



Federal Energy Regulatory Commission
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Open Commission Meeting
Staff Presentation
Item A-3

"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 2011. 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 statutes, orders, rules, tariffs, and regulations. Finally, the report discusses the oversight and surveillance work performed by Enforcement to assess the competitiveness and efficiency in the wholesale energy markets and apply quantitative analysis and technical expertise to market behavior and market anomalies.

The priorities of the Office of Enforcement have not changed since last year. We have focused 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, and three-quarters of the investigations opened this year involve allegations of market manipulation or false statements. Similarly, anticompetitive conduct and conduct that interferes with market transparency undermine confidence in the 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.

Paul Varnado will now recount some of the notable accomplishments of Enforcement that are described in this year's report.

Good morning Mr. Chairman and Commissioners. A significant effort of Enforcement in Fiscal Year 2011 was the Southwest Task Force. We led a task force of Commission staff to determine the causes of electricity outages and gas curtailments occurring in February 2011 in New Mexico, Arizona and Texas. Working with NERC, the task force released a joint report in August that sets forth findings and makes recommendations to prevent future outages and curtailments. Recently, at the direction of the Commission, staff opened another joint inquiry with NERC into the September 8, 2011 power outages that occurred in parts of Arizona, southern California, and Mexico.

This fiscal year, Enforcement also began implementation of its Penalty Guidelines, applying them to three penalties agreed to in settlements. Enforcement initiated two actions in federal court. One was to enforce a witness subpoena for a deposition; the other was to pursue injunctive relief against a regulated entity that had not complied with Commission orders. Following an Order to Show Cause, Enforcement also successfully obtained an order of penalty from the Commission against an individual who misled the Commission.

The Commission approved 9 settlement orders between Enforcement and regulated entities this fiscal year, resulting in over \$2.9 million in civil penalties and over \$2.75 million in

disgorgement of unjust profits. Staff closed another 10 investigations with no enforcement action, or through administrative or federal district court proceedings. Staff opened 12 investigations, 8 of which concern allegations of market manipulation or false statements to the Commission or RTOs and ISOs. Continuing its role in the Commission's oversight of the NERC notices of penalty, Investigations staff reviewed, in conjunction with staff of the Office of General Counsel and the Office of Electric Reliability, 1,392 potential or confirmed violations of the Reliability Standards in 270 filed notices of penalty. Staff received 107 self reports this fiscal year, closing 54 after review with no further action. Staff also received and addressed 161 hotline calls or inquiries.

Enforcement staff completed 72 audits last year. The audits addressed financial and non-financial issues, generating 300 recommendations for corrective action and directing \$290,000 in refunds and the write-off of \$95.8 million in regulatory assets, and related to Commission-approved tariffs, electric quarterly reporting, affiliate transaction regulations, and fuel cost recovery mechanisms. Audit staff also continued its work with the Office of Electric Reliability conducting oversight of the audits by the Regional Entities that enforce the Reliability Standards.

Enforcement oversight staff continued its monitoring and analysis of the wholesale natural gas and electric power markets. Enforcement also led the Commission initiative to develop and improve market surveillance activities, as reflected in three Commission Notices of Proposed Rulemaking that seek the regular collection of data from market participants, NERC, and the RTOs and ISOs. Further, in addition to presenting the annual State of the Markets Report and seasonal Market and Reliability Assessments, the Office of Enforcement analyzed the findings of a study on the state of the natural gas market, which showed, among other things, that gas index prices were derived from relatively small volumes of gas when compared to the entirety of the market.

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