November 6, 2008
Docket No. AD07-13-001

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FERC Enforcement Report Demonstrates Commitment to Strengthening Compliance

The Federal Energy Regulatory Commission (FERC) annual report on 2008 Enforcement activities shows a rise in the number and quality of self-reports and an increase in referrals from regional market monitors, and provides information on settlements that demonstrates the Commission's commitment to strengthening the compliance programs of regulated companies.

The purpose of the report, released today, is to provide information to both the regulated community and the public on how the FERC Office of Enforcement has conducted its enforcement program over the preceding fiscal year. The Commission in May 2008 instructed Enforcement staff to produce an annual statistical report at the end of each fiscal year; that order came after the well-received release of FERC's first report on enforcement activities at the November 2007 conference on enforcement policies.

"FERC is charged with enforcing certain regulatory requirements to protect the public and serve the public interest," FERC Chairman Joseph T. Kelliher said. "The focus of the FERC enforcement program is, and must always be, compliance. We underscore that point in this report by providing information about our enforcement program to FERC-regulated entities that could assist them in complying with the rules."

Settlements

Enforcement staff entered into seven settlement agreements that were approved by the Commission for a total of $19.95 million in total civil penalties. In two of those seven settlements, Enforcement staff required that the companies establish stronger, more effective compliance programs.

Self-Reporting

The report tracks a doubling of self-reports of compliance violations by regulated entities, from 31 in 2007 to 68 in 2008, reflecting improved compliance and auditing procedures on the part of the industry and FERC's frequently stated intention to reduce or even eliminate penalties if violations are self-reported.

Of the 68 self-reports for 2008, none have yet resulted in imposition of civil penalties. Staff closed 25 of them after a review and without opening an investigation; three more were closed without penalties after investigation. To provide guidance to the industry, the report provides short, unnamed narratives about the self-report cases that were closed with no actions and the reasons why.

The majority of self-reports involved the Commission's natural gas pipeline capacity release requirements. Standards of Conduct violations, which involved a significant number of 2007's self-reports, were down considerably for 2008. That likely was due to the pendency of FERC's rulemaking that made major changes to the Standards of Conduct. That rulemaking was finalized Oct. 16, 2008.

Investigations

Enforcement staff opened more investigations in 2008, 48, than in 2007, when it opened 35. Staff closed

22 investigations in 2008, eight of which had findings of violations, and seven of which had no violation findings. Seven other investigations were concluded through settlement, while eight were closed without pursuit of enforcement actions. As with the self-reporting cases, the report provides guidance to the industry on investigations, with short, unnamed narratives about investigations that were closed with no action, and why.

The report also notes there are emerging trends on the investigation side. Among them is an increase, to 20, in investigations involving allegations of market manipulation. The report also notes there were more referrals from the market monitoring units of the regional market operators, with 15 such referrals in 2008 compared to two in 2007.

Another trend is the rise in the number of investigations into allegations that entities violated FERC regulations that require market-based rate power sellers to provide accurate, factual and complete information in communications with the Commission and the FERC-approved regional market operators. Most of these investigations involve allegations that entities have provided inaccurate information to FERC-approved market operators in connection with bidding, scheduling or unit availability.

And finally, the report notes that 2008 marked the first time Enforcement staff has opened investigations into allegations of violation of the reliability standards that took effect in June 2007.

Audits

Enforcement staff completed 60 audits of public utilities and natural gas pipeline and storage companies in 2008, 39 of which were classified as financial audits and 21 that, among other things, addressed open access transmission tariffs, interconnection rules, gas tariffs, website posting, standards of conduct and Commission regulations.

These audits resulted in 156 recommendations for corrective action, and included $1 million in recoveries from accounting and billing adjustments and $8.7 million in reductions to utility plant. Staff also required implementation of compliance plans to ensure regulated entities adhere to FERC policies and procedures. Staff tracks all audit recommendations to ensure they are ultimately implemented.

Enforcement staff also worked with FERC's Office of Electric Reliability as an observer in eight regional entities' audits of users, owners and operators of the bulk electric system.

The report, *2008 Report on Enforcement*, is available on the FERC website, www.ferc.gov.

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