



Federal Energy Regulatory Commission
September 22, 2016
Open Commission Meeting
Staff Presentation
Item E-2

"Good morning Mr. Chairman and Commissioners,

"As part of ensuring that the Commission meets its statutory obligations, the Commission, on occasion, engages in public inquiry to gauge whether there is a need to add, modify or eliminate certain requirements. The draft Notice of Inquiry in E-2 seeks comments regarding potential changes and improvements that the Commission may propose in evaluating market power in the context of mergers and other transactions under section 203 of the Federal Power Act and applications under section 205 of the FPA for market-based rate authority for wholesale sales of electric energy, capacity, and ancillary services by public utilities.

"In particular, the draft Notice of Inquiry seeks comment on whether the Commission should require additional forms of analysis in section 203 applications including: a supply curve analysis; a pivotal supplier analysis; and a market share screen. It also seeks comments on whether, and if so how, to more precisely define de minimis in the context of reviewing a section 203 application and whether to adopt a de minimis threshold for section 203 applications when considering which applications involving overlapping generation in the same market may not require a complete Competitive Analysis Screen. It also seeks input on requiring section 203 transactions that involve a full Competitive Analysis Screen to include consultant reports and other internal reports pertaining to the competitive effects of the proposed transaction, as required by the Department of Justice and/or the Federal Trade Commission.

"The draft Notice of Inquiry also seeks comments on the appropriateness of the current Commission blanket authorizations, including whether there are existing blanket authorizations that may be overly-broad or otherwise no longer appropriate, and whether there are classes of transactions for which further blanket authorizations would be appropriate. Finally, the draft Notice of Inquiry seeks comments on whether there are certain categories of transactions that may be jurisdictional, but where it nevertheless may be appropriate to establish abbreviated filing requirements.

"Finally, the draft Notice of Inquiry also seeks to harmonize aspects of the section 205 and 203 programs and specifically with regard to section 205, seeks comment on whether the wholesale load component of the pivotal supplier analysis is calculated appropriately.

"Comments on the draft Notice of Inquiry are due 60 days from publication in the Federal Register.

"This concludes staff's presentation. We would be happy to answer any questions you may have."