



**Federal Energy Regulatory Commission  
November 15, 2012  
Open Commission Meeting  
Staff Presentation  
Item A-4**

"Good morning Mr. Chairman and Commissioners.

"Today, the Office of Enforcement is releasing its Annual Report on Enforcement. The Report provides the public with information on Enforcement staff activities in fiscal year 2012. The Report describes both public and non-public Enforcement activities, including Commission- approved settlements, investigations, and self-reports closed without enforcement action or sanctions. The report also discusses Enforcement's audits to ensure that jurisdictional companies comply with the Commission's statutes, orders, rules, tariffs, and regulations. Finally, the report discusses the market oversight, surveillance and analysis work performed by Enforcement to assess the competitiveness and efficiency of wholesale energy markets, and to apply quantitative analysis and technical expertise to market behavior and anomalies.

"The priorities of the Office of Enforcement have not changed since last year. We have focused on and will continue to focus on matters involving: (1) fraud and market manipulation; (2) serious violations of the reliability standards; (3) anticompetitive conduct; and (4) conduct that threatens transparency in regulated markets.

"Fraud and market manipulation present a significant risk to the markets overseen by the Commission and undermine the Commission's goal of assuring efficient energy services for consumers at a reasonable cost. In fiscal year 2012, a significant percentage of the investigations opened involved allegations of market manipulation or false statements. Similarly, anticompetitive conduct and conduct that interferes with market transparency undermine confidence in wholesale energy markets upon which the nation's consumers rely. Serious violations of the reliability standards compromise the public interest by threatening the reliable and secure operation of the bulk power system. The Office of Enforcement will continue to give high priority to these matters.

"Turning to last year's accomplishments, let me begin with the Division of Investigations. The Division of Investigations entered into 9 Commission-approved settlement agreements last year, assessing total civil penalties of \$148 million dollars and disgorging \$119 million, plus interest, in unjust profits. Of the 9 settlements, 3 involved violations of the Commission's Anti-Manipulation Rule and 3 involved violations of Natural Gas Open Access rules. The remaining three settlements involved violations concerning Market-Based Rate Authority, Open-Access Transmission Tariffs, and the Reliability Standards.

"In one of the settlements, Enforcement staff resolved 2 investigations of Constellation Energy Commodities Group, finding that the entity violated the Commission's Anti-Manipulation Rule and the Commission's accuracy in reporting rule. In settlement, the company agreed to pay \$135 million in civil penalties and disgorge \$110 million in unjust profits. This civil penalty represents the largest penalty assessed by the Commission to date.

"Enforcement staff also built upon its previous experience in conducting electric reliability-related inquiries, completing 2 separate inquiries into the causes of bulk power system-related electric outages in New England and in Arizona and California. In conducting these inquiries, Enforcement staff worked closely with staff from the Office of Electric Reliability and NERC to issue reports and make recommendations to help prevent recurrence of outages.

"In addition to the 9 settlements, staff resolved another 12 investigations with no enforcement action or through Orders to Show Cause. Staff opened 16 investigations, 13 of which concern allegations of market manipulation or false statements to the Commission or to RTOs and ISOs. Continuing its role in

the Commission's oversight of the NERC Notices of Penalty, Enforcement staff reviewed, in conjunction with staff from the Office of The General Counsel and the Office of Electric Reliability, 771 potential or confirmed violations of the Reliability standards in 45 filed notices of penalty. Staff also began receiving possible violations that pose lesser risk to the bulk power system via NERC's Find, Fix & Track Report. Staff reviewed another 707 possible violations in 12 FFT Reports last year. Staff received 89 self-reports this fiscal year, closing 49 after review with no further action, and received and addressed 185 Enforcement Hotline calls or inquiries.

"Enforcement staff also completed 44 audits last year. These audits addressed financial and non-financial issues, generating almost four hundred recommendations for corrective action and directing over \$5.8 million in refunds. Staff also continued its work with the Office of Electric Reliability, overseeing the audits conducted by the Regional Entities that enforce the Reliability Standards.

"Enforcement staff continued to monitor wholesale natural gas and electric markets to identify market anomalies, inadequate or flawed market rules, and potentially improper behavior. In addition to presenting the annual State of the Markets Report and seasonal Market and Reliability Assessments, Enforcement staff released its Energy Primer, a comprehensive overview of natural gas and electric markets with detail on specific market segments.

"Finally, the Office of Enforcement created a new division in 2012, the Division of Analytics and Surveillance. Since its inception, Analytics and Surveillance has steadily increased its surveillance capabilities. In FY2012, the Commission issued Order Numbers 760 and 768 that will greatly enhance its ability to conduct surveillance of the electric markets. The Division's analysts, including economists, former traders, and other technical professionals, also continue to work closely with attorneys in the Division of Investigations as part of the investigative team, particularly in investigations of market manipulation.

"A copy of the Annual Report is now available on the Commission's website. This concludes Enforcement's presentation, and we are happy to answer any questions."