
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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COMMISSION ACTS ON MARKET-BASED RATE FILINGS, ADVANCES NEW MARKET OVERSIGHT POLICY

The Federal Energy Regulatory Commission today acted on 16 pending market-based rate filings, permitting market-based rates to stay in place without further proceedings in about half of the cases. For the companies that failed the Commission's new market power initial screen, their future power sales at market rates will be subject to potential refund obligation. The Commission ordered further proceedings under Section 206 of the Federal Power Act to provide refund protections to wholesale customers while allowing these companies another opportunity to demonstrate they do not have market power and to explore alternative means of mitigating any market power.

“The Commission's market oversight policies protect native load retail customers by helping make sure all power purchased in wholesale markets is at just and reasonable rates,” said FERC Chairman Pat Wood, III.

Many utilities purchasing power at wholesale have only one or two realistic suppliers, making market power mitigation potentially necessary to assure just and reasonable rates. When a utility purchasing power at wholesale is protected from paying unjust or unreasonable rates, its native load retail customers are similarly protected, regardless of whether the utility serving those native load customers is an investor-owned utility, municipally owned utility, or rural electric cooperative.

The Commission first moved to alter the market power analysis for market-based rate proceedings in late 2001. Following unchecked market power in California and Western markets, the Commission abandoned its “hub and spoke” market power analysis and moved to adopt a more accurate and rigorous market-power test.

After receiving extensive feedback from interested stakeholders, the Commission in April 2004 adopted new market power screens that provide a preliminary assessment of whether a seller is a pivotal supplier and how much of the market is controlled by the seller.

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If the company passes both screens, the Commission applies a rebuttable presumption that it does not possess market power. If the company fails either screen, there is a rebuttable presumption the seller does have market power. The paper hearings initiated by today's orders offer the companies an opportunity to rebut the presumption of market power.

Under today's orders, the companies failing the indicative screens have 60 days to file a delivered price test, propose case-specific market power mitigation, or accept default cost-based rates and file cost support for those rates.

Under the default market power mitigation, the company can continue to sell power into wholesale markets at traditional cost-based rates, just as was done for decades before the onset of competitive markets in the 1990s.