

# *Update from FERC*



## **Commissioner Philip D. Moeller** **Federal Energy Regulatory Commission**



**Buying & Selling Power in the West**  
**Seattle, Washington • January 14, 2008**

# Topics Discussed Last Year



- Standards of Conduct Rulemaking Proceeding:
  - Proposed rule issued Jan. 2007 (RM07-1) in light of the *National Fuel* case
  - Quick Update
- California Market Redesign:
  - FERC approved redesign of California's market (MRTU) in Sept. 2006 (Docket Nos. ER06-615, et al.)
  - Quick Update

# 2008 Topics



*Last year's topics that continue to be important:*

- OATT Reform (Order No. 890)
- Electric Reliability
- Competitive Markets/Competition Rulemaking

*Two new topics that have received increased attention:*



Enforcement

Hydrokinetics



# OATT Reform (Order No. 890)



- FERC issued the final rule in February 2007
  - Consistency in calculation of Available Transfer Capability (NERC and NAESB continuing to work on this)
  - Coordinated, open transmission planning process
  - Transmission pricing reforms that reform the pricing of energy and generator imbalances
  - Non-rate terms and conditions such as the adoption of a conditional firm component to long-term point to point service.
- Rehearing order largely affirming the rule issued in December 2007.
- FERC continues to process filings submitted in compliance with this rule.

# Electric Grid Reliability



- 3/16/07: Order No. 693 approved 83 of the 107 proposed reliability standards.
  - Reh’g order issued 7/19/07.
  - NERC continues to submit standards for FERC approval.
  - Just last month FERC approved 3 more reliability standards.
- 4/19/07: FERC approved the pro forma Delegation Agreement, the 8 individual delegation agreements, and uniform Compliance Monitoring and Enforcement Procedure.
- 4/19/07: WECC permitted to fund its reliability coordinator activities through the ERO, up to \$5.7 million in 2007 for U.S. operations.

# Electric Grid Reliability



- 5/17/07: FERC approved the assignment of over 700 Violation Risk Factors for the NERC Reliability Standards.
- 6/8/07 FERC issued an order on WECC's Regional Standards.
- 7/19/07: FERC proposed to adopt 8 new reliability standards to help safeguard the bulk grid against potential disruptions from cyber attacks.
- Summer and Fall 2007 outreach: Senior staff from the Enforcement and Reliability offices at FERC visited each of the Regional Entities.

# Electric Grid Reliability



- 9/20/07: Chairman created a new “Office of Reliability”
- 10/18/07: FERC conditionally accepts the 2008 business plan and U.S.-based budget for NERC and the 8 regional entities (\$82.6 million funding requirement)
- 10/18/07: FERC, acting for the first time on this issue, ruled on appeals filed by entities disputing their inclusion in the compliance registry; inclusion in the registry subjects them to the reliability standards.

# Competition Rulemaking



- Early 2007: FERC held a series of conferences
- 6/21/2007: FERC issued Advanced Notice of Proposed Rulemaking to help identify challenges facing competitive wholesale power markets in RTOs and ISOs
- Based on the comments received at those conferences, FERC sought comment on its preliminary proposals in four specific areas:
  - the role of demand response in organized markets;
  - increasing opportunities for long-term power contracts;
  - strengthening market monitoring; and
  - the responsiveness of RTOs and ISOs to customers and other stakeholders.



# Competition Rulemaking



- Comments were due 45 days after the ANOPR's publication in the Federal Register
- Comments have been reviewed and the Commission is contemplating next steps
- Filing by various groups to expand scope of proceeding



# Enforcement



- Energy Policy Act of 2005 included major provisions that focused on increasing transparency in electric and gas markets and increasing consumer protection.
  - FERC directed to facilitate price transparency in electric and gas markets
  - Prohibition on Filing False Information
  - Prohibitions on Market Manipulation in Electric and Gas Markets
  - Increased Civil and Criminal Penalty Authority Under the FPA, NGA, NGPA
- FERC initiated several proceedings in light of the statute

# Enforcement

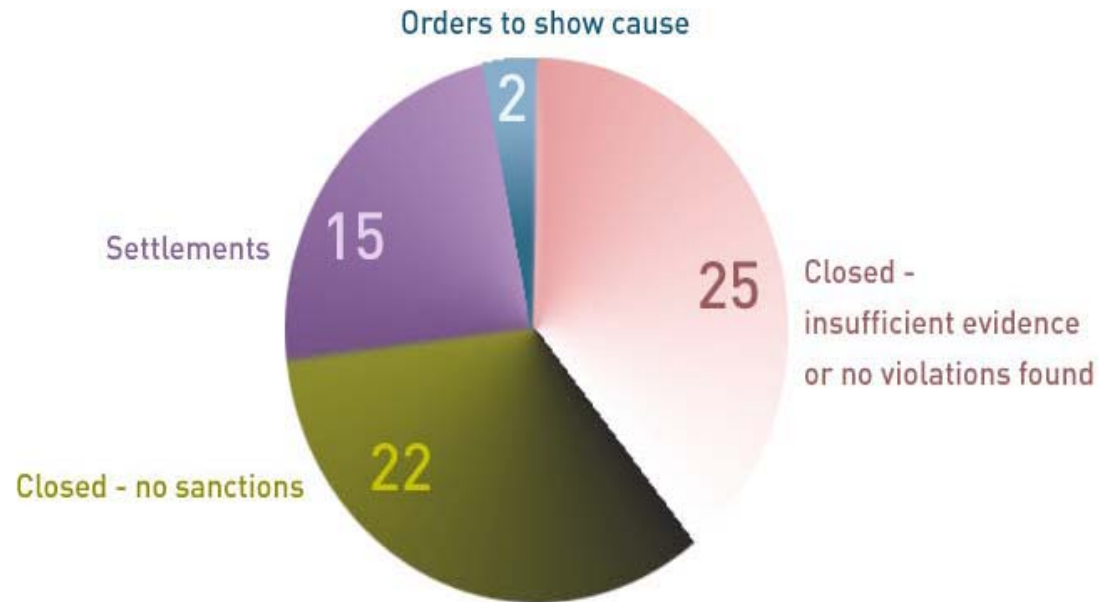


- 1/18/07: First set of enforcement actions announced
  - 5 companies were found to have violated either the market rules or their Open Access Transmission Tariff
  - Civil penalties ranged from \$500,000 to \$10 million.
- 7/26/07: Amaranth and ETP show cause orders issued
  - FERC's first market manipulation cases
  - Pending before FERC
- 11/16/07: Enforcement Policy Conference held

# Enforcement



## Disposition Of Investigations



# Enforcement

## EPAct 2005 Civil Penalty Enforcement Actions



- **In re NRG Energy, Inc., 118 FERC ¶ 61,025**  
(1/18/07) **\$500,000** Civil penalty and a 1 year compliance plan resulting from a self-report for violations of ISO-NE Market Rule 1 and the Commission's Market Behavior Rules 1 and 3.
- **In re NorthWestern Corporation, 118 FERC ¶ 61,029**  
(1/18/07) **\$1,000,000** Civil penalty and a 2 year compliance plan resulting from a hotline call for violations of Business Practice Standards for OASIS Transactions.
- **In re Entergy Services, Inc., 118 FERC ¶ 61,027**  
(1/18/07) **\$2,000,000** Civil penalty and a 1-2 year compliance plan resulting from a self-report for violations of OATT and Standards of Conduct OASIS posting requirements.
- **In re SCANA Corporation, 118 FERC ¶ 61,028**  
(1/18/07) **\$9,000,000** and **\$1,800,000** Civil penalty, disgorgement, and a 1 year compliance plan resulting from a self-report for violations of OATT.

# Enforcement

## EPAAct 2005 Civil Penalty Enforcement Actions



- **PacifiCorp, 118 FERC ¶ 61,026**  
(1/18/07) **\$10,000,000** Civil penalty and a 1 year compliance plan resulting from a self-report for violations of OATT and Standards of Conduct.
- **Bangor Gas Company, 118 FERC ¶ 61,186**  
(5/7/07) **\$1,000,000** Civil penalty and a 1 year compliance plan resulting from a self-report for violations of shipper-must-have-title requirements.
- **Calpine Energy Services, L.P., 119 FERC ¶ 61,125**  
(5/9/07) **\$4,500,000** Civil penalty and a 1-2 year compliance plan resulting from a self-report for violations of shipper-must-have-title requirements.
- **Columbia Gulf Transmission Company, 119 FERC ¶ 61,174**  
(5/21/07) **\$2,000,000** Civil penalty resulting from a Commission referral for a violation of a Commission order to allow installation of a receipt interconnection.

# Enforcement

## EPAct 2005 Civil Penalty Enforcement Actions



- **Cleco Power, LLC, et al., 119 FERC ¶ 61,274**  
(6/12/07) **\$2,000,000** Civil penalty and a 1-2 year compliance plan resulting from a self-report for a violation of a 2003 Settlement agreement by sharing 9 employees and sharing prohibited market info between different Cleco companies.
- **Gexa Energy, L.L.C., 120 FERC ¶ 61,175**  
(8/21/07) **\$500,000 and \$12,481.41** Civil penalty and disgorgement resulting from a self-report of violations of the FPA.
- **MGTC, Inc., 121 FERC ¶ 61,087**  
(10/25/07) **\$300,000** Civil penalty and compliance report resulting from self-reported violations of the shipper-must-have-title requirement.
- **BP Energy Company, 121 FERC ¶ 61,088**  
(10/25/07) **\$7,000,000** Civil penalty and compliance monitoring plan resulting from self-reported violations of competitive bidding regulations, shipper-must-have-title requirement, and prohibition on buy/sell arrangements.

# Hydrokinetic Technologies



- **12/2006:** Information gathering conference
- **2/2007:** NOI soliciting comment on procedures with regard to preliminary permits under Part I of the Federal Power Act for wave, current, and instream new technology hydropower projects.
- **10/2007:** Conference in Portland, Oregon to discuss staff's proposal on licensing pilot projects for new hydropower technologies.
- **11/2007:** Policy Statement that explained that FERC may, in certain circumstances, issue conditioned licenses for hydrokinetic projects.
- **12/2007:** FERC issues its first license for a hydrokinetic energy project, which will be located in the Pacific Ocean off the coast of Washington State.



# Other Topics of Interest



- Stability at the FERC because Chairman Kelliher and Commissioner Wellinghoff have received new terms.
- FERC-Related Provisions in the Energy Independence and Security Act of 2007:
  - Section 529 concerning demand response
  - Title XIII (sections 1301 through 1309) concerning smart grid.
- 12/11/07: Interconnection Queue Conference.
- 12/20/07: FERC conditionally approved CAISO's tariff provisions to implement its innovative proposal to interconnect location constrained resources, e.g., wind.