



# Federal Energy Regulatory Commission

## November 15, 2019

### Open Commission Meeting

### Staff Presentation

### Item A-3

Good morning Chairman Chatterjee and Commissioners.

Today, the Office of Enforcement (OE) is releasing its twelfth annual Report on Enforcement. As in previous years, OE staff prepared this report to provide information about its activities over the last fiscal year. The Report discusses the activities of all four of OE's Divisions: Investigations, Audits and Accounting, Energy Market Oversight, and Analytics and Surveillance.

The Report summarizes audits, market reports, litigation filings, and settlements which were approved by the Commission. These resources are also publicly available on e-Library and frequently reported on in the trade press. But OE's Report goes further and also includes discussion of non-public activities, including summaries of investigations and self-reports that were closed without further action by the Division of Investigations. These summaries can be helpful to companies seeking to comply with the Commission's regulations and orders. To maintain confidentiality, the companies and individuals whose conduct was under review in these matters are not identified in these summaries.

The Division of Audits and Accounting has included illustrative alerts that cover nearly a dozen distinct areas where there have been consistent concerns or noncompliance of significant impact. Additionally, a representative sample of audits completed in FY2018 summarize recommendations for corrective action and provide context for audits that resulted in refunds and recoveries.

The Division of Energy Market Oversight summarizes its recent Market Reports and Assessments and describes other measures to monitor and analyze the nation's wholesale natural gas and electric power markets.

The Division of Analytics and Surveillance provides a comprehensive review of its surveillance program and describes how it analyzed transactional and market data in FY2018 to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets.

OE's enforcement priorities have remained the same, as we continue to focus on four distinct areas: (1) fraud and market manipulation; (2) serious violations of the Reliability Standards; (3) anticompetitive conduct; and (4) conduct that threatens transparency in regulated markets.

In FY2018, the Commission approved six settlement agreements between Enforcement and subjects to resolve pending matters. The settlements totaled approximately \$83 million in civil penalties and disgorgement of just over \$66 million. In FY2018, DOI staff opened 24 new investigations, as compared with 27 investigations opened in FY2017. DOI closed 22 investigations in FY2018 either because staff found no violation, or because there was not enough evidence to conclude that a violation had occurred, or because DOI found a violation but exercised its discretion to close the investigation. Adding those to the six investigations that DOI closed through settlement brings the total investigations

closed in FY2018 to 29. In addition the Commission continues to litigate three cases in federal district court.

In FY2018, the Division of Audits and Accounting completed 14 audits of oil pipeline, public utility, and natural gas companies covering a wide array of topics. The audits resulted in 209 recommendations for corrective action and directed \$185.1 million in refunds and recoveries. Additionally, DAA advised and acted on 435 proceedings at the Commission covering various accounting matters with cost-of-service rate implications. These proceedings included requests for declaratory orders, natural gas certificate applications, merger and acquisition applications, electric and natural gas rate filings, applications for issuance of securities, and accounting requests for approval.

The Division of Energy Market Oversight continued to monitor the jurisdictional markets to identify market trends. On April 19, 2018, Market Oversight issued its State of the Markets Report for 2017, which reviewed trends and events in natural gas and power markets, including trends in prices, supply, and demand. The report also reviewed the effects of the extreme cold-weather conditions in the northeast during December 2017 and January 2018 and highlighted certain rules promulgated by the Commission, including offer cap reform (Order No. 831) and requirements for electric storage participation in energy, ancillary services, and capacity markets (Order No. 841). Market Oversight also continued to provide its ex post analysis, which evaluates transactions against market fundamentals to identify instances of anti-competitive market outcomes. When such outcomes were identified, Market Oversight coordinated with other Commission program offices to determine whether Commission action to remedy market power concerns was warranted.

Finally, during the fiscal year, the Division of Analytics and Surveillance continued watching for anomalous activities in the markets and identified potential investigative subjects. In FY2018, natural gas surveillance screens produced approximately 7,719 alerts which were reviewed by DAS staff, resulting in eighteen additional in-depth inquiries into specific trading behavior. On the electric side, each month during FY2018, DAS ran and reviewed 84 electric surveillance screens, as well as hourly and intra-hour sub-screens, and reports for over 36,000 hub and pricing nodes within the six ISO/RTOs. This surveillance activity identified 37 instances of market behavior that required further analysis. A total of five surveillance-related referrals were made to the Division of Investigations in FY2018. During FY2018, DAS also teamed with DOI on approximately 50 investigations involving allegations of manipulation in the Commission-jurisdictional natural gas and electricity markets, or violations of tariff provisions. In these efforts, DAS provided analytical and data-based explanations related to ongoing investigations, settlement discussions, and Commission actions.

Copies of OE's Annual Report are now available on the Commission's website. This concludes the presentation. I will be happy to take any questions you may have.