

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

*Carbon Pricing in Organized
Wholesale Electricity Markets*

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) Docket No. AD20-14
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Opening Statement of Ari Peskoe

Whether a state imposes a carbon price on generation facilities or load-serving entities, pricing emissions is a permissible state action under the Federal Power Act. Like many regulations, a state-set carbon price may raise sellers’ production costs. The Commission allows sellers to recover in wholesale rates compliance costs associated with emissions regulations, and the Commission would have no basis to prevent regulated entities from passing through costs of a state-set carbon price.

Notices in this docket focus this panel on legal issues with a proposal to “integrate” a state-set carbon price into an RTO/ISO market. As I understand that charge, the Commission is interested in whether there are legal barriers that would prevent it from approving a tariff that adjusts price formation or dispatch processes to reflect buyers’ preferences for energy from low-emission facilities or to account for cross-border effects of sellers including compliance costs in their offers.

As I provide in my filing in this docket, the Commission has already found RTO/ISO tariffs that integrate emissions compliance costs are just and reasonable.

Over the past two decades, the Commission has attempted to continuously improve RTO/ISO markets, including by adapting them to industry changes. The Commission has justified its findings that proposed changes to these markets are just and reasonable on numerous grounds, including that changes enhance competition, guide resource entry and exit, compensate resources at prices that reflect the value of their services, improve dispatch, and ensure prices allow sellers to recover their costs. This non-exhaustive list illustrates that in reviewing proposed tariff filings the Commission is not constrained by any particular definition of just and reasonable. The Federal Power Act’s capacious ratemaking standards provide the Commission with flexibility to improve the operation of RTO/ISO markets, including by approving an RTO carbon price and rules that integrate that price into the market design.

Approving a tariff that sets and integrates a carbon price would not transform the Commission into an environmental regulator.

The Supreme Court's most recent decision about the scope of the Commission's authority teaches that when the Commission does "no more than follow the dictates of its regulatory mission to improve the competitiveness, efficiency, and reliability of the wholesale market," courts will be reluctant to cut off the Commission's jurisdiction in the absence of a clear statutory bar. Integrating a carbon price can fit well within the Commission's mandate as a market regulator.

Finally, facilitating carbon emissions reductions is not strictly an environmental goal. Market participants, including the largest utilities, have made emissions commitments. Investors are demanding emissions disclosures. High-emitting plants are retiring. Interconnection queues are dominated by non-emitting resources. Policymakers are requiring reductions. Financial regulators are warning about costs of inaction, including not pricing emissions. No serious conversation about the future direction of the power industry ignores carbon emissions. The Commission has a duty to encourage the industry's orderly development. It should not dismiss carbon pricing as someone else's job.