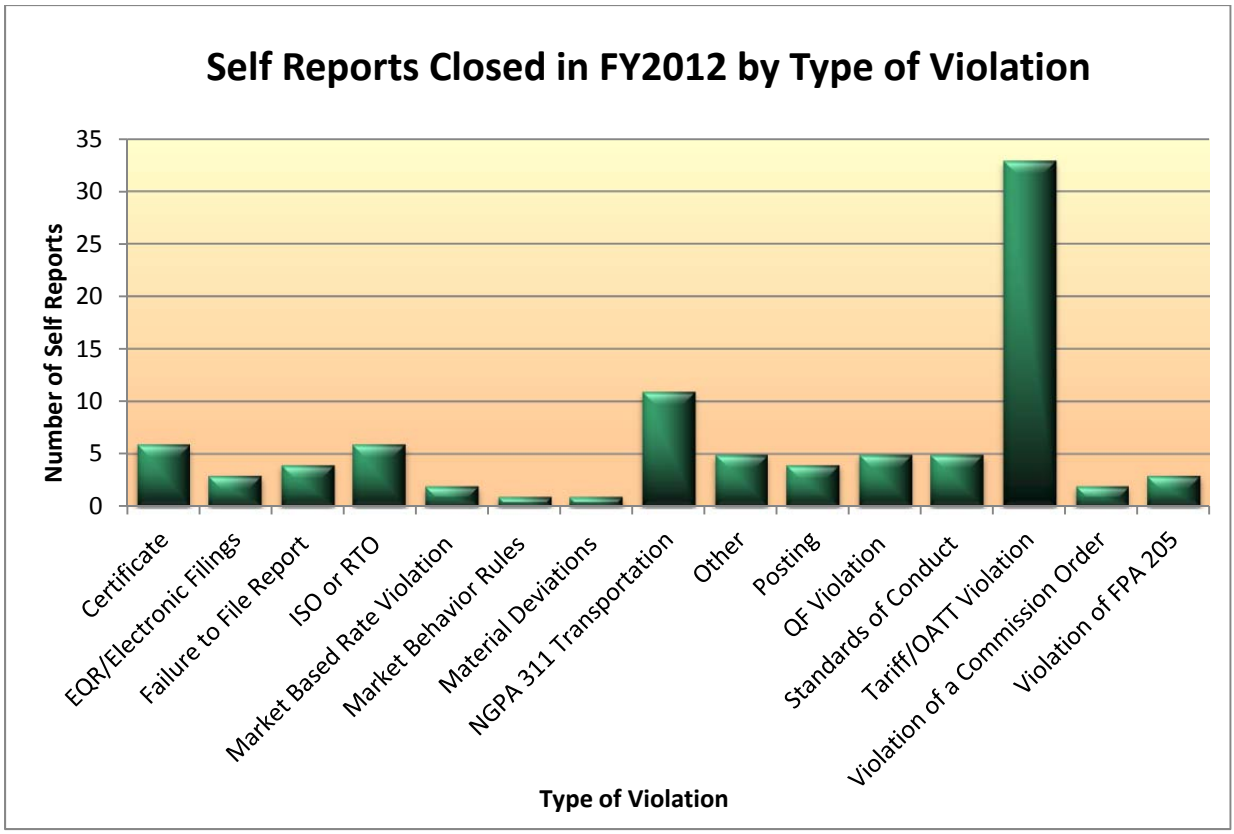


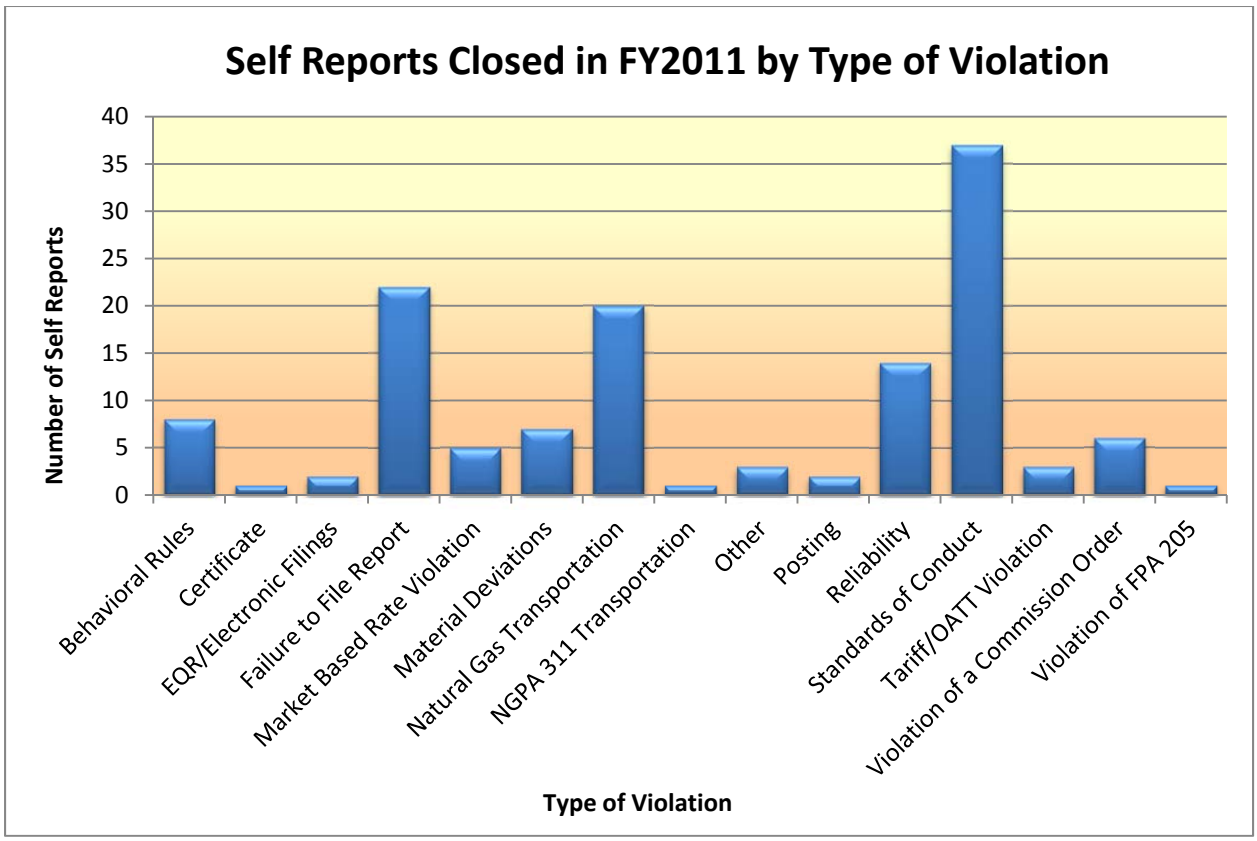
[30] *Enforcement of Statutes, Regulations and Orders*, 113 FERC ¶ 61,068 (2005) (2005 Policy Statement).

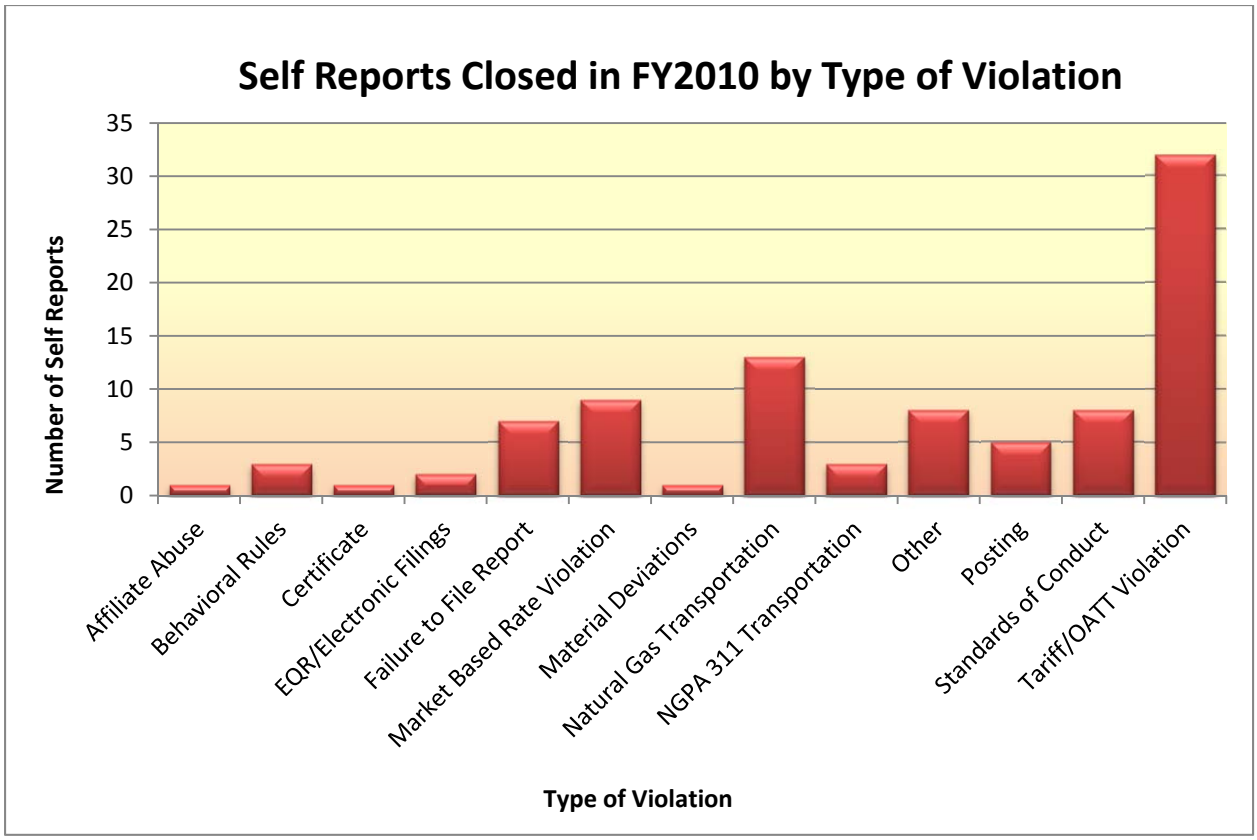
[31] *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216, at P 127 (2010).

The following charts depict the types of violations for which staff received self reports from FY2010 through FY2013. In FY2013, RTO/ISO violations accounted for a significant portion of self reports received.




Self Reports Closed in FY2012 by Type of Violation
Number of Self Reports
35
30
25
20
15
10
5
0
Certificate
EQR/Electronic Filings
Failure to File Report
ISO or RTO
Market Based Rate Violation
Market Behavior Rules
Material Deviations
NGPA 311 Transportation
Other
Posting
QF Violation
Standards of Conduct
Tariff/OATT Violation
Violation of a Commission Order
Violation of FPA 205
Type of Violation


Self Reports Closed in FY2011 by Type of Violation
Number of Self Reports
40
35
30
25
20
15
10
5
0
Behavioral Rules
Certificate
EQR/Electronic Filings
Failure to File Report
Market Based Rate Violation
Material Deviations
Natural Gas Transportation
NGPA 311 Transportation
Other
Posting
Reliability
Standards of Conduct
Tariff/OATT Violation
Violation of a Commission Order
Violation of FPA 205
Type of Violation



Illustrative Self Reports Closed with No Action

In a continuing effort to promote transparency while encouraging the compliance efforts of regulated entities, Enforcement presents the following illustrations summarizing some of the self reports that DOI staff closed in FY2013 upon review and without conversion to investigation. These summaries are intended to provide guidance to the public and to regulated entities as to why staff chose not to pursue an investigation or enforcement action, while preserving the non-public nature of the self reports.

Tariff/OATT Violation. A company's scheduling agent failed to report a generator's availability to an RTO/ISO immediately after a scheduled outage, instead reporting its availability two days later but "backdating" the availability date pursuant to instructions to do so from the RTO/ISO. Staff closed this self report without action because neither the generator nor its agent had an incentive to fail to notify of the generator's availability; the late reporting caused no market harm; the backdating was at the behest of the RTO/ISO; and the company and agent subsequently implemented a three-part communication protocol to avoid such miscommunications in the future.

Tariff/OATT Violation. A demand response provider self reported that it provided inaccurate data for a demand response asset, due to an inaccurate meter data conversion factor that it discovered after checking its meter data against historical utility data for the asset. The provider flagged the asset as a data quality issue, which had resulted in lower payments to both the demand response provider and the asset for four years, and it was excluded from the RTO/ISO's market. The data error did not cause overpayments or other harm to the market, and the self

report represented an ongoing and improving compliance effort. Staff therefore closed the self report with no action.

Tariff/OATT Violation. Throughout a four-year period, a transmission provider failed multiple times to impose, as required by its OATT, an operational penalty for the unreserved use of its transmission system and to distribute the transmission charges and penalty amounts collected to those providing imbalance services. The transmission provider discovered the error and corrected it by charging for the transmission used and distributing the imbalance charges, with interest, pursuant to the tariff formula. The transmission provider did not collect the tariff-imposed penalty amounts associated with these transactions, and funded the difference to the extent the imbalance payments were based on the collection of transmission charges plus penalties. The entity also implemented mechanisms to prevent the problem from occurring in the future. The failure to assess the charges and penalties hurt market transparency in that customers were not alerted to issues with their scheduling practices that may have caused them to adjust their behavior, and those providing imbalance service were not fully and timely compensated. Staff closed this matter without action, however, based on the transmission provider's discovery and self reporting of the omission, remedial measures that corrected the market harm, implementation of compliance measures to prevent recurrence, and willingness to absorb the more than $100,000 in tariff penalties it inadvertently failed to assess.

Tariff/OATT Violations. A company that owned multiple generation units inadvertently undermined the accuracy of certain cost-based offers it submitted on behalf of several of the units that it owned, and as a result received overpayments on those units until the errors were discovered and corrected. The inaccurate cost-based offers resulted from submitted costs containing one of the following errors: (1) improperly-high variable maintenance costs; (2) double-counting of sulfur oxide emissions costs; or (3) improper inclusion of carbon dioxide and nitrogen oxides emissions costs. The company reported the improper cost-based offers immediately upon discovery and corrected the submissions to the RTO/ISO. The errors, which arose from data entry mistakes, pre-dated the company's ownership of the units and were discovered during a comprehensive regulatory compliance review of the acquisitions. The company offered to make complete refunds to the market of the overpayments it received, and worked with the RTO/ISO and its Market Monitoring Unit to determine the amount of the refunds and the appropriate recipients. Staff determined that because the company found these errors while conducting a review of its tariff compliance, promptly self reported and arranged to refund the overpayments, and created mechanisms to reduce the potential for future data entry errors, the matter had been appropriately resolved and could be closed with no further enforcement action.

RTO/ISO Violation. An RTO/ISO violated its tariff when an employee inadvertently sent an email containing confidential market participant information to a different, but similarly-named, market participant. The RTO/ISO employee responsible immediately realized the error and promptly requested that the recipient delete the email without reviewing the data. The RTO/ISO confirmed to staff that the recipient deleted the email, and that the single market participant could not have used the confidential information for its own advantage or to otherwise cause market harm.

Standards of Conduct Violation. A natural gas pipeline self reported that erroneous programming of its web-based information system resulted in the disclosure of non-public transmission function information, in violation of 18 C.F.R. § 358.2(c). For a period of two months, storage customers who logged into the pipeline's secure webpage were able to access information concerning the current gas storage balances of all other customers. After an

affiliated marketing function employee notified the pipeline of the error, the pipeline immediately disabled the storage balance function, corrected the underlying programming error within one hour, and made an informational posting consistent with the requirements of 18 C.F.R. § 358.7(a)(2). The disclosure presented little or no benefit to the pipeline or its marketing affiliate and did not create market harm for its customers. The pipeline and its marketing affiliate's rigorous Standards of Conduct training resulted in quick reporting, mitigation, and curative posting of the error; thus, staff closed the self report with no further action.

Statutory Violation. An electric cooperative self reported that it incurred debt with terms inconsistent with the authorization it received from the Commission pursuant to § 204 of the Federal Power Act (FPA). Although the electric cooperative had periodically filed for and obtained Commission authorization for the terms of the debt it assumed, as required by the FPA, it discovered during a regulatory compliance review that 19 of its notes had maturation periods or interest rates above the caps imposed by the Commission's current § 204 authorization for the cooperative. Staff closed the self report with no enforcement action because the electric cooperative self reported and promptly filed an application to revise its § 204 authorizations to remedy the discrepancies, which the Commission later granted. In addition, the conduct did not cause harm to the market and the electric cooperative implemented compliance procedures to prevent similar violations from occurring in the future.

Statutory Violation. A public utility holding company discovered during an internal review that it had inadvertently failed to timely file several jurisdictional contracts between its public utility subsidiaries and Qualifying Facilities (QFs), as required by section 205 of the FPA. Because the company promptly self reported the violations and made the necessary curative filings with the Commission, there was no evidence of undue preference or harm to the market or customers as a result of the failure to make the filings, and the company implemented procedures to enhance its compliance processes going forward, staff closed the matter with no action.

Statutory Violation. A pipeline began construction on an extension after the Department of Interior's Bureau of Safety and Environmental Enforcement (BSEE) approved the line but before the Commission had acted on the pipeline's pending application for a certificate of public convenience and necessity under § 7 of the Natural Gas Act. The pipeline confirmed that the mistake was discovered within approximately 48 hours of commencing construction, which it in turn halted as quickly as safely possible. The pipeline filed its self report about 24 hours after construction ceased, and soon thereafter updated the docket in which it sought its certificate with an acknowledgement of its mistake. The Commission subsequently issued the certificate, and the pipeline provided staff with written documentation confirming that it had updated its procedures to reduce the likelihood of a similar mistake in the future. Staff closed this matter without action based on the Commission's order, the rapidity with which this issue was identified and addressed, as well as the lack of harm to any other entity.

Affiliate Restrictions Violation. An electric public utility holding company self reported that two of its subsidiaries may have violated the Commission's independent functioning requirement of the Affiliate Restrictions set forth in 18 C.F.R. § 35.39(c) of the Commission's regulations, which requires that employees who work on behalf of a franchised public utility with captive customers operate separately to the maximum extent practicable from the employees who work on behalf of the market-regulated power sales affiliate. One employee performed certain regulatory and legislative activities for the franchised public utility on a part-time basis, while also performing retail marketing function activities for the market-regulated power sales affiliate. This employee however did not have access to information regarding the franchised public utility's wholesale marketing or generation business or access to non-public transmission

information. The company removed the employee from his regulatory duties promptly upon learning of the potential conflict, and confirmed to staff that the dual exposure did not result in harm to the market or any retail or wholesale customers. Based on these facts and the company's enhanced training and compliance measures, staff closed the self report without further action.

Regulatory Filing Violation. A utility with multiple subsidiaries failed to file timely notices of change in corporate responsibilities of nine individuals holding interlocking directorates, as required by 18 C.F.R. § 45.5(b). Upon learning of the violations, the individuals immediately resigned the new positions and made curative filings advising of their intent to hold the interlocking directorates. The Office of Energy Market Regulation staff accepted all nine curative filings and indicated it would not take further action. DOI staff confirmed that no undue affiliate preferences or other harm to the market occurred as a result of the interlocking directorates or failures to file the notices and that the utility had instituted compliance measures to prevent recurrence of this type of violation in the future, and therefore closed the matter without further action.

Regulatory Filing Violation. A large generator self reported on behalf of its public utility subsidiaries regarding their failure to make a timely Change in Status (CIS) filing as required by 18 C.F.R. § 35.42(a)(1). When several long-term power sales agreements expired, the capacity reverted back to the generator, but the generator failed to update its Generator Resource Inventory (GRI) or to make a CIS filing to reflect the change. Upon discovery of the violation, the generator updated its GRI to correct the oversight, contacted DOI to self report the violation, and submitted a curative filing to the Commission. Staff closed this self report without action because the violation was isolated and inadvertent, caused no market harm, recurrence of the violation is unlikely, and the company moved quickly to remedy the violation once it was discovered.

Qualifying Facility Violations. The owner of four small generation QFs self reported that it failed to submit the certifications of QF status to the Commission pursuant to 18 C.F.R. § 292.203(a)(3), which is required before claiming the benefits of QF status. As a result of its failure to certify, its jurisdictional sales of power violated § 205 of the FPA because the facilities were not QF-exempt and did not otherwise receive authorization from the Commission. Because the owner's failure to certify was inadvertent and it subsequently adopted compliance measures to prevent future recurrence, and because the company made refund payments of the proceeds from the unauthorized sales, staff closed the self report with no action. Similarly, owners of a small wind farm that also qualified for QF status failed to timely certify that status before commencing power sales. Upon discovering the obligation to certify, the wind farm promptly filed its QF certification and submitted a refund report for the unauthorized sales, which the Commission accepted. Staff closed this matter without action because there was no evidence that the violation was intentional, and the wind farm paid a refund consistent with the Commission precedent for unauthorized sales of power.

Capacity Release Violation. A shipper rolled over two short-term, prearranged capacity releases to a replacement shipper without first posting the releases for competitive bidding, as required by 18 C.F.R. § 284.8(h)(2). These capacity releases involved a single replacement shipper and capacity on a single pipeline during the months of February and March, and were discovered when the pipeline's compliance officer notified the releasing shipper. Staff closed the self report without action because the violation was inadvertent, management promptly investigated the violation once it was discovered, and the shipper instituted effective measures to prevent non-recurrence. In addition, the amount of gas involved was de minimis.

NAESB Standard Violation. An electric utility self reported that it violated Standard 001-4.13, Table 4-2, of the North American Energy Standards Board (NAESB) for failing to respond to certain requests for transmission service within required timeframes. Pursuant to its own internal investigation the utility determined that within a period of about three years, it failed to timely respond to 17 out of approximately 250,000 transmission service requests. In most cases, the delay was less than an hour. The design of the software for processing requests facilitated human error, which led to the violations. Because, among other considerations, the violations were small in number, modest in nature, and did not harm the requesting customers or the market, staff closed the matter without action.

Failure to Obtain Market-Based Rate Authority. A generator engaged in wholesale sales of test power without first requesting Market-Based Rate authority as required by § 205 of the FPA and Part 35 of the Commission's regulations. The generator filed its request for authorization promptly upon discovering the deficiency, and the Commission granted the request and directed the generator to submit a refund report for the unauthorized sales. The generator's refund report demonstrated that all sales occurred at a loss and the generator did not receive any profits from its test power sales. In the self report, the generator and its parent company adopted new procedures to prevent recurrence of this type of violation. Staff closed the self report because there was no harm to the market, there was no evidence that the violation was intentional, the generator promptly self reported, and has taken steps to prevent recurrence of this violation.

Material Deviations. Eleven natural gas pipelines self reported that they failed to ensure that a number of their transportation service agreements (TSAs) and transportation-related agreements conformed to their currently effective *pro forma* TSAs and tariff General Terms and Conditions of Service, as required by the Commission's regulations. Following comprehensive internal reviews of over 6,200 TSAs and transportation related agreements, the companies determined that there were numerous deviations, some of which could affect the substantive rights of market participants. All of the companies promptly cured all of these violations by updating the non-conforming TSAs, *pro forma* TSAs, and transportation-related agreements filed with the Commission. The companies also improved their compliance programs to address the lapses that led to the violations. Staff found no evidence that the non-conforming TSAs or transportation-related agreements contained material deviations that were unduly preferential, discriminatory, or caused harm to similarly situated market participants. Furthermore, staff found no evidence that the failure to file the non-conforming TSAs was intentional. Accordingly, staff closed these matters with no further action.

Market Behavior Rule Violation. While reviewing transaction data, a municipal agency determined that it provided inaccurate purchase and sale information, and non-standard transaction data, to two electricity price index publishers. The entity stated that it reported certain purchase transactions as sales, and other sales transactions as purchases, and further reported a number of non-standard transactions that the index publishers do not include in the development of their price indices. Staff closed the self report with no further action because the price reporting rules of the Commission's regulations did not apply to the municipal energy agency, the conduct was not manipulative, and because the company advised the publishers of the errors and resubmitted revised transaction data.

E. Investigations

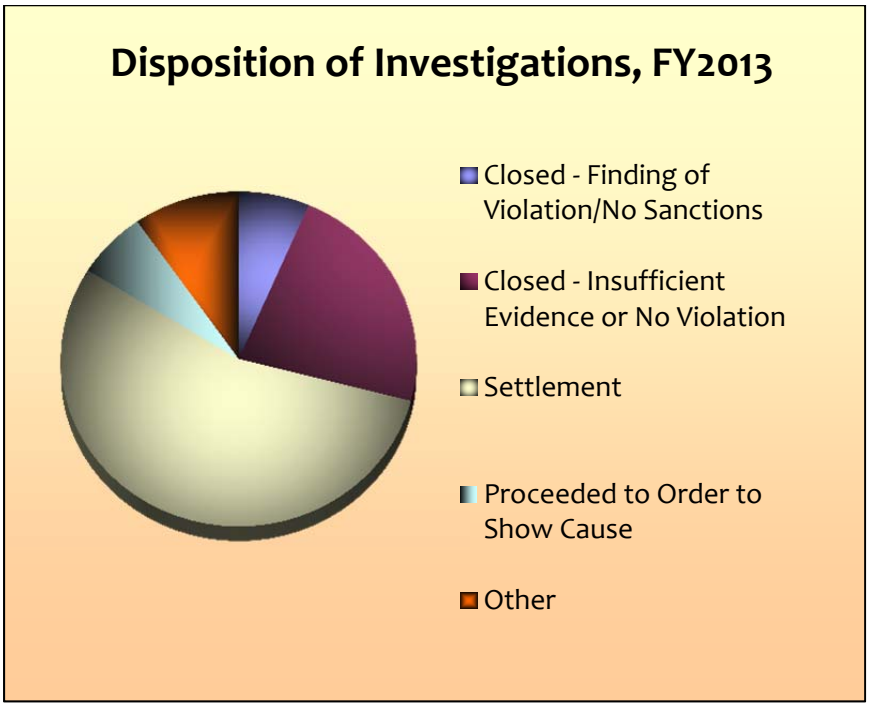
During FY2013, DOI staff opened 24 investigations, as compared to 16 investigations in FY2012. Half of these new investigations arose from referrals based on conduct observed through surveillance by the Division of Analytics and Surveillance or the RTO/ISO Market Monitoring Units. Tips to the Enforcement Hotline resulted in two of the new investigations, and two others arose from self reported violations that staff converted to preliminary investigations. In FY2013, 29 pending investigations resulted in settlement, Commission show cause orders, or closure without enforcement action. Enforcement also resolved, through settlement in FY2013, an additional two investigations that had proceeded to orders to show cause in late FY2012.

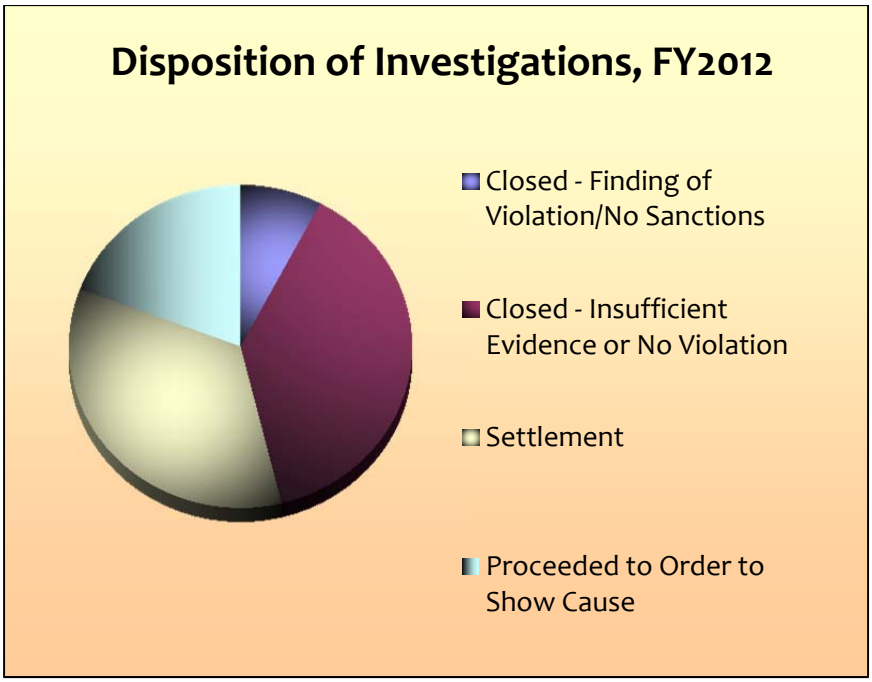
1. Statistics on Investigations

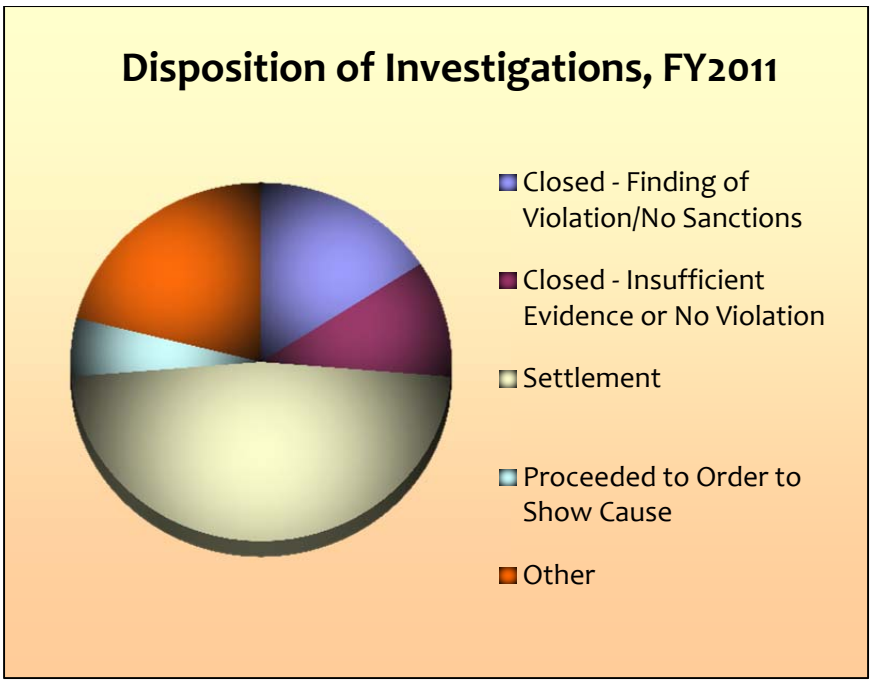
Of the 24 investigations staff opened this fiscal year, some of which involve more than one type of violation or multiple subjects, 11 involve market manipulation or false statements to the Commission or an RTO/ISO, four involve tariff violations, eight involve Reliability Standards violations, one involves standards of conduct, and one involves natural gas open access transportation rules.

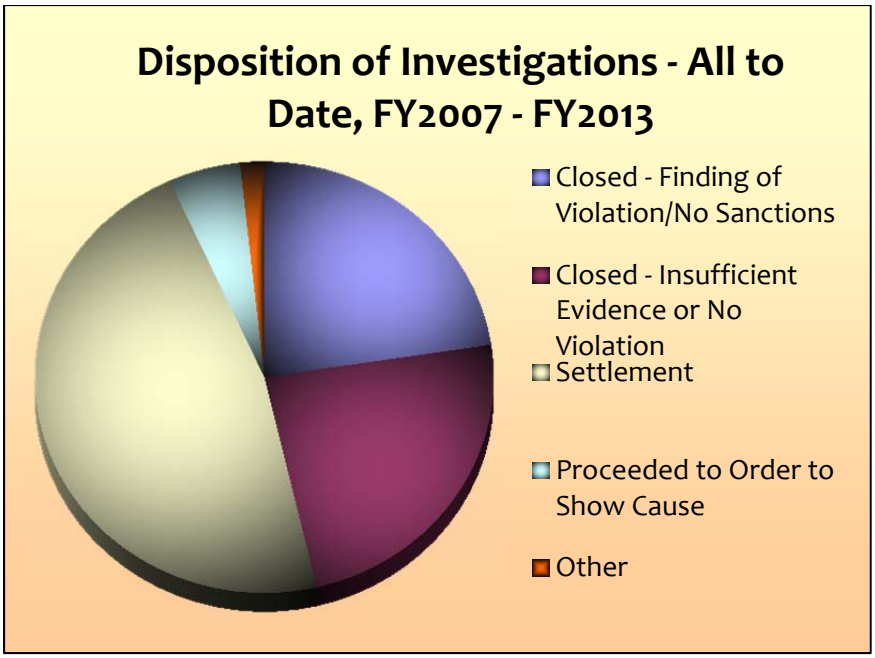
Of the investigations closed in FY2013, staff closed eight either upon finding no violation or because staff did not have evidence to support finding a violation. In two investigations, staff found a violation, but determined not to pursue an enforcement action. Many of the Commission-approved settlements of pending investigations are summarized above in subsections B and C.

The following charts show the disposition of investigations that closed in fiscal years 2011 through 2013.

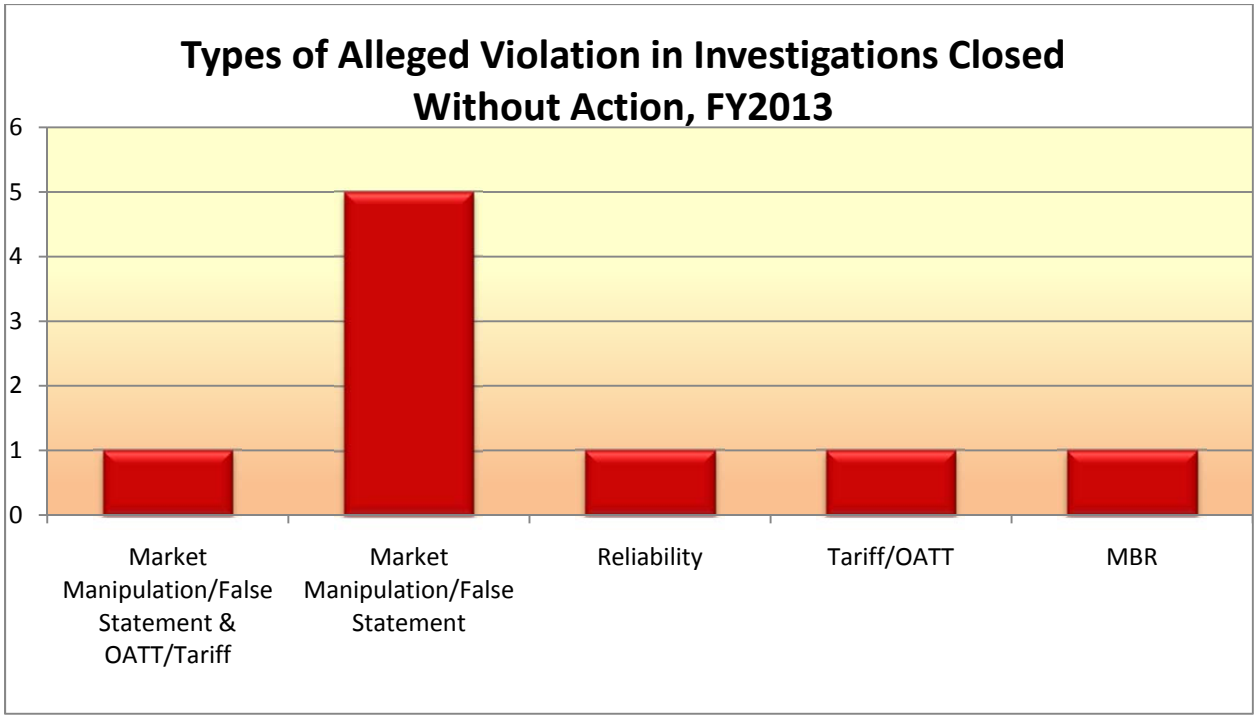


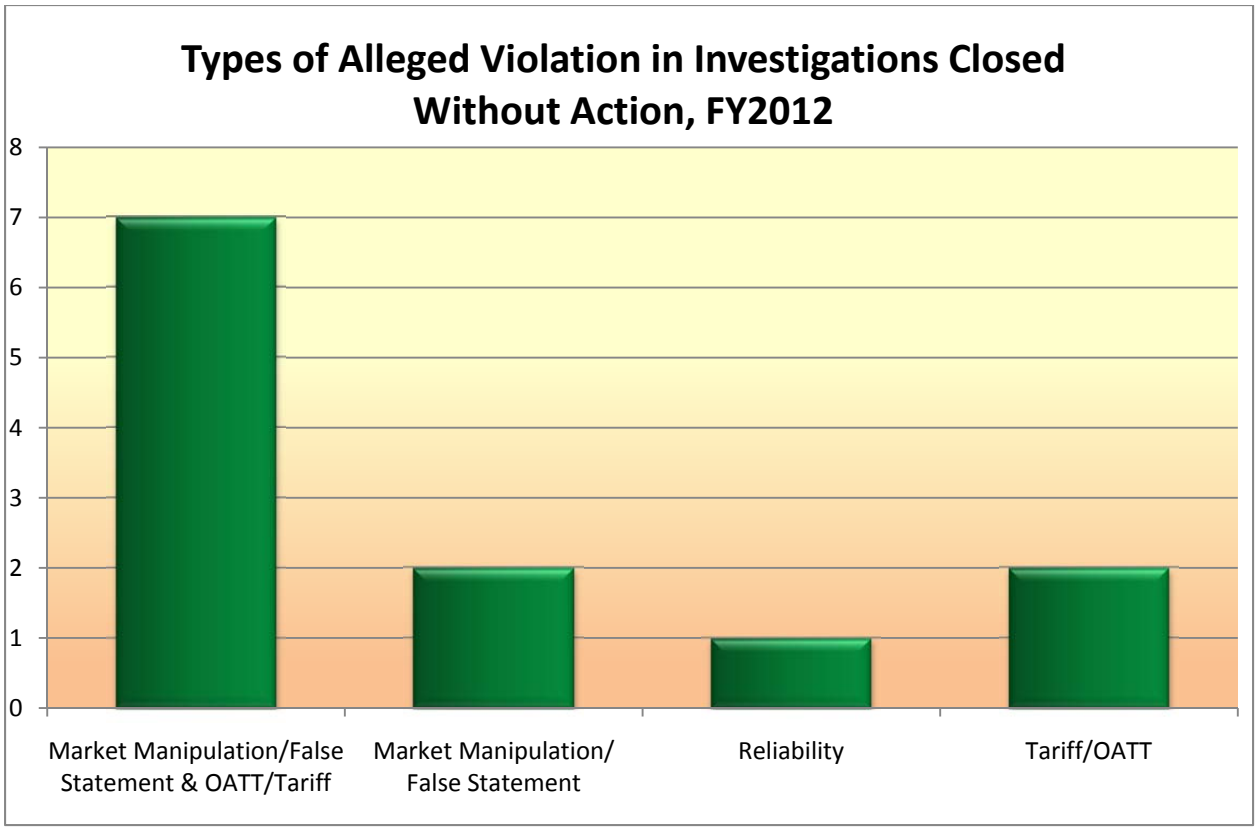

Disposition of Investigations, FY2012
Closed - Finding of Violation/No Sanctions
Closed - Insufficient Evidence or No Violation
Settlement
Proceeded to Order to Show Cause

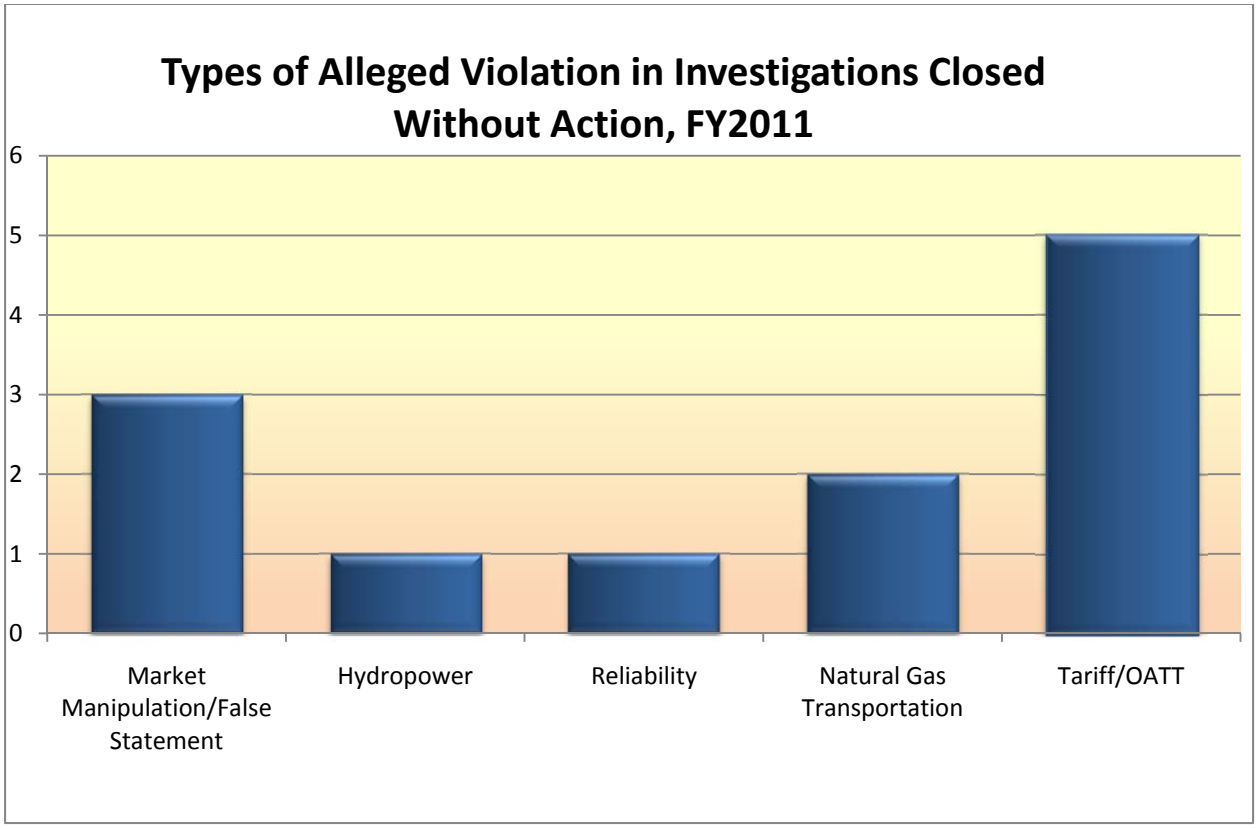

Disposition of Investigations, FY2011
Closed - Finding of Violation/No Sanctions
Closed - Insufficient Evidence or No Violation
Settlement
Proceeded to Order to Show Cause
Other



The following charts summarize the nature of the conduct at issue for those investigations that were closed without action in fiscal years 2011 through 2013.




Types of Alleged Violation in Investigations Closed Without Action, FY2012
8
7
6
5
4
3
2
1
0
Market Manipulation/False Statement & OATT/Tariff
Market Manipulation/ False Statement
Reliability
Tariff/OATT


Types of Alleged Violation in Investigations Closed Without Action, FY2011
6
5
4
3
2
1
0
Market Manipulation/False Statement
Hydropower
Reliability
Natural Gas Transportation
Tariff/OATT

2. Illustrative Investigations Closed with No Action

The following describes selected investigations in which Enforcement closed the matter without action. Like the self report illustrations, these are intended to provide guidance to the public while preserving the non-public nature of DOI's investigations.

Market Manipulation. A financial institution self reported that it discovered an instant message between two of its traders potentially indicating the intentional use of virtual bidding to affect locational marginal prices in an RTO/ISO and thereby influence the value of related financial positions. Staff opened an investigation to assess whether the conduct violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.2. After analyzing company trades and documents and taking depositions, staff determined there was insufficient evidence of a manipulative trading scheme. Staff also found that there was a prompt self report, immediate remedial steps taken by the company, and an isolated trading period. Because of all of these factors, staff closed the investigation with no action.

Tariff Violation. A matter was referred to Enforcement involving a market participant suspected of "hubbing," i.e., improperly using Network Integration Transmission Service for off-system energy sales rather than point-to-point transmission service reservations as required by the tariff. The market participant, a generator-marketer, provided a comprehensive data set demonstrating its transmission system usage and energy transactions during the relevant time, and also provided an explanation as to why an imbalance may have been (incorrectly) perceived in its transmission usage that could indicate the prohibited hubbing activity. Staff confirmed the facts provided by the market participant with the RTO/ISO and with third-party witnesses that possessed relevant information, and concluded that the evidence did not support a violation and closed the matter with no action.

Tariff and Reliability Violations. Staff investigated whether a generator in an organized market failed to communicate an outage to appropriate RTO/ISO personnel. Staff's investigation revealed that generator personnel were unaware of RTO/ISO requirements and procedures regarding requests for planned outages. Because the generator failed to timely notify the RTO/ISO of the outage, the generator violated provisions of the governing tariff and related Reliability Standards. The generator took remedial actions to ensure that a violation did not reoccur. Further, the generator was subject to Reliability Standards-related penalties imposed by the relevant Regional Entity in a reliability Notice of Penalty. Staff determined that the reliability penalty was sufficient to deter future similar conduct and closed the investigation without further action.

F. Reliability (NOPs and FFTs)

Pursuant to its Compliance Monitoring and Enforcement Program, NERC files Notices of Penalty (NOP) with the Commission that address violations of the Reliability Standards discovered by NERC or one of the eight Regional Entities (REs) after an audit, investigation, self report or other compliance process. Each NOP indicates resolution of a violation or potential violation through a penalty and mitigation of the violation, which may result from an assessment by the relevant RE or NERC, or from settlement negotiations with the registered entity. Pursuant to the Commission's regulations, an NOP becomes effective by operation of law 31 days after filing with the Commission if the Commission takes no action within that time either to extend the time for consideration, to request more information, or to open the matter for further review, or if the entity does not file an application for review.

In 2012, the Commission accepted, with conditions, NERC's proposed Find, Fix and Track (FFT) enforcement mechanism.[32] The FFT process closes without assessment of a penalty certain possible violations that pose lesser risks to the bulk power system and that the entity has mitigated prior to NERC's filing to the Commission, through a monthly informational filing to the Commission. This filing is in lieu of processing these same issues as NOPs. On June 20, 2013, the Commission accepted NERC's March 2013 compliance filing on the FFT process, approving four of five changes NERC had requested, including: (1) allowing a limited number of FFTs for possible violations posing moderate reliability risk; (2) removing the requirement that possible violations be completely mitigated before NERC files or posts an FFT; and (3) permitting NERC to post FFTs each month on its website rather than filing them with the Commission.[33] NERC began posting FFTs on its website in July 2013.[34]

Enforcement reports the FY2013 statistics below regarding NOPs and FFTs, although as of March 1, 2013, Enforcement staff is no longer routinely involved in facilitating Commission review of these submissions. From that date forward, the Office of General Counsel and OER have primary responsibility for this review, and consult with Enforcement only on an as-needed basis.[35]

In FY2013, the Commission received 45 full NOPs, encompassing 520 possible or confirmed violations. Three hundred seventy-five possible or confirmed violations were of the Critical Infrastructure Protection (CIP) Reliability Standards (CIP-002 through CIP-009). The Commission also received 12 Spreadsheet NOPs, consisting of minimal or moderate risk violations, encompassing 575 possible or confirmed violations. Three hundred nineteen of these potential or confirmed violations were of the CIP Reliability Standards. The 45 full NOPs and 12 Spreadsheet NOPs filed in FY2013 proposed $8,582,350 in penalties. The largest single penalty assessed by an NOP submitted to the Commission in FY2013 was $950,000. The Commission declined to review all NOPs submitted in FY2013. In FY2013, NERC filed nine FFT Reports with the Commission and posted three FFT Reports on its website. These FFT Reports detailed 796 possible violations. Four hundred fifty-six possible violations were of the CIP Reliability Standards. The Commission declined to review all possible violations in FFTs that NERC submitted or posted in FY2013.[36]

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[32] *North American Electric Reliability Corp.*, 138 FERC ¶ 61,193 (2012) (order accepting with conditions the ERO's petition requesting approval of new enforcement mechanisms and requiring a compliance filing by March 2013).

[33] *North American Electric Reliability Corp.*, 143 FERC ¶ 61,253 (2013). The order requires NERC to make a compliance filing by June 2014.

[34] All NOPs and FFTs are available on the NERC website at http://www.nerc.com/pa/comp/Pages/Enforcement-and-Mitigation.aspx.

[35] Enforcement will not continue to report NOP and FFT statistics in future annual reports.

[36] The Commission extended the time period for consideration for a penalty addressing 14 violations in the Spreadsheet NOP in Docket No. NP13-41-000 but ultimately declined further review of the penalty.

G. Enforcement Hotline

DOI staff fields calls and other inquiries made to the Enforcement Hotline (Hotline).[37] The Hotline is a means for people, anonymously if preferred, to inform Enforcement staff of potential violations of statutes, Commission rules, orders, regulations, and tariff provisions. The Hotline also allows the public to obtain informal guidance and non-binding opinions on matters within the Commission's jurisdiction, including applicability of Commission orders and policies in particular circumstances. When staff receives calls concerning possible violations, such as allegations of market manipulation, abuse of an affiliate relationship, or violation of a tariff or order, staff researches the issue presented and when necessary consults other members of the Commission's staff with expertise in the subject matter of the inquiry. In some cases, the Hotline calls lead to investigations by DOI.

In FY2013, Enforcement received 160 Hotline calls and inquiries, 149 of which were promptly resolved within the fiscal year through advice provided by DOI staff and nine of which remained pending as of the end of the fiscal year. In FY2013, staff converted two Hotline calls to preliminary investigations. Every year, a significant percentage of the calls received relate to subjects outside of the Commission's jurisdiction or contested matters pending before the Commission. DOI staff resolves these matters by advising those callers where they may find the information they need, or directs them to the appropriate Commission docket.

H. Other Matters

DOI staff assisted other divisions and offices within the Commission on important matters in FY2013, including:

NERC Audit. In FY2013, DOI staff assisted DAA in defending the Commission's first ever contested performance audit of NERC in its role as the statutory Electric Reliability Organization. Enforcement staff fully briefed the contested audit issues stemming from DAA's 2012 NERC performance audit and later negotiated and documented a settlement with NERC successfully resolving all outstanding issues.[38]

Gas-Electric Coordination Issues. DOI staff participated in the technical conference held in Docket No. AD12-12-000 on April 25, 2013 to discuss gas-electric coordination issues and contributed to the Notice of Proposed Rulemaking in Docket No. RM13-17-000 in which the Commission proposed rules encouraging increased communication between natural gas pipelines and electric transmission operators. DOI staff has also provided advice to the Commission in the context of specific orders related to gas supply issues, resource compliance with RTO/ISO dispatch instructions, and capacity supply obligations.

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[37] *See* 18 C.F.R. § 1b.21 (2013).

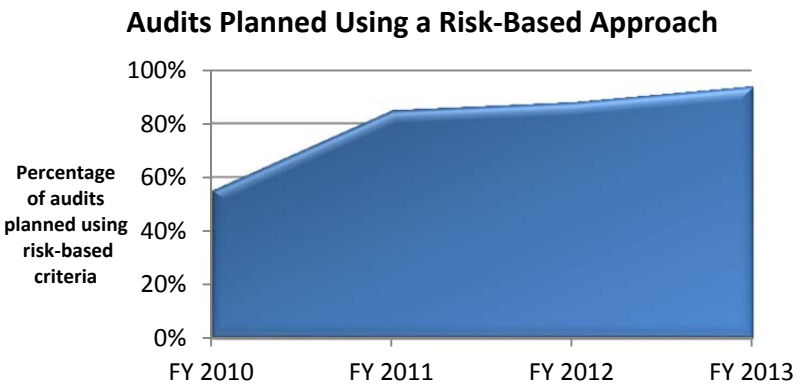
[38] *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042 (2013).

DIVISION OF AUDITS AND ACCOUNTING

A. Overview

The Division of Audits and Accounting (DAA) within Enforcement administers the Commission's audit and accounting programs. These programs enable the Commission to maintain effective and appropriate oversight over jurisdictional entities while ensuring compliance, accountability, and transparency. DAA accomplishes its mission by conducting various types of public audit and accounting activities. These activities primarily focus on compliance with Commission requirements, transparency, accountability, operational efficiency and effectiveness, and other areas the Commission deems necessary to accomplish its mission. The audit and accounting activities are coordinated with other Enforcement divisions and legal and technical experts in other Commission offices.

Risk assessment continues to be an important aspect of DAA's audit program because a significant majority of audits are initiated without any allegation of wrongdoing. Audited entities are typically selected using risk-based criteria (see chart below). The Commission promotes compliance through its audit and accounting programs by publishing information about these programs on the Commission's web site. Through publicly issued audit reports and commencement letters, DAA provides audited entities and the industry with insight into areas of emphasis and concern. In addition, DAA continues to expand its audit reports to provide greater detail to enable jurisdictional entities to be better informed, avoid noncompliance, and improve operational performance. The detail in the scope and methodology section of the public audit reports is designed to enable company compliance staff to replicate procedures DAA employs in its audits and provides companies with the necessary information to evaluate their compliance programs. DAA applies its experience from conducting audit and accounting activities to ensure effective Commission oversight, modify or create regulations, assist in policy formulation, and promote transparency.



DAA conducts industry outreach in a variety of ways to inform the industry, public, and others about what constitutes effective oversight, accountability, transparency, operational efficiency and effectiveness, and compliance. These outreach efforts further DAA's goal to strengthen each jurisdictional entity's compliance and operations.

B. Compliance Reviews and Trends

Helping jurisdictional companies achieve robust compliance is the cornerstone of DAA's audit and accounting programs. This is primarily accomplished by reviewing jurisdictional entities' compliance programs related to specific audit scope areas. DAA's continued focus on compliance is driven by the Commission's Strategic Plan, which is the foundation supporting DAA's mission to promote robust compliance cultures and programs.

Experience has shown that a strong internal compliance program is an effective way of ensuring compliance with statutes, Commission rules, orders, regulations, and tariffs provisions, and significantly increases the likelihood that an entity will abide by, and follow the spirit of, relevant rules and regulations. Compliance programs with a strong emphasis on risk assessment encourage and promote self-detection of issues in a timely manner to prevent noncompliance proactively, rather than responding reactively to mitigate and remediate compliance failures. Active involvement of senior management, allocation of funds necessary for such programs, and, as appropriate, routine internal/external audits or compliance assessments of program effectiveness, foster a strong and sustainable culture of commitment to compliance on an enterprise-wide basis.

On most audits, DAA reviews jurisdictional entities' compliance programs in audit scope areas and provides feedback on ways to strengthen such programs. DAA observed during many audit engagements an increased emphasis by jurisdictional entities to take proactive measures to develop and integrate robust compliance practices, controls, and procedures into their operations. Often at the conclusion of an audit engagement, jurisdictional entities acknowledge the value of the audit in bringing about more effective and efficient compliance.

Compliance Trends

During the past several years, DAA observed noncompliance in certain areas that warrant highlighting for jurisdictional entities and their corporate officials. Although there are other areas of noncompliance associated with the topics presented below, the areas discussed relate to areas where DAA has found consistent patterns of noncompliance. Greater attention is needed in these areas to prevent noncompliance and to avoid enforcement action.

Formula Rate Matters. DAA rigorously examines the accounting that populates formula rate recovery mechanisms that are used in determining billings to wholesale customers. In recent formula rate audits, DAA observed certain patterns of noncompliance in the following areas:

- Merger Goodwill – including goodwill in the equity component of the capital structure absent Commission approval;
- Depreciation Rates – using state-approved, rather than Commission-approved, depreciation rates;
- Merger Costs – including merger consummation costs (e.g., internal labor and other general and administrative costs) without Commission approval;
- Tax Prepayments – incorrectly recording tax overpayments which are not applied to a future tax year's obligation as a prepayment leading to excess recoveries through working capital;
- Asset Retirement Obligation (ARO) – including ARO amounts in formula rates, without explicit Commission approval;

- Below-the-Line Costs – attempting to move below-the-line costs into formula rates (e.g., lobbying, charitable contributions, fines and penalties, and compromise settlements arising from discriminatory employment practices); and
- Improper Capitalization – seeking to include in rate base (and earn a return on) costs that should be expensed.

Demand Response/Energy Efficiency in Capacity Markets. Audits of certain demand response aggregators raised concerns with the manner in which capacity capability and responsiveness of resources are measured and monitored for performance in the markets. For example, some resource aggregators enrolling assets in demand response programs did not have robust validation procedures to ensure that baselines were appropriately calibrated. In addition, there were inadequate controls to ensure the metering accuracy necessary to demonstrate reductions during periods when resources were called upon to reduce consumption. For energy-efficiency programs, in some instances, data validation controls were inadequate to ensure that accurate data for use in jurisdictional capacity markets was being initially transferred from state programs. Further, controls were not in place to ensure that updated information was provided when errors were detected resulting in occurrences when capacity reductions were overstated.

Capacity Transparency and Allocation. Interstate natural gas pipelines are required to post available pipeline capacity on their websites. These postings promote transparency of available pipeline capacity, enabling greater competitive access to such capacity and its efficient utilization. However, recent audits identified common deficiencies in reported available pipeline capacity where quantities were either omitted or incorrectly reported. The result is that some shippers may not be able to avail themselves of operational opportunities for use of available pipeline capacity.

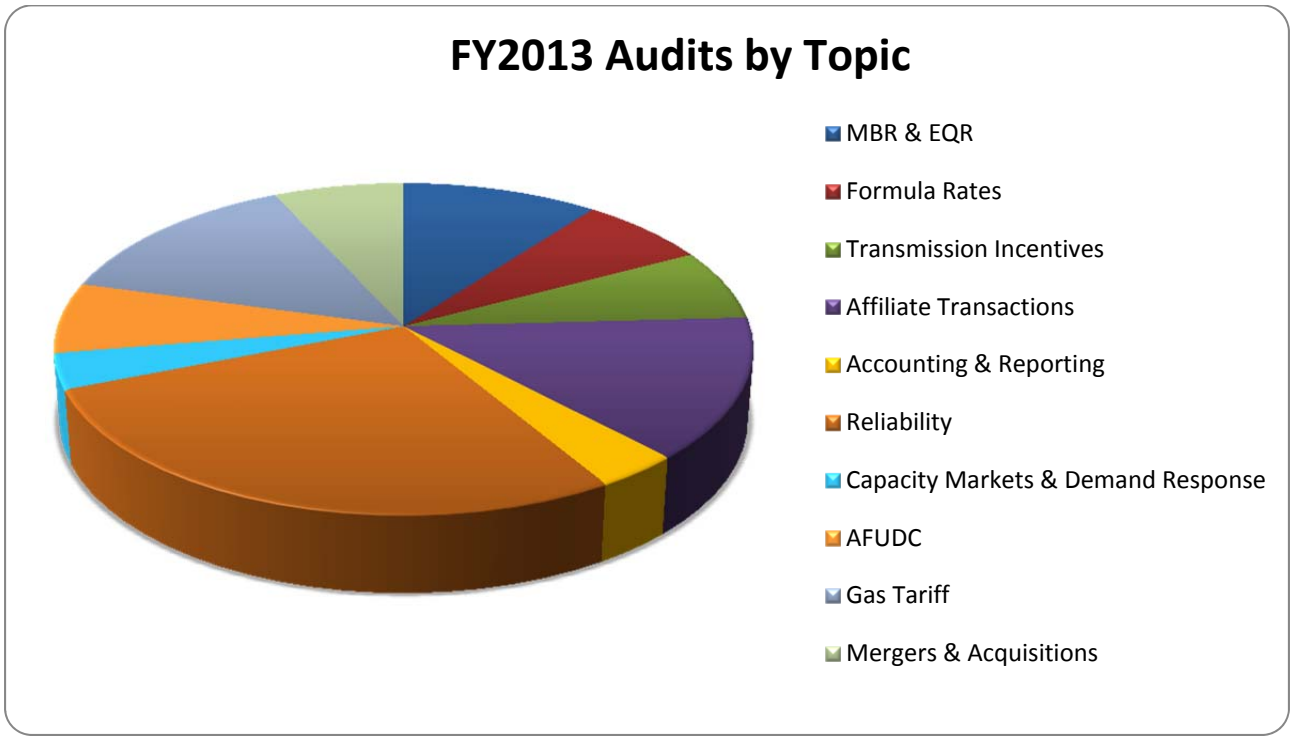
Open Access Transmission Tariffs. The integration of generation resources to the bulk electric system raises areas of concern, particularly in those regions in which significant development of alternative generation is being pursued. DAA noted that the processes by which applications to interconnect are being treated give rise to noncompliance with OATT requirements in three areas: posting of interconnection study reports; timely completion of interconnection applications; and notification of delays of interconnection studies.

Transmission Incentive. Commission orders granting incentives to specific transmission projects requires increased rigor in the proper accounting of costs to ensure that such incentives are only applied for projects approved. DAA noted instances in which cost allocation mechanisms improperly assigned costs to incentive projects, thereby permitting a greater return than warranted. Additionally, in some audits, the controls over directly assigning costs to specific work orders for approved transmission projects were inadequate, resulting in certain costs being improperly assigned to incentive transmission projects.

Regulatory Assets. DAA noted instances in which regulatory assets reported in financial statements are not supported by a probable rate action of a regulator to permit recovery of a previously incurred cost in future rates. DAA is concerned that jurisdictional entities are neither making a proper initial assessment of the probability for recovering costs deferred as a regulatory asset nor making periodic reassessments to ensure existing regulatory assets remain probable for future rate recovery.

C. Significant Audit Matters

In FY2013, DAA completed 29 financial and operational audits of public utilities and natural gas pipelines covering a wide variety of topics. Some audits addressed multiple topics. The audits resulted in 360 recommendations for corrective action and directed $15.4 million in refunds. DAA also directed accounting adjustments that collectively removed $200,000 from utility plant accounts. Other recommendations directed improvements to companies' internal processes and procedures, enhancements to the accuracy and transparency of reports and websites, and more efficient and cost-effective operations. Collectively, these recommendations and savings benefit ratepayers and market participants.



The following significant audit activities reflect the issues and priorities identified and discussed above.

1. ITC Holdings Corporation (ITC Holdings)

At ITC Holdings, all three ITC affiliates have taken steps to pay $13.3 million in refunds to wholesale customers for incorrectly increasing the equity component of the formula rate for the tax effects of goodwill, which resulted in excessive billings to wholesale customers.[39] ITC Midwest submitted its refund analysis on September 28, 2012 proposing refunds of $2.7 million. The Commission accepted the refund analysis for filing on January 30, 2013. On February 1, 2013, ITC's other two affiliates that used the same accounting for the tax effects of goodwill as ITC Midwest, ITC Transmission and Michigan Electric Transmission Company, voluntarily

[39] ITC Holdings Corp., Refund Report, Docket No. PA13-10-000 (filed Sept. 28, 2012); International Transmission Co., Refund Report, Docket No. ER13-865-000 (filed July 5, 2013); Michigan Electric Transmission, LLC, Refund Report, Docket No. ER13-867-000 (filed July 5, 2013).

submitted reports to refund $9.1 million and $1.5 million, respectively. On July 5, 2013, the Commission accepted these filings.

2. Southern Company

At Southern Company, DAA evaluated compliance with (1) cross-subsidization restrictions on affiliate transactions; (2) Commission accounting, recordkeeping, and reporting regulations; and (3) preservation of records requirements for holding and service companies.[40] DAA found the following areas of noncompliance: inappropriate support for employee time charges; incorrect accounting for political activities and compromise settlements; lack of efficient processes for converting from its unique accounting system to Commission accounting regulations; improper accounting for charitable contributions and lobbying costs; improper assignment of costs among Southern Company's operating companies; reporting errors on FERC Form Nos. 1 and 60; missed FERC-61 service company filings; and missed notifications for the premature loss of records. DAA's audit findings led to several improvements in processes, procedures, and controls, and resulted in approximately $7,800 in transmission formula rate refunds.

3. Pacific Gas and Electric (PG&E)

At PG&E, DAA evaluated compliance with (1) the requirements in its Transmission Owner tariff; (2) the requirements in its Wholesale Distribution tariff; (3) Commission accounting regulations; (4) FERC Form Nos. 1 and 3-Q reporting requirements; and (5) accounting and reporting regulations for the wholesale fuel adjustment clause calculation.[41]

Major audit findings included five findings of noncompliance related to PG&E's interconnection practices: (1) it interconnected wholesale generation facilities to the CAISO grid without having an executed interconnection agreement with the customer; (2) it incorrectly assigned customers' queue positions for 204 wholesale generator interconnection requests; (3) it untimely notified customers of interconnection study delays; (4) it collected payments from customers for engineering, procurement, and other activities leading to construction absent having an executed service agreement with the customer or filing agreements containing nonconforming terms with the Commission; and (5) it did not consistently retain records for wholesale generator interconnection requests and studies. PG&E also agreed to refund the time value of $10,341 associated with the revenue it prematurely collected from wholesale customers for engineering, procurement, and other activities.

4. Southern California Edison (SCE)

At SCE, DAA evaluated compliance with: (1) the conditions in the Commission's orders granting SCE transmission incentives; (2) the rules for incentive-based rate treatments for transmission infrastructure investment; (3) the requirements within its Transmission Owner Tariff; and (4) the requirements within its Wholesale Distribution Access Tariff.[42]

DAA identified five findings of noncompliance related to transmission incentives and interconnections. First, SCE improperly allocated construction overhead costs to transmission incentive projects. As a result of this misallocation, SCE refunded $1.5 million to wholesale

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[40] *Southern Co.*, Docket No. FA12-1-000 (May 28, 2013) (delegated letter order).

[41] *Pacific Gas & Electric Co.*, Docket No.PA12-8-000 (Apr. 28, 2013) (delegated letter order).

[42] *Southern California Edison Co.*, Docket No. PA12-16-000 (Apr. 24, 2013) (delegated letter order).

customers through the formula rate. Second, SCE incorrectly classified construction work order costs and recorded them in Account 107, Construction Work in Progress, when the charges should have been expensed. Due to these misclassifications, SCE refunded $369,000 to wholesale customers through its CWIP Balancing Account. Third, SCE did not adhere to certain timelines under its tariff for processing interconnection requests. Fourth, SCE commenced service and received customer payments under three service agreements before such agreements were filed with the Commission. Fifth, SCE did not post on its web site nonconfidential portions of the interconnection study report. SCE agreed to refund $29,403 of the time value of monies for commencing service without Commission authorization.

5. TransColorado Gas Transmission Company, LLC (TransColorado)

At TransColorado, DAA evaluated compliance with (1) the requirement to file contracts with material deviations; (2) select portions of TransColorado's FERC gas tariff, including governing penalties, balancing mechanisms, capacity allocation, and tracking mechanisms; (3) certain reporting requirements under Commission regulations, including portions of the FERC Form No. 2; and (4) NAESB standards.[43]

DAA identified these areas of noncompliance: (1) inaccurate accounting for shipper imbalances and cash-outs, fuel tracker activity, and penalty refunds; (2) FERC Form No. 2 filings errors; and (3) inaccurate capacity postings, index of customers filings, and NAESB postings.

6. Transcontinental Gas Pipeline Company, LLC (Transco)

At Transco, DAA evaluated Transco's compliance with (1) certain information in the FERC Form No. 2 filed under the Commission's regulations; (2) NAESB standards under Commission regulations; (3) select portions of Transco's FERC gas tariff including those governing penalties, balancing and tracking mechanisms, and capacity allocation; and (4) reporting requirements in the index of customers under Commission regulations.[44]

DAA identified the following areas of noncompliance: (1) incorrect design and available capacity data; (2) improper accounting for line pack, cash-outs lost and unaccounted-for gas quantities penalty revenues; (3) FERC Form No. 2 reporting errors; (4) NAESB standards for reporting system wide notices; and (5) inaccurate index of customers filings.

7. Rockies Express Pipeline, LLC (Rockies)

At Rockies Express, DAA evaluated compliance with (1) the requirement to file contracts with material deviations; (2) select portions of Rockies Express' FERC gas tariff, including governing penalties, balancing mechanisms, capacity allocation, and tracking mechanisms; (3) certain reporting requirements pursuant to Commission regulations, including portions of the FERC Form No. 2; and (4) NAESB standards.[45]

DAA identified the following areas of noncompliance: (1) reservation charge credits and force majeure; (2) incorrect accounting for shipper imbalances, cash-outs and revenue credits, and fuel and electric power tracker costs; (3) FERC Form No. 2 filings errors; and (4) inaccurate sales volume reporting, capacity postings, index of customers filings, and NAESB postings.

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[43] *TransColorado Gas Transmission Co., LLC*, Docket No. PA11-6-000 (Jan. 2, 2013) (delegated letter order).

[44] *Transcontinental Gas Pipeline Co., LLC*, Docket No. PA12-1-000 (Feb. 11, 2013) (delegated letter order).

[45] *Rockies Express Pipeline LLC*, Docket No. PA11-5-000 (Nov. 29, 2012) (delegated letter order).

8. Iroquois Gas Transmission System, LP (Iroquois)

At Iroquois, DAA evaluated compliance with (1) certain information in the FERC Form No. 2; (2) NAESB standards; (3) Commission reporting requirements; and (4) select portions of Iroquois' FERC gas tariff, including those governing penalties and balancing mechanisms.[46]

Iroquois had areas of noncompliance related to: (1) not having language consistent with the Commission's reservation charge crediting policy; (2) accounting for annual charges, fuel used in compressor stations, over- or under-recovery of fuel, imbalances, lost and unaccounted-for gas quantities, and fuel provided to others; (3) inaccurate unsubscribed capacity data and NAESB postings; and (4) incorrect reporting on various pages of the FERC Form No. 2.

D. Reliability Audits

In FY2013, DAA conducted reliability audits of the Electric Reliability Organization (ERO) and Regional Entities (REs), and conducted compliance audits of registered entities. Staff from OER's Division of Compliance and Division of Reliability Standards and Security participated on most of these reliability audit engagements.

ERO and RE Audits

The audit scope for the audits of the North American Electric Reliability Corporation (as the ERO), Western Electricity Coordinating Council (WECC), SERC Reliability Corporation, Midwest Reliability Organization, Reliability*First*, and Northeast Power Coordinating Council (NPCC) included budgeting formulation, administration, and execution, and resources used to achieve program results. In addition, the scope of the audits for WECC and NPCC audits included their responsibilities under their delegation agreements with the ERO. These audits resulted in a total of 98 recommendations.

1. North American Electric Reliability Corporation (NERC)

At NERC, the Commission and NERC reached settlement on the DAA audit report and associated recommendations in early 2013.[47] From that point, NERC continued to implement the agreed-upon recommendations under the oversight of DAA staff. In early September, DAA staff traveled to NERC's headquarters in Atlanta, GA to meet with NERC management and staff to discuss the progress made in NERC's implementation. At that time, DAA staff reviewed documentation and met with NERC staff to discuss the progress made to date and the plans going forward. To date, NERC has successfully implemented the audit recommendations.

2. Northeast Power Coordinating Council, Inc. (NPCC)

At NPCC, DAA identified five areas in which NPCC can improve its budget formulation, administration, and execution: (1) cost allocation methodology related to its compliance and enforcement services provided to U.S. and Canadian entities; (2) identification and budgeting of non-statutory activities; (3) mitigation plan processing; (4) expense and reimbursement policies; and (5) employee compensation studies.[48] Audit staff also expressed concerns regarding the lack of sufficient policies and procedures to ensure that NPCC's billing letters to U.S. balancing

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[46] *Iroquois Gas Transmission Sys., LP*, Docket No. PA12-7-000 (Jan. 4, 2013) (delegated letter order).

[47] *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042 (2013) (order approving settlement agreement).

[48] *Northeast Power Coordinating Council, Inc.*, Docket No. PA12-10-000 (June 28, 2013) (delegated letter order).

authorities identified the appropriate registered entities responsible for funding NPCC's non-statutory division.

3. Western Electricity Coordinating Council (WECC)

At WECC, DAA identified seven areas where improvements to WECC policies and procedures could improve operations of its delegated functions, as well as in budgeting for operations.[49] These areas covered the following: (1) WECC's mitigation plan processing; (2) enforcement caseload; (3) conflict of interest disclosure form completion; (4) budget development; (5) expense reimbursement policy and controls; (6) investments; and (7) funding of regional criteria. Also, the audit identified one "other matter" related to WECC's methodology for paying penalties incurred by its NERC-registered functions.

4. SERC Reliability Corporation (SERC)

At SERC, DAA identified the following four areas in which SERC can improve its policies and procedures regarding its budget formulation: (1) expenditure policies and controls; (2) policies and processes for budgeting company-sponsored employee events; (3) procedures to adequately justify increases in its retirement contribution; and (4) procedures to adequately justify increases in its retirement contribution.[50] Also, the audit identified two "other matters" along with four related recommendations in which SERC can improve its use of industry subject matter experts and its planned audits.

5. Midwest Reliability Organization (MRO)

At MRO, DAA identified one area where MRO could enhance its performance: strengthening its travel expense controls over the use of rental cars. In addition, DAA identified one "other matter" in which MRO could improve its use of its Days in Violation Processing metric to track separate processing of Critical Infrastructure Protection Reliability Standard violations and Operations and Planning Reliability Standard violations.[51]

6. Reliability*First* Corporation

At Reliability*First,* DAA identified three areas in which improvements to Reliability*First*'s budget formulation, administration, and execution could be achieved: (1) remuneration based on total compensation; (2) working capital/contingency fund written policies and procedures; and (3) documentation of the rationale used in budget formulation, including managers' initial estimates.[52] In addition, audit staff identified one "other matter" involving documentation of Reliability*First*'s innovative program, the Assist Visit Program.

Registered Entity Audits

DAA completed the audits of three registered entities: PJM Interconnection L.L.C.; Bonneville Power Administration; and Salt River Project Agricultural Improvement and Power District. These entities were selected on a risk-based criteria based on their strategic location, relative size and the scope of reliability responsibilities for which they were registered. The audit scope for the compliance audits of registered entities was compliance with Commission-

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[49] *Western Electricity Coordinating Council*, Docket No. PA12-9-000 (July 10, 2013) (delegated letter order).

[50] *SERC Reliability Corp.*, Docket No. FA12-6-000 (June 11, 2013) (delegated letter order).

[51] *Midwest Reliability Org.*, Docket No. FA12-14-000 (May 9, 2013) (delegated letter order).

[52] *ReliabilityFirst Corp.*, Docket No. FA12-7-000 (May 9, 2013) (delegated letter order).

approved mandatory Reliability Standards for Operations and Planning as well as Critical Infrastructure Protection (CIP). These audits resulted in a total of 56 recommendations.

1. PJM Interconnection L.L.C. (PJM)

At PJM, DAA identified eight areas in which PJM could improve its performance.[53] These areas addressed: (1) identification of Critical Cyber Assets associated with Critical Assets; (2) access to Critical Cyber Assets; (3) personnel risk assessments; (4) inventory of software within the Electronic Security Perimeter; (5) Electronic Security Perimeter access points; (6) change control and configuration management; (7) planning and operating models; and (8) a plan to continue reliability operations. Audit staff also identified three areas of interest regarding system operating limits, interconnection reliability operating limits, and compliance enforcement for the Transmission Operator function.

2. Bonneville Power Administration (BPA)

At BPA, DAA identified six areas in which BPA can improve compliance and made corresponding recommendations.[54] Specifically, these areas pertained to: (1) protection systems maintenance and testing; (2) BPA's equipment tracking tool; (3) outage coordination with neighboring entities; (4) load-shedding plans with distribution providers; (5) transmission planning; and (6) field asset Critical Cyber Asset identification methodology.

3. Salt River Project Agricultural Improvement and Power District (SRP)

At SRP, DAA identified seven areas where the effectiveness and efficiency of SRP's operations and cyber security practices could be improved.[55] These covered: (1) ports and services for Critical Cyber Assets; (2) a manual log review of electronic access; (3) CIP-related training; (4) testing of backup media; (5) plans for loss of control center functionality; (6) training for system operators; and (7) training for distribution operators on load shedding.

Reliability Audit Statistics

Over the past six years, DAA conducted 108 reliability audits of various entities regarding several audit topics. Specifically, DAA conducted an audit of NERC, and a total of ten audits of REs. These audits addressed a variety of matters, including independence, budget formulation administration, and execution, and compliance with Commission orders. DAA also led compliance audits of four registered entities, evaluating their compliance with Reliability Standards. Finally, DAA participated in ninety-three oversight audits in which DAA provided guidance to NERC and the REs on their audit processes and techniques. The following chart demonstrates DAA's completed reliability audits to date.

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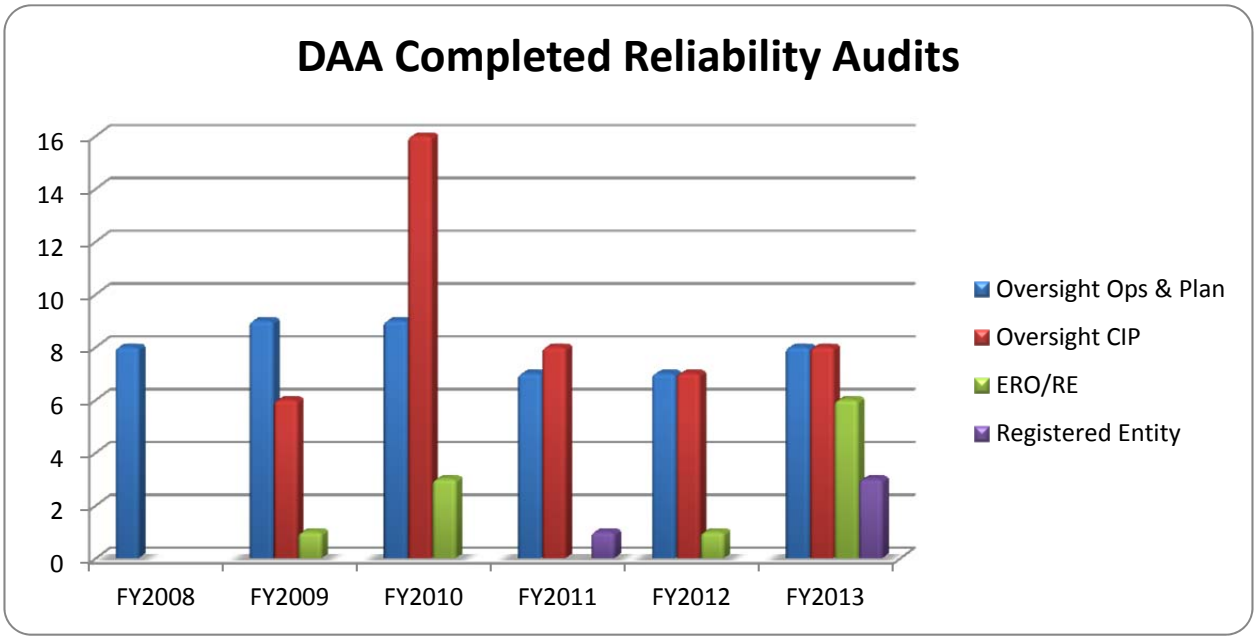
[53] *PJM Interconnection L.L.C.*, Docket No. PA11-21-000 (Nov. 1, 2012) (delegated letter order).

[54] *Bonneville Power Admin.*, Docket No. PA12-17-000 (Apr. 24, 2013) (delegated letter order).

[55] *Salt River Project Agricultural Improvement and Power District*, Docket No. PA12-11-000 (July 18, 2013) (delegated letter order).



DAA first audited an RE in FY2008, when it commenced an audit of Southwest Power Pool RE's independence from the RTO. DAA continued to review REs' independence: in FY2010, it conducted independence audits of Texas Reliability Entity, then a division of the Electric Reliability Council of Texas, Inc.; Florida Reliability Coordinating Council; and WECC. As a result of these audits, these four REs have adopted structural and operational reforms to address Commission concerns. DAA has now audited the ERO and all eight REs at least once. Most recently, DAA completed its budget audits of NERC, MRO, NPCC, Reliability*First*, SERC, and WECC. In addition to budget matters, two of these audits (WECC and NPCC) also examined the entities' responsibilities and performance as REs. These audits provided greater fiscal accountability by increasing budget transparency for the ERO and its REs.

DAA's involvement in providing for the reliable operation of the bulk power system through oversight of the implementation of mandatory and enforceable Reliability Standards also includes audits of registered entities. DAA first conducted such an audit in FY2010, when it audited Entergy Services, Inc., for practices related to bulk power system planning and operations. Since then, DAA has completed audits of PJM, BPA, and SRP. These audits identified areas in which PJM, BPA, and SRP could improve compliance with the Reliability Standards, and made corresponding recommendations.

During the last six years, DAA and OER staff have observed RE compliance audits of registered entities in the eight regions subject to mandatory Reliability Standards. DAA and OER staff participated in these audits to provide guidance on the RE's audit processes, methods, and techniques for verifying compliance. At the conclusion of the audits, DAA and OER met with NERC and the RE and discussed areas in which the RE could improve its processes or procedures as well as areas in which the RE performed well. Through DAA oversight audits, as well as DAA audits of the REs, DAA has observed a continued growth and maturation in RE audit programs, increasing coordination and cooperation among the REs, and better oversight of the programs by NERC as the ERO.

E. Other Audit Matters

Besides the highlighted audits above, DAA covered several other areas in its FY2013 audits as reflected below in summaries of a representative sample.

1. Formula Rates

Delmarva Power & Light Company (DPL). At DPL, DAA evaluated whether DPL complied with: (1) Attachment H-3 of the PJM Interconnection, LLC's Open Access Transmission Tariff (OATT); (2) various accounts incorporated into its formula rate tariff; and (3) accounting regulations in the Uniform System of Accounts (USofA).[56] DPL refunded $51,802 to wholesale customers stemming from an accounting misclassification error associated primarily with lobbying that negatively impacted the formula rate.

American Transmission Systems, Incorporated (ATSI). At ATSI, DAA evaluated whether ATSI complied with (1) Attachment O of the Midcontinent Independent System Operator's (MISO) OATT; (2) various accounts incorporated into MISO's formula rate transmission tariff; (3) accounting regulations in the USofA; and (4) transactions under the tariff.[57] ATSI did not properly account for debt gross-up on utility plant, vegetation management costs, and depreciation on land and land rights. The incorrect accounting for depreciation of land and land rights resulted in a refund to wholesale customers through formula rate billings of $111,945.

2. Market-Based Rate Authority and Electric Quarterly Reports

General Electric Company (GE). At GE, DAA evaluated the entity and its affiliates to determine whether and how the companies complied with requirements of the companies' MBR authorization and EQR filing requirements.[58] GE misreported generation asset ratings in filings made with the Commission and data reported in its EQRs.

Invenergy, LLC (Invenergy). At Invenergy, DAA evaluated the entity and its affiliates to determine whether and how the companies complied with requirements of the companies' MBR authorization and with EQR filing requirements.[59] Invenergy had numerous reporting deficiencies related to its MBR filings and EQR reporting obligations.

3. Affiliate Transactions and Public Utility Holding Company Act

Alliant Energy Corporation (Alliant), NiSource Inc., and Unitil Corporation. DAA evaluated these entities, along with their respective service companies and associated companies, for compliance with the Commission's (1) cross-subsidization restrictions on affiliate transactions; (2) accounting, recordkeeping, and reporting requirements; (3) the Uniform System of Accounts for centralized service companies; (4) preservation of records for holding companies and service companies; and (5) FERC Form No. 60 requirements.[60] DAA also evaluated the associated public utilities' compliance with Commission accounting requirements for transactions with associated companies, and applicable reporting requirements in the FERC Form Nos. 1 and 2.

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[56] *Delmarva Power & Light Co.*, Docket No. FA12-5-000 (Nov. 29, 2012) (delegated letter order).

[57] *American Transmission Systems, Inc.*, Docket No. FA11-8-000 (Apr. 24, 2013) (delegated letter order).

[58] *General Electric Co.*, Docket No. PA11-10 (Nov. 6, 2012) (delegated letter order).

[59] *Invenergy*, LLC, Docket No. PA12-2-000 (Feb. 1, 2013) (delegated letter order).

[60] *Alliant Corp.*, Docket No. FA12-13-000 (Jan. 4, 2013); *NiSource, Inc.*, Docket No. FA11-5-000 (Oct. 24, 2012); *Unitil Corp.*, Docket No. FA12-11(Feb. 28, 2013) (delegated letter orders).

Collectively DAA identified numerous areas of noncompliance related to: (1) misallocation of costs; (2) improper accounting for service company billings and the associated costs; (3) various reporting requirements; (4) delinquent required filings to the Commission; and (5) preservation of records. Refunds were paid to wholesale customers amounting to $84,449 related to Alliant improperly including fines and penalties, charitable donations, and lease and rental costs through the formula rate.

4. Accounting and Reporting

Panhandle Eastern Pipeline, Co. (PEPL). At PEPL, DAA evaluated compliance with (1) Commission accounting regulations; (2) FERC Form 2, Annual Report for Major Natural Gas Companies; (3) FERC Form 3-Q, Quarterly Financial Report of Natural Gas Companies; (4) record retention regulations; and (5) PEPL's natural gas tariff section governing reservation charge credit policy.[61]

PEPL improperly (1) computed Allowance for Funds Used During Construction (AFUDC) by including contract retentions in the AFUDC base; (2) accounted for industry association dues; and (3) classified various other relatively minor expense transactions. PEPL reduced gas utility plant by $193,000 to remove the effects of the over-accrual AFUDC from the gas utility plant balances.

5. Capacity Markets and Demand Response

Connecticut Light & Power Company (CL&P). At CL&P, DAA evaluated compliance with ISO-NE's Transmission, Markets and Services Tariff focusing on tariff provisions relevant to CL&P's participation in the Forward Capacity Market and demand response programs within ISO-NE, and also performed select tests of customers CL&P registered into its Conservation and Load Management programs.[62] CL&P did not properly account for revenues associated with its conservation and load management programs. Also, CL&P did not accurately record demand reduction data in its reporting system.

6. No Audit Findings

AES Corporation (AES) and EFS Southeast PowerGen. At AES, DAA evaluated AES and its subsidiary companies' compliance with the conditions established in the Commission's March 9, 2010 Order Authorizing Merger and Disposition of Jurisdictional Facilities, and November 15, 2011 Order Authorizing Disposition of Jurisdictional Facilities.[63] At EFS Southeast PowerGen, DAA evaluated EFS Southeast PowerGen, LLC, Utility Corporation, and ArcLight Capital Partners, LLC's compliance with the conditions established in the Commission's March 1, 2011 Order Authorizing Disposition of Jurisdictional Facilities.[64]

Fayetteville Express Pipeline, LLC (Fayetteville) and Midcontinent Express Pipeline, LLC (Midcontinent). At Fayetteville and Midcontinent, DAA evaluated compliance with Commission accounting regulations, as well as accounting and reporting requirements for

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[61] *Panhandle Eastern Pipeline, Co.*, Docket No. FA12-4-000 (Aug. 29, 2013) (delegated letter order).

[62] *Connecticut Light & Power Co.*, Docket No. PA12-14-000 (Oct. 12, 2013) (delegated letter order).

[63] *AES Corp.*, Docket No. PA12-6-000 (June 6, 2013) (delegated letter order).

[64] *EFS Southeast PowerGen*, Docket No. PA12-4-000 (June 6, 2013) (delegated letter order).

calculating and accruing AFUDC.[65] This includes the components of construction costs in Gas Plant Instruction No. 3 and more specifically the AFUDC rate in 3(17) of those requirements. The audit also evaluated the period for capitalization of interest during construction under Accounting Release (AR)-5 as well as the accounting for long-term debt, related interest costs, and earnings on funds restricted for construction projects under AR-13.

The audits cited in this section did not result in any compliance findings or recommendations.

F. Significant Accounting Matters

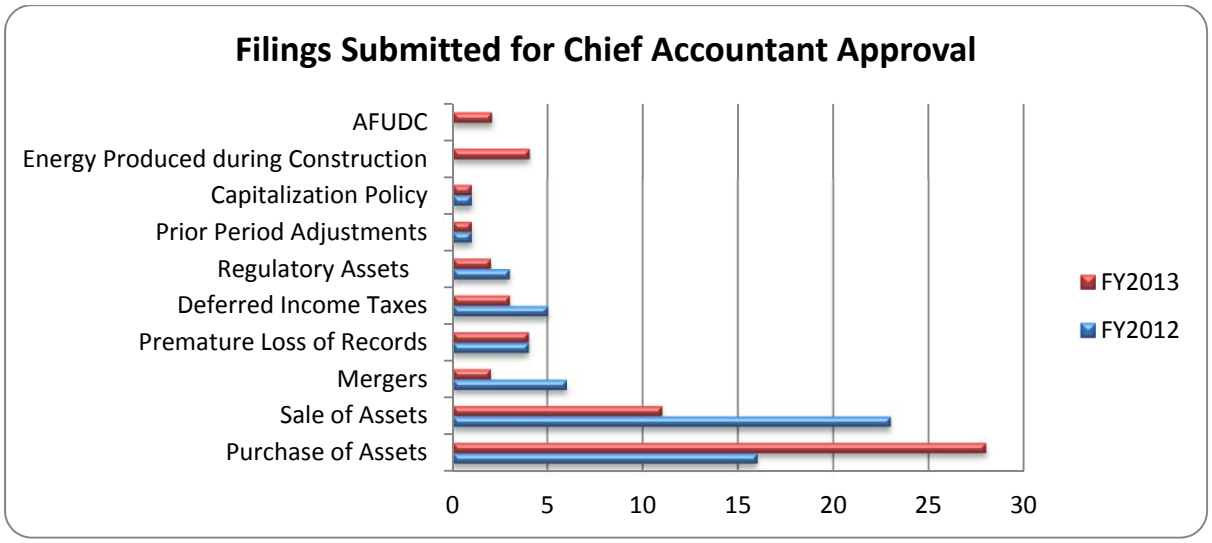
DAA carries out the Commission's accounting program established for jurisdictional electric utilities, natural gas companies, centralized service companies, and oil pipelines to aid in establishing and monitoring just and reasonable rates. DAA also advises the Commission, and may act, on filings submitted to the Commission involving current accounting issues affecting jurisdictional industries, and provides accounting expertise to Commission program offices in developing Commission policies and proposed rulemakings. Further, DAA provides informal accounting advice to Commission jurisdictional electric, natural gas, and oil entities, and participates in pre-filing meetings with these entities to inform them of Commission accounting requirements for issues of interest. DAA participates in accounting liaison meetings with the Commission's jurisdictional industries to inform them of recent accounting decisions and remain informed of current and emerging accounting and financial reporting issues. DAA monitors and participates in projects initiated by the Financial Accounting Standards Board, Securities and Exchange Commission, and International Accounting Standards Board to address issues that may impact the Commission or its jurisdictional entities.

In FY2013, DAA reviewed 225 Commission filings. These filings included requests for accounting approval, certificate authorizations, mergers and acquisitions, security and debt applications, and rate filings. Also, DAA provided informal guidance on 73 inquiries related to various aspects of Commission accounting, financial reporting, and record retention regulations. These inquiries were received from jurisdictional entities, industry stakeholders, and consultants, as well as questions arising through the Commission's Compliance Help Desk, Office of External Affairs, Enforcement Hotline, and other offices within the Commission.

1. Requests for Approval of the Chief Accountant

In FY2013, the Chief Accountant responded to 58 accounting filings requesting approval of a proposed accounting treatment for a specific transaction or event. The matters covered in these accounting requests related to a substantial portion of the Commission's accounting and financial reporting requirements for electric, natural gas, and oil entities. Specifically, accounting requests included Commission-approved mergers, transfers of jurisdictional assets, test energy produced during construction, and AFUDC.

[65] *Fayetteville Express Pipeline, LLC*, Docket No. FA12-2-000 (Apr. 24, 2013); *Midcontinent Express Pipeline, LLC*, Docket No. FA12-3-000 (Apr. 24, 2013) (delegated letter orders).



2. Certificate Proceedings

In FY2013, DAA reviewed 34 natural gas pipeline certificate filings seeking Commission authorization to construct, own, and operate new pipeline facilities, abandon pipeline facilities, or acquire pipeline facilities, and establish rates for new pipeline facilities in service. DAA worked with other Commission program offices to review all items used to determine initial rates, including operation and maintenance expenses, depreciation, amortization, taxes, AFUDC, and return on investment to assist the development of just and reasonable rates that are in the public interest. DAA also ensured that applicants follow Commission accounting rules and regulations related to AFUDC calculations, contributions in aid of construction, regulatory assets and liabilities, leases, and system gas.

3. Merger and Acquisition Proceedings

In FY2013, DAA reviewed 5 merger filings and approximately 80 acquisition filings from electric utilities. The accounting review entails examining proposed accounting for the costs to execute the transaction, costs to achieve integration and synergies, fair value adjustments to assets and liabilities, and goodwill. DAA also ensures that any discussion on accounting is in line with any hold harmless or other rate requirements discussed in a merger order. In acquisition filings, an accounting review ensures applicants properly account for the purchase and sale of plant assets consistent with Commission regulations. For example, DAA ensures that an acquiring applicant maintains the appropriate original cost and historical accumulated depreciation of utility plant and appropriately records an acquisition premium, when appropriate. DAA reviews accounting entries that merger and acquisition applicants file to ensure they provide appropriate transparency to any rate implication resulting from such accounting for consideration by the Commission and all interested parties.

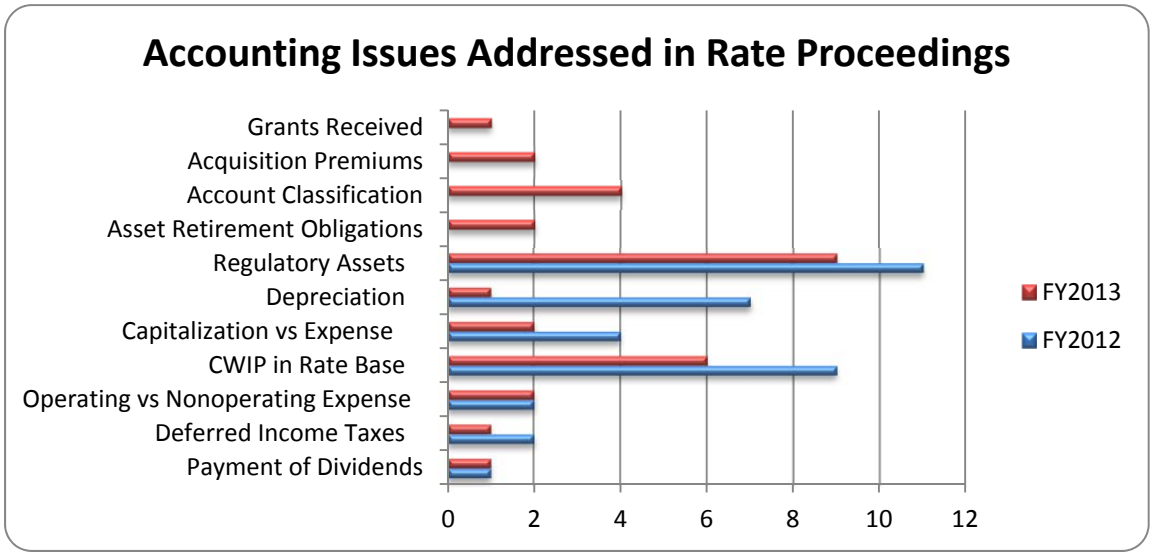
4. Debt and Security Issuance Proceedings

In FY2013, the Chief Accountant reviewed 12 electric utility security/debt applications. Section 204(a) of the FPA provides the Commission authority to grant electric utilities the authority to issue securities or assume liabilities. In reviewing filings under § 204, the Commission evaluates an applicant's viability based on a review of financial statements submitted with the application, interest coverage ratio, and debt maturities and cash flow projections. DAA's review of debt and security applications is important in providing critical analysis which helps prevent public utilities from borrowing substantial amounts of money and

using the proceeds to finance non-utility businesses. This will also ensure that future issuance of debt is compatible with the public interest.

5. Rate Proceedings

In FY2013, DAA participated in 36 rate filings from electric, natural gas, and oil jurisdictional entities. In these rate filings, DAA reviews an applicant's filing and intervening comments or protests to uncover and evaluate all accounting issues arising in the filing. DAA works with other program offices to discuss these accounting issues and to understand the effect accounting and financial reporting has on rates. Since many natural gas and electric rates are directly tied to a jurisdictional entity's financial reports (e.g., fuel trackers and cost of service formula rates), DAA works to ensure that accounting is not used as a tool to alter components of a FERC jurisdictional rate. DAA has also worked with other program offices to enhance financial transparency of financial information of costs recovered in formula rates. That is, formula rate informational filings should disclose costs that do not represent, among other things, historical original cost, merger-related costs, prior period adjustments, or corrections of errors, to ensure all ratepayers can assess the costs they are billed.



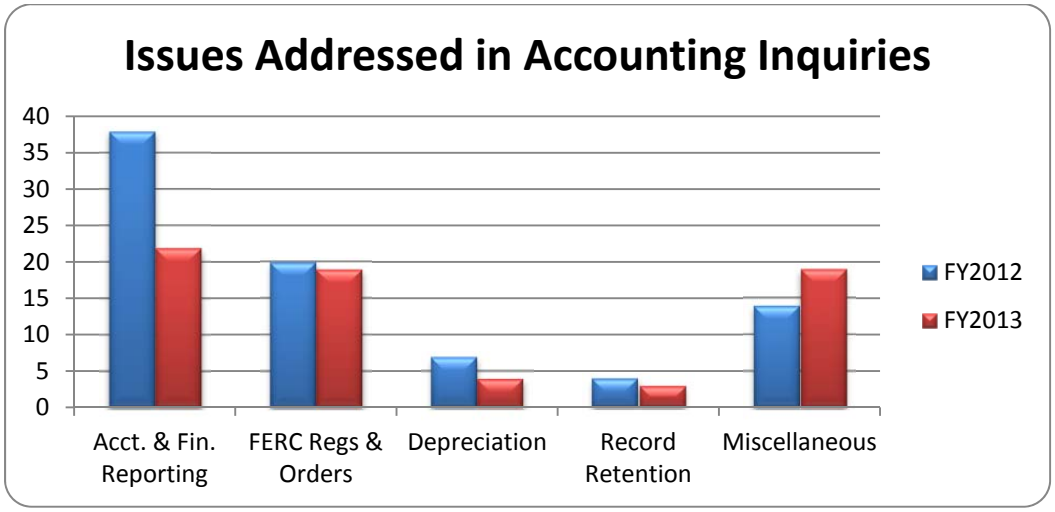
6. Accounting Inquiries

In FY2013, DAA responded to 73 accounting inquiries from jurisdictional entities and other stakeholders in the Commission's jurisdictional industries. The accounting inquiries are made through the Compliance Help Desk,[66] the Accounting Inquiries phone line and email,[67] or sent directly to DAA staff. The majority of accounting inquiries sought accounting and financial reporting direction on topics such as accounting for mergers, construction activities, government grants, and renewable energy credits. The accounting inquiries also sought answers to specific questions on depreciation, the appropriate functional classification of costs, and record retention requirements. Other accounting inquiries requested assistance in finding specific Commission orders and regulations of interest. DAA responded to these accounting inquiries by providing

[66] Compliance Help Desk webpage can be found at: http://www.ferc.gov/contact-us/compliance-help-desk.asp.

[67] For Accounting Inquiries contact us at (202) 502-8877 or accountinginquiries@ferc.gov.

informal accounting and financial reporting guidance based on Commission precedent and regulations and instructing individuals how to find documents and regulations using the Commission eLibrary system[68] and the Code of Federal Regulations.[69]



7. International Financial Reporting Standards

International Financial Reporting Standards (IFRS) have been of special interest to the Commission and its regulated entities in recent years as a result of the steps the United States has taken to consider the convergence of U.S. generally accepted accounting principles and IFRS. The Chief Accountant has worked with U.S. regulated entities, state commissions, and international regulators to promote the development of an IFRS accounting standard that provides for regulatory assets and liabilities in IFRS financial statements. Following several comment letters by the Chief Accountant and others requesting an IFRS accounting standard for regulatory assets and liabilities, the IASB initiated a priority project to consider reporting regulatory assets and liabilities in IFRS financial statements. This project will include interim accounting guidance to provide for regulatory assets and liabilities until a final standard is developed. In FY2013, the Chief Accountant submitted two comment letters discussing the Commission's cost-of-service rate design and supporting the pursuit of an IFRS standard for regulatory assets and liabilities. The Chief Accountant has also participated in meetings with international regulators and financial statement preparers and users to provide an overview of the Commission's cost-of-service rate design and discuss the importance of reporting regulatory assets and liabilities based on this cost recovery mechanism.

8. Energy Storage Assets

On July 18, 2013, the Commission issued a final rule in Order No. 784, revising certain aspects of its current Market-Based Rate regulations and ancillary service requirements under the *pro forma* open-access transmission tariff. Order No. 784 also revised the Commission's accounting and financial reporting requirements to foster competition and transparency in ancillary services markets and enhance the accounting and financial reporting of transactions

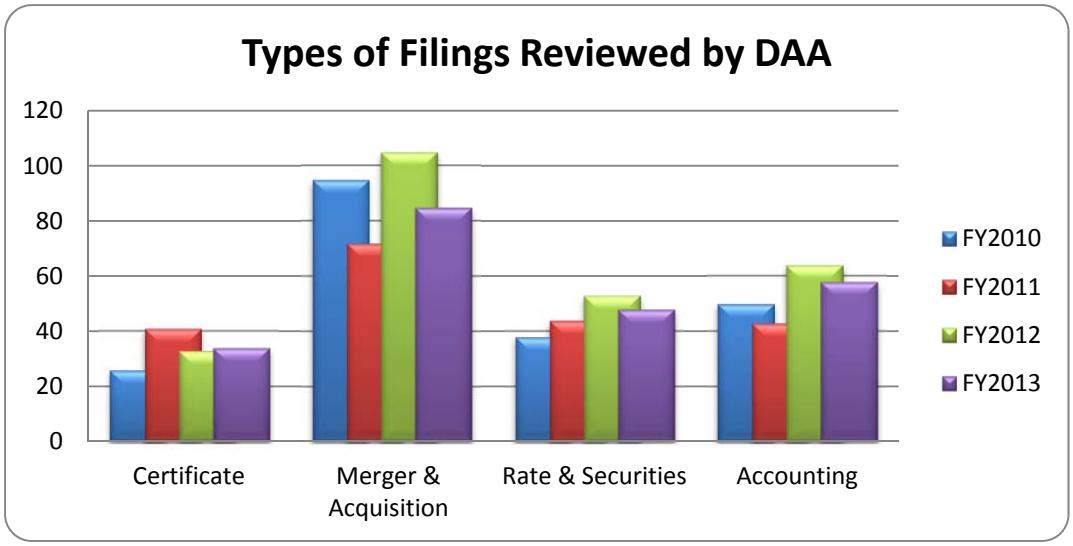
[68] The Commission's eLibrary system can be accessed at: http://www.ferc.gov/docs-filing/elibrary.asp.

[69] The Commission's regulations in 18 C.F.R. can be found at: http://www.ecfr.gov/cgi-bin/text-idx?SID=03cdba1b6c896b3bd9734aab926c7b88&c=ecfr&tpl=/ecfrbrowse/Title18/18cfrv1_02.tpl

associated with the use of energy storage assets in public utility operations. DAA led the development of revisions to the Commission's accounting and financial reporting requirements. These reforms accommodate the increasing availability of new energy storage resources for use in public utility operations and provide needed transparency to ensure that the activities and costs of energy storage operations are sufficiently transparent such that stakeholders and state and Federal regulators can provide adequate oversight. Information gathered through these reforms is important in developing and monitoring rates, making policy decisions, aiding compliance and enforcement initiatives, and informing the Commission and the public about the activities of entities subject to these accounting and financial reporting requirements.

Accounting Filing Statistics

In its review of filings to the Commission, DAA has advised the Commission and acted on filings covering many different accounting matters with cost-of-service rate implications, such as accounting for mergers, asset impairments, depreciation, acquisition premiums, pensions, and income taxes. Over the past four years, DAA has reviewed 889 Commission filings to ensure proper accounting is followed and advise the Commission on potential rate effects.



DIVISION OF ENERGY MARKET OVERSIGHT

A. Overview

The Division of Energy Market Oversight (Market Oversight) within Enforcement is responsible for monitoring and overseeing the nation's wholesale natural gas and electric power markets. Market Oversight continuously examines and monitors the structure and operation of these markets to identify market anomalies, flawed or inadequate market rules, tariff and rule violations, and other market behavior. Staff performs daily oversight of the nation's wholesale natural gas and electric markets and related fuel and financial markets, identifying market events and trends. Market Oversight analyzes and reports its observations to the Commission and, as appropriate, to the public, and collaborates with other offices at the Commission on policy options and regulatory strategies for addressing the issues identified. Staff assesses factors that relate to the competitiveness, fairness, and efficiency of wholesale energy markets. In addition, Market Oversight administers, analyzes, and ensures compliance with the filing requirements for EQRs and various Commission financial forms. Finally, Market Oversight advises the Commission on the efficacy of certain regulatory policies in light of evolving energy markets and ensures the Commission has the information needed to effectively administer and monitor those markets.

B. Market Monitoring

Market Oversight staff continuously examines the structure, operation, and interaction of natural gas and electric markets. On an ongoing basis, Market Oversight staff accesses data from a variety of sources to review market fundamentals and emerging trends.

As developments warrant, Market Oversight staff initiates projects designed to evaluate market trends, and to assess participant behavior. Staff also presents analyses at Commission meetings. During FY2013, such presentations included the following:

1. 2012 State of the Markets Report

Each year, Market Oversight presents a State of the Markets report assessing the significant events of the past year. Presented May 16, 2013, staff observed that for the year ended December 31, 2012, natural gas production grew to a new record, which contributed to the lowest nominal natural gas prices since 2002. Low natural gas prices resulted in much greater reliance on natural gas as the fuel of choice for power generation while coal-fired power generation fell to its lowest level in 30 years. Since natural gas is often the marginal fuel in electric generation, lower natural gas prices generally resulted in lower electricity prices nationwide. Greater reliance on natural gas as a fuel for power generation led to increased awareness about the importance of greater coordination between the natural gas and electric industries. New England was identified as a market particularly at risk for service disruption due to limited pipeline capacity into the region.[70]

[70] The 2012 State of the Markets Report is available at http://www.ferc.gov/market-oversight/reports-analyses/st-mkt-ovr/2012-som-final.pdf.

2. Seasonal Market Assessments

Market Oversight prepares seasonal assessments presented at Commission meetings and made available to the public on the Commission website. In FY2013, Market Oversight staff's seasonal assessments included the following:

Winter 2012/2013 Energy Market Assessment, November 15, 2012. Market Oversight staff presented the outlook for natural gas markets and noted that market conditions going into the winter were generally favorable. Despite a 22% year-to-date increase in natural gas demand for power production, prices remained the lowest in the past ten years because of continued production growth and lower residential and commercial demand. While high storage rates and low prices were positive indicators for the winter, staff noted potential short term supply constraints and price spikes in New England due to pipeline capacity limitations and decreased liquefied natural gas (LNG) imports.[71]

Summer 2013 Energy Market and Reliability Assessment, May 16, 2013. This assessment reviewed the outlook for the electric market for summer 2013. OER contributed an analysis of NERC's market review, which raised little concern for reliability for the coming season, with the exception of Texas, which faced low reserve margins. Market Oversight staff examined electric grid operations and electricity market prices, particularly in Southern California and the San Diego area, given the outage of the San Onofre Nuclear Generating Station. Staff advised that the tight capacity in the transmission-constrained South Orange County and San Diego areas could cause price spikes in the regional electricity market. Staff further noted that due to rebounding natural gas prices, the national markets overall would exhibit less coal-to-natural gas switching than experienced the previous summer.[72]

C. Outreach and Communication

Market Oversight makes available to the public its analyses by posting reports on the Market Oversight website and in monthly and periodic snapshot presentations. Staff also briefs visiting industry participants, state and federal officials, and foreign delegations.

1. Website

Market Oversight publishes data and analyses on the Market Oversight website, at http://www.ferc.gov/market-oversight/market-oversight.asp, organized into pages for (1) national overviews of natural gas and electricity markets, and (2) ten regional electricity and five regional natural gas markets. The regional market pages provide charts, tables, and maps displaying market characteristics and outcomes. The Market Oversight website also has information on several other relevant markets, including LNG, coal, and emissions markets.

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[71] The Winter 2012-2013 Energy Market Assessment is available at http://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2012/11-15-12.pdf.

[72] The Summer 2013 Energy Market and Reliability Assessment is available at http://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2013/05-16-13.pdf.

2. Snapshot Calls

Market Oversight held 29 conference calls with representatives of state agencies in the Northeast, Midwest and SPP, Southeast, and West. These calls provide a current "snapshot" of energy markets. Regional Snapshot Reports are compiled monthly and serve as the basis for discussion on the calls. The reports include data on natural gas, electricity, LNG, weather, and other market developments. In addition, the Snapshot Report incorporates reports on special topics. Snapshot Reports are available on the Market Oversight website at http://www.ferc.gov/market-oversight/mkt-snp-sht/mkt-snp-sht.asp, and are archived back to 2007.

3. Domestic and Foreign Delegation Briefings

Market Oversight periodically hosts visitors, including foreign and domestic delegations of regulators and industry participants, interested in energy markets and in staff's market monitoring activities. In FY2013, Market Oversight conducted a number of briefings in the Market Monitoring Center, including seven domestic briefings, to Congressional delegations, groups of delegates from federal or state agencies, and delegations from industry, and four presentations to foreign delegations.

Market Oversight also briefs new Commission employees and others on how Market Oversight maintains ongoing monitoring of market trends and events and how staff manages both the Market Monitoring Center resources and applicable data to support oversight functions.

D. Forms Administration and Filing Compliance

Market Oversight staff administers and ensures compliance with the Commission's filing requirements. The Commission requires companies subject to its jurisdiction to submit annual and quarterly reports regarding jurisdictional sales, financial statements, and operational data. The Commission uses these reports for analyses, including evaluation of whether existing rates continue to be just and reasonable. Other government agencies and industry participants also use these reports for a variety of business purposes. Accordingly, accurate reporting is a critical aspect of monitoring markets. During FY2013, over 10,000 FERC forms were submitted.

Market Oversight performs a series of data validation checks for the various FERC forms to ensure that submissions comply with filing requirements and to improve the accuracy and quality of the information filed with the Commission. During FY2013, Commission staff contacted over 1,000 filers regarding issues with their submittals and assisted the filers to come into compliance with Commission requirements. Additionally, staff reviewed the various forms and data submitted to the Commission to assess whether to recommend that the Commission take remedial action.

1. Electric Quarterly Reports

Section 205 of the FPA, 16 U.S.C. § 824d (2006), and 18 C.F.R. Part 35 (2013), require, among other things, that all rates, terms, and conditions of jurisdictional service be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements requiring public utilities, including power marketers, to file EQRs summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and provide transaction

information (including rates) for short-term and long-term power sales during the most recent calendar quarter.[73]

In concert with software developers, FERC staff developed the new EQR platform in accordance with Order Nos. 768, 768-A, and 770.[74] To date, Market Oversight has received nearly 1,900 test submittals which, along with stakeholder comments, identified refinements for general use. Staff is working with the developers to address additional issues with the platform and will include information on the new and old systems on the website to facilitate its use.

In FY2013, Commission staff reviewed nearly 9,000 EQR submittals from over 1,800 individual respondents. Commission staff determines whether sellers have timely complied with the requirements set forth in Order No. 2001 and whether the data is accurate and reliable. Staff employed 30 screens to identify frequent errors reported in 2010-2012 EQR filings. Market Oversight received thousands of re-filings of EQR data in response to the technical compliance review.

2. Forms Technical Compliance Reviews

Market Oversight staff performs technical compliance reviews to evaluate companies' submissions with respect to the FERC Form filing requirements. Staff reviews the filings of selected gas and electric companies and their financial statements for consistency. In FY2013, staff reviewed the annual Form No. 1 (electric) and No. 2/2-A (natural gas) filings from 2009 to 2011 for eight companies for compliance with filing requirements. Staff generally found minor errors in areas such as the companies' detailed entries regarding changes during the year, formula rates, and notes to the financial statements. Where issues or errors were noted, staff contacted the utilities to clarify the issues identified or correct errors.

E. Agenda Items and Rulemakings

Market Oversight assists the Commission in evaluating the efficacy of certain regulatory policies in light of evolving energy markets and ensures the Commission has the information needed to administer and monitor the markets effectively. During FY2013, Market Oversight staff continued to support Commission efforts to increase electric market transparency under § 220 of the FPA. Market Oversight continuously reviews the monitoring program to ensure that it is comprehensive and systematic, and also reviews reporting requirements to ensure that appropriate and accurate information is collected. Market Oversight seeks to enhance market transparency and efficiency while balancing the regulatory burden on market participants. As such, Market Oversight initiated, or provided significant support for, the following:

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[73] *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127 (2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074 (2002), *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342 (2002), *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003), *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270 (2007), *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008).

[74] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g and clarification*, Order No. 768-A, 143 FERC ¶ 61,054 (2012); *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, 141 FERC ¶ 61,120 (2012).

1. Revisions to Electric Quarterly Report Filing Process

On November 15, 2012, the Commission issued an order to change the process for filing EQRs.[75] The current EQR filing mechanism uses Microsoft Visual FoxPro, which Microsoft has discontinued. In addition, Visual FoxPro is constrained by data size limitations that restrict the Commission's ability to add data fields in the EQR database. The Commission, therefore, proposed a new web-based filing system that would provide EQR filers with two new formats for filing EQRs: Comma-Delimited Values (CSV) or Extensible Mark-Up Language (XML).

The Commission proposed that any changes to the process for filing EQRs apply to filings beginning with the third quarter 2013 (providing data for July through September 2013). On October 10, 2013, the Commission notified all public and non-public utilities to postpone filing third quarter 2013 EQRs until the web-based approach was available.[76]

2. Gas-Electric Coordination

Market Oversight provided ongoing market support to the Gas-Electric Coordination initiative. Staff closely monitored regional Gas-Electric Coordination activities and coordinated quarterly outreach calls with national and regional industry stakeholders. Also, staff composed and presented the quarterly updates to the initiative at the March and June Commission Open Meetings. Staff contributed to a draft of the Communications Notice of Proposed Rule, a proceeding which provided explicit authority to interstate natural gas pipelines and public utilities to share non-public information to promote gas-electric coordination.[77] Staff also provided support for the Scheduling Technical Conference in April 2013, which examined whether and how natural gas and electric industry schedules could be harmonized to achieve greater efficiencies for both industries.[78]

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[75] *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338 (2012).

[76] *Order Extending Deadline to File Electronic Quarterly Reports*, 145 FERC ¶ 61,031 (2013).

[77] *Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators*, 144 FERC ¶ 61,043 (2013).

[78] *Coordination Between Natural Gas and Electricity Markets*, Docket No. AD12-12-000 (2013).

DIVISION OF ANALYTICS AND SURVEILLANCE

A. Overview

The Division of Analytics and Surveillance (DAS) develops surveillance tools, conducts surveillance, and analyzes transactional and market data to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets. DAS focuses on: (1) natural gas surveillance; (2) electric surveillance; and (3) transactional analysis. The analysts and economists in DAS participate in investigations with attorneys from DOI, providing detailed transactional analysis, market event analysis, and subject matter expertise. As part of its surveillance function, DAS determines what information is necessary to assess and oversee the energy markets. Using that information, DAS develops and refines surveillance tools to perform continuous surveillance and analysis of market participant behavior, economic incentives, operations, and price formation on both the natural gas and electric markets, to detect anomalous activities in the markets and to identify potential investigative subjects.

In FY2013, the Commission continued its efforts to enhance its ability to conduct surveillance of the natural gas and electric markets and to analyze individual market participant behavior by issuing Order No. 771 and a Notice of Inquiry on Enhanced Natural Gas Market Transparency.

Order No. 771. The Commission issued Order No. 771, entitled Availability of E-Tag Information to Commission Staff, on December 20, 2012.[79] This final rule grants the Commission access, on a non-public and ongoing basis, to the complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets. The rule requires e-Tag authors and Balancing Authorities to take appropriate steps to ensure Commission access to the e-Tags by designating the Commission as an addressee on the e-Tags. In addition, the rule requires that e-Tag information be made available to RTOs/ISOs and their Market Monitoring Units, upon request to e-Tag Authors and Authority Services, subject to appropriate confidentiality restrictions. On March 8, 2013, the Commission issued Order No. 771-A addressing certain requests for rehearing and clarification. The Commission also stated that it would issue an additional rehearing order addressing the remaining issues raised on rehearing and clarification in due course. The Commission began accessing e-Tags pursuant to Order No. 771 on March 15, 2013.

Notice of Inquiry on Enhanced Natural Gas Market Transparency. The Commission issued a Notice of Inquiry (NOI) on Enhanced Natural Gas Market Transparency in Docket No. RM13-1-000 on November 15, 2012.[80] In that NOI, the Commission sought comments on what changes, if any, should be made to its regulations under the natural gas market transparency provisions of § 23 of the Natural Gas Act (NGA).[81] Specifically, the Commission is considering the extent to which quarterly reporting of every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas) would provide useful information for improving natural gas market

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[79] *Availability of E-Tag Information to Commission Staff*, Order No. 771, FERC Stats. & Regs. ¶ 31,339 (2012), *order on reh'g*, Order No. 771-A, 142 FERC ¶ 61,181 (2013).

[80] *Enhanced Natural Gas Market Transparency*, 141 FERC ¶ 61,124 (2012).

[81] 15 U.S.C. § 717t-2 (2006).

transparency. To that end, the Commission also sought comments in response to a series of specific questions related to: (1) which data elements should be reported and how; (2) possible public dissemination of any data reported; (3) the scope of such a reporting requirement; and (4) the burden of such reporting on market participants. The Commission received 34 sets of comments. On July 9, 2013, the Commission issued a Notice of Data Requests to Certain Natural Gas Marketers for Information Related to Natural Gas Sales in an effort to estimate the volume of natural gas sales that are jurisdictional to the Commission.

B. Natural Gas Surveillance

DAS conducts surveillance and analysis of physical natural gas market behavior to detect potential manipulation and anti-competitive behavior. DAS has analytical tools, or screens, that use publicly available data including trade prices, volumes, times, and other transaction characteristics, to detect anomalous activity. The automated screens cover the majority of physical and financial trading hubs in the United States. DAS also employs asset-based screens that monitor cash trading around infrastructure, including natural gas storage. The screens alert staff to a variety of market conditions and market participant actions.

When a screen issues an alert, staff conducts a series of analyses to gain information about the activity that caused the screen alert. First, staff compares the trading to that at other hubs and reviews supply, demand, pipeline utilization, operational notices, and physical and financial trading to determine whether there is a fundamentals-based explanation for the screen alert. Most often, staff finds a fundamentals-based explanation for the screen alert. However, when the follow-up analysis fails to explain the alert, staff obtains granular transactional data to perform a more in-depth analysis of the specific trading behavior underlying the alert. Under some circumstances, DAS staff will also contact market participants for additional transactional details or explanations of trading activities to better understand the purpose of the transactions. If staff believes that the market activities underlying the screen alert could constitute manipulation, DAS recommends that DOI open an investigation.

C. Electric Surveillance

DAS analyzes and identifies anomalies and potential market manipulation in the electric markets by regularly accessing data from a variety of sources to screen for potentially manipulative behavior in the RTO/ISO and bilateral electricity markets. During FY2013, staff ran monthly screens that identify patterns at the hourly level by monitoring the interactions between physical and virtual bidding strategies and potentially benefiting payouts. In particular, these screens identify financial transmission rights that exist at nodes and constraints where market participants also trade virtuals, generate electricity, or move power between RTOs/ISOs. In addition, staff developed and deployed analytic tools and screens for: (1) determining uneconomic virtual transactions by node, zone, and constraint; (2) detecting day-ahead market congestion manipulation that would benefit financial transmission rights and financial swap positions; (3) identifying anomalies in physical offer patterns; and (4) identifying abnormal out-of-market payments.

Throughout FY2013, DAS also worked to develop and improve its surveillance capabilities by incorporating new data sources. DAS made extensive use of the data that the Commission

began receiving from the RTOs/ISOs under Order No. 760,[82] which provides DAS with a detailed view of market participant activity in each RTO/ISO, and the e-Tag data received pursuant to Order No. 771, which provides DAS with greater visibility into trading between markets. Staff also continued to work closely with the Market Monitoring Units of each RTO and ISO.

D. Analytics

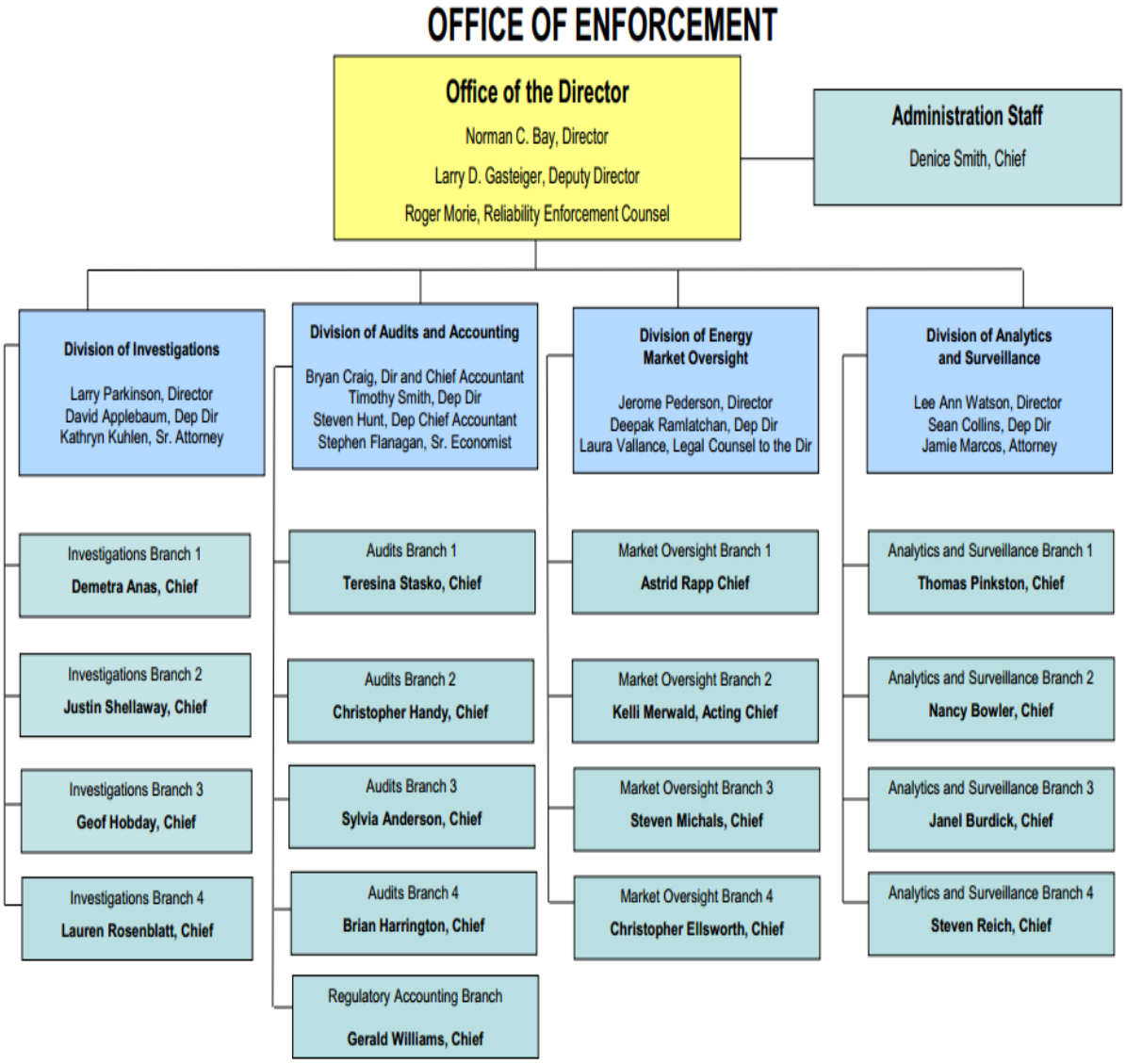
During FY2013, DAS worked on more than 30 investigations, some of which are discussed above in the DOI section. Many of these investigations involve allegations of manipulation in the Commission-jurisdictional natural gas and electric markets or violations of tariff provisions that are intended to foster open, competitive markets. DAS's activities in investigations generally include: (1) assessing market conditions during periods of suspected manipulation; (2) identifying patterns of market activity that could indicate market manipulation; (3) identifying time periods in which potentially manipulative activities occurred; and (4) fully reconstructing and analyzing companies' trading portfolios. Upon completion of the analytical process, staff develops data-based explanations to inform the structure and substance of further investigation, settlement discussions, and Commission actions. Additionally, staff calculates the amount of unjust profits resulting from violations to assist with formulating a civil penalty recommendation under the Commission's penalty guidelines.

[82] *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators*, Order No. 760, FERC Stats. & Regs. ¶ 31,330 (2012). This final rule amends the Commission's regulations to require each jurisdictional RTO/ISO to electronically deliver to the Commission, on an ongoing basis and in a form and manner consistent with its own data collection and acceptable to the Commission, data related to the markets the RTOs/ISOs administer. Specifically, this data includes physical and virtual bids and offers, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights, internal bilateral contracts, uplift, and interchange pricing.

CONCLUSION

The information in this Report is provided to promote transparency and to encourage entities subject to Commission requirements to develop strong internal compliance programs. As discussed in this Report, Enforcement promotes compliance with the Commission's statutes, rules, orders, regulations, and tariff provisions by investigating a wide variety of matters, auditing regulated entities for both compliance and performance issues, and actively overseeing the gas and electric markets to assist the Commission in ensuring reliable, efficient, and sustainable energy for consumers. DOI will continue to focus its efforts on keeping markets transparent and competitive and helping to ensure the reliability of the bulk power system. DAA will work closely with entities to improve compliance, while Market Oversight will examine and monitor the structure and operation of natural gas and electric markets. DAS will conduct surveillance and analyze transactional and market data to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets.

APPENDIX A: OFFICE OF ENFORCEMENT ORGANIZATION CHART



APPENDIX B: FY2013 CIVIL PENALTY ENFORCEMENT ACTIONS[83]

Subject of Investigation and Order Date	Total Payment	Explanation of Payments and Compliance Plans
Lincoln Paper and Tissue, LLC, 144 FERC ¶ 61,162 (August 29, 2013)	$5,000,000 civil penalty; $379,016 disgorgement	In this Order Assessing Civil Penalties, the Commission found Lincoln Paper and Tissue, LLC violated 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation). Lincoln elected the procedures of FPA § 31(d) (3), 16 U.S.C. § 823b(d)(3) (2006), pursuant to which the Commission first shall assess a penalty (without formal trial-type administrative adjudication), and then shall institute an action in federal district court to affirm the penalty assessment should Lincoln fail to pay the penalty in a timely fashion.
Competitive Energy Services, LLC, 144 FERC ¶ 61,163 (August 29, 2013)	$7,500,000 civil penalty; $166,841 disgorgement	In this Order Assessing Civil Penalties, the Commission found Competitive Energy Services, LLC violated 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation). CES elected the procedures of FPA § 31(d) (3), 16 U.S.C. § 823b(d)(3) (2006), pursuant to which the Commission first shall assess a penalty (without formal trial-type administrative adjudication), and then shall institute an action in federal district court to affirm the penalty assessment should CES fail to pay the penalty in a timely fashion.

[83] A list of all EPAct 2005 civil penalty orders is available at http://www.ferc.gov/enforcement/civil-penalties/civil-penalty-action.asp.

Richard Silkman, 144 FERC ¶ 61,164 PDF (August 29, 2013)	$1,250,000 civil penalty	In this Order Assessing Civil Penalties, the Commission found Richard Silkman violated 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation). Mr. Silkman elected the procedures of FPA § 31(d)(3), 16 U.S.C. § 823b(d) (3) (2006), pursuant to which the Commission first shall assess a penalty (without formal trial-type administrative adjudication), and then shall institute an action in federal district court to affirm the penalty assessment should Mr. Silkman fail to pay the penalty in a timely fashion.
Enterprise Texas Pipeline LLC, 144 FERC ¶ 61,156 (August 26, 2013)	$315,000 Civil Penalty; $7,234,539.62 Disgorgement	Civil penalty, disgorgement, and commitment to compliance measures resulting from violations of § 311 of the Natural Gas Policy Act (NGPA) and 18 C.F.R. § 284.123 (requiring NGPA § 311 pipelines to obtain Commission approval of rates).
In Re Make-Whole Payments and Related Bidding Strategies (JPMVEC), 144 FERC ¶ 61,068 (July 30, 2013)	$285,000,000 Civil Penalty; $125,000,000 Disgorgement; Waiver of claims against CAISO	Civil penalty, disgorgement, waiver of claims, and commitment to compliance measures resulting from violations of 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation) and § 39.2.5.c of the MISO tariff (requiring non-price information to reflect actual known physical capabilities and characteristics of the resource).

Barclays Bank PLC, Daniel Brin, Scott Connelly, Karen Levine, and Ryan Smith, 144 FERC ¶ 61,041 PDF (July 16, 2013)	Barclays Bank PLC: $435,000,000 civil penalty; $34,900,000 disgorgement; Daniel Brin: $1,000,000 civil penalty; Scott Connelly: $15,000,000 civil penalty; Karen Levine: $1,000,000 civil penalty; Ryan Smith: $1,000,000 civil penalty	In this Order Assessing Civil Penalties, the Commission found Barclays Bank PLC and its individual traders Daniel Brin, Scott Connelly, Karen Levine and Ryan Smith each violated 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation). Barclays and its individual traders have each elected the procedures of FPA § 31(d)(3), 16 U.S.C. § 823b(d)(3) (2006), pursuant to which the Commission first shall assess a penalty (without formal trial-type administrative adjudication), and then shall institute an action in federal district court to affirm the penalty assessment.
Southwest Power Pool, Inc., 144 FERC ¶ 61,019 (July 10, 2013)	$50,000 Civil Penalty ($25,000 to each FERC and NERC)	Civil penalty and commitment to compliance measures resulting from violations of two Reliability Standards (IRO-015-1, Requirement R1 and EOP-004-1, Requirement R3) associated with reliability coordination of a portion of the bulk power system.
Enerwise Global Technologies, Inc., 143 FERC ¶ 61,218 (June 7, 2013)	$780,000 Civil Penalty; $20,726 Disgorgement; $500,000 Improvements	Civil penalty, disgorgement, and metering and technology improvements resulting from violations of the PJM Open Access Transmission Tariff, Attachment DD, § 2.44, and 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation).

DTE Gas Company; and Washington 10 Storage Corporation, 143 FERC ¶ 61,188 (May 31, 2013)	DTE: $15,000 Civil Penalty Washington 10: $725,000 Civil Penalty; $2,508,227 Disgorgement	DTE: Civil penalty, compliance improvements, and compliance monitoring resulting from violations of 18 C.F.R. § 284.8(h)(2) (capacity release/flipping). Washington 10: Civil penalty, disgorgement, compliance improvements, and compliance monitoring resulting from violations of § 311 of the NGPA, various subparts of 18 C.F.R. §§ 284.122 (rates), 284.123 (rates), 284.124 (disclosure), 284.126 (reporting), and its Statement of Operating Conditions, related to the misclassification of thirty-two firm transportation storage and seventy-two Park and Loan agreements.
Seneca Falls Power Corporation, 143 FERC ¶ 61,063 (April 23, 2013)	$150,000 Civil Penalty; $300,000 Project Improvements	Civil penalty, project improvements, and compliance monitoring resulting from violations of six license provisions relating to procuring and maintaining property rights necessary to operate the project; monitoring wetlands; installing recreational facilities; maintaining specified water elevations; and installing and monitoring fish passages.
Entergy Services, Inc., 142 FERC ¶ 61,241 (March 28, 2013)	$975,000 Civil Penalty	Civil penalty, mitigation and compliance enhancement measures, and compliance monitoring resulting from violations of twenty-seven requirements of fifteen Reliability Standards related to (1) protection system maintenance; (2) facility ratings; (3) system modeling; (4) operator qualification; and (5) communications systems.
Rumford Paper Company, 142 FERC ¶ 61,218 (March 22, 2013)	$10,000,000 Civil Penalty; $2,836,419.08 Disgorgement	Civil penalty, disgorgement, and commitment to compliance measures resulting from violations of 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation).

In Re PJM Up-To Congestion Transactions, 142 FERC ¶ 61,088 (February 1, 2013)	$51,000 Civil Penalty $29,563 Disgorgement	Civil penalty, disgorgement, and commitment to compliance training resulting from violations of 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation); individual trader agrees to refrain from trading in electricity markets and products for one year.
Westar Energy, Inc., 142 FERC ¶ 61,066 (January 25, 2013)	$420,000 Civil Penalty $1,153,836 Disgorgement	Civil penalty, disgorgements, and compliance monitoring resulting from violations of Southwest Power Pool's OATT (§ 28.6).
Deutsche Bank Energy Trading, LLC, 142 FERC ¶ 61,056 (January 22, 2013)	$1,500,000 Civil Penalty $172,645 Disgorgement	Civil penalty, disgorgement, and compliance monitoring resulting from violations of 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation), 18 C.F.R. § 35.41(b) (prohibition of submission of false or misleading information or the omission of material information), and provisions of the CAISO tariff.
In re Progress Energy Florida, Inc., 142 FERC ¶ 61,041 (January 16, 2013)	$80,000 Civil Penalty	Civil penalty and compliance monitoring resulting from violations of 18 C.F.R. § 35.10b (EQR filing requirements), Revised Public Utility Filing Requirements (Order No. 2001), PEF's market based rate authority, and PEF's cost based rates tariff.
EnerNOC Inc. and Celerity Energy Partners LLC, 141 FERC ¶ 61,211 (December 17, 2012)	$820,000 Civil Penalty $656,806 Disgorgement	Civil penalty, disgorgement, and compliance monitoring resulting from EnerNOC's violations of the ISO-NE Tariff (failing to exercise due diligence to prevent submission of inaccurate load data) and Celerity's violations of 18 C.F.R. § 35.7 (Order No. 714), 18 C.F.R. 35.37(a)(1) (Order No. 697) and its Market-Based Rate tariff.
California Independent System Operator Corporation, 141 FERC ¶ 61,209 (December 14, 2012)	$200,000 Civil Penalty	Civil penalty and compliance monitoring resulting from violations of Reliability Standards PER-002-0, Requirements R1 and R3.1; TOP-002-2a, Requirement R6; and TOP-002-2a, Requirement R1

Alliance Pipeline LP, 141 FERC ¶ 61,182 (November 30, 2012)	$500,000 Civil Penalty	Civil penalty and compliance monitoring resulting from violations of 18 C.F.R. § 358.4(b) (non-discrimination requirement), 18 C.F.R. § 358.6 (no conduit rule), 18 C.F.R. § 358.7(a)(1) (transparency rule, contemporaneous disclosure), and § 42.3 of its tariff.
In re PacificCorp, 141 FERC ¶ 61,156 (November 28, 2012)	$265,000 Civil Penalty	Civil penalty, remedial measures, and compliance monitoring resulting from violations of 18 C.F.R. § 37.6(e)(1) (OASIS posting requirements) and PacifiCorp's OATT (§§ 17.1 and 18.1 and schedule 11).
Gila River Power, LLC, 141 FERC ¶ 61,136 (November 19, 2012)	$2,500,000 Civil Penalty; $911,553 Disgorgement	Civil penalty, disgorgement, and compliance monitoring resulting from violations of 18 C.F.R. § 1c.2 (prohibition of electric energy market manipulation), 18 C.F.R. § 35.41(b) (prohibition of submission of false or misleading information or the omission of material information), and provisions of the CAISO tariff.

APPENDIX C: FY2013 NOTICES OF ALLEGED VIOLATIONS[84]

Issue Date	Subject of Investigation	Description of Alleged Misconduct	Dates of Alleged Misconduct
July 31, 2013	Enterprise Texas Pipeline LLC	Enterprise Texas Pipeline LLC, an intrastate pipeline providing Commission-jurisdictional interstate transportation services, is alleged to have violated § 311 of the Natural Gas Policy Act (NGPA), 18 C.F.R. § 284.123, and the company's Commission-approved Statement of Operating Conditions (SOC), by charging a title transfer tracking fee without Commission authorization.	The conduct occurred between 2004 and August 2012.
July 29, 2013	In Re Make-Whole Payments and Related Bidding Strategies (JPMVEC)	JP Morgan Ventures Energy Corporation (JPMVEC) is alleged to have violated the Commission's Prohibition of Electric Energy Market Manipulation, 18 C.F.R. § 1c.2 (2013) by engaging in eight manipulative bidding strategies in CAISO and MISO through strategies designed to improperly obtain payments at above-market rates. In addition, JPMVEC is alleged to have violated § 39.2.5.c of the MISO tariff (requiring non-price information to reflect actual known physical capabilities and characteristics of the resources).	The conduct at issue occurred during the 2010-2011 time period.
July 3, 2013	Erie Boulevard Hydropower, LP	Staff alleges the following violations of Part 12: (1) on September 28, 2010, the NSCC operator failed to sound, within a reasonable time and given the existing circumstances, Varick's Fishermen Alert System (FAS) when an increased spillage of water over the Varick dam was imminent, after the traveling operator successfully brought on-line three generator units at High Dam; (2) Erie	May 28, 2010 – June 22, 2011

[84] A list of all notices of alleged violations is available at http://www.ferc.gov/enforcement/alleged-violation/notices.asp.

		failed to report to FERC's New York Regional Engineer that the Varick public safety camera was not working; (3) Erie failed to repair within a reasonable time the camera, monitoring fishermen in Varick's tailrace area; (4) Erie failed to report to FERC's New York Regional Engineer that Varick's staggered-height flashboards were in partial failure; (5) Erie failed to file requested information on the condition of Varick's staggered-height flashboards; (6) Erie failed to repair or replace, within a reasonable time and given the existing circumstances, staggered-height flashboards at Varick; (7) the NSCC operator monitoring Varick on September 28, 2010, routinely failed to utilize his monitor to view fishermen in Varick's tailrace; and, (8) Erie failed to adequately train on the FAS or public safety the NSCC operator monitoring Varick on September 28, 2010. This notice does not confer a right on third parties to intervene in the investigation or any other right with respect to the investigation.	
June 6, 2013	Enerwise Global Technologies, Inc.	Enerwise is alleged to have violated the PJM Open Access Transmission Tariff, Attachment DD, § 2.44 by registering a demand response customer, the Maryland Stadium Authority (MSA), for a load reduction amount it knew MSA could not reliably achieve. Enerwise is further alleged to have violated the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.2, by registering MSA for an improper load reduction amount, instructing MSA to artificially increase its electric load prior to an August 2009 PJM test event in order to demonstrate a larger load reduction, and taking actions to misrepresent to PJM the functionality of MSA's back-up generators.	The conduct at issue occurred during the 2009-2010 time period.

January 18, 2013	Michigan Consolidated Gas Company and Washington 10 Storage Corporation	(i) Michigan Consolidated Gas Company is alleged to have engaged in capacity release transactions without posting them and in "flipping," in violation of 18 C.F.R. § 284.8(h)(2); and (ii)Washington 10 Storage Corporation is alleged to have misclassified certain firm transportation storage contracts as intrastate rather than interstate, misclassified certain Park and Loan contracts as intrastate rather than interstate, failed to identify the misidentified interstate contracts in semi-annual reports, and failed to file annual reports reflecting hub service, in violation of NGPA § 311, various subparts of §§ 284.122, 284.123, 284.124 and 284.126 of the Commission's Regulations and Washington 10's SOC.	(i) Michigan Consolidated Gas Company alleged acts occurred in various months from 2001 through 2006; and (ii) Washington 10 Storage Corporation alleged acts collectively occurred from October 2003 to November 2007.
January 15, 2013	Seneca Falls Power Corporation	The licensee failed to comply with multiple license requirements, including procuring property rights needed to operate the project; studying and monitoring wetlands; maintaining mandated water elevation requirements; installing fish passages approved by relevant regulatory agencies; failed and installing required recreational facilities.	Varying durations up to seven years, including for certain violations that remain ongoing.
December 14, 2012	EnerNOC, Inc. and Celerity Energy Partners LLC	EnerNOC submitted inaccurate data for settlement for five demand response assets in ISO-NE, in violation of the ISO-NE tariff. Celerity failed to comply with two Commission filing requirements and its Market-Based Rate tariff.	January 2009–June 2012
December 4, 2012	Oceanside Power, LLC	Trades in PJM Up-To Congestion products that was not expected to earn a profit after payment of transaction costs, where purpose of these trades was to schedule transmission and thereby recover	July–August 2010

		Marginal Loss Surplus Allocation payments.	
November 20, 2012	Entergy Services, Inc.	Alleged violations of 33 requirements of 16 Mandatory Reliability Standards approved by the Commission by failing to adequately perform functions required for the reliable operation of the transmission system.	The violations began in June 2007. Some ended in October 2010; others are ongoing.
November 14, 2012	Gila River Power LLC	Alleged violations of 18 C.F.R. § 35.41(b) and 18 C.F.R. § 1c.2 by scheduling transactions in the California Independent System Operator Corporation (CAISO) markets that did not meet tariff requirements and that benefitted other energy transactions in the CAISO markets.	July 2009–October 2010
October 26, 2012	Alliance Pipeline L.P.	In advance of publishing transmission information relevant to upcoming capacity auction, pipeline provided the same to its affiliate in violation of the non-discrimination, no-conduit, and transparency provisions of the Standards of Conduct regulation. Affiliate participated in auction in a manner violating the pipeline's own auction rules and tariff.	May 2010
October 1, 2012	Florida Power Corporation d/b/a Progress Energy Florida (PEF)	Alleged violations of § 205 of the FPA and the Commission's order granting Market-Based Rate authority, specifically the misreporting of 1,300 transactions and the execution of 11 transactions at rates in excess of those permitted under PEF's cost-based rate tariffs.	2004–2009